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TUESDAY, FEBRUARY 8, 1977

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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presidential documents

Title 3—The President

Executive Order 11970 • February 5, 1977

Presidential Advisory Board on Ambassadorial Appointments

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

SECTION 1. (a) There is hereby established the Presidential Advisory Board on Ambassadorial Appointments, hereinafter referred to as the Board, which shall be composed of members appointed by the President.

(b) The President shall designate a Chairman from among the members of the Board.

(c) The Secretary of State shall designate an Executive Secretary.

SEC. 2. (a) The Board shall, whenever requested, make confidential recommendations to the Secretary of State and the President as to the qualifications of individuals for an ambassadorial post for which noncareer individuals are being considered, and such other advice as the President shall request.

(b) In considering the qualifications of a prospective nominee, the Board shall consider such background information on the requirements of particular ambassadorial posts, evaluation criteria, and information regarding the prospective nominee which may be furnished by the Department of State; and the Board shall consider such other information as it deems appropriate in order to render an informed judgment concerning a prospective nominee's qualifications and suitability.

SEC. 3. Upon request by the President or the Secretary of State, the Board shall consider which ambassadorial posts should be filled by career people and which should be filled by noncareer people, and shall make its recommendations in confidence regarding same to them.

SEC. 4. Board members may not be appointed to an ambassadorial post during their service on the Board nor for at least one year thereafter. The President may waive this provision in specific cases and will in such cases state his reasons for doing so.

SEC. 5. Members of the Board who are not officers or employees of the Federal Government shall receive no compensation from the Government of the United States for their service as members of the Board, but may, to the extent permitted by law, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5702 and 5703) for persons employed intermittently in the government service.

SEC. 6. The Secretary of State shall, to the extent permitted by law, provide administrative and staff services, support, and facilities for the Board.

SEC. 7. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Board, shall be performed by the Secretary of State in accordance with guidelines and procedures established by the Office of Management and Budget.

SEC. 8. The Board shall terminate on December 31, 1978, unless extended prior to that date.

Jimmy Carter

THE WHITE HOUSE,
February 5, 1977.

[FR Doc.77-4217 Filed 2-7-77;11:49 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES (PRIVACY REGULATIONS)

PART 455—NATIONAL CAPITAL PLANNING COMMISSION

On December 10, 1976, the Commission's proposed procedures pursuant to the Privacy Act, 5 U.S.C. 552a, were published for comment in the FEDERAL REGISTER (41 FR 54001). The only comments received were those of the Office of Management and Budget. The procedures, revised to reflect the OMB comments, were adopted by the Commission on January 13, 1977.

The revisions are as follows:

(1) Section 455.4(b) is amended by deleting reference to the social security number of an individual as proof of identity and substituting therefor the location of birth of an individual.

(2) Section 455.5 is amended to provide that the accounting of disclosures required by section 3(c) of the Privacy Act will be made available to the individual along with his or her record.

(3) Section 455.9 is amended by deleting all of paragraph (a) and deleting the designation (b) before the second paragraph since paragraph (a) is actually an unnecessary restatement of the Act.

Accordingly, 1 CFR Part 455 is revised as set forth below.

Effective date: January 13, 1977.

DANIEL H. SHEAR,
Secretary.

Sec.

455.1 Purpose and scope.
455.2 Definitions.
455.3 Procedures for requests pertaining to individual records in a record system.
455.4 Times, places, and requirements for identification of individuals making requests.
455.5 Disclosure of requested information to individuals.
455.6 Request for correction or amendment to the record.
455.7 Agency review of request for correction or amendment of the record.
455.8 Appeal of an initial adverse agency determination on correction or amendment of the record.
455.9 Disclosure of record to a person other than the individual to whom the record pertains.
455.10 Fees.
455.11 Penalties.
455.12 Exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 455.1 Purpose and scope.

These procedures provide the means by which individuals may safeguard their privacy by obtaining access to, and requesting amendments or corrections in, information, if any, about these individuals which is under the control of the National Capital Planning Commission (hereafter, the "Commission").

§ 455.2 Definitions.

For the purpose of these procedures:

(a) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(b) The term "maintain" includes maintain, collect, use, or disseminate;

(c) The term "record" means any item, collection or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her payroll information and mailing address and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as social security number;

(d) The term "system of records" means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual; and

(e) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 455.3 Procedures for requests pertaining to individual records in a record system.

(a) An individual who wishes to know whether a system of records maintained by the Commission contains a record pertaining to him or her shall submit a written request to that effect to the appropriate System Manager at the Commission. The System Manager shall, within 10 days of receipt of such submission, inform the individual whether a system of records maintained by the Commission contains such a record.

(b) An individual who desires access to any identified record shall file a request therefor, addressed to the System Manager indicating whether such individual intends to appear in person at the Commission's offices or whether he or she desires to receive a copy of any identified record through the mail.

§ 455.4 Times, places, and requirements for identification of individuals making requests.

(a) An individual who, in accord with § 455.3(b) of this part indicated that he or she would appear personally shall do so at the Commission's offices, 1325 G Street, N.W., Washington, D.C., between the hours of 8:30 A.M. and 5:00 P.M., Monday through Friday (legal holidays excluded) and present a form of identification, such as a valid driver's license or employee identification card, which will permit the System Manager to verify that the individual is the same individual as contained in the record requested.

(b) An individual who, in accord with § 455.3(b) of this part indicated that he or she desired mail delivery of a copy of the record shall include in the request the date and location of birth of the individual as suitable proof of identity.

(c) Where the above mentioned forms of identification are not feasible or appropriate, the Commission shall request a signed statement from the individual asserting his or her identity and stipulating that the individual understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000.

§ 455.5 Disclosure of requested information to individuals.

Upon verification of identity, the System Manager shall disclose to the individual (a) the information contained in the record which pertains to that individual; and (b) the accounting of disclosures of the record, if any, required by 5 U.S.C. 552a(c).

§ 455.6 Request for correction or amendment to the record.

An individual may request that a record pertaining to him or her be amended or corrected. The individual shall submit any such request in accord with §455.3 of this part and shall state therein the item sought to be amended and specific reasons therefor.

§ 455.7 Agency review of request for correction or amendment of the record.

Within ten days of the receipt of the request to correct or to amend the record, the System Manager will acknowledge in writing such receipt and promptly either: (a) Make any correction or amendment of any portion thereof which the individual believes is not accurate, relevant, timely, or complete and inform the individual of same; or (b) inform the individual of his or her refusal to correct or to amend the record in accordance with the request, the reason for the refusal, and the procedures established by the Commission for the individual to request a review of that refusal.

§ 455.8 Appeal of an initial adverse agency determination on correction or amendment of the record.

An individual who disagrees with the refusal of the System Manager to correct

or to amend his or her record may submit a request for a review of such refusal to the Chairman of the Commission, 1325 G Street, N.W., Washington, D.C. 20576. The Chairman will, not later than thirty days from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the Chairman extends such thirty day period. If, after his or her review, the Chairman also refuses to correct or to amend the record in accordance with the request, the individual may file with the Commission a concise statement setting forth the reasons for his or her disagreement with the refusal of the Commission and may seek judicial review of the Chairman's determination under 5 U.S.C. 552a(g)(1)(A).

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

An individual to whom a record is to be disclosed in person may have a person of his or her own choosing accompany the individual when the record is disclosed.

§ 455.10 Fees.

(a) The Commission will not charge an individual for the costs of making a search for a record or the costs of reviewing the record. When the Commission makes a copy of a record as a necessary part of the process of disclosing the record to an individual, the Commission will not charge the individual for the cost of making that copy.

(b) If an individual requests the Commission to furnish him or her with a copy of the record (when a copy has not otherwise been made as a necessary part of the process of disclosing the record to the individual), the Commission will charge a fee of $0.25 per page (maximum per page dimension of 8½×13 inches) to the extent that the request exceeds $5.00 in cost to the Commission. Requests not exceeding $5.00 in cost to the Commission will be met without cost to the requester.

§ 455.11 Penalties.

Title 18 U.S.C., sec. 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than five years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section 552a(i)(3) of the Privacy Act (5 U.S.C. 552a(i)(3)), makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Section 552a(i)(1) and (2) of the Privacy Act (5 U.S.C. 552a(i)(1) and (2)) provide penalties for violations by agency employees of the Privacy Act or regulations established thereunder.

§ 455.12 Exemptions.

No Commission records system is exempted from the provisions of 5 U.S.C. 552a as permitted under certain conditions by 5 U.S.C. 552a (j) and (k).

[FR Doc.77-3908 Filed 2-7-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

Schedule A, § 213.3114(d)(1), is amended to show: that intermittent employment of supervisors, assistant supervisors, supervisors' clerks and enumerators in the field service of the Census Bureau may be made on a continuing basis; and that employment under this authority may not exceed December 31, 1978, and 4,000 positions.

Effective on February 8, 1977, § 213.3114(d)(1) is amended as set out below:

§ 213.3114 Department of Commerce.

* * * * *

(d) *Bureau of the Census.* (1) Not to exceed 4,000 positions of supervisors, assistant supervisors, supervisors' clerks and enumerators in the field service, other than Current Program Interviewers, for temporary, part-time or intermittent employment: Provided, that temporary, part-time employment will be for periods not-to-exceed 1 year; and that such appointments may be extended for additional periods of not-to-exceed 1 year each; but that prior Commission approval is required for extension for longer than 1 year. Employment under this authority may not exceed December 31, 1978.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 comp., p. 218)

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

[FR Doc.77-3949 Filed 2-7-77;8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment excepts from competitive service under Schedule B seven positions of Humanist Administrator, State-Based Programs, Division of Public Programs, in the National Endowment for the Humanities, because it is not practicable to competitively examine for these positions. Simultaneously, Schedule A exception for these positions, which is superseded by the above Schedule B exception, is revoked. In addition, § 213.3283(b)(2) is modified to provide additional descriptive information.

EFFECTIVE DATE: February 8 1977.

FOR FURTHER INFORMATION CONTACT: Dean D. Larrick, 202–632–4533.

Accordingly, 5 CFR 213.3182(b)(14) is revoked, 5 CFR 213.3282(b)(2) is amended, and 5 CFR 213.3282(b)(5) is added to read as follows:

§ 213.3282 National Endowment on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(2) Until September 30, 1980, Assistant Director for Project Grants Programs, Division of Education Programs.

* * * * *

(5) Until September 30, 1980, seven Humanist Administrators, State-Based Programs, Division of Public Programs.

* * * * *

(14) [Revoked]

* * * * *

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.77-3950 Filed 2-7-77;8:45 am]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Handling Regulation, Amendment No. 1]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Grade, Size, Cleanliness, Maturity, and Pack Requirements

This amendment relieves grade, size, cleanliness, maturity and pack requirements for potatoes shipped for export; revises the cleanliness requirement specified by the regulation; and permits all internal defects to be included in the current 10 percent tolerance for potatoes packed in 50-pound cartons. The current regulation permits a 10 percent tolerance for potatoes with damage due only to hollow heart and/or internal discoloration.

Findings. (a) Pursuant to Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR Part 946), regulating the handling of Irish potatoes grown in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and upon the basis of recommendations and information submitted by the State of Washington Potato Committee, and other available information, it is hereby found that the amendment to the handling regulation hereinafter set forth will tend to effectuate the declared policy of the act.

The potato market in the Northwestern States, while improving somewhat, is still slow. This area has been unable to obtain export orders to the same extent as some eastern producing States. The committee believes that by relieving restrictions for potatoes for export, it will be possible to move larger quantities into export channels and thus help relieve pressure on the domestic market

caused by burdensome supplies. The committee also recommended relieving the cleanliness requirement in the regulation. Cleanliness of the potatoes will now be that required for each particular grade of potatoes as set forth in the U.S. potato standards.

The incidence of internal defects is causing problems again this year throughout the production area. The committee believes that including all defects in the current 10 percent tolerance will enable more potatoes to be shipped. However, they anticipate no significant decline in quality since the tolerance will remain at 10 percent.

(b) It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice or engage in public rulemaking and that good cause exists for not postponing the effective date of this section until March 10, 1977 (5 U.S.C. 553) in that (1) to ensure maximum benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (2) compliance with this part will require no special preparation on the part of handlers, (3) information regarding the committee's recommendations has been made available to producers and handlers in the production area, and (4) this amendment partially relieves restrictions.

Section 946.331 is amended by deleting paragraph (a)(2)(iii), revising paragraphs (a)(3), (c), and (d), and adding paragraph (e)(5), as follow:

§ 946.331 Handling regulation.

(a) * * *

(3) *Cleanliness.* All varieties and grades—As required in the United States Standards for Grades of Potatoes.

* * * * *

(c) *Pack.* Potatoes packed in 50-pound cartons shall be U.S. No. 1 grade or better, except that potatoes that fail to meet U.S. No. 1 grade only because of internal defects may be shipped provided that the lot contains not more than 10 percent damage by any internal defect or combination of internal defects but not more than five percent serious damage by any internal defect or combination of internal defects.

* * * * *

(d) *Special purpose shipments.* The minimum grade, size, cleanliness, maturity, and pack requirements set forth in paragraphs (a), (b), and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Livestock feed;

(2) Charity;

(3) Seed;

(4) Prepeeling;

(5) Canning, freezing, and "other processing" as hereinafter defined;

(6) Grading or storing at any specific location in Morrow and Umatilla Counties in the State of Oregon; or

(7) Export, except to Hawaii or Alaska.

Shipments of potatoes for the purposes specified in paragraphs (d) (1) through (7) of this section shall be exempt from inspection requirements specified in paragraph (g) of this section except shipments pursuant to paragraph (d)(6) shall comply with inspection requirement of paragraph (e)(2) of this section. Shipments specified in paragraphs (d) (1), (2), (3), and (5) shall be exempt from assessment requirements specified in § 946.41.

* * * * *

(e) * * *

(5) Each handler desiring to make shipments of potatoes for export shall:

(i) Notify the committee of intent to so ship potatoes by applying on forms furnished by the committee for a certificate applicable to such special purpose shipment;

(ii) After the certificate is approved and the shipment is made, furnish the committee with a copy of the on-board bill of lading applicable to such shipment.

* * * * *

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

Dated February 2, 1977 to become effective February 2, 1977.

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

[FR Doc.77-3900 Filed 2-7-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1976 PRICE AND ALLOCATION INTERPRETATIONS

Appended hereto are all Interpretations issued by the Federal Energy Administration's Office of General Counsel pursuant to 10 CFR Part 205, Subpart F, during calendar year 1976.

Section 552(a)(1)(D) of Title 5 of the U.S. Code requires agencies generally to publish currently in the FEDERAL REGISTER, for the guidance of the public, "* * * statements of general policy or interpretations of general applicability * * *." This requirement, among other general requirements of the Administrative Procedure Act, is applicable to the FEA under section 7(i) of the Federal Energy Administration Act of 1974, as amended.

Interpretations issued pursuant to 10 CFR Part 205, Subpart F, ("Interpretations") are, however, not of general applicability since they are issued to specific firms in response to requests that FEA interpret certain regulations as applicable to the requesting firm's particular factual situation and since they cannot be relied on by firms upon which copies are not served. FEA is therefore not required by 5 U.S.C. 552(a)(1)(D) to publish Interpretations in the FEDERAL REGISTER.

However, due to the large number of requests for copies of Interpretations which have been submitted through Freedom of Information procedures in recent months, it appears that Interpretations may be of greater general interest than was heretofore realized. It has been suggested that in certain cases the particular fact situation presented by the requesting firm could be representative of a situation or problem being experienced by more than one firm even though it is not being experienced generally. It has also been suggested that certain interpretive concepts or special policy considerations expressed in Interpretations may be of general interest even though the Interpretations themselves are not of general applicability.

In addition, the availability of FEA Interpretations through the Freedom of Information process means that Interpretations are now being made available to the public despite lack of publication in the FEDERAL REGISTER. It is possible that unless access to Interpretations is afforded through FEDERAL REGISTER publication, only the professional and other segments of the public which are familiar with opportunities and procedures under the Freedom of Information Act will benefit and not the public at large.

Accordingly, while FEA continues to believe that its Interpretations are not of general applicability and therefore are not required to be published in the FEDERAL REGISTER, it intends as soon as practicable to submit for FEDERAL REGISTER publication all existing Interpretations of continuing validity and applicability and to publish most or all future Interpretations (or portions thereof) in the FEDERAL REGISTER concurrently with their issuance.

The Interpretations appended to this notice consist of all price and allocation Interpretations issued during 1976 by the Office of General Counsel, FEA/Washington, and by FEA Regional Counsels. FEA intends to submit future Interpretations for FEDERAL REGISTER publication as soon as practicable after their issuance. Interpretations issued in 1974 and 1975 will be published in the FEDERAL REGISTER as soon as they are reviewed for publication in accordance with the uniform classification headings used for publication of the 1976 Interpretations appended hereto.

The Interpretations published today are altered from the form in which they were originally issued only in the following respects:

(1) Material which is arguably confidential under 18 U.S.C. 1905 (chiefly specific price or supply data relating to the requesting firm's business operations) has been deleted and replaced by x's;

(2) The inside address, subject line and salutation have been deleted and replaced by the following uniform data identification headings:

To: (Firm which submitted request for interpretation or on whose behalf request for interpretation was submitted);

Date: (Date Interpretation was issued);

Rules Interpreted: (List of regulations, rulings or statutory provisions construed in the Interpretation);

Code: (Information indicating (i) whether the Interpretation was issued by

General Counsel/Washington ("GCW") or Regional Counsel, and the FEA Region concerned (e.g., "GCR(IV)"), (ii) whether the Interpretation is a Price Interpretation ("PI") or Allocation Interpretation ("AI"), or both, and (iii) the generic subject or subjects (e.g., "Class of Purchaser," "December 1 Rule") discussed in the Interpretation); and

(3) Non-substantive information included as a matter of course at the end of every Interpretation (indicating, for example, by whom and to what extent, the Interpretation may be relied upon, the procedure for appeal of the Interpretation, and to whom copies of the Interpretation have been sent) has also been omitted.

FEA would normally prefer to number Interpretations by year and the order in which they were issued—e.g., Interpretation 1976–1, 1976–2, etc.—as in the manner of FEA Rulings. However, several Interpretations issued in 1976 have already been reprinted in FEA's Compliance Manual (a commercially published loose-leaf reporter system) with sequential numerical designations which reflect only a partial listing of Interpretations issued in 1976 (allocation and regional Interpretations were omitted). Because FEA's Compliance Manual is available to the public and Interpretations as numbered therein have been cited in proceedings before FEA and elsewhere, FEA believes that unnecessary confusion would result if FEA were to seek to renumber all 1976 Interpretations strictly in accordance with the date of issuance. Therefore, FEA has assigned numerical designations to 1976 Interpretations as follows: (1) Interpretations 1976–1 through 1976–10 (all price Interpretations) are the same as Interpretations 1976–1 through 1976–10 in the Compliance Manual, and (2) Interpretations 1976–11 through 1976–23 (allocation, price, and regional Interpretations) are all other Interpretations issued in 1976, numbered in accordance with the chronological order of their issuance.

It should be noted that FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and that Interpretations may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. Several of the Interpretations published herewith have been affirmed on appeal to date and none of them have been modified or reversed. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth above.

Issued in Washington, D.C., February 1, 1977.

DAVID G. WILSON,
Acting General Counsel,
Federal Energy Administration.

APPENDIX.—*Table of 1976 interpretations*

No.	To	Date	Category
1976–1	United Refining Co.	Jan. 21	Price.
1976–2	Wanda Petroleum Co.	Apr. 16	Do.
1976–3	Sohio-BP Oil, Inc.	Apr. 29	Do.
1976–4	Atlantic Richfield Co.	Apr. 30	Do.
1976–5	Inexco Oil Co.	May 24	Do.
1976–6	Empire Gas Corp.	May 28	Do.
1976–7	Saber Petroleum Corp.	July 6	Do.
1976–8	Rockwood Oil Terminals, Inc.	Oct. 18	Do.
1976–9	Mobil Oil Corp.	Oct. 19	Do.
1976–10	Cities Service Oil Co.	Oct. 20	Do.
1976–11	National Convenience Stores, Inc.	Mar. 5	Allocation.
1976–12	Sun Oil Co.	May 14	Do.
1976–13	K.C.H. Flying Service, Inc.	June 23	Do.
1976–14	Department of Army and Air Force.	June 28	Do.
1976–15	Shell Oil Co.	do.	Do.
1976–16	D.C. Latimer	Aug. 26	Price.
1976–17	Sohio	do.	Do.
1976–18	Petrolane, Inc.	Oct. 13	Allocation.
1976–19	Boston Gas Co.	Oct. 19	Do.
1976–20	U.S.A. Petroleum Corp.	Nov. 4	Allocation/price.
1976–21	Ford Motor Co.	Nov. 18	Allocation.
1976–22	Guam Oil & Refining Co., Inc.	Nov. 21	Do.
1976–23	Champlin Petroleum Co.	Dec. 6	Do.

INTERPRETATION 1976–1

TO: United Refining Company
DATED: January 21, 1976
RULES INTERPRETED: §§ 212.31, 212.82(a), Ruling 1975–2
CODE: GCW–PI–Class of Purchaser

This is in response to your February 6, 1975 Request for Interpretation on behalf of United Refining Company (United).

On February 11, 1975, the Federal Energy Administration (FEA) issued a Notice of Probable Violation (Notice) to United, pursuant to 10 CFR 205.191. That Notice was based upon the same facts and transactions described in United's February 6, 1975 request.

On February 14, 1975, United submitted its written response to the aforementioned Notice, and a conference was held between representatives of United and FEA on that date, to discuss the contents of the Notice.

This interpretation reflects the information made available to FEA in connection with that proceeding, including consideration of the written response, various contracts between United and its distributors, and the verbal presentations made by United.

Facts. United sells No. 2 fuel oil and kerosene to John B. Green Oil Company, Dubois, Pennsylvania (Green), Campbell & Burns, Phillipsburg, Pennsylvania (Campbell & Burns), and Mitchell Oil Company, Brookville, Pennsylvania (Mitchell), which are three of United's eleven distributors of No. 2 fuel oil displaying United's "Keystone" brand. United has long-term (8–10 years) contractual obligations under its Distributor Agreements to supply many of these distributors, including Green, Campbell & Burns, and Mitchell. On May 15, 1973, United sold No. 2 fuel oil to Green, Campbell & Burns, and Mitchell pursuant to their individual contracts at a price of x per gallon. United's sales to its other branded Keystone distributors occurred at prices at or above the x price.

United established a May 15, 1973 weighted average price for a "class of purchaser" of No. 2 oil in which United included Green, Campbell & Burns, Mitchell, and each of United's other branded Keystone distributors. This weighted average price was x per gallon.

Issue. The issue raised by this request for interpretation is whether the contractual relationships pursuant to which the prices paid by Green, Campbell & Burns, and Mitchell were different from the prices paid by United's other branded Keystone distributors on May 15, 1973 served to establish Green, Campbell & Burns, and Mitchell (collectively or individually) as a class or classes of purchaser distinct from United's other Keystone distributors of No. 2 fuel oil.

Interpretation. As a refiner, United is subject to the refiner price rules of Subpart E of 10 CFR Part 212. Section 212.82(a) of that subpart provides in relevant part that: "A refiner may not charge to any class of purchaser a price for a covered product in excess of the base price for that covered product. * * *"

Section 212.31 defines "class of purchaser" as: "purchasers or lessees to whom a person has charged a comparable price for a comparable property or service pursuant to customary price differentials between those purchasers or lessees and other purchasers or lessees."

That same section defines "customary price differential" as including: "a price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality or location or type of purchaser, or a term or condition of sale or delivery."

Because of the complexities that arise with regard to the proper application of the class of purchaser concept, the FEA issued Ruling 1975–2 (40 FR 10655, March 7, 1975). That ruling states, in part: "The principal function of the [class of purchaser] doctrine is to maintain the price differentials that existed on May 15, 1973 between groups of purchasers which were not similarly situated then and are not now similarly situated."

The ruling goes on to state:

"It is in [the] area of differing terms and conditions of sale, and particularly where such terms and conditions, including price terms, were established by written contract on May 15, 1973, that class of purchaser determinations become most difficult.

"In some instances, the fact that sales were made pursuant to contractual terms and conditions may serve to distinguish those purchasers from purchasers that did not buy under contract, and in others it may not. For example, if a seller sold a product to both contract and non-contract purchasers on identical terms and conditions, there would be no basis for establishing separate classes of purchaser. If, however, a firm's contract purchasers were generally those purchasers that bought all of their requirements from the firm over a given time period, whereas the firm's non-contract purchasers bought from the firm only on an occasional and unpredictable basis and if this difference in methods of purchase were reflected in a customary price differential, it would not be proper for the seller firm to place its contract and non-contract purchasers in the same class."

It is our interpretation, based upon a review of the contracts between United and its branded Keystone distributors, that Green constituted a separate class of purchaser for United on May 15, 1973 by virtue of certain aspects of its contractual relationship (Distributor Agreement) with United. These aspects of Green's contractual relationship formed the basis for the price differential between Green and United's other branded Keystone distributors.

Also based upon our review of the contracts between United and its branded Keystone distributors, it is our interpretation that Campbell's & Burns and Mitchell were, on May 15, 1973, and continue to be, similarly situated with other distributors in all relevant respects, and are therefore appropriately placed in the class of purchaser that includes all of United's branded Keystone distributors, other than Green.

Green's agreement with United provides certain terms and conditions of sale or delivery that were not extended by United to other distributors, among them the following:

(a) Terms stipulating that the price for No. 2 fuel oil supplied by United is to be determined each year by mutual agreement for the period from July 1st through June 30th of the next year, and further stipulating that in the event United's F.O.B. Warren rack price is less than the mutually agreed price, Green would pay the lower price.

(b) An exclusivity clause, providing that United will not establish any other distributor, commission agent, or other wholesale bulk operation for the purpose of dispensing Keystone branded products within Green's area of primary marketing responsibility.

(c) An agreement that United will not sell No. 2 fuel oil directly to existing accounts of Green, nor to those accounts acquired in the future by Green.

(d) Delivery terms which provide that all deliveries of Keystone gasoline, kerosene or fuel oil, in transport quantities, to commercial/consumer customers of United within Green's designated sales area shall be made by Green, and which require that United will pay Green a commission for making such deliveries, at the published common carrier freight rate from Warren or from such other supply points as may be designated by United, plus x per gallon.

Although under Ruling 1975–2, these distinctive "terms and conditions of sale or delivery" to Green might alone be sufficient to establish Green in a class of purchaser separate from the rest of United's distributors, FEA has given further consideration to the price term to Green that was in effect on May 15, 1973. Two salient features of that term serve further to distinguish Green from the other branded Keystone distributors, under FEA rules and regulations

First, the price term in the contract between United and Green, which United asserts was attributable to "competitive" conditions, did not specify or result from any stated "discount" or price reduction. The price to Green was fixed for each month of the year by the annual contract; was individually bargained for by Green consistent with and reflecting the unique terms of its Distributor Agreement; and was renegotiable only under specified circumstances.

The second salient feature of the price term in the contract between United and Green was that the agreed-upon price could be raised, if Green and United mutually agreed, when and if "the price which United must pay for crude oil" increased. The contracts between other distributors and United specified price terms related to jobber markup or to a tankwagon price. Green's price from United, however, was unrelated to its own operating costs (jobber margin) or to United's costs of delivery or operation (tankwagon). In addition, Green's price was fixed for a term; while other distributors' prices rose, Green enjoyed its favored contractual method of price determination.

Although United has asserted that the amount of Green's "discount" changed constantly (and therefore could not be "customary"), schedules submitted by United demonstrate that pursuant to the contract price terms, Green's price remained unchanged, while the prices of all other distributors rose. FEA believes that the explanation for the changing differential is not that the amount of the "discount" to Green was altered, but simply that Green enjoyed a form of contractual price protection that had not been extended to United's other branded Keystone distributors, so that when tankwagon prices slowly climbed so, too, did United's prices to its other distributors.

Although Ruling 1975–2 addressed primarily the impact of FEA regulations upon certain price discounts, its concepts are equally valid in situations of price differentials resulting from contracts such as those between United and its distributors. The terms of those contracts, as noted previously, serve to measure the position enjoyed by Green relative to other distributors of United. In that same sense, Green and other distributors were not, on May 15, 1973, and continue not to be, "similarly situated" for purposes of FEA regulations.

Green's underlying long-term Agreement with United (still in force today) reflected certain assurances given and received by both parties, upon the basis of which United extended the particular contractual price terms discussed herein. In this case, the terms of the underlying agreements remain in effect, endowing Green with all of the same characteristics in support of its individual price term, as established on May 15, 1973, relative to United's other distributors. FEA regulations merely serve to measure the starting point (May 15, 1973 price) and the increased product cost increment. Green and United established and continue the relative position of Green by the underlying agreements. Ruling 1975–2 contemplates that contractual terms can establish a "customary price differential" and that such terms can establish one member alone in that class of purchaser. FEA concludes that these results occur here between United and Green.

Although every price differential does not establish a class of purchaser, under the circumstances set forth herein the differential enjoyed by Green constitutes a "customary" price differential between Green and any other distributors of United, requiring that United maintain a separate class of purchaser for Green pursuant to FEA regulations and Ruling 1975–2.

INTERPRETATION 1976–2

TO: Wanda Petroleum Co.
DATE: April 16, 1976
RULES INTERPRETED: §§ 212.31, 212.161
CODE: GCW–PI—Subpart K, Definition of Refiner, Reseller, Retailer

This is in response to your letter of January 13, 1976, on behalf of Wanda Petroleum Company requesting an interpretation of 10 CFR 212.31 which deals with the definitions of "refiner" and "reseller" for the purpose of determining which of the Federal Energy Administration's (FEA's) price rules are applicable to firms engaged in the refining and marketing of petroleum products covered by the Mandatory Petroleum Price Regulations. After consideration of all the information contained in the request, information contained in a supplement to the request dated February 12, 1976 (including certain clarifications transmitted by telephone), and all the relevant authorities, the FEA has determined that the appropriate interpretation is the one that follows. Accordingly, this interpretation is issued to Wanda Petroleum Company (Wanda).

Facts. Wanda Petroleum Company is a Texas corporation with its principal offices located in Houston, Texas. It is an independent wholesale-retail marketing company whose current operations consist entirely of the sale of several petroleum products subject to FEA's price regulations, including propane, butane, and natural gasoline. Incident to the conduct of these operations the Company owns or leases, and operates, LPG truck transports, jumbo tank cars, several short intra-state pipelines, and extensive underground storage facilities.

In addition, Wanda owns, but does not currently operate, a small gas plant which is located at Pierce Junction, Texas (Pierce Junction plant). The Pierce Junction plant is a facility in which a mixed hydrocarbon stream containing propane, butane, and natural gasoline may be separated into its component products. This facility was operated by Wanda on its own behalf until July 23, 1975, when it was shut down due to Wanda's concern that continued operation of the facility might result in classification and treatment of the entire firm as a "refiner" subject to the FEA refiner price rules of 10 CFR Part 212, Subpart K. Moreover, Wanda has determined that reopening this plant is not feasible under circumstances which would subject the firm to the price rules of Subpart K.

Wanda is in the process of considering proposals by other unrelated business concerns for the lease of the Pierce Junction plant, which would, in turn, be operated by Wanda under a separate operating agreement. Any proposal, if accepted, would have the following characteristics:

1. The lease term would be of one or two years with the mutual option to renew from year to year;

2. The lessee would be a firm which is currently a "refiner" as that term is defined in § 212.31 of FEA's price regulations;

3. Payment by the lessee under the lease would consist of a fixed dollar sum to be determined by reference to competitive rates respecting similar facilities and to be paid monthly over the term of the lease (Wanda asserts that such rates are easily ascertained due to the fact that operation of such facilities on a fee basis is a common practice in the gas processing industry);

4. The related operating agreement would provide for operation of the facility by Wanda for the lessee's account;

5. Payment by the lessee under the operating agreement would consist only of an amount sufficient to reimburse Wanda for the actual costs of operating the facility; including fuel (other than natural gas, natural gas liquids, and natural gas liquid products), utilities, repair, maintenance, and labor;

6. The lessee would have the right to purchase the "raw mix" (feedstock) to be processed in the Pierce Junction plant from any source, including Wanda; but in any event all purchases of feedstock would be the result of arms-length transactions and the lessee would take unencumbered title to said feedstock;

7. The lessee would market and sell the natural gas liquid products processed at the Pierce Junction plant on its own behalf and for its own account, subject to FEA's price and allocation regulations. Wanda would have no involvement in the sale of such products;

8. Although Wanda would have no contractual right to or ownership interest in any natural gas liquid products produced at said facility, it would not be restricted under either the lease or the operation agreement in its option to buy such products in arms-length transactions, again subject to FEA regulations.

Issue. Wanda has requested an interpretation of 10 CFR 212.31 as applied to the following issues:

(1) Whether operation by Wanda of the Pierce Junction plant in the manner described above would result in the classification of Wanda as a "refiner" in the context of FEA's price rules; and

(2) Whether the classification of Wanda as a refiner would require that Wanda's lawful prices for covered products be calculated pursuant to the refiner price rules of Subpart K of the FEA regulations.

Interpretation. Section 212.31 defines the terms "refiner," "reseller," "reseller-retailer," and "retailer" as follows:

* * * * *

"Refiner" means a firm (other than a reseller or retailer) or that part of such firm which refines covered products or blends and substantially changes covered products, or refines liquid hydrocarbons from oil and gas field gases, or recovers liquified petroleum gases incident to petroleum refining and sells those products to resellers, retailers, reseller-retailers, or ultimate consumers. "Refiner" includes any owner of covered products which contracts to have those covered products refined and then sells the refined covered products to resellers, retailers, reseller-retailers, or ultimate consumers.

* * * * *

"Reseller" means a firm (other than a refiner) or that part of such a firm which carries on the trade or business of purchasing covered products, and reselling them without substantially changing their form to purchasers other than ultimate consumers.

"Reseller-retailer" means a firm (other than a refiner) or that part of such a firm which carries on the functions of both a reseller and retailer.

* * * * *

"Retailer" means a firm (other than a refiner or reseller) or that part of such a firm which carries on the trade or business of purchasing covered products and reselling them to ultimate consumers without substantially changing their forms.

* * * * *

Section 212.161 of Subpart K of FEA's price rules states, in paragraph (a) as follows: "*Scope.* This subpart applies to all sales of natural gas liquids and natural gas liquid products, including transfers between affiliated entities, by all firms * * * except sales by resellers or retailers, which are subject to Subpart F of this part."

Considering these provisions of FEA's price rules in light of the proposed lease and operating agreements described above, it is FEA's interpretation that since the lessee, under the proposal, would be the owner of a natural gas liquid stream (the "raw mix") and would contract with Wanda to operate the plant in which that stream would be refined, and since the lessee would then sell the refined natural gas liquid products (propane, butane, and natural gasoline) to resellers, retailers, reseller-retailers, and ultimate consumers, the lessee would properly be considered a "refiner" for purposes of § 212.31 of the FEA price rules by virtue of these activities.

Since Wanda would transfer unencumbered title in the "raw mix" to the lessee under the proposal and since Wanda would not retain any interest in this mix or the products derived therefrom, although it might in a subsequent and unrelated arms-length transaction purchase processed products for purposes of resale, Wanda would properly be considered either a "reseller," "reseller-retailer," or "retailer" for purposes of § 212.31 of the FEA price rules, notwithstanding the fact that it operated a plant which refined the "raw material" on the lessee's behalf, on a fee basis.

Inasmuch as the January 13 request does not contain information respecting the May 15, 1973 selling prices, product costs, and non-product costs of either Wanda or the proposed lessee, FEA cannot render a determination of the actual lawful selling prices which may be charged by the respective firms in the event the proposal is implemented. However, it is our interpretation that, as either a reseller, reseller-retailer, or retailer, Wanda would compute its lawful prices for covered products pursuant to Subpart F of Part 212 and that the lessee would compute its lawful selling prices pursuant to the refiner price rules of Subpart E and/or Subpart K of Part 212, as appropriate.

It should be noted that, given the fact situation described above, Wanda is currently classified as either a reseller, reseller-retailer, or retailer for purposes of FEA's price rules. The proposed change in Wanda's operations and the interpretation issued today do not operate, therefore, to alter Wanda's status under FEA regulations. Moreover, if the proposed lease and operation agreement described above had been in effect when FEA's regulations were originally adopted, the result would have been the same; the lessee would have qualified as a "refiner" and Wanda would have qualified as a "reseller," "reseller-retailer," or "retailer," as those terms were defined in the original Mandatory Petroleum Price Regulations.

INTERPRETATION 1976-3

TO: Sohio-BP Oil, Inc.
DATE: April 20, 1976
RULES INTERPRETED: §§ 212.112, 212.31
CODE: GCW-PI-Unleaded Gasoline, Definition of Firm

This is in response to your request for interpretation dated July 3, 1975, in which you ask that 10 CFR 212.112 be interpreted to permit BP Oil, Inc. ("BP") to qualify as a firm which may sell unleaded gasoline at one cent per gallon above the price of "regular" gasoline pursuant to § 212.112, notwithstanding the fact that § 212.112 is limited in its application to firms which did not sell unleaded gasoline on May 15, 1973, and BP is a wholly-owned subsidiary of the Standard Oil Co. of Ohio ("Sohio"), a firm which did market unleaded gasoline on May 15, 1973.

We understand that this request for interpretation was prompted by an FEA audit in which it was preliminarily determined that BP may be in violation of FEA pricing regulations for selling unleaded gasoline at one cent per gallon above the maximum price of "regular" gasoline rather than at or below the maximum price which Sohio may charge for unleaded gasoline (which is the same as the maximum price Sohio may charge for "regular" gasoline).

Facts. 1. Sohio is a refiner subject to Subpart E of the FEA price regulations. It markets refinery products primarily in Ohio.

2. Sohio has marketed unleaded gasoline since 1970.

3. BP is a wholly-owned subsidiary of Sohio. BP's refining and marketing assets were acquired by Sohio in 1970. BP operates a refinery in Pennsylvania and is engaged in marketing operations primarily in the Middle Atlantic and New England states.

4. BP did not begin marketing unleaded gasoline unleaded gasoline until June, 1974.

5. Sohio and BP maintain separate marketing systems with separate management for pricing matters.

6. Under § 212.112, which is applicable only to firms "which did not sell unleaded gasoline on May 15, 1973, or within the 30-day period prior thereto", the maximum price which may be charged by refiners for unleaded gasoline in sales after July 9, 1974, may not exceed the maximum price which the refiner may charge for leaded gasoline of the same or nearest octane number, plus one cent. In most cases, this rule results in a price for refiners that did not sell unleaded gasoline on May 15, 1973, which is not more than one cent per gallon above the price of "regular" gasoline.

Interpretation. Section 212.112 limits the price which a "firm" may charge for unleaded gasoline. For pricing purposes, FEA defines a "firm" as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." Sections 212.31 and 212.82. The only further distinctions pertinent to this case which FEA makes is that between a firm which is primarily a refiner (and thus subject to the pricing rules for refiners under Subpart E of Part 212) or primarily a reseller or retailer (and thus subject to the pricing rules for resellers and retailers under Subpart F of Part 212). In either case, the applicable price rules apply to the entire "firm," including all subsidiaries either directly or indirectly controlled.

As a refiner subject to Subpart E of Part 212, Sohio is bound as a "firm" by the price rules of Subpart E with respect to all its sales at the refinery level, including such sales from the refineries of its subsidiaries. In other words, Sohio has for refiner-level sales of each product to a particular class of purchaser a single firm-wide maximum allowable price. The price rules do not apply to each refinery but to each "firm."

Sohio is similarly bound as a "firm" by the price rules of Subpart E with respect to all its sales (including those of BP) made at the reseller or retailer level. The price rules do not apply to each marketing outlet or subsidiary but to each "firm."

On October 17, 1975, the FEA issued a notice of proposed rulemaking (40 FR 49372, October 22, 1975) in which FEA proposed, among other things, to amend its regulations to permit a degree of regional pricing flexibility by refiners, resellers and retailers. In effect, the proposal would permit a national marketer, for example, to deviate from the required system of uniform prices throughout the country (i.e., uniform with respect to the class of purchaser concerned) and to charge within the same class of purchaser prices which reflect regional differences. As noted in its notice of proposed rulemaking, FEA formally proposed consideration of "regional pricing" as early as September, 1974, but no action was taken at that time due to objections raised in the comments which FEA determined to warrant further consideration of the proposal.

In view of this background, there is no room for an interpretation of FEA's price regulations which would permit BP, as a Sohio subsidiary marketing unleaded gasoline in the Middle Atlantic and New England regions, to sell that product at prices which exceed the maximum prices at which the parent, Sohio, is permitted to sell unleaded gasoline in its Ohio-based marketing system. While the regulations may be changed eventually to permit regional pricing, pursuant to the rulemaking currently under consideration, it is clear that the regulations do not now permit it. It is our interpretation, therefore, that BP is bound by whatever pricing limitations apply to the sale of unleaded gasoline by Sohio.

In its interpretation request, BP stresses that "[BP's] marketing and refining system is geographically and operationally completely distinct from Sohio's * * * and the mere existence of a parent-subsidiary relationship should not dictate a result which does not give recognition to this fact. Moreover, the history and timing of the development of unleaded gasoline capabilities by the two systems also emphasizes the lack of any logical relationship between the two. Therefore, it is submitted that FEA should inter-

pret the regulations to provide that BP may price its sales of unleaded gasoline according to 10 CFR 212.112 (i.e., one cent above regular)."

It appears that BP's case is not grounded upon any ambiguity, omission, or conflict in FEA's price regulations but is based, instead, upon a claim of inequity or hardship arising from application of those regulations to a marketing situation which BP describes as "unique." BP states that its marketing posture is sufficiently unusual or atypical that it would be "unfair" not to apply the price rules in § 212.112 to it.

INTERPRETATION 1976–4

TO: Atlantic Richfield Co.
DATE: April 30, 1976
RULES INTERPRETED: §§ 212.82, 212.83(b), Subparts D, E, and F, EPAA § 4(b)(2)
CODE: GCW–FI–Definition of Cost of Crude Oil, Affiliated Entities, Posted Price, First Sale

This is in response to your letter of September 19, 1975, as revised by your letter of October 2, 1975, and as supplemented by your memorandum dated October 10, 1975, in which you request an interpretation on behalf of Atlantic Richfield Co. ("Arco") of the terms "cost of crude petroleum" and "affiliated entities" in § 212.83(b) of the price regulations applicable to refiners of crude oil.

In a letter dated October 1, 1975, Mobil Oil Corporation ("Mobil") also requested an interpretation as to the meaning of "affiliated entities" in 10 CFR 212.83(b). In its letter of October 1, 1975, Mobil stated that the issues raised in its request are essentially similar to those involved in your request for interpretation and endorsed the position taken by Arco with respect to the meaning of § 212.83(b). Furthermore, the facts presented by Mobil concerning the extent of its activities in the petroleum industry and the character of its internal organizational structure appear to be essentially similar to the facts which Arco presented in its request for interpretation with respect to its internal organizational structure and the extent of its activities in the petroleum industry. Therefore, in view of the foregoing, FEA has addressed to and served upon Mobil a copy of this interpretation in response to its request for interpretation of October 1, 1975, as supplemented by its letter of November 20, 1975.

FEA is aware that Arco and Mobil are single parties defendant in two separate civil actions brought by Eastern Air Lines, Inc. ("Eastern"), in the United States District Court for the Southern District of Florida, in which the Court by order applicable to both these civil actions has stayed further proceedings pending final determination by FEA of the requests for interpretation filed by Arco and Mobil. This interpretation relates only to the meaning of "affiliated entities" in 10 CFR 212.83(b) and should not be interpreted as a determination with respect to whether prices charged in specific transactions between the parties litigant are otherwise lawful or unlawful.

In formulating this interpretation, FEA took into account all third party comments submitted by Eastern in response to the interpretation requests submitted by Arco and Mobil. In accordance with 10 CFR 205.84, Arco and Mobil were afforded an opportunity to respond to all third party submissions. Arco submitted to FEA a written reply to Eastern's third-party submission dated October 3, 1975, relating to the Arco interpretation request, and Mobil submitted to FEA a written reply to Eastern's third-party submission dated October 15, 1975, relating to the Mobil interpretation request. These replies were also taken into account by FEA in formulating the present interpretation.

Facts. 1. Arco is a large, vertically-integrated petroleum firm engaged in the production of crude oil, the refining of crude oil, and the marketing of products refined from crude oil.

2. Arco is a "refiner," as that term is defined in 10 CFR 212.31, and is therefore subject to the price rules applicable to refiners in 10 CFR Part 212, Subpart E, with respect to its refining and petroleum marketing activities. As a producer of crude oil, Arco is also subject to the rules in 10 CFR Part 212, Subpart D, applicable to the maximum prices which may be charged for domestic crude oil production.

3. Arco is organized by corporate divisions which correspond to Arco's broad fields of activity within the petroleum industry. For example, the "producing division" is responsible for the exploration and production of domestic crude oil, while the "products division" conducts the refining and marketing of petroleum products in the United States. These are unincorporated operating divisions rather than incorporated subsidiaries.

4. The crude oil produced by the producing division is accounted for and transferred to the products division under a system of interdivisional transfer billings at the relevant posted prices for the type of crude oil involved. Such posted prices have, since the advent of crude oil price controls, generally reflected the limitations on crude oil prices which those controls have imposed. In other words, Arco determines the cost of Arco-produced crude oil to its products division, for purposes of applying the price rules in 10 CFR Part 212, Subpart E, applicable to refiners, on the basis of the maximum allowable prices available to producers under 10 CFR Part 212, Subpart D.

5. Section 212.82 provides that "costs of crude oil" may be used to calculate refiners' maximum allowable prices, and under § 212.83(b) refiners may use "transactions between affiliated entities" to calculate increased costs. Refiners may generally pass through increased costs in the form of price increases on refined products sold by the refiner. Arco relies on §§ 212.82 and 212.83(b) in treating as costs to its refineries the prices which Arco, as a producer of crude oil, may charge for crude oil under the price rules applicable to producers in 10 CFR Part 212, Subpart D.

Issue. Are Arco's unincorporated operating divisions "affiliated entities," within the meaning of § 212.83(b)?

Interpretation. FEA's price regulations in 10 CFR Part 212 consist of three main divisions: Subpart D, applicable to producers of crude oil; Subpart E, applicable to refiners; and Subpart F, applicable to resellers and retailers.

The price rules applicable to refiners and resellers/retailers are similar in that they essentially provide that, subject to certain restrictions, the maximum price which may be charged for a product as sold to a particular class of purchaser is limited to the weighted average price charged for that product in transactions with the class of purchaser concerned on May 15, 1973, plus increased costs incurred by the firm concerned since that time. Thus, in general, refiners and resellers/retailers may not charge prices above the levels prevailing on May 15, 1973, except to the extent that they are cost-justified: §§ 212.82 (definition of "maximum allowable price"), 212.83(a), 212.92, 212.93 (a) and (b).

In contrast, the price rules applicable to producers of crude oil are not based on actual increased costs incurred by the producer. The prices which producers may charge for crude oil are determined according to specified price ceilings which are designed primarily to encourage maximum production of domestic crude oil. §§ 212.73 and 212.74.

At the time the request for interpretation was submitted, § 212.83(b) defined a refiner's "cost of crude oil" to mean—"For purposes of domestic crude oil, (a) in arm's-length transactions, the purchase price * * * (b) in transactions between affiliated entities, the posted price. * * *"

At the same time, § 212.83(f) provided that "transactions between affiliated entities may be used (by refiners) to calculate increased product costs."

"Posted price," a term widely used in the industry to indicate the current standard selling price for a particular grade of crude oil in a particular field, is defined by FEA to mean "a written statement of crude petroleum prices circulated publicly among sellers and buyers of crude petroleum in a particular field in accordance with historic practices, and generally known by sellers and buyers in the field," 41 FR 16179, April 16, 1976. While the term "posted prices" is perhaps best understood in the context of a free market pricing system, the industry continues to use the "posted prices" concept within the constraints of the price ceilings imposed on crude oil sales by the FEA regulations.

Regulations applicable to refiners have been significantly revised in recent months to conform with the requirements of the Energy Policy and Conservation Act of 1975. Under the current definition of "cost of crude oil," now found in § 212.82, the term means—"for purposes of domestic crude oil, the first sale price or the purchase price if the transaction occurs after the first sale, provided that the first sale price or purchase price conforms with the requirements of Part 212, plus the cost of transportation." The provision dealing with increased costs is now found in § 212.83(b) and continues to provide that "transactions between affiliated entities may be used to calculate increased costs," for purposes of determining the maximum prices which may be charged by refiners.

The term "first sale price" is not defined in Subpart E, applicable to refiners. Since it is the first sale price for crude oil which is at issue, and since the definition of "cost of crude oil" requires that "the first sale price * * * conform * * * with the requirements of Part 212," it is clear that reference must be made to the rules applicable to producers in Subpart D of Part 212 to determine the meaning of "first sale price."

In Subpart D, "first sale" is defined as "the first transfer for value by the producer or royalty owner. With respect to transfers between affiliated entities, the 'first sale' shall be imputed to occur as if in arm's-length transactions."

In addition, "transactions between affiliated entities" means "all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest." § 212.82.

From all the foregoing considerations it is clear that, under the current regulations and the regulations in effect at the time of submission of the interpretation request, FEA intended, in the case of refiners which are also producers of crude oil, to permit the "posted price," or the imputed "first sale price," as constrained by crude oil price ceilings established in 10 CFR Part 212, Subpart D, to be used as the cost of crude oil transferred from the "affiliated entity" which produces crude oil to the "affiliated entity" which refines that crude oil.

This conclusion is not contested by Eastern. Eastern only contends that the term "affiliated entities" should be narrowly construed to mean legal entities only, so that profit associated with crude oil production

could not be passed through by integrated refiner-producers organized internally according to unincorporated operating divisions.

In its interpretation request, Arco stated that organization by divisions rather than by separate corporate entities is common to the petroleum industry, including both large and small firms. Mobil's interpretation request confirms this. According to Mobil, such organization "is in broad outline characteristic of the domestic operations of integrated oil companies." It thus appears that Eastern's interpretation of "affiliated entities," if adopted, would have widespread effects on revenues in the petroleum industry and would deprive the various inter-related regulatory provisions cited above of any substantial meaning for many if not most refiners.

In addition, the interpretation advanced by Eastern would result in arbitrary discrimination between refiners based solely upon technicalities of corporate organization. FEA has no rational basis whatever for interpreting its regulations in a manner which would restrict refiners with unincorporated producing divisions to actual production costs, for purposes of determining cost of crude oil to the refiner, while permitting refiners with incorporated producing subsidiaries to treat as costs of crude oil to the refinery the posted price or imputed first sale price to which the firm would be entitled if it sold its crude oil in arm's-length transactions to other refiners.

FEA is not aware of any definition of "affiliated" or "entity" in common usage which would compel the result sought by Eastern. As used by FEA and its predecessor agencies, "affiliated entity" may include incorporated subsidiaries but is not limited to such entities.

Under Phase II of the Economic Stabilization Program (1971–1973), "entity" was defined in such a way that it included, or could be taken to include for certain purposes, a "subsidiary, division, affiliate," or other "part" of a firm "which is customarily regarded as being separate for cost, pricing and profit decisions. * * *" (6 CFR 300.5, 6 CFR 300.353).

The flexibility and inclusiveness of FEA's interpretation of entity can be demonstrated by usage of the term in FEA's regulations and in its definitions of other terms. For example, "firm" is defined by FEA, in pertinent part, as "any association, company, corporation, estate, individual, joint venture, partnership or sole proprietorship *or any other entity however organized.* * * *" (§ 212.31, italics added). The same definition was used by the Cost of Living Council in Phase IV of the Economic Stabilization Program. (6 CFR 150.31). In § 212.111(c), FEA employs the phrase "a legal entity" to indicate that a more restrictive meaning of "entity" is appropriate in the context of that provision.

It is also important to note in this context that the refiner regulations contemplate only two kinds of domestic crude oil costs: (1) "purchase price" costs (i.e., the price in arm's-length transactions with unrelated entities) and (2) the "posted price" or "first sale price" costs (i.e., the transfer price in transactions between affiliated entities). It is unreasonable to assume that FEA has failed to provide any method of computing costs of crude oil where the production affiliate of a refiner-producer is an unincorporated operating division. Such a defect would mean that lawful prices under a system of mandatory price controls could not be determined. These considerations compel the conclusion that the regulations applicable to refiners apply to all crude oil transactions with refiner entities and that such transactions must be either at arm's length or between affiliated entities. Therefore, "affiliated entities" as used in § 212.83 (b) must be interpreted as encompassing all affiliated entities, whether incorporated or not.

Eastern takes the position that section 4 (b) (2) of the Emergency Petroleum Allocation Act of 1973, as amended, permits only actual costs to be passed through in the form of price increases. FEA does not share this view.

Section 4(b)(2) requires that FEA regulations "provides for a dollar-for-dollar passthrough in net increases in the cost of crude oil, residual fuel oil, and refined petroleum products at all levels of distribution * * *." FEA interprets this provision as one which limits FEA's ability to require firms to absorb product cost increases and thus assures producers, refiners and marketers that net increases in product costs, at least, can be passed through without restriction. However, nothing in this provision suggests that only actual net increases in costs can be passed through. As discussed above, the price ceilings for crude oil production set forth in Subpart D of 10 CFR Part 212 are not constructed only on the basis of producers' costs but are set at levels designed to encourage increased crude oil exploration and production in the United States.

INTERPRETATION 1976–5

To: Inexco Oil Co.
Date: May 24, 1976
Rules Interpreted: § 212.111, Subpart K
Code: GCW–PI–New Item Rule, Subpart K

This is in response to your letter of January 1, 1975 on behalf of Inexco Oil Company (Inexco) which requests an interpretation of Subpart K of the Mandatory Petroleum Price Regulations as applied to owners of gas processing plants which commenced operations after May 15, 1973, but before January 1, 1975, the effective date of the Subpart K regulations. Upon consideration of all the information contained in the request (including certain facts conveyed at a meeting held on January 2, 1975) and the supplement to the request dated January 26, 1976, and upon consideration of all the relevant authorities, the Federal Energy Administration (FEA) has determined that the appropriate interpretation is the one that follows. Where information contained in the January 1 request conflicts with subsequent information included in the January 26 supplement, such conflicts have been resolved in favor of the supplementary submission. Accordingly, this interpretation is issued to the Inexco Oil Company.

Facts. The request was engendered by the following fact situation:

(1) Inexco is a gas processing firm which comes within the definition of "refiner" set forth in § 212.31 of the FEA price regulations. Such firms were subject to Subpart E of the price regulations prior to January 1, 1975, and have been subject to Subpart K of the price regulations since that date;

(2) Prior to January 15, 1974, Inexco's operations consisted entirely of the production of a "wet" natural gas stream which it sold to McCulloch Gas Processing Company ("McCulloch") subject to a "net-back" agreement under which McCulloch extracted and sold a mixed natural gas liquid stream. As part of the compensation Inexco received for its "wet" gas stream under the net-back agreement, Inexco was provided an option either to take title to a percentage of the liquids processed and sell them on its own behalf, or to be paid a percentage of the revenues McCulloch received for the liquid stream. In January of 1974 McCulloch began to fractionate the Inexco gas stream at its Campbell County, Wyoming gas plant ("Campbell plant") and to sell propane and the remainder of the liquid stream separately. Also during January 1974, Inexco exercised its option under the net-back agreement to take title to a percentage of the propane for sale on its own behalf, and on January 15, 1974, Inexco first began selling propane processed at the Campbell plant; and

(3) Inexco referenced its January 15, 1974 selling price for propane from the Campbell plant to that of Ginther, a company which, on January 15, 1974, sold propane from its Springen-Rozet, Wyoming plant at x cents per gallon and at x cents per gallon. Ginther's sales were made to A. V. Industries and to Phillips Petroleum. Inexco believes, but has no way of confirming, that Ginther made sales to each purchaser at both prices.

It is Inexco's understanding that A. V. Industries' purchases of propane from Ginther's Springen-Rozet plant on January 15, 1974 were made at a wholesale price and that A. V. Industries resold this propane to end-users, including agricultural and industrial users, at retail. It is also Inexco's understanding that Phillips Petroleum's purchases of propane from Ginther's Springen-Rozet plant on January 15, 1974 were at a wholesale price and that Phillips Petroleum resold this propane to end-users, including agricultural and industrial users, at retail. Inexco is not aware that McCulloch sold propane on January 16, 1974 at wholesale prices to purchasers which resold propane to agricultural or industrial end-users, at retail.

Inexco bagan selling propane from its Campbell plant to Petrolane, Inc. on January 15, 1974 at x cents per gallon. Petrolane, then resold this propane to end-users, including agricultural and industrial users, at retail.

Issue. The question presented relates to the method by which Inexco shall establish its maximum lawful price under FEA price regulations which it may currently charge for propane recovered and processed at the Campbell plant. Inexco asserts that § 212.111 of the FEA price regulations, the "new item and lease rule," was properly used by the firm on January 15, 1974 in determining that its imputed May 15, 1973 selling price for propane, for purposes of determining lawful selling prices under Subpart E of the FEA price regulations, was x cents, the price charged by Ginther on that date for propane processed in its Springen-Rozet plant. Inexco further asserts that this imputed May 15, 1973 selling price for propane is to be used in determining lawful selling prices for that product beginning on January 1, 1975 under Subpart K.

Interpretation. I. The following is an interpretation of the relevant FEA price regulations in effect prior to January 1, 1975 as applied to the facts stated above.

Section 212.111 states, in relevant part, as follows:

"(a) *General New item.* (1) An item is a new item if—

"(i) The firm concerned did not produce, sell or lease it in the same or substantially similar form at any time during the 1-year period immediately preceding the day on which the firm offers it for sale or lease. (A change in appearance, arrangement, or combination including a change in octane number does not create a new item. Ordinarily a change in fashion, style, form or packaging does not create a new item;) and

"(ii) It is substantially different in purpose, function, quality, or technology, or its use or service effects a substantially different result from any other item which the firm concerned currently sells or leases or sold or leased at any time during the 1-year period

immediately preceding the first date on which the firm offers it for sale or lease.

* * * * *

"(b) Base period determination—(1) *Refiners.*

* * * * *

"(ii) A refiner coming into existence after May 15, 1973 which offers a new item shall determine the base price for that item pursuant to the base price provisions of § 212.82 (b). However, for purposes of computing the base price, the increased product costs shall be calculated using the cost of the item first offered for sale rather than the May 1973 cost for the item, and the price at which that item is priced in transactions by other refiners selling the same or most nearly comparable item in the same marketing area on the day when the item is first offered for sale shall be used rather than the May 15, 1973 selling price."

* * * * *

With respect to Inexco, sales of propane on January 15, 1974 were sales of a "new item" within the meaning ascribed to that term in § 212.111(a) (1) since the firm did not produce, sell or lease propane in the same or substantially similar form during the prior year, and propane is substantially different in purpose, function, quality, and technology from the "wet" gas stream that Inexco did produce and sell during the prior year. Accordingly, in calculating its lawful selling price pursuant to the refiners' price rules of Subpart E, Inexco was required to determine its "base price" in the manner set forth in § 212.111(b) (1) (ii). This section requires, generally, that a refiner selling a new item must comply with the price rule of Subpart E, § 212.82, except that it must substitute its cost on the date of the first sale for the May 15, 1973 cost referenced in § 212.82 and it must substitute "the price at which the item is priced in transactions by other refiners selling the same or most nearly comparable item in the same marketing area" on the date of first sale, for the May 15, 1973 selling price referenced in § 212.82. Inasmuch the Inexco request does not contain sufficient information, such as whether other comparable gas processors selling propane at locations nearer than Ginther's Springen-Rozet plant may also have made wholesale sales to firms supplying agricultural and industrial users at retail, FEA cannot render a determination that the manner in which Inexco applied the provisions of § 212.111 was correct or that Inexco's initial selling price of x cents per gallon to Petrolane was lawful. However, it is FEA's interpretation, based on the facts stated above, that Inexco's initial lawful selling prices in January 1974 may properly be determined in accordance with the provisions of § 212.111(b).

II. The following is an interpretation of the relevant FEA regulations in effect on January 1, 1975 and thereafter as applied to the facts stated above. Beginning on January 1, 1975, Inexco's sales of natural gas liquid products, including propane, became subject to new price rules contained in Subpart K of the FEA price regulations. Section 212.163(a) of Subpart K states as follows: "(a) *First sale.* A royalty owner, producer, gas plant owner, gas plant operator or other entity may not charge to (or receive from) any class of purchaser a price in excess of the weighted average price at which natural gas liquids or natural gas liquid products were lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, except to the extent permitted by this subpart."

Section 212.164(a) of Subpart K states as follows: "(a) *Natural gas liquid products.* For purposes of determining lawful prices of natural gas liquid products in a first sale pursuant to this subpart, a firm may use, in lieu of the weighted average price at which natural gas liquid products were lawfully priced in first sale transactions with a class of purchaser on May 15, 1973, prices of not more than $0.085 per gallon for propane, not more than $0.09 per gallon for butane, and not more than $0.10 per gallon for natural gas."

Although Subpart K contains provisions for the use of imputed May 15, 1973 first sale prices where a gas plant began operations after January 1, 1975, there are no provisions in Subpart K for the use of imputed May 15, 1973 prices where a gas processor first began selling natural gas liquid products after May 15, 1973, but prior to January 1, 1975. The adjusted May 15, 1973 first sale prices set forth in § 212.164(a) may be used in lieu of a firm's May 15, 1973 prices, but they are not intended to serve as imputed May 15, 1973 prices where no sales were made on that date. Thus, in the event that a refiner such as Inexco declines the option of using the adjusted May 15, 1973 price levels in computing its lawful selling prices, no provision is made in Subpart K for determining May 15, 1973 first sale prices which may be used in applying the general price rule of § 212.163.

Section 212.111 contains no specific provision for the imputation of May 15, 1973 first sale prices for use by refiners in applying the Subpart K price rules. Nevertheless, it is apparent that in every instance in which a firm subject to Subpart K (1) has no actual May 15, 1973 first sale price, and (2) first began selling natural gas liquid products prior to the adoption of Subpart K, that firm will have been subject to the Subpart E price rules and that firm's May 15, 1973 selling price for purposes of compliance with the Subpart E rules will properly have been determined in accordance with § 212.111(b). An imputed May 15, 1973 selling price having been so determined, the use of that same price for purposes of applying the Subpart K price rules is both appropriate and necessary to ensure continuity in the implementation of FEA's price regulations. Similarly, the continued use of the imputed May 1973 costs determined pursuant to § 212.111(b) is appropriate for purposes of determining increased product costs in accordance with the Subpart K price rules except where the specific provisions contained in Subpart K call for or permit the use of some other May 1973 cost figure. (See, for example, § 212.168 which provides for the use of an imputed May 15, 1973 residue gas price of $0.23/MCF or $0.23/MMBTU in computing the increased cost of natural gas shrinkage where the residue stream was not in fact sold on May 15, 1973.) It is FEA's interpretation, therefore, that any imputed May 15, 1973 selling prices and imputed May 15, 1973 costs properly determined pursuant to the provisions of § 212.111(b) for use by Inexco in computing its lawful selling prices prior to the adoption of the Subpart K price rules continue to be appropriate for use, in lieu of actual May 15, 1973 selling price and cost data, in computing current lawful prices pursuant to the provisions of Subpart K.

INTERPRETATION 1976–6

TO: Empire Gas Corp.
DATE: May 28, 1976
RULES INTERPRETED: Subpart F, § 212.31, EPAA § 4(b) (2) (A)
CODE: GCW–PI–Subpart F, Class of Purchaser

This is in response to your request for interpretation dated September 2, 1975, submitted on behalf of your client, Empire Gas Corporation ("Empire").

We understand that this request for interpretation was prompted by an FEA audit in which noncompliance by Empire with certain of the price rules of 10 CFR Part 212, Subpart F ("Subpart F"), was suggested.

Facts. 1. Empire is a retailer subject to the price regulations in Subpart F.

2. Empire markets propane to hundreds of thousands of consumers in 30 states through some 300 operating subsidiaries.

3. Empire computes propane product cost increases on a firm-wide basis (i.e., Empire and all its operating subsidiaries, collectively)

4. Empire generally considers its classes of purchaser to be firm-wide (i.e., not differentiated according to the location of the purchasers)

5. Empire interprets Subpart F to permit increased product costs to be passed through, in prices charged above May 15, 1973 price levels, in unequal amounts to different classes of purchaser without restriction. Empire maintains that the increment of increased product costs included in prices charged to different classes of purchaser could be either above or below the per-unit increased product costs determined under §212.92, as long as the total recoupment of increased product costs in all sales does not exceed the amount which would have been recouped if the per-unit increased product costs determined under § 212.92 had been passed through equally in sales to each class of purchaser.

Interpretation. The interpretation request raises numerous questions and issues bearing upon the extent to which Empire's pricing methods comply with the Subpart F regulations. Some of the questions raised relating to specific class of purchaser determinations by Empire—e.g., whether the prices charged to certain purchasers on May 15, 1973, in a given case reflected "random" pricing differentials rather than "customary" pricing differentials—do not appear suitable for legal interpretation because answers to such questions depend largely upon factual data contained in Empire's accounting and pricing records.

Ordinarily, a firm makes its own class of purchaser determinations based on its historic pricing practices. If the firm's class of purchaser determinations are challenged by FEA's compliance office, questions raised are usually factual questions which can only be resolved by audit of the firm's accounting data. While questions sometimes do arise in this context concerning the meaning of the price regulations, which would be suitable for a legal interpretation, in the present case we have not been provided with sufficiently framed legal issues or with sufficient supporting data to provide an interpretation relating to particular class of purchaser determinations.

We have, however, identified the following five issues which we believe are appropriate for interpretation at this time. (If you believe that the interpretation provided with respect to these issues does not fully dispose of the questions as to the meaning of the Subpart F regulations which you have raised, a further request for interpretation which bears on the meaning of those regulations may be submitted.)

Issue No. 1. Are product cost increases under Subpart F to be computed on a firm-wide basis, to determine a uniform per-unit product cost increase factor applicable to all sales of the firm (including a firm which has multiple subsidiaries in several states), or are product cost increases to be computed at a lower level of aggregation (e.g., per subsidiary or per class of purchaser) so that per-unit product cost increases will not be uniform throughout the firm?

Prior to a May 1, 1976 amendment to Subpart F (41 FR 19110, May 10, 1976), which permits increased product costs to be calculated on an inventory-by-inventory basis, product cost increases of retailers subject to Subpart F were required to be aggregated and computed for each product on a firm-wide basis. As noted in the preamble to the May 1 amendments, a class exception proceeding is to be conducted to determine whether the new regulation should be applied retroactively. The basis for the requirement for the single firm-wide computation, prior to the May 1 amendment, was that the definition of "retailer," 10 CFR 212.31, incorporates the definition of "firm," id., which, in turn, permits FEA to treat as a firm "[a] parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." For cost pass-through purposes, FEA generally interprets "firm" in the broad sense indicated above. See FEA proposals to permit "regional pricing," (39 FR 32718, September 10, 1974; 40 FR 49372, October 22, 1975). Therefore, the "seller" to whom the price rules in Subpart F are addressed is the entire "firm" of Empire and its subsidiaries, taken all together, and the product cost increases referred to therein (prior to the May 1 amendment providing for separate cost calculations) were necessarily the entire "firm's" product cost increases.

Issue No. 2: May a firm subject to Subpart F which markets in a large number of states determine its classes of purchaser on a firm-wide or "total market" basis, or must regional or locational May 15, 1973 selling price differentials be taken into account in determining classes of purchaser?

The location of a purchaser or of a group of purchasers provides the basis for a valid class of purchaser distinction if the different locations were the basis for customary price differentials on May 15, 1973. But a seller is not required under the price regulations to form classes of purchaser according to locational differences unless such customary price differentials were associated with different locations.

"Class of purchaser" means purchasers to whom a firm has charged a comparable price for comparable property "pursuant to customary price differentials between those purchasers and other purchasers." 10 CFR 212.31. "Customary price differential" is defined as "a *price distinction* based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality *or location* or type of purchaser, or a term or condition of sale or delivery." *Id.*, (emphasis added.)

As indicated above, classes of purchaser are essentially determined on the basis of customary price differentials. "Customary" price differentials are those pricing patterns of the seller concerned which were well established on and before May 15, 1973, which reflect the fact that the same product is sold by that seller at different price levels to different groups of customers. These customary pricing distinctions are normally based on one or more specific objective criteria, such as differences in volume purchased, the grade or quality of the product purchased, the type of purchaser (*e.g.*, wholesale or retail), or the location of the purchaser. However, a seller is not required to reform its classes of purchaser to take into account discretionary pricing practices which it did not customarily follow in its own pricing behavior, such as discounts to high-volume purchasers or extra charges to customers in distant locations. The validity of a seller's class of purchaser determinations is measured not with reference to industry practices generally but with reference to that seller's own customary pricing patterns. See FEA Ruling 1975-2 (40 FR 10655, March 7, 1975).

Empire did not ask in its interpretation request for an interpretation as to whether Empire's determination of its classes of purchaser conforms with the FEA regulations. This interpretation therefore does not address the question of the validity of the class of purchaser distinctions upon which Empire bases its present pricing structure. This interpretation merely confirms in this respect that the differing location of purchasers, in and of itself, need not be considered by Empire in conforming to the FEA price rules if Empire's historic customary price differentials did not reflect price distinctions based on location of purchasers.

Issue No. 3: Does § 212.92 require that inventory computations be performed each time a shipment of the product to be resold is received, or may the seller make periodic inventory computations in accordance with its own customary accounting practices, relating to inventory control?

Section 212.92 provides that "Increased product costs" means the difference between the weighted average unit cost of a product *in inventory* and the weighted average unit cost of that product in inventory on May 15, 1973. * * * Emphasis added.

It is clear that under § 212.92 a seller must subtract the weighted average unit cost of inventory on hand on May 15, 1973, from the weighted average cost of its current inventory, in order to determine the per-unit product cost increase. However, § 212.92 does not specify exactly what constitutes current inventory.

While the words "product in inventory (currently)" can be interpreted to require an inventory recomputation each time a new shipment of product is received in inventory, such a requirement is not essential for price control purposes under Subpart F. If a firm wishes to calculate its current inventory on a regular periodic basis in accordance with its customary accounting procedures (e.g., monthly), the firm neither gains a pricing advantage nor loses costs for pass-through purposes since any changes in current inventory costs which occur between periodic inventory checks are taken into account in the computation of unrecouped product cost increases carried forward for later recoupment under § 212.93(e).

In addition, a requirement of recomputation of increased product costs every time a shipment is brought into inventory may be difficult or impossible for some firms to meet. In some cases, inventory cost levels change daily or hourly. Constant recomputation of product cost increases and decreases (and thus constant recomputation of ceiling price levels) imposes an administrative burden on firms which may be costly as well as unnecessary.

For the foregoing reasons, FEA interprets § 212.92 to permit the frequency of inventory computations to be determined for purposes of § 212.92 in accordance with the customary accounting procedures of the firm concerned.

Issue No. 4: Do the regulations in Subpart F require that increased product costs be applied equally to each class of purchaser?

Increased product costs determined under § 212.92 may be passed through in unequal amounts to different classes of purchaser under § 212.93 (a) and (e). However, to the extent that the seller does not pass through increased product costs equally to each class of purchaser, the difference between the greatest amount lawfully passed through in sales to one class of purchaser and the lesser amounts passed through to other classes of purchaser may not be carried forward under § 212.93(e) for later recoupment. These amounts must be absorbed by the seller.

Section 212.93(e) contains a provision under which the difference between the greatest amount of increased product costs lawfully passed through in sales to any class of purchaser and any lesser amounts of increased product costs passed through in sales to other classes is deemed to have been recovered and is therefore not eligible to be treated as a cost increase which may be used to justify a price increase. That provision states that:

"With respect to each covered product, when a seller calculates its amount of increased product cost not recouped under this paragraph [(e)], it shall calculate its revenues as though the greatest amount of increased product costs actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser; * * *"

The following examples will illustrate the application of this provision. Assume a seller calculates increased product costs under § 212.92 at 5¢ per gallon and the seller has three classes of purchaser for the product concerned. The seller may pass through the full 5¢ per gallon to all three classes or 4¢ per gallon (or a lesser amount) equally to all three classes without penalty of loss of costs for later recoupment. However, if the seller elects to pass through the full 5¢ per gallon in sales to class of purchaser "A" and, if competitive factors or other considerations indicate that only 3¢ per gallon should be passed through in sales to class "B" and 0¢ per gallon should be passed through in sales to class "C," for example, the seller may pass through these three different amounts but it is deemed to have recovered 5¢ per gallon in sales to all three classes of purchaser, and it must therefore calculate the amount carried forward for later recoupment ("banked") under § 212.93(e) as though 5¢ per gallon had been charged to each class of purchaser. In other words, no increased product costs are available for later recoupment under § 212.93(e), in the latter example.

The same explanation holds true for amounts already carried forward in previous months and "banked" under § 212.93 (e). If the seller wishes to pass through the 5¢ per gallon of current increased product costs equally to each of the three classes, plus an additional 3¢ per gallon of previously "banked" increased product costs in sales to class of purchaser "A" (for a total of 8¢ per gallon), an additional 2¢ per gallon of "banked" costs to class "B" (for a total of 7¢ per gallon), and an additional 1¢ per gallon of "banked" costs to class "C" (for a total of 6¢ per gallon), the seller may do so, but the recovery of increased product costs will be determined as though 8¢ per gallon had been passed through in all sales. In other words, the "bank" of unrecovered increased costs will be reduced by

an amount calculated as though 3¢ per gallon of "banked" costs had been passed through in sales to each of the three classes of purchaser. Of course, as a necessary prerequisite to charging the prices in this example, the "bank" must have been sufficiently large to support a full 3¢ per gallon pass-through of "banked" costs to each class of purchaser.

Since the product sold by Empire is propane, it should be noted that § 212.93(f) contains an exception to the "equal application" rules applicable to sales of propane. Under § 212.93(f), the greatest amount of increased product costs passed through in sales to any class may be as much as 100 percent in excess of the amount of increased product costs passed through in sales to another class, subject to a further provision which prohibits any greater amounts of increased product costs to be passed through in sales to classes of purchaser which include either independent marketers or purchasers which use propane for residential use than are passed through in sales to any other class of purchaser. However, subject to the foregoing special rules for propane, the interpretation of the application of § 212.93(e) provided above is applicable to wholesale and retail sales of all covered products including propane.

Issue No. 5: May a seller charge to a particular class of purchaser a price which reflects more than the weighted average May 15, 1973, selling price to that class of purchaser plus the per-unit increased product costs determined under § 212.92, as long as the weighted average of the increased product costs passed through to all classes of purchaser does not exceed the per-unit increased product costs determined under § 212.92?

No. The per-unit increased product costs determined under § 212.92 is the maximum amount which may be passed through in sales to any class of purchaser. "Under-recoveries" of increased product costs, in the form of lesser amounts passed through in sales to one class of purchaser (e.g., the 2¢ per gallon passed through to class of purchaser "B" in the example given in the answer to Issue No. 4, above, when the amount of increased product costs under § 212.92 was 5¢ per gallon) may not be recouped in the form of "over-recoveries" of increased product costs in sales to another class (e.g., passing through 8¢ per gallon in sales to another class of purchaser, when the amount of increased product costs under § 212.92 is 5¢ per gallon).

The foregoing interpretation is based primarily on the language of §§ 212.92 and212.93 (a). Under the definition of "increased product costs" in § 212.92, increased product costs are not aggregate dollar product cost increases but are *per-unit* product cost increases. This fact is important to a proper understanding of the price-increase rule in § 212.93(a).

Under FEA price controls, product cost increases are computed on a product-by-product basis, as noted in the answer to Issue No. 1, and as evident from the "product in inventory" calculations under § 212.92.

Under § 212.93(a) a seller may charge a price to a class of purchaser which reflects *not more than* the weighted average price at which the product concerned was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects the *"increased product costs"* of that product. In other words, the seller may not add to *any* class of purchaser's May 15, 1973, weighted average selling price an amount which exceeds the *per-unit* product cost increase determined under § 212.92 (*e.g.*, 5¢ per gallon).

As an additional matter, any interpretation which would permit a seller to charge to any class of purchaser an amount which reflects more than the per-unit increased product costs derived from § 212.92 (even though the weighted average of increased product costs passed through to all classes of purchaser did not exceed the per-unit amount calculated under § 212.92) would provide a means to evade or circumvent the intent of the equal application of increased product costs provision of § 212.93(e). In fact, such an interpretation, if adopted, would appear to render that provision entirely nugatory. Thus, such an interpretation is inconsistent with the purpose of § 212.93(e) as well as with the language of §§ 212.92 and 212.93(a).

FEA's interpretation in this matter is not inconsistent with the provision in section 4(b)(2)(A) of the Emergency Petroleum Allocation Act, as amended (EPAA), under which FEA is required to permit a dollar-for-dollar pass-through of net increases in product costs. As explained in the preamble to the regulation amendment which added the express equal application provision of § 212.93(e) (39 FR 32306, September 5, 1974), FEA interprets section 4(b)(2)(A) of the EPAA to mean only that sellers must be afforded the opportunity to pass through all their increased product costs. This opportunity is preserved under the FEA price rules as interpreted herein.

INTERPRETATION 1976-7

TO: Saber Petroleum Corp.
DATE: July 6, 1976
RULES INTERPRETED: §§ 212.31, 212.93(a), 212.111
CODE: GCW-PI-Class of Purchaser, New Item Rule

This is in response to your letter of January 5, 1976, in which you requested, on behalf of your client, Saber Petroleum Corp. ("Saber"), an interpretation that new customers may be formed into new classes of purchaser which did not exist for the seller concerned on May 15, 1973. The request for interpretation was prompted by an audit conducted by FEA Region VI, in which Region VI, in making an initial determination that Saber has overcharged certain of its customers, interpreted the FEA price regulations to require all new customers to be placed in one or more of the seller's pre-existing, historic classes of purchaser unless a new customer falls within a "new market" as defined in § 212.111(a)(2).

Facts. 1. Saber is a reseller of petroleum products, subject to Subpart F of the FEA's price regulations.

2. Saber sells petroleum products to a wide variety of customers. The majority of its sales are "spot," or one time only sales. Saber therefore often sells to new customers.

3. FEA Region VI, following its audit of Saber's pricing practices, determined that Saber has the following four classes of purchaser:

a. Consumers-utilities (long-term contracts).

b. Consumers-utilities (short-term contracts).

c. Consumers-other.

d. Resellers.

4. Saber takes the position that some of its new customers do not substantially resemble the customers which fall within any of the foregoing classes of purchaser, and that Saber should be permitted to form new classes of purchaser for such customers, as necessary, following the guidance for class of purchaser determinations provided in FEA Ruling 1975-2.

Interpretation. The question raised by this interpretation request is whether new customers may be formed into new classes of purchaser under the FEA price regulations or whether all new customers must be placed into the seller's classes of purchaser which existed on or before May 15, 1973.

Our interpretation is that, except for new customers whose purchases represent a "new market" for the seller concerned, as that term is defined in § 212.111(a)(2), new customers purchasing a product previously sold by that seller must be placed in one or more of the seller's May 15, 1973, classes of purchaser of that product, and prices charged to those new customers may not exceed the maximum lawful price applicable to the class or classes of purchaser into which those new customers fall.

Under § 212.31, "class of purchaser" is defined as "purchasers to whom a person has charged a comparable price for comparable property or service pursuant to customary price differentials between those purchasers and other purchasers." "Customary price differentials" is defined, in turn, to include "a price distinction based on a discount, allowance, add-on, premium, and an extra based on a difference in volume, grade, quality, or location or type of purchaser, or a term or condition of sale or delivery."

The price rule in § 212.93(a), applicable to resellers, states that a seller "may not charge a price for any item . . . which exceeds the weighted average price at which the item was lawfully priced by the seller in transactions *with the class of purchaser concerned on May 15, 1973*, plus an amount which reflects on a dollar-for-dollar basis, the increased product costs concerned [emphasis added]."

It is clear that § 212.93(a) seeks to control current prices according to the seller's classes of purchaser which had been formed pursuant to customary pricing differentials as of May 15, 1973. The "class of purchaser concerned" for current pricing purposes must, pursuant to this language, be a class of purchaser which existed on May 15, 1973, since the only classes of purchaser referred to in § 212.93(a) are May 15, 1973, classes of purchaser.

FEA has often explained that the purpose of its class of purchaser concept and the rules which limit unequal application of increased product costs among classes of purchaser (§§ 212.83(h) and 212.93(e)) is to maintain the same general pricing differences between classes of purchaser which existed on May 15, 1973. Thus, for example, when the "equal application" rules were promulgated effective September 1, 1974, FEA stated that "[t]he concept of preserving the customary price differentials *that existed as of May 15, 1973* among various classes of purchaser of a particular covered product is fundamental to the FEA system of price regulations * * * [emphasis added]." In Ruling 1975-2, issued on March 3, 1975, FEA commented that "a principal function of the class of purchaser concept is to preserve the price distinctions among purchasers that customarily existed under free market conditions [*i.e.*, those which prevailed on and before May 15, 1973]."

The foregoing interpretation of § 212.93(a) is fully consistent with the use of the class of purchaser concept under the price rules applicable to refiners. Section 212.83(a) states that a refiner "may not charge to any class of purchaser a price for a covered product in excess of the maximum allowable price * * *." The "maximum allowable price" is defined in § 212.82 as "the weighted average price at which the covered product was lawfully priced in transactions *with the class of purchaser concerned on May 15, 1973*, * * * plus increased product costs and increased nonproduct costs * * * [emphasis added]."

Underlying FEA use of the class of purchaser concept in both §§ 212.82-83(a) and

212.93(a) is the definition of class of purchaser in § 212.31 (quoted above). A key word in that definition, in the context of this analysis, is the word "customary." A price differential, in order to meet the test of customariness, must have been historically and consistently maintained over a period of time. By definition, a newly-created price differential, in response to "spot" sales to new customers, would be anything but "customary" (if allowed). Such pricing innovations could *become* "customary," if maintained over a period of time and if based on differences in volume, grade, quality, etc., but the definitional requirement of customariness precludes such new price innovations from being established.

In addition to the foregoing considerations, it is apparent that any concept permitting the general formation of new classes of purchaser would be difficult to incorporate and administer within the existing framework of FEA price regulations. These regulations are essentially and fundamentally based upon a system under which a price on May 15, 1973 is first determined for each class of purchaser of each covered product, after which certain increased costs are permitted to be passed through in the form of increased prices applicable to those same classes of purchaser. Rules concerning equal application of increased costs among classes of purchaser and other pass-through regulations are constructed upon the foregoing class of purchaser concept. To adopt a general principle that new classes of purchaser which did not exist on May 15, 1973, may now be created would introduce significant new complexities in the present regulatory scheme.

While FEA's regulations thus take a somewhat static view of industry pricing categorizations, it nevertheless appears that most firms generally do maintain the same classes of purchaser over extended periods of time and that they have generally been able to incorporate new customers within such pricing categorizations. The FEA exceptions procedures are available for firms for which these regulations work a serious hardship or gross inequity.

Saber maintains that the guidelines in Ruling 1975–2 are not expressly limited in their application to "historic customers," and that "by implication" new customers can be formed into new classes of purchaser under Ruling 1975–2. While it is true that Ruling 1975–2 discusses at some length the proper methods of determining classes of purchaser, that ruling set forth guidelines with respect to the meaning of class of purchaser and customary price differentials "as defined in 10 CFR 212.31 and as used in FEA's pricing regulations, 10 CFR, Chapter II, Part 212." The ruling is therefore necessarily limited in its application to "customary" price differentials, and does not discuss new classes of purchaser and new price differentials because none are contemplated by the regulations cited. Nothing in Ruling 1975–2 suggests, by implication or otherwise, that new classes of purchaser may be formed other than as permitted under the "new market" rule in § 212.111.

Saber points out that both the general price rules and the "new market" rule use the term "item," which is defined in § 212.31 as "a product sold or offered for sale to a class of purchaser." Saber concludes that the "new market" rule incorporates the class of purchaser concept by reference, and that therefore Ruling 1975–2 and other rulings on the class of purchaser concept are to be employed in classifying purchasers pursuant to § 212.111. In other words, Saber would broaden § 212.111 to permit considerations other than sale to a new level of distribution, such as sale in a new location, etc., to open the door to formation of new classes of purchaser.

The "new market" rule in § 212.111 is expressly limited by its terms to sale to a "new market"—*e.g.*, sale to resellers, retailers, or consumers. It is well established that prices charged at the wholesale level, for example, are generally substantially lower than and therefore would not be appropriate for sales at retail or at the consumer level. A wholesale seller which wishes to undertake retail or consumer sales for the first time would therefore have no reasonable basis upon which to construct price levels for these "new market" sales, in the absence of the special pricing rules provided in § 212.111. It is clear that the purpose of § 212.111 is to afford such a basis. On the other hand, a wholesale seller which wishes to sell to new wholesale customers does have a reasonable basis upon which to set prices for new wholesale customers, and that reasonable basis is the prices charged to its pre-existing wholesale classes of purchaser.

It is true that a possible ambiguity arises from the definition of "item," which contains the phrase "class of purchaser." However, FEA has often used the term "item" as a synonym for "product" in its pricing regulations. For example, for a period of more than two years prior to a recent amendment, § 212.93 (a) stated that a seller may not charge a price for any item which exceeds the weighted average price at which that item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, "increased costs of the item." "Increased costs" (now referred to as "increased product costs," under a recent amendment) are defined in § 212.92 as increased costs of a particular product, and in none of its regulations has FEA ever required or authorized the aggregation of costs by reference to a product as sold to or destined for a particular class of purchaser. Therefore, since there is no such thing as "increased costs of [an] item," with "item" somehow understood as only that portion of the product inventory eventually sold to a particular class of purchaser, "increased costs of the item" can only be read in this context as meaning "increased costs of the product concerned." Accordingly, in a recent revision of §§ 212.92 and 212.93(a), FEA made express the foregoing interpretation of "increased costs of the item" (41 FR 19110, May 10, 1976).

The grammatical situation is the same with respect to the use of "item" in the "new market" rule. The "new market" rule, as originally promulgated by the Price Commission in 6 CFR 300.409 (36 FR 21792, November 13, 1971; 37 FR 26816, December 16, 1972) used the terms "new property or new services" or "new property or service" where "new item" appears in § 212.111. As Saber points out, this rule was carried over into the Phase IV regulations, and thence into the FEA regulations, "with some minimal changes in language." One of those changes was to substitute the more concise term "new item" for "new property or new service." Nothing in the history of the "new market" regulation suggests that the change to "item" carried with it any significance or purpose other than that noted above.

We therefore conclude that, notwithstanding the reference to "class of purchaser" in the definition of "item" in § 212.31, the use of the term "item," in § 212.93(a) or § 212.111(a)(2), is not a significant factor in resolving the issue raised in this interpretation request.

FEA is sympathetic with Saber's assertions that Region VI's interpretation of the class of purchaser rules creates a serious hardship by impeding Saber's ability to compete in the market for new purchasers. However, firms which experience demonstrable serious hardship due to the impact of FEA regulations may obtain relief through the FEA exceptions process.

INTERPRETATION 1976–8

TO: Rookwood Oil Terminals, Inc.
DATE: October 18, 1976
RULES INTERPRETED: §§ 212.31, 212.92, Ruling 1975–14
CODE: GCW–PI–Definition of Firm, Seller

This is in response to your letter of March 15, 1976, in which you requested, on behalf of your client, Rookwood Oil Terminals, Inc. ("Rookwood"), an interpretation of 10 CFR Part 212, Subpart F ("Subpart F") which would permit Rookwood and its wholly-owned subsidiary, Oil Transit, Inc. ("Oil Transit"), to be treated as separate and distinct firms for cost pass-through purposes under Subpart F.

We understand that this request for interpretation was prompted by an FEA audit in which certain cost pass-through and pricing practices of Rookwood were questioned.

Facts. 1. Rookwood is engaged in the purchase and sale of covered products and is subject to the reseller price regulations in Subpart F.

2. Oil Transit, a wholly-owned subsidiary of Rookwood, is also engaged in the purchase and sale of covered products and is also subject to the reseller price regulations in Subpart F.

3. Approximately *x* percent of the volume of covered products purchased by Rookwood are transferred to Oil Transit.

4. Oil Transit markets covered products other than those acquired from Rookwood. Oil Transit markets principally gasoline, which accounts for *x* percent of its total sales. Only between *x* and *x* percent of of the gasoline sold by Oil Transit is supplied by Rookwood. A smaller percentage of the fuel oil sold by Oil Transit is supplied by Rookwood.

5. Rookwood and Oil Transit are now, and have always been, operated as separate and distinct corporations.

6. Rookwood treats itself for purposes of Subpart F as a separate and distinct firm—*i.e.*, it charges prices to its customers (including Oil Transit) reflecting Rookwood's own product and non-product cost increases. Thus, the price to Oil Transit includes Rookwood's May 15, 1973 prices, plus Rookwood's product cost increases, plus Rookwood's non-product cost increases. In turn, Oil Transit charges its customers its May 15, 1973 prices, plus product cost increases which include the prices established in transactions with Rookwood, plus Oil Transit's own non-product cost increases.

Interpretation. The question raised by this interpretation request is whether Rookwood and Oil Transit are separate firms for cost pass-through purposes under Subpart F.

If Rookwood and Oil Transit are, as urged by Rookwood, separate firms for purposes of Subpart F, the cost of product to Oil Transit, with respect to that portion of its supply acquired from Rookwood, would be the price charged by Rookwood as a separate firm. Under this view of Subpart F, the entire firm of which Rookwood and Oil Transit are a part would be entitled to the following benefits which would be reflected in prices charged by Oil Transit: (1) Profit on sales by Rookwood to Oil Transit would be passed through to Oil Transit's customers in addition to Oil Transit's own sales profit based on its May 15, 1973 margins; and (2) because the cent-per-gallon limitations in § 212.93(b) on the pass-through of non-product cost increases are applicable to each "seller," the view that Rookwood and Oil Transit are each a sepa-

rate "seller" might result in many cases in recoupment of more non-product cost increases than would be the case if the limitations of § 212.93(b) applied to Rookwood and Oil Transit taken as a single "seller."

If, however, Rookwood and Oil Transit are a single firm, for purposes of Subpart F, the following rules apply: (1) the cost of product to Oil Transit of product acquired from Rookwood may reflect only *Rookwood's* cost of purchase of these products, and to the extent that Rookwood's prices to Oil Transit reflect profit to Rookwood or Rookwood's separate non-product cost increases, or both, these prices are in excess of the amount which Oil Transit may consider as cost of product under Subpart F; (2) prices charged by Rookwood to its customers (other than Oil Transit), and by Oil Transit, may reflect the combined non-product cost increases of the entire undivided firm, subject to the limitations in § 212.93(b).

In a regulation amendment issued May 5, 1976, FEA expressly defined "seller," for the purposes of Subpart F, as "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls" (41 FR 19110, May 10, 1976). The term "seller," although continuously used in Subpart F since the advent of FEO/FEA regulations in January 1974, had not been expressly defined previously. However, in promulgating this express definition of "seller," FEA noted that the definition "conform[ed] to prior interpretations that 'seller,' as used in Subpart F, is the same as 'firm' as defined in Subpart E of Part 212—*i.e.*, a parent and the consolidated entities (if any) which it directly or indirectly controls." 41 FR 19110.

In a formal interpretation issued on February 12, 1975, to Enterprise Products Co., a reseller, FEA concluded that the "firm" concerned was the reseller and the two retailers over which it had working control, taken together. This was based, in part, on the fact that § 212.91 makes Subpart F applicable to sales by "resellers," "resellers-retailers," and "retailers," and that each of these terms is specifically defined to include the definition of "firm." "Firm," in turn, is defined to permit FEA to treat as a firm "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." 10 CFR 212.31. Thus, in the Enterprise case, FEA ruled that the cost of product for cost pass-through purposes to the firm's customers is the external cost to the "firm," and not the cost as reflected in intra-company transfers, or in "sales" within the "firm." In a formal interpretation issued on May 28, 1976, to Empire Gas Corp., FEA reconfirmed that the "seller" to whom the price rules in Subpart F were addressed, prior to the recent adoption of amendments which included the express definition of "seller," was the entire "firm."

Unless FEA interpreted "seller," "reseller," and "firm" in the wide sense indicated above for cost pass-through purposes, a firm with marketing subsidiaries (whether those subsidiaries are "resellers" or "retailers") would be free to pass through more than its actual product cost increases on a dollar-for-dollar basis by the process of intra-company transfers at more than cost. This would be contrary to the clear general intent of FEA price regulations that, subject to certain additional limitations, prices in excess of the level of May 15, 1973 may be charged only to reflect the increased product and non-product costs of the firm concerned. Thus, both the regulations applicable to refiners (Subpart E) and to resellers/retailers (Subpart F) provide and have been interpreted to provide that the "firm" concerned is the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

Nothing in your interpretation request provides a basis for a different result in the case of Rookwood and Oil Transit. In view of the inclusion of the words "consolidated and unconsolidated" and "direct or indirect" in the definition of "firm" and "seller," it makes no difference whether Rookwood and Oil Transit are each "operated as a separate and independent entity." In view of the broadness of these definitions and the reasons ascribed therefor, the fact that the subsidiary, Oil Transit, is a reseller rather than a retailer, or that it does not purchase exclusively from its parent, forms no basis to distinguish the present case from prior FEA interpretations on this point.

In addition, Ruling 1975-14 does not, as asserted in the interpretation request, "obviate" the necessity for application of the definition of "seller" for purposes of non-product cost increases. The term "seller" is used in § 212.93(b), in connection with non-product costs, and in §§ 212.92 and 212.93(a), in connection with product costs. The definition of "seller" applies to all sections in Subpart F. The fact that non-product cost increases must be cost-justified, as explained in Ruling 1975-14, does not create a special meaning for "seller" for purposes of § 212.93 (b) and does not change the rule that the cent-per-gallon maximums in § 212.93(b) are applicable to the "seller" concerned regardless of the amount of non-product cost increases actually incurred by that "seller" on a per-unit basis. Thus, as previously explained, an improper interpretation of "seller" might permit recoupment of more non-product cost increases than allowed under § 212.93(b).

Finally, the contention that the antitrust laws demand an interpretation that Rookwood and Oil Transit are separate "firms" for purposes of Supart F is not persuasive. Rookwood argues that, if Rookwood's own non-product cost increases are not passed through equally to all its purchasers (including Oil Transit), the resulting price discrimination would ostensibly violate the Robinson-Patman Act. However, as explained in this interpretation, the "seller" for cost pass-through purposes is the "firm" consisting of Rookwood, Oil Transit, and any other entity directly or indirectly controlled by the parent organization. Thus, the non-product cost increases which are to be passed through are those of the "seller," thus defined. If these cost increases are passed through uniformly to all of the "seller's" customer's, it does not appear that any question of unlawful pricing discrimination arises.

Nothing in this interpretation should be construed as suggesting either that a basis exists or does not exist for an exception from FEA price regulations. Procedures for exceptions are contained in 10 CFR Part 205, Subpart D.

INTERPRETATION 1976-9

TO: Mobile Oil Corp.
DATE: October 19, 1976
RULES INTERPRETED: § 212.129
CODE: GCW-PI-Price/Octane Number Information and Posting

This is in response to your letter of March 19, 1975, requesting an interpretation of 10 CFR § 212.129.

FACTS. Section 212.129(b) provides: "Each retail seller of gasoline and No. 2-D diesel fuel shall post and maintain in legible form, in numbers of a conspicuous size (not less than one-half (½) inch high), and in a prominent place on each face of each pump used to dispense gasoline or No. 2-D diesel fuel in retail sales, the maximum permissible price allowed to be charged pursuant to Subparts E or F of this part for such product and the octane number or numbers of the gasoline dispensed from that pump. Whenever a monthly adjustment is made to the maximum permissible price, each seller must post the new adjusted maximum permissible price, and remove the prior posted price. An alternative form for posting gasoline octane numbers, which may be used in lieu of the octane posting otherwise required by this paragraph, shall be the form prescribed or required by the Federal Trade Commission pursuant to its rule at 16 CFR 423.1."

To aid its independent dealers in their compliance with § 212.129(b), Mobil plans to arrange for the graphics, design, letting of bids, manufacturing, and ultimate distribution of all decals and other hardware necessary for the implementation of a numbering system at over 20,000 locations. Accordingly, Mobil requests the following interpretation:

A. The acceptability of the following labels: 1. "Octane number." To designate the number calculated by adding the research and motor octaine numbers and dividing by 2.

2. "Maximum price." To designate the number representing the highest price that the dealer is allowed to charge for his product based upon the Mandatory Petroleum Price Regulations.

B. The acceptability of posting at Mobil operated stations a number closer to the prevailing maximum permissible prices charged by retail dealers rather than the theoretical "maximum permissible price" that Mobil, as a refiner, may charge under the provisions of 10 CFR § 212.81, *et seq.*

Interpretation. A. The use of the labels "Octane number" and "Maximum price" are acceptable labels for "the octane number * * * of the gasoline dispensed" from the pump, and "the maximum permissible price allowed to be charged pursuant to Subparts E or F" of Part 212, respectively, as they do not appear likely to promote confusion among the motoring public.

B. With respect to stations operated by Mobil on a "direct" basis, FEA recognizes that strict compliance with § 212.129(b) could, because of the disproportionate cost pass-through provisions of the refiners' price regulations in Subpart E, result in the posting of a substantially larger number than might be posted at nearby independent stations. FEA recognizes the fact that such posting pursuant to a strict reading of § 212.129(b) might be misleading to the motoring public. It will not be acceptable, however, for Mobil to post as the "maximum permissible price" a price "generally in keeping with the numbers posted by dealers in the trade areas immediately adjacent to the Mobil salaried stations." Mobile may, however, post a price which represents the weighted average price at which sales were made to the class of purchaser concerned on May 15, 1973, plus the increment of increased costs which is currently being passed through by Mobil in prices charged for gasoline in the region concerned.

INTERPRETATION 1976-10

TO: Cities Service Oil Co.
DATE: October 20, 1976
RULES INTERPRETED: §§ 212.83(a)(4), 212.83 (c)(2)(iii)
CODE: GCW-PI-Special Rules for Benzene and Toluene

This is in response to your letter of July 17, 1975, in which you requested, on behalf of your client, Cities Service Oil Company ("Cities Service"), an interpretation relating to the special adjustment for toluene under

the rules which govern refiners' increased product costs and which otherwise limit the prices which refiners may charge for petroleum products.

Your request was prompted by the results of an audit of Cities Service records undertaken by FEA/Tulsa, in which it appeared that increased product costs available for passthrough may have been overstated by Cities Service by some due to failure to conform to the special rules in 10 CFR 212.83 requiring that increased product costs allocable to general refinery products be reduced by a factor keyed to the amount of benzene and toluene sold in the month of May, 1973.

Facts. 1. Cities Service is a refiner subject to Subpart E of 10 CFR Part 212.

2. In order to produce gasoline of appropriate octane content, it is necessary to produce for use as a blending stock a naphtha-type material or "reformate" which contains octane-increasing aromatics (benzene, toluene and xylenes). The reformate may be fed directly into the gasoline stream without further processing. Alternatively, one or more of benzene, toluene and the xylenes may be extracted in pure form from this reformate for use as petrochemical feedstocks. If benzene is so extracted, for example, the residual by-product, a toluene-xylene mixture, may be fed into the gasoline stream as the necessary octane-increasing blending component. Of course, this toluene-xylene mixture may also be further processed, if desired, to obtain toluene, para-xylene, meta-xylene and ortho-xylene for use in the petrochemicals industry.

3. The toluene-xylene mixture does not meet industry standards as toluene or as a xylene and therefore is unsuitable for petrochemical feedstock purposes. Cities Service has lacked the physical capacity to fractionate toluene from the toluene-xylene mixture ever since 1967, when its toluene tower was destroyed by fire. Consequently, Cities Service has used its mixed toluene-xylene stream from 1967 to date exclusively as an octane-increasing ingredient in the production of gasoline, with the single exception noted below.

4. Pursuant to an exchange agreement executed in April, 1973, Cities Service delivered to Amoco during the months of April, 1973, through February, 1974, a total of xxxxxxx barrels of toluene-xylene mixture, of which about xxxxxx barrels were delivered during the month of May, 1973. The toluene content of the mixture varied from 66 to 92 percent, with the May, 1973, deliveries averaging about 73 percent toluene. In return, Cities Service received xxxxxxx barrels of regular-grade gasoline from Amoco. The exchange agreement was entered into because Amoco lacked sufficient high-octane blending components for its no-lead gasoline while Cities Service needed additional gasoline volume to meet commitments.

Applicable Regulations. (Emphasis is added to mark those portions of regulations of general applicability which are pertinent or particularly relevant to this case.)

1. "Covered products" means aviation fuels, benzene, butane, crude oil, gas oil, gasoline, greases, hexane, lubricant base oil stocks, lubricants, naphthas, natural gas liquids, natural gasoline, propane, special naphthas (solvents), *toluene*, unfinished oils, *xylene*, and other finished products. *A blend of two or more particular covered products is considered to be that particular covered product constituting the major proportion of the blend.* 10 CFR 212.31.[1]

2. "Toluene" means an aromatic hydrocarbon whose chemical composition is predominantly C_7H_8. 10 CFR 212.31.

3. "Xylene" means a mixed stream of aromatic hydrocarbons whose chemical composition is predominantly C_8H_{10} containing, in whole or in substantial part, the isomers para-xylene, metaxylene, and ortho-exylene. 10 CFR 212.31.

4. The formula for allocation of increased product costs to general refinery products ($i=4$) is:

$$D_i{}^u = A_i + B_i + N_i - G_i{}^u - H_i{}^u$$

10 CFR 212.83(c)(2)(ii).

5. "D_i"=The total dollar amount a refiner may aportion in the period "u" to general refinery products ($i=4$) in whatever amounts it deems appropriate to each particular general refinery product to compute the maximum allowable price *provided that the total dollar amount for $i=4$ shall be reduced by an amount equal to the total number of gallons of benzene and toluene sold by the refiner during the month of May 1973 multiplied by $0.20 and further multiplied by an amount equal to the total number of barrels of refinery input to crude oil distillation units processed during the month of measurement and measured in accordance with Bureau of Mines form 6-1300-M divided by the total number of such barrels processed during the month of May 1973.* The formula for "$D_i{}^u$" must be computed only once for $i=4$ (All general refinery products). 10 CFR 212.83(c)(2)(iii).

6. A refiner may not charge to any class of purchaser a price for benzene and toluene in excess of the maximum allowable price as determined pursuant to paragraph (1) of this paragraph, plus a maximum of $0.337 per gallon for benzene and $0.288 per gallon for toluene. 10 CFR 212.83(a)(4).

Interpretation. Under the special price rule for benzene and toluene, § 212.83(a)(4), an amount not to exceed $0.337 per gallon for benzene and $0.288 per gallon for toluene may be added to the price otherwise permitted to be charged for these products at the refiner level, notwithstanding the general rule limiting prices for petroleum products basically to the weighted average price charged in transactions with the class of purchaser concerned on May 15, 1973, plus the allocated increased product costs which have been incurred between May, 1973, and the month of measurement, and the increased non-product costs. At the same time, § 212.83(c)(2)(iii) requires that the increased product costs which may be allocated to "general refinery products" (the cost allocation category into which benzene and toluene fall) be reduced by a factor which is based on the amount of benzene and toluene sold by the refiner concerned during May of 1973 multiplied by $0.20 and further multiplied by the ratio that crude oil runs to stills in the month of measurement bears to runs to stills in May, 1973. Together, these twin provisions offer a complementary benefit/penalty incentive under which production of benzene and toluene above May, 1973 percentage yield levels results in increasing net benefits while production dropping below those levels results in declining net benefits or in net penalties.

It is clear that the sole purpose of the special regulatory provisions concerning benzene and toluene in §§ 212.83(a)(4) and 212.83(c)(2)(iii) was to stimulate increased production of these products as part of a coordinated, government-wide effort in early 1974 to alleviate shortages of petrochemical feedstocks. See 39 FR 4064 (February 1, 1974), 39 FR 4466 (February 4, 1974), 39 FR 7429 (February 26, 1974), Cost of Living Council News Release 512, January 30, 1974. The FEA has continued these special regulatory provisions in effect to date for no other purpose than to assure adequacy of supply of benzene and toluene as feedstocks for the petrochemicals industry.

To apply rules designed to stimulate production of a product for petrochemical feedstock use—a purpose for which Cities Service did not and cannot manufacture the product concerned—would be anomalous, particularly since Cities Service cannot take advantage of the $0.288 per gallon of toluene price incentive of § 212.83(a)(4) in the single May, 1973 transaction at issue, and could only be made subject at this juncture (and on an on-going basis) to the penalty of the reduction of increased product costs under § 212.83(c)(2)(iii) which was intended to be applied only in conjunction with the price benefits of § 212.83(a)(4). Moreover, if FEA were to interpret its regulations in such a way as to require Cities Service to bear such continuing losses (estimated at about x annually), this could arguably be found to be inconsistent with the requirement of § 4(b)(2)(A) of the Emergency Petroleum Allocation Act to permit a dollar-for-dollar passthrough of increased product costs.

It is true that the toluene-xylene mixture appears to qualify as "toluene," for purposes of §§ 212.83(a)(4) and 212.83(c)(2)(iii), in view of the general definitional provision in § 212.31 that a blend of two or more covered products is deemed to be the covered product which constitutes the major proportion of the blend. Thus, the sale or exchange of the toluene-xylene mixture—a mixture which averaged 73 percent toluene—by Cities Service in May, 1973, appears to be a sale or exchange of toluene within the literal meaning of the term "toluene" as it is defined for all purposes of 10 CFR Part 212, including the cost-pass-through reduction proviso in the definition of "$D_i{}^u$" in § 212.83(c)(2)(iii). However, for the reasons noted above, the FEA believes it is appropriate in this instance to follow the interpretive rule that a case which appears to come within the scope of a general regulation, but is clearly not within the scope of its well defined and limited purpose, will be deemed to fall outside the scope of that regulation.

Thus, the general provision that a blend of two or more covered products is considered to be the particular covered product constituting the major proportion of the blend was intended simply as an aid in determining the applicability of the general price regulations with respect to product mixtures. The special benzene/toluene price rule, on the other hand, was adopted specifically to promote the production of petrochemical feedstocks. Accordingly, we conclude that it is not appropriate to apply the general rule on blended products in a manner that would include within the scope of the special benzene/toluene rule a toluene-xylene mixture that is not usable for the purposes that the special benzene/toluene price rule was specifically designed to promote.

We therefore conclude that the toluene-xylene mixture sold by Cities Service to Amoco during May, 1973, was not a sale of toluene for purposes of the $D_i{}^u$ formula of 10 CFR 212.83(c)(2)(iii), so that the total dollar amount which Cities Service may apportion to general refinery products to re-

[1] As in effect immediately prior to the September 1, 1976, exemption from price and allocation controls of naphthas, gas oils and other products including toluene and xylene (see 41 FR 44151, October 7, 1976). The pre-September 1 definition of "covered products" is used here since the interpretation request relates to pre-exemption pricing matters not rendered moot by the exemption action taken by FEA.

flect increased product costs need not be reduced by the amount required by § 212.83(c)(2)(iii) to reflect that sale. It is understood, however, that this interpretation does not affect in any way the pending issue of whether Cities Service properly calculated its apportionment of increased product costs under the D_{is} formula of 10 CFR 212.83(c)(2) in light of the sales of benzene as petrochemical feedstocks which Cities Service made in May of 1973.

INTERPRETATION 1976–11

TO: National Convenience Stores, Inc.
DATE: March 5, 1976
RULES INTERPRETED: §§ 211.106(b)(1), 211.106(d)(1), 211.12, 211.24(a)
CODE: GCW–AI–Base Period Supply Obligations

Your letter of June 11, 1975 on behalf of National Convenience Stores, Inc. ("National") requested a modification of an interpretation issued to National on December 10, 1974. Your request is based upon a statement in the December 10, 1974 interpretation that "Autotronics delivered gasoline to the sites in tank trucks leased or owned by Autotronics." This fact led to our conclusion that Autotronics, Inc. ("Autotronics") was the base period supplier of x retail sales outlets owned by National.

You have advised us that Autotronics in fact did not deliver gasoline to the x retail sales outlets during the base period. For this reason, we agree with you that the December 10, 1974 interpretation should be modified since the basis for our conclusion that Autotronics is the base period supplier of these outlets has been changed. Accordingly, that interpretation is modified to read as follows:

Facts. On September 12, 1973, National purchased from Autotronics x self-service gasoline pumping facilities including all fixtures, equipment, gasoline inventory and Autotronics' rights under certain leasing agreements between National and Autotronics covering the realty on which the pumping facilities were located.

Prior to September 1973, Autotronics leased the realty on which the x pumping facilities are located from National and operated motor gasoline retail sales outlets on these sites. Gasoline was delivered to these sites in tank trucks by various suppliers. National also operated convenience grocery stores on the x sites.

Under the purchase agreement of September 12, 1973, Autotronics transferred to National all gasoline on hand, its gasoline dispensing equipment including all fixtures, as well as all of its right, title and interest in and under each of the leases and marketing agreements with National with respect to the x sites. National agreed not to market gasoline at the x sites under any of the marketing names which Autotronics had used at those sites.

Since the inception of FEA's Mandatory Allocation Program, National has maintained that it is entitled to an allocation of gasoline from the base period supplier of each retail sales outlet. Autotronics, however, has refused to provide the name of the base period supplier for any of the x retail sales outlets or their base period volumes.

Interpretation. This interpretation addresses two issues presented by your request. First, is National as a successor on the sites of the x retail sales outlets entitled to an allocation of motor gasoline for each site? Second, are the base period supplier(s) of these sites required to inform National of the portion of its base period volume supplied by each supplier?

Each gasoline retail sales outlet under common ownership is treated as a separate entity under § 211.106(b)(1) of the Mandatory Petroleum Allocation Regulations which provides as follows: "*Retail sales outlets as a firm.* (1) Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be a separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet."

Thus, each retail sales outlet operated by Autotronics or National is viewed separately in determining its allocation entitlement and base period supplier.

Whenever the business of a retail sales outlet is transferred to another firm, its right to an allocation from its base period supplier is also transferred. (See § 211.11(d).) It is our opinion that the entire business or activity of Autotronics at each of the x sites was transferred to National in September 1973 when National purchased Autotronics' lease of these sites and all pumping equipment. Therefore, National is the successor to the allocation entitlements of each retail sales outlet.

The base period suppliers of the x retail sales outlets were required to provide base period volume information to each of the outlets by July 1, 1974. Section 211.12(c) adopted by FEA on May 6, 1974, provides in part: "*Base period volume determination.* (1) By July 1, each supplier which was not previously subject to this paragraph prior to May 1, 1974, and which sells an allocated product to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers with respect to each allocated product, the volume of product which it sold to or transferred to that purchaser in each base period."

Prior to June 1, 1974, § 211.12 required suppliers to report base period volumes to wholesale purchasers by February 1, 1974. Thus, it is clear that the base period suppliers of the x sites should have reported the base period volumes to National no later than July 1, 1974.

The firm which delivered gasoline to a site during the 1972 base period would be the base period supplier of the retail sales outlet on that site. In this connection, § 211.106(d)(1) provides: "*Suppliers of retail sales outlets.* (1) The supplier of a retail sales outlet shall be that part of a firm which actually furnishes or physically delivers the gasoline to the retail sales outlets. The operator of one or more retail sales outlets shall not be considered the supplier of its own retail sales outlets unless it operates a terminal facility from which it furnishes a product to each outlet or unless it otherwise physically delivers the gasoline to each outlet."

The foregoing interpretation is based upon current regulations effective June 1, 1974. You have also requested that we provide our interpretation based upon FEA's regulations effective as of January 15, 1974. Our interpretation of the January 15, 1974 regulations provides a result similar to that obtained under the current regulations.

Section 211.24(a) of the January 15, 1974, regulations provided as follows: "Changes in ownership or a supplier or wholesale purchaser shall not alter supplier/purchaser relationships defined by specific dates or base periods in this part. The right to receive an allocation is nonassignable unless that right is transferred as an integral part of an ongoing business or an established end-use."

Thus, § 211.24 of the January 15, 1974 regulations provided that the right to receive an allocation could not be assigned separately from an ongoing business. This, of course, did not mean that the ongoing business could be sold without the right to receive the allocation associated with the business. Further, it has always been clear under FEA's regulations that the sale of a business does not terminate a base period supplier's obligation to provide product to the new owner of a business. Consequently, under either the January 15, 1974, or the current regulations, National is entitled to an allocation from the base period supplier of each of the xx retail sales outlets and a statement of the base period volume for each outlet.

INTERPRETATION 1976–12

TO: Sun Oil Co.
DATE: May 14, 1976
RULES INTERPRETED: §§ 205.2, 211.13(c)(1), 205.33(a)
CODE: GCW–AI–Procedural

This letter is in response to your April 20, 1976 letter and the order entered by the Honorable John P. Fullam in *Sun Oil Co.* v. *FEA*, Civil Action No. 75–3206 (E.D. Pa.). As you know, the Court remanded this case to the Federal Energy Administration for consideration "of whether or not parties in the position of the plaintiff are to be deemed 'aggrieved parties' within the meaning of the notice requirements of [FEA] regulations" with respect to the types of proceedings delineated in 10 CFR 211.13(c)(1).

Facts. 1. Sun Oil Company ("Sun") is a major integrated petroleum firm engaged in the production of crude oil, the refining of crude oil and the marketing of products refined from crude oil.

2. As a marketer of refined petroleum products, Sun supplies a number of wholesale purchaser-resellers. These wholesale purchaser-resellers in turn supply, among others, retail gasoline outlets.

3. Under § 211.13(c)(1), a wholesale purchaser-reseller is entitled to an automatic adjustment to its base period use level: "Whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified pursuant to § 205.26(c) of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

4. With respect to the assignments and adjustments referred to in § 211.13(c)(1) which give rise to automatic adjustments for wholesale purchase-resellers, Sun believes it should be considered an "aggrieved party" in any FEA proceedings concerning such assignments and adjustments where Sun ultimately bears the supply burden. In other words, when those assignments or adjustments specified in § 211.13(c)(1) are granted and intermediate suppliers ultimately supplied by Sun are entitled to automatic adjustments in their base period use levels, Sun contends that it is potentially aggrieved by FEA action on such underlying assignments and adjustments and should be permitted to participate in the proceedings considering these matters.

5. Sun points out that the term "aggrieved" is defined in FEA regulations (§ 205.2) as describing or meaning "a person with an interest sought to be protected under the [Federal Energy Administration Act], [Emergency Petroleum Allocation Act], or Proclamation No. 3279, as amended, who is adversely affected by an order or interpretation issued by the FEA or a State Office." On this basis, Sun states that: "Cer-

tainly it is adversely affected—it has the obligation to supply the increased amount and, unlike the immediate supplier, it cannot merely pass along the obligation. If it is not heard at the time when the assignment application is considered by the FEA, questions as to its ability and desire to supply will never be heard for it is not in the interests of the immediate supplier to raise these matters on its behalf."

Issue. Is Sun entitled to notice as an "aggrieved" party in FEA proceedings on those assignments and adjustments specified in § 211.13(c)(1) where Sun would be ultimately responsible for supplying the product covered by such assignments or adjustments?

Interpretation. Section 211.13(c)(1) authorizes automatic adjustments to base period use levels of wholesale purchaser-resellers *only* in connection with certain assignments or adjustments granted to wholesale purchasers pursuant to FEA's procedural regulations. The procedures applicable to these assignments and adjustments are set forth in Subparts B and C of Part 205.

In connection with assignments of new purchasers, § 205.33(e) provides: "The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER."

Notice of issuance of an assignment order is also given to aggrieved parties under § 205.35(d).

In connection with the "adjustments" referred to in § 211.13(c)(1), in the instance of § 211.12(b), § 211.125(b) and § 211.145(b), the procedural regulations applicable to "adjustments" are controlling. See Subpart B to Part 205. As with "assignments," notice of adjustment requests and adjustment orders are given to "aggrieved" parties. See § 205.23(a) and § 205.26(c). With regard to an "adjustment" pursuant to § 211.13(e), this type of relief is granted through the exceptions process and the procedures applicable to exceptions are controlling. See Subpart D of Part 205 (notice of exception requests and exception decisions is given to "aggrieved" parties under § 205.53(c) and § 205.56(c)).

The pivotal issue under the procedural regulations thus becomes whether under the circumstances described above Sun should be considered to be "aggrieved." This determination turns on whether Sun has an "interest to be protected" under the Emergency Petroleum Allocation Act (EPAA) and whether FEA action may "adversely affect" Sun.

Because increases in Sun's supply obligations under FEA regulations could in many cases affect its ability to meet its supply needs and could thus affect its position as a marketer in the petroleum industry, Sun has an interest to be protected under the EPAA, i.e., preserving its competitive position. This interest, moreover, is one which is designed to be protected under § 4(b)(1)(D) of the EPAA. The impact on Sun of increases in its FEA-mandated supply obligations also constitutes a potential aggrievement to Sun. For example, to the extent that such increases might prevent Sun from fulfilling its other supply obligations, they could "adversely affect" the firm in a direct and not insubstantial manner.

Accordingly, with respect to FEA proceedings on those assignments and adjustments specified in § 211.13(c)(1), Sun should be treated as an aggrieved party and given notice of such proceedings when it will ultimately be responsible for supplying the product covered by such assignments or adjustments. This conclusion is arrived at not only in view of Sun's direct interest as an ultimate supplier in assignment and adjustment proceedings, but also because it is believed to be administratively feasible to provide Sun with notice in such circumstances.[2]

INTERPRETATION 1976–13

TO: K.C.H. Flying Service, Inc.
DATE: June 23, 1976
RULES INTERPRETED: §§ 211.145(c)(1), 211.145(c)(2)
CODE: GCW–AI–Supplier/Purchaser Relationship

This is in response to your letter of October 17, 1975 requesting interpretation of FEA regulations as they relate to termination by a fixed base operator of its supplier/purchaser relationships for aviation fuels.

Facts. K.C.H. Flying Service, Inc. (K.C.H.) is a fixed base operator at the Johnson County Airport, Olathe, Kansas. K.C.H. requests an interpretation whether 10 CFR 211.145(c)(1) permits K.C.H. to terminate its base period supplier/purchaser relationship with the M&M Oil Company, its base period supplier, and to establish a supplier/purchaser relationship with the Mobil Oil Company.

Issue. The issue presented for interpretation is whether 10 CFR 211.145(c)(1) permits K.C.H. unilaterally to terminate its supplier/purchaser relationship with the M&M Oil Company and to designate the Mobil Oil Company as its base period supplier for aviation fuel.

Interpretation. Under the provisions of 10 CFR 211.145(c)(1) any wholesale purchaser of aviation fuels may unilaterally terminate its supplier/purchaser relationship with a supplier of aviation fuel for all or part of its base period use at any station provided that the termination is effective at the end of a period which corresponds to a base period. That section also provides certain notice requirements to bring about the termination. Under 10 CFR 211.145(c)(2) a wholesale purchaser which has terminated its supplier/purchaser relationship may implement a mutually acceptable arrangement with a supplier of aviation fuel to replace that portion of its base period use which has been terminated, provided that the supplier at the time has an allocation fraction of 0.96 or above.

Therefore, K.C.H. may terminate its supplier/purchaser relationship with M&M Oil Company, provided that its termination is effective at the end of a period corresponding to a base period (a calendar quarter). In addition, K.C.H. may seek out its own supplier and make mutually acceptable arrangements as provided in § 211.145(c)(2), provided the new supplier has an allocation fraction of 0.96 at the time the arrangement is made for the product to be supplied.

[2] Your April 20, 1976 letter also raises a question concerning the type of notice to which Sun is entitled regarding assignment applications. This question is addressed in FEA's "Guidelines for Evaluation of Applications for Assignment of a Supplier and Base Period Use to New Gasoline Retail Sales Outlets," see Federal Energy Guidelines § 13,245 at p. 13,243–6. In relevant part, the "Guidelines" provide that a notice shall disclose "(i) the applicant's name and address, (ii) the location of the station for which application is made, and (iii) an approximation of the base period use sought by the applicant."

INTERPRETATION 1976–14

TO: Department of the Army and the Air Force
DATE: June 28, 1976
RULES INTERPRETED: §§ 211.10(g), 211.51
CODE: GCW–AI–Supplier/Purchaser Relationship

This is a response to your request for interpretation dated March 26, 1976 of Federal Energy Administration (FEA) regulations as they relate to acquisition of surplus gasoline, for resale through the Army and Air Force Exchange Service (AAFES) outlets on military installations from a supplier that is not a base period supplier of the AAFES outlets. After consideration of the information contained in your request, and all the relevant authorities the FEA has determined that the appropriate interpretation is as follows:

Facts. AAFES operates gasoline retail sales outlets on military installations throughout the United States. These retail sales outlets are wholesale purchaser-resellers as defined in 10 CFR 211.51 and are subject to the Mandatory Petroleum Allocation and Price Regulations.

You state that in some instances the base period suppliers of the retail sales outlets in question charge higher prices for their product than may be available from non-base period suppliers which may have surplus gasoline for sale. AAFES would like to purchase cheaper gasoline by purchasing such surplus product from these non-base period suppliers. In such event AAFES would not make purchases from its base period supplier. However, AAFES is concerned that its supplier/purchaser relationship with its base period supplier remain viable in the event that surplus product from non-base period suppliers becomes unavailable.

Issue. The question presented for interpretation is whether FEA regulations permit a base period supplier to terminate a supplier/purchaser relationship in the event the base period purchaser fails to purchase its entitlement.

Interpretation. FEA regulations require suppliers of petroleum products to offer to their base period purchasers amounts of product which they are entitled to purchase as determined by FEA regulations. There is no requirement that purchasers lift all or part of their entitlements, or lift their entitlement periodically in order to maintain the supplier/purchaser relationship. Therefore, AAFES may enter into a non-base period relationship for the purchase of certified surplus gasoline as provided by 10 CFR 211.10(g) without interrupting the supplier/purchaser relationship with its base period supplier.

INTERPRETATION 1976–15

TO: Shell Oil Co.
DATE: June 28, 1976
RULES INTERPRETED: § 211.63, Ruling 1974–11
CODE: GCW–AI–December 1 Rule

This is to respond to your request for interpretation on behalf of Shell Oil Company dated May 7, 1974 concerning the crude oil supplier/purchaser rule now set forth in 10 CFR 211.63. A copy of this interpretation is being furnished to Skelly Oil Company, which filed a request for interpretation by letter dated May 29, 1974 as to the same transaction.

Facts. Skelly Oil Company (Skelly) is a working interest owner of certain crude oil production from properties known as the S. M. Halley lease and the Brahaney Unit in Winkler and Yoakum Counties, Texas. Pursuant to division orders dated July 1, 1958 and October 19, 1966, Skelly has traditionally sold its crude oil production from these

properties to Shell Oil Company (Shell). Such orders were in effect on December 1, 1973 and, by their terms, were to remain in effect "until further written notice".

On April 17, 1974 Skelly informed Shell of its intention to terminate sales to Shell of Skelly's share of the Brahaney and Halley production. On April 18, 1974 Shell informed Skelly that it considered such termination to be prohibited by the supplier/purchaser provisions of then § 211.64 unless Shell was first given the opportunity to meet another purchaser's bona fide offer to buy such crude oil at a lawful price above the price being paid by Shell. Skelly replied on April 22, 1974 that it did not intend to sell the crude oil to another purchaser, but planned to use the crude oil for Skelly's own supply via an exchange with another party. Skelly invited Shell to meet the terms of this exchange, which were one barrel of Skelly's sour crude (currently being supplied to Shell) for one half barrel of sweet crude delivered to Skelly's El Dorado, Kansas refinery.

Issue. The issue presented for interpretation under 10 CFR 211.63 (formerly § 211.64), as that section was in effect on April 17, 1974, is whether an offer by a firm to exchange crude oil with a seller may constitute an offer to buy such crude at a lawful price above the price paid by the purchaser of that crude oil for purposes of terminating a supplier/purchaser relationship.

Interpretation. Former § 211.64(a) as in effect on April 17, 1974 provided in pertinent part as follows: "(a) All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program except purchases and sales made to comply with this program: *Provided, however*, that * * * (3) the provisions of this paragraph shall not apply to the seller of any crude oil if the present purchaser of such crude oil refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser."

The general objective behind adoption of this rule was to maintain the domestic crude oil distribution systems prevailing on December 1, 1973. The bona fide offer exception of subparagraph (3) in effect on April 17, 1974 was based on the additional objective of permitting crude oil to flow to the purchaser that bid the highest lawful price therefor, within the limitations set forth in FEA Ruling 1974–11.

In this case, there is no other purchaser making a bona fide offer at a higher lawful price to purchase the crude oil that Skelly was supplying to Shell. In reality, Skelly is proposing to terminate its December 1, 1973 supplier/purchaser relationship with Shell by taking the crude oil for its own use, which would involve exchanging the crude oil for other crude oil of a more suitable quality delivered at a more convenient location.

Based on the foregoing, it is my opinion that the above described supplier/purchaser relationship between Skelly and Shell in effect on December 1, 1973 is required to remain in effect under 10 CFR 211.63, and Shell is not required to meet the exchange terms offered to Skelly to maintain that relationship.

INTERPRETATION 1976–16

TO: D. C. Latimer
DATE: August 26, 1976
RULE INTERPRETED: § 212.72
CODE: GCR(IV)–PI–BPCL, Current Cumulative Deficiency

This is in response to your June 18, 1975, request on behalf of the owners of the Vyron Womack No. 1 Well, Magee Field, for interpretation of the applicability of the Mandatory Petroleum Price Regulations to the first sale of domestic crude oil from that property. After consideration of all the information contained in your request, both written and oral, we have determined that the proper interpretation is the one which follows.

Facts. The Vyron Womack Well is jointly owned by eleven individuals and Larco Drilling Company, Inc. ("Larco"), an independent company based in Jackson, Mississippi, which acts as the operator of the property. As a producer of domestic crude oil, Larco is subject to the provisions of Subpart D of the price regulations governing all first sales of domestic crude oil.

On October 15, 1973, pursuant to the Phase IV Subpart L regulations of the Cost of Living Council's ("CLC") Economic Stabilization Program then in effect, Larco certified to the purchaser, Exxon Company, USA ("Exxon"), the monthly base production control levels ("BPCL's") for the property. (As more fully discussed below, under the regulations in effect at that time, a property's monthly BPCL was determined with reference to monthly volumes of crude oil "produced and sold" from the property concerned during 1972.) The October 15 certification of monthly BPCL's (see Attachment #1 attached hereto) was based upon Larco's monthly sales of crude oil to Exxon in 1972. As we understand the facts, no attempt was made to modify this certification until February 25, 1975, at which time Larco attempted to recertify the property's monthly BPCL's based upon Larco's interpretation of "produced and sold." The February 25, 1975, certification (see Attachment #2 attached hereto) includes:

(1) A schedule of Larco's determination of the number of barrels "produced and sold" in each month of 1972 and 1974; and

(2) A schedule of the number of barrels "sold" in each month of 1972 and 1974.

The February 25, 1975, "produced and sold" schedule reflects Larco's attempt to determine, for each month listed, the number of barrels of crude oil sold in a particular month, that had actually been produced in that same month.

In March 1974, Exxon purchased x barrels of crude oil that had been produced from the property. Because x barrels had been purchased in the corresponding month of 1972 (and had been certified as the March BPCL in the October 1973 certification by Larco to Exxon), Exxon's payment for the March purchase treated the x barrels by which the x barrels purchased in March 1974 exceeded the x barrels purchased in March 1972 as new crude oil, a corresponding amount of x barrels as released crude oil, and the balance as old crude oil.

In the following month (April 1974) sales of crude oil did not exceed the certified BPCL, and sales of crude oil did not again exceed the certified BPCL until December 1974, when the sale of x barrels of crude oil exceeded the certified BPCL of x for December 1972 by 1147.79 barrels. Exxon refused to recognize the x barrels as new crude oil, however, and maintained that a cumulative deficiency of more than x barrels had accrued since the sale in March 1974 of x barrels in excess of the certified BPCL.

On April 10, 1975, Larco filed with the FEA Office of Exceptions and Appeals a request that FEA issue an exception to Exxon so that Exxon might be permitted to determine quantities of new crude oil without regard to the cumulative deficiency of more than x barrels. The Office of Exceptions and Appeals, on June 5, 1975, indicated that Larco's request raised "issues of regulatory interpretation which could be resolved through a Request for Interpretation" and dismissed the exception request "without prejudice to a resubmission at a later date." Thereafter, on June 18, 1975, Larco filed with this office the present request for interpretation urging the determination that no cumulative deficiency began to accrue for the property concerned as a result of the sale of crude oil in March 1974 in excess of the certified BPCL, followed by sales in subsequent months of crude oil in quantities less than the certified BPCL's.

Larco argues specifically that the October 15 certification of BPCL's and subsequent determination of new crude oil with respect to March 1974 were erroneous in that they were based only upon sales in those months without regard to *production* in those months, and furthermore, that determinations of new crude oil should be made according to Larco's interpretation of "produced and sold" (as reflected in the February 25 certification) which appears to account only for the number of barrels sold in any one month, which were also produced in that month. Larco also appears to urge that the March 1974 sales exceeded the certified BPCL only because Exxon "happened [to take] an accumulation in the tank that month which exceeded the amount taken in March 1972," and that this fortuitous event should not give rise to the cumulative deficiency provisions of Subpart D.

Issues. The issues presented for resolution by these facts are:

(A) whether, as Larco maintains, the number of barrels of crude oil "produced and sold" in any month is measured only by the number of barrels of crude oil sold in that month out of *that month's* production; and

(B) whether the sale of new crude oil which is attributable entirely to the sale in any month of an anomalously large number of barrels of crude oil compared with the number of barrels of crude oil produced in that month will give rise to the cumulative deficiency provisions of 10 CFR § 212.72.

Interpretation. A. When the two tier pricing system was adopted by the Cost of Living Council ("CLC") on August 17, 1973 (effective August 19, 1976) (38 Fed. Reg. 22536, August 22, 1973) as part of the Phase IV Subpart L regulations under the Economic Stabilization Program, the definition of "new crude petroleum" appeared in 6 CFR § 150.354 (b), and provided as follows: "'New crude petroleum' means the total number of barrels of domestic crude petroleum *produced and sold* from a property in a specific month less the base production control level for that property." (Emphasis added, 38 Fed. Reg. 22538)

The definition of "base production control level" also appeared in 6 CFR § 150.354(b), and provided as follows: "'Base production control level' for a particular month for a particular property means: (1) If crude petroleum was *produced and sold* from that property in every month of 1972, the total number of barrels of domestic crude petroleum *produced and sold* from that property in the same month of 1972; (2) If the domestic crude petroleum was not *produced and sold* from that property in every month of 1972, the total number of barrels of domestic crude petroleum *produced and sold* from that property in 1972 divided by 12." (Emphasis added, 38 FR 22538)

Although the CLC regulations themselves did not provide a definition of "produced and sold," CLC indicated as early as October 1973 that the "produced and sold" concept was to have reference to the month in which the crude oil was sold: "'Base production control level' is measured by both production and sales. The base production control level for a property is the amount of crude petroleum which was produced and sold in the same month of 1972. *If crude petroleum was produced in one month, but sold in another,*

that amount is considered 'produced and sold' in the month of sale for purposes of determining the base production control level. * * *" (Measurement of base production control level, CLC Phase IV Questions and Answers No. 15, Question No. 1, October 1,1973, emphasis added.)

Accordingly, the October 15 certification of BPCL's by Larco to Exxon (made pursuant to 10 CFR § 150.354(c)(4)) was properly based upon monthly sales of crude oil from the property in 1972.

Inasmuch as the two tier pricing system was generally adopted by the Federal Energy Office, and later by FEA, from the CLC Subpart L regulations, the determination by Exxon that *x* barrels of new crude were *produced and sold* from the property in March 1974 was also correct.

The system of accounting for the number of barrels produced and sold, which Larco urges FEA to sanction in this interpretation, is clearly at variance with the interpretation which CLC and FEA have consistently placed upon the produced and sold concept. Moreover, it yields anomalous results in that it never accounts for the number of barrels of crude oil produced in any one month but sold in a subsequent month.

Accordingly, it is FEA's determination that based upon the facts as presented, Larco produced and sold *x* barrels of new crude oil and *x* barrels of released crude oil in March 1974, and that the property's BPCL was not thereafter exceeded until December 1974.

We turn now to the question whether a cumulative deficiency accrued from March 1974 to December 1974.

B. The "current cumulative deficiency" provision of the price regulations also originally became effective on August 19, 1973, as part of the special release rule (6 CFR § 150.354(c)(2)) with the CLC Phase IV Subpart L regulations and provided as follows:

"[I]f the amount of crude petroleum produced and sold in any month subsequent to the first month in which new crude petroleum was produced and sold, is less than the base production control level for that property for that month, any new crude petroleum produced from that property during any subsequent month may not be sold pursuant to [the special release rule] until an amount of the new crude petroleum equal to the difference between the amount of crude petroleum actually produced from that property during the earlier month and the base production control level for that property for the earlier month has been sold at or below its ceiling price." (38 Fed. Reg. 22539)

The special release rule was adopted without substantive modification by FEO on January 14, 1974, and was continued until modified by FEA on August 29, 1974 (39 Fed. Reg. 31622, August 30, 1974), at which time a definition of current cumulative deficiency was included in the definition of "new crude petroleum" in 10 CFR § 212.72, as follows: "The current cumulative deficiency in base production control level crude petroleum is the total number of barrels by which production and sale of crude petroleum has been less than the base production control level, for all months in which production and sales of crude petroleum has been less than the base production control level subsequent to the first month in which new crude petroleum was produced and sold, minus the total number of barrels of domestic crude petroleum produced and sold in each prior month which was in excess of the base production control level for that month, but which was not classified as new crude petroleum because of this requirement to reduce the amount of new crude petroleum in each month by the amount of the current cumulative deficiency in base production control level crude petroleum." (39 Fed. Reg. 31623.)

The FEA has recognized that the cumulative deficiency rule is: "designed to prevent producers from producing crude oil in prior months but withholding it from sale until subsequent months and obtaining windfall profits by selling the cumulative excess over base production control levels as new and released crude during the months in which sales are made." (A & N Producing Services, Inc., 2 FEA ¶ 83,039 at 83,101 February 13, 1975.)

At the same time, the rule is intended to provide an incentive for the producer "to maintain sales levels above the base period level" once the sale of new crude oil has occurred. (*Dunigan Operating Company, Inc.* 2 FEA ¶ 83,120 at 83,379, April 17, 1975.)

The purpose of the rule then is (1) to provide an additional incentive to continued increased production, and (2) to act as a safeguard against possible abuses of the new crude oil incentive. It appears that the purposes of the two tier incentive system may well be frustrated if a cumulative deficiency may be created merely by the fact that an atypically large volume of crude oil is purchased during a month when there has not been a corresponding increase in the level of production. Just as the cumulative deficiency rule is designed to prevent a producer from storing quantities of current production until such time as a large quantity can be sold in excess of the property's BPCL, so also it appears that the rule should not operate to permit a purchaser which obtains an anomalously large quantity of crude oil in any one month to thereby trigger a cumulative deficiency.

However, the regulations do not afford a means of making a determination as to whether the volume of crude oil sold in any month is anomalously large in comparison to the amount of crude oil produced in that month, nor is there any basis in the regulations for determining the intent, if any, with which such sale might have occurred on the part of the producer or on the part of the purchaser. Thus, the cumulative deficiency provision becomes operative whenever any new crude oil is sold, without regard to whether such sale represented an unusually large quantity of current production and without regard to whether such unusually large quantity resulted from intentional withholding by the producer of crude oil in previous months, or from intentional taking of additional amounts of crude oil by a purchaser in order to trigger the cumulative deficiency requirement of the regulations.

Accordingly, even where it can be established as a fact that there has been sale of new crude oil in only a single month, caused only by the fortuitious taking by the purchaser of an unusually large quantity of current production, relief from the application of the cumulative deficiency rule can be obtained only to the extent that application of the rule results in a serious hardship or gross inequity. Such determinations are made on a case-by-case basis through the FEA Office of Exceptions and Appeals.

INTERPRETATION 1976-17

To: Sohio
DATE: August 26, 1976
RULES INTERPRETED: 212.83(h)(3)(1)
CODE: GCR(V)-PI-Equal Application Rule

Your letter of November 5, 1975 requests an interpretation of 10 CFR 212.83(e)(3) now § 212.83(h)(3)(1) of the Mandatory Petroleum Price Regulations regarding the Contract between The Standard Oil Company (Sohio) and the Ohio Turnpike Commission. It has met the procedural requirements of 10 CFR Part 205, Subpart F.

Facts. The Standard Oil Company (Sohio) is a major, independent refiner and integrated oil company which refines and markets motor gasoline and diesel fuel as a part of its operation. The Ohio Turnpike Commission (Commission) is a corporate entity and body politic of the State of Ohio and has the responsibility for the opertion of the Ohio Turnpike. As a part oft his operating responsibility the Commission advertised for bids for the supply of product to and operation of the various service plazas along the Ohio Turnpike. (Eight pairs or sixteen stations are located on opposite sides of the Turnpike). The Commission was not and is not a wholesale purchaser-reseller of petroleum products as defined in 10 CFR § 211.51, because the Commission does not now and never has purchased and resold petroleum products through the service plazas, and the Commission has no base period supplier or supply relationship which must be maintained in accordance with the Mandatory Petroleum Allocation Regulations. The Commission is free to solicit bids for the supply and operation of the service plazas.

Sohio was the successful bidder for the supply of gasoline and diesel fuel to and the operation of all sixteen service plazas along the Ohio Turnpike beginning October 1, 1975. The previous suppliers and operators of the service plazas were the following major, integrated oil companies: Mobil Oil, Inc (4 stations), Gulf Oil (4 stations), Texaco, Inc. (4 stations), and Atlantic-Richfield Co. (4 stations). The Commission, in addition to supplying the above information, has supplied volume figures to gasoline and diesel fuel supplied by the four above-mentioned, previous suppliers, and the Commission has furnished a sample copy of the previous existing contract with the four above mentioned, previous suppliers.

The present contract on which Sohio was the successful bidder contains a paragraph relating to price, a portion of which states: "Prices charged for gasoline, diesel fuel, other products including motor oil and all goods and services sold at the service station operated under this Contract shall be no higher than, and the quality thereof shall be at least equal to, the prices and quality prevailing at service stations in the same general vicinity * * *" It is because of the restrictions imposed by this paragraph that Sohio seeks this interpretation. The price paragraph prescribes the method by which the prevailing price in the same general vicinity is to be calculated.

An examination of the previous contract reveals a paragraph on price which was similar to the present paragraph in its restrictive nature. The previous contract did not, however, specify the manner in which the prices in the same general vicinity were to be determined.

The previous contract by its own terms was for a period of ten years commencing October 1, 1965 and terminating September 30, 1975. By its own terms the previous contract made provisions for extension by the Commission (or cancellation), and by its own terms the previous contract prohibited assignment of the contract without the written consent of the Commission. The present contract by its own terms is for a period of five years commencing October 1, 1975 and terminating September 30, 1980. Under the present contract no assignment of the contract nor delegation of functions, duties, or responsibilities may be made. The previous contract was signed and executed between the Commission and each of the four previous suppliers during 1965. The present contract was signed and executed between the Commission and Sohio in 1975. There is and has been no assignment, contract, conveyances, or agreement of the 1965 contract to Sohio in 1975.

Issue. Sohio contends that the Sohio contract with the Commission assumed a pre-existing contract of the other suppliers with the Commission, and that by so assuming the contract Sohio succeeded to the rights and obligations under the pre-existing contract with the other suppliers since the Sohio contract was for the same service stations and had similar price restrictions as did the contract with the other suppliers. Since, as Sohio contends, the contract was in existence prior to September 1, 1974, the exception of § 212.83(e)(3) (now § 212.83(h)(3)(i)) would apply, and Sohio would not have to include in its calculation of revenues that portion of the increased product costs not included in the price charged because of the contract.

Interpretation. It is the opinion of this Office that the exception contained within § 212.83(h)(3)(i) does not apply to Sohio in this fact situation. The previous contract was between the Commission and respectively, Mobil, Texaco, Gulf, and Arco. The execution was between these companies and the Commission; Sohio was not a party to that previous contract. The contract between the Commission and Sohio was advertised for bid, bid upon, contract awarded, contract executed, and contract entered into in 1975. Mobil, Texaco, Gulf and Arco are not parties to that contract. The present contract between Sohio and the Commission took effect October 1, 1975 by its own terms. Although the locations had previously been supplied under a contract and that contract was similar in many respects to the present contract, they are entirely separate and different contracts, and the present contract had not even been drafted until 1975.

The Regulations generally provide that unrecouped amounts carried forward for later recoupment shall be computed as though the greatest amount of increased product costs passed through in sales to any class of purchaser had been passed through, in the same amount, to every class of purchaser except that "[W]here an equal amount of increased costs is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of the product concerned that was *entered into* on or before September 1, 1974, that portion of the increased product costs not included in the price charged to such a purchaser need not be included in the calculation of revenues as otherwise required * * *" (Emphasis added) 10 CFR § 212.83(h)(3)(i).[3]

The key words are "entered into." This does not necessarily mean effective date and this interpretation is not based on the contract's self-stated effective date. Sohio was not a party to the contract (even assuming it is the same contract) prior to 1975. This contract, however, clearly was not even in existence prior to 1975. Sohio could not have "entered into" the contract on or before September 1, 1974. There has been neither assignment of the contract nor any transfer of responsibilities between Mobil, Texaco, Gulf, and Arco to Sohio. Sohio was not and is not obligated under the terms of the previous contract.

The purpose of the exception when first promulgated is most clearly stated in the preamble to that amendment.

At the time Ruling 1974-12 was issued, the FEO recognized that the existence of long-term, fixed-price contracts restricted the ability of certain sellers to increase their prices for products. As indicated above, the clarifications issued today continue to recognize the restrictions imposed by such contracts and to accommodate those sellers whose pricing options are thereby inhibited. However, in order to insure that, under present conditions, the fixed-price contract exception does not become a means whereby sellers can avoid the intent of the regulations to maintain price differentials between classes of purchaser, it will be limited to prices charged under contracts entered into on or before September 1, 1974, and will apply only to the extent that the maximum price which may be charged under the contract is less than the price that would otherwise result from the equal application of increased product costs. Thus, to the extent that a seller charges a price which is less than it is entitled to charge under a fixed-price contract and which is less than the price reflecting equal application of increased product costs, it may not carryover to a subsequent month the unrecouped increased costs represented by the difference between the actual price charged and the highest price that could have been charged under the contract. 39 FR 32306 (September 5, 1974)

This essentially means that if the exception had not been so limited to the September 1, 1974 date, refiners could enter into new, long term price contracts after the original effective date of the regulation without penalty as to the carry-over of unrecouped increased product costs. The date limitation further reinforces FEA efforts to maintain customary price differentials.

Nowhere in the history of 10 CFR 212.83(h)(3)(i) is there any indication that the exception was meant to include new contracts no matter how similar they were to previous contracts existing before September 1, 1974. To permit Sohio to contract in 1975 without such penalty, under the guise of "assumption" of the rights and obligations of a prior contract, would be contrary to the purpose as well as the actual language of 10 CFR 212.83(h)(3)(i).

Thus, because of dissimilar parties of the two contracts, because of dissimilar contracts, because the previous contract expired on September 30, 1975, because the new contract became effective October 1, 1975, because the bidding procedure and execution all occurred in 1975, and because the Commission neither extended nor allowed assignment of the old contract, it is determined that Sohio entered into a *new* contract with the Commission in 1975. Therefore, where an equal amount of increased product cost is not included in the price charged to a purchaser because of the Sohio contract with the Commission, nevertheless, such portion of the increased product cost must be included in the calculation of its revenues by Sohio.

INTERPRETATION 1976–18

TO: Petrolane, Inc.
DATE: October 13, 1976
RULES INTERPRETED: §§ 210.62(c), 211.12(h), 211.12(h)(5)
CODE: GCW–AI–Supplier/Purchaser Relationship

This is in response to your request on behalf of Petrolane, Incorporated (Petrolane) for an interpretation of § 211.12(h)(5) of the Mandatory Petroleum Allocation Regulations (10 CFR 211.12(h)(5)).

Facts. Petrolane is a supplier of propane and butane. Among its base period customers are various wholesale purchaser-consumers and end-users of propane.

Petrolane alleges that there has been an industry-wide practice for many years for propane suppliers to enter into contracts with their wholesale customers having a "take-or-pay" provision. This provision obligates the purchaser to pay for a specified percentage of the contracted for volume of propane even though the purchaser subsequently fails to lift all or any of the propane covered by the contract. Historically, Petrolane's contracts have included "take-or-pay" provisions which have exceeded three percent of the contracted for volumes.

Issue. The issue for consideration is whether Petrolane may include provisions in its contracts with its customers which require them to pay for more than three percent of any portion of their allocation entitlements which they fail to lift.

Interpretation. The only specific reference in the Mandatory Petroleum Allocation Regulations to "take-or-pay" provisions is in 10 CFR 211.12(h)(5) which reads in pertinent part as follows: "Wholesale purchaser-consumers and end-users which have received an assignment or adjustment pursuant to this paragraph or which have increased current requirements (whether or not subject to an allocation fraction) by reason of a curtailment or abandonment of service specified in this section shall notify their suppliers whether they will lift all or part of their base period use or current requirements for a period corresponding to a base period. Such notification shall be made at least twenty (20) days prior to the beginning of each such period * * * Suppliers may require that wholesale purchaser-consumers and end-users enter into an agreement requiring the purchaser to pay for no more than three (3) percent of any portion of the purchaser's allocation entitlement which the purchaser declares it will lift but which the purchaser subsequently fails to lift during a period corresponding to a base period. Such an agreement shall be entered into only after the purchaser declares the portion of its base period use or increased current requirements it will lift and prior to commencement of the period corresponding to a base period for which the allocation entitlement relates."

This provision for a maximum three percent "take-or-pay" provision must be read within the context of the entire regulation of which it is a part, 10 CFR 211.12(h). That regulation provides a mechanism whereby FEA may adjust the base period use (or assign a supplier and a base period use if there is no base period use) of an end-user or wholesale purchaser-consumer which is experiencing, or is anticipating, a curtailment of a source of energy other than an allocated product. In almost all instances, this regulation is used to alleviate severe natural gas curtailments imposed on industrial users. A base period purchaser which does not receive an adjustment pursuant to 10 CFR 211.12(h) or a new purchaser which is not assigned pursuant to that regulation would not be affected by any of the provisions of the regulation.

Therefore, it is our opinion that the limitation on "take-or-pay" provisions in 10 CFR 211.12(h)(5) does not apply to those wholesale purchaser-consumers and end-users of Petrolane which have not received an adjustment or been assigned to Petrolane pursuant to 10 CFR 211.12(h), and that with respect to these customers, Petrolane is not

[3] The Regulation, 10 CFR 212.83(h)(3)(i) originated at 39 FR 32306 (September 5, 1974) as part of 10 CFR 212.83(d). It became a part of 10 CFR § 212.83(e)(1) in 39 FR 42368 (December 5, 1974), became 10 CFR § 212.83(e)(3) in 40 FR 10444 (March 6, 1975), became 10 CFR § 212.83(e)(8) in 41 FR 5111 (February 4, 1976), was changed slightly while remaining 10 CFR 212.83(e)(8) in 41 FR 13899 (April 1, 1976), became 10 CFR 212.83(h) in 41 FR 15330 (April 12, 1976), was amended slightly while remaining 10 CFR 212.83(h) in 41 FR 18646 (May 6, 1976), and finally became 10 CFR 212.83(h)(3)(i) in 41 FR 30021 (July 21, 1976). The provisions regarding the exception to the equal application rule have remained essentially unchanged.

prohibited by 10 CFR 211.12(h)(5) from including "take-or-pay" provisions which require payments in excess of three percent of contracted for volumes which its customers fail to lift.

It should be noted, however, that 10 CFR 210.62(c) states, in part, as follows: "Any practice which constitutes a means to obtain a price higher than is permitted by the [Mandatory Petroleum Allocation and Price Regulations] or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations * * *."

Thus, where a supplier wishes to enforce the "take-or-pay" provisions of a current contract for an allocated product, FEA regulations permit such action provided that the contractual provisions asserted are the same as those customarily imposed on the sale of that product; i.e., the terms or conditions imposed on the sale of such product during the relevant base period. Where no "take-or-pay" provision was imposed as a term or condition upon the sale of an allocated product during the relevant base period, no such term or condition may now be imposed.

It should also be noted that where no contractual "take-or-pay" provisions are currently in effect, FEA regulations do not operate to preserve or impose such conditions on current allocations of product, nor do they permit suppliers under the regulations to require purchasers to enter into similar contracts as a condition of receiving their allocation.

INTERPRETATION 1976–19

TO: Boston Gas Co.
DATE: October 19, 1976
RULES INTERPRETED: §§ 211.11, 211.12(e), 211.29, 211.51, 211.83(c)(2)(ii), Special Rule No. 1 to Subpart A of Part 211
CODE: GCW–AI–Propane Allocation

This is in response to your request of April 30, 1976, as supplemented by your letter of May 14, 1976, on behalf of Boston Gas Company (Boston Gas) for an interpretation of the Mandatory Petroleum Allocation Regulations (10 CFR, Part 211) with respect to Boston Gas's entitlement to propane for synthetic natural gas plant feedstock.

FACTS. Boston Gas is a Massachusetts utility which distributes natural gas to consumers in Boston, Massachusetts and the surrounding area. Prior to March 1974, Boston Gas fulfilled its peak shaving requirements by using a propane air mixture obtained from a number of propane air plants it operated. In December 1973, subsequent to the base period for propane (April 1, 1972 through March 31, 1973), Boston Gas completed construction of a synthetic natural gas (SNG) plant to meet its peak shaving requirements. The SNG plant utilizes propane as its feedstock.

On February 7, 1974, Boston Gas petitioned the Boston regional office of the Federal Energy Office for an exception to 10 CFR 211.83 to permit the petitioner to use its allocation of propane for the propane air facilities as feedstock for the SNG plant. In March 1974 the exception was granted and contemporaneously the SNG plant went into operation. Since that time, Boston Gas has abandoned one propane air facility and entered into an agreement to sell another. Boston Gas asserts that reinstalling the propane air facilities would be costly and take years.

In March 1976, the Federal Energy Administration's Office of Exceptions and Appeals notified Boston Gas of its tentative decision to vacate the original exception. On April 30, 1976, Boston Gas filed this request for interpretation and simultaneously submitted to the Office of Exceptions and Appeals its answer in opposition to FEA's proposal to vacate the exception.

On May 27, 1976, the decision vacating Boston Gas's exception was issued, and Boston Gas's appeal of that decision was denied on August 19, 1976.

Issue. The issue for consideration is Whether Boston Gas is entitled to an allocation of propane to be used as a feedstock in its SNG plant based on the volume of propane Boston Gas used for peak shaving during the base period.

Interpretation. Peak Shaving and Synthetic Natural Gas Feedstock as Separate Allocable Uses.—Allocation levels pertaining to specific established uses of propane are set out in 10 CFR 211.83, which reads in pertinent part as follows:

§ 211.83 *Allocation levels.*

* * * * *

(c) *Allocation levels subject to an allocation fraction.*

* * * * *

(2) One hundred (100) percent of base period volumes for:

* * * * *

(ii) Synthetic natural gas plant feedstock use;

* * * * *

(v) *Peak shaving for gas utilities.* * * *

* * * * *

10 CFR 211.51 defines "peak shaving" as follows: "Peak shaving" means the use of propane or butane mixtures to supplement supplies of pipeline gas for distribution by gas utilities during periods of high demand."

The above two sections establish the requirement that propane must be used directly to supplement supplies of pipeline gas for distribution if it is to qualify as peak shaving use. Where propane is used as a feedstock to produce SNG which in turn then supplements pipeline supplies of natural gas, the propane is not being used for peak shaving but rather is being used as SNG feedstock subject to the allocation level specified in 10 CFR 211.83(c)(2)(ii). Therefore, when Boston Gas ceased using propane for peak shaving and began using SNG for that purpose, it established a separate use for the propane, i.e. feedstock for the SNG plant.

Non-transferability of Allocation Entitlements for Separate Allocable Uses. 10 CFR 211.11, which sets out the basis for a purchaser's entitlement to an allocation, reads in relevant part as follows: "(a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based on its conduct of an on-going business or maintenance of an established end use."

* * * * *

The effect of this provision is that a firm is entitled to receive an allocation level for each specified end-use. If the firm changes the end-use of the allocated product from what it was during the base period to a different end-use, the entitlement for the prior use ceases. If the purchaser wishes to use an allocated product for a new end-use, it must seek assignment of a supplier and establishment of a base period use. See 10 CFR 211.12(e).

Allocation of Synthetic Natural Gas Feedstocks. 10 CFR 211.29 reads in relevant part as follows:

Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases crude oil and allocated products for use as feedstock in a synthetic natural gas plant which has requirements that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter * * *."

* * * * *

Based upon the foregoing, it is our opinion that the Mandatory Petroleum Allocation Regulations require that when a firm wishes to use propane as SNG feedstock, and there is no base period volume for this particular use, an application for the establishment of a base period volume must be made pursuant to 10 CFR 211.29, Special Rule No. 1 and the Statement of Policy thereunder. An allocation level for a separate end use in the base period, such as peak shaving, would not constitute a basis for use of propane for another end use, such as SNG feedstock.

INTERPRETATION 1976–20

TO: U.S.A. Petroleum Corporation.
DATE: November 4, 1976.
RULES INTERPRETED: § 211.63, § 212.31, Rulings 1974–18, 1975–2.
CODE: GCW–AI, PI—December 1 Rule, Class of Purchaser.

Your letter dated August 12, 1975, on behalf of U.S.A. Petroleum Corporation ("U.S.A.") requested an interpretation as to the application of the Mandatory Petroleum Allocation and Price Regulations to a crude oil for product exchange agreement in effect on May 15 and December 1, 1973.

Facts. On March 27, 1973, U.S.A.'s wholly-owned subsidiary Trans World Oil Corporation ("Trans World") agreed to deliver specified volumes of crude oil to Macmillan Ring-Free Oil Co., Inc. ("Macmillan") at an average posted price plus xx cents per barrel. Macmillan in turn agreed to deliver to Trans World, on a priority basis and at specified prices, volumes of regular and premium grade gasoline proportionate to the amount of crude received from Trans World. This agreement was in effect from April 1, 1973 to May 31, 1974.

On June 1, 1974 the parties executed a new agreement containing essentially the same terms as the agreement in effect in December 1973, this new agreement to remain in effect until terminated by either party upon 30 days prior written notice after November 30, 1974. On June 18, 1975 Macmillan invoked the termination clause and gave Trans World written notice of its intent to terminate the agreement on July 17, 1975. Macmillan stated that it would continue to provide base period volumes of gasoline to Trans World as required by FEA's allocation regulations and that it intended to continue to purchase and receive crude oil from Trans World. On July 9, 1975, however, Macmillan notified Trans World that it would cease to accept crude deliveries and that deliveries of gasoline to Trans World would be at Macmillan's rack price. Macmillan's rack price is substantially higher than the contract price.

Allocation Issue For Interpretation. The issue presented for interpretation under the supplier/purchaser relationship provisions of 10 CFR 211.63 is whether Macmillan is required to continue to purchase crude oil from Trans World and sell to Trans World refined petroleum products pursuant to the terms of the contract in effect on December 1, 1973.

Interpretation. First, as to MacMillan's obligation to continue purchases of crude oil from Trans World, § 211.63 as in effect at the time of the subject termination (hereinafter referred to as "the rule") required the continuation of crude oil supplier/purchaser relationships in effect under contract on December 1, 1973. The rule specified two instances wherein such relationships other

than those involving the first sale of crude oil produced from a stripper well may be terminated: (1) by mutual consent of the parties, and (2) where a third party purchaser outbids the present purchaser as to new and released crude oil.

Implicit throughout the allocation regulations is the recognition that allocations are necessary to preserve equitable access to crude oil and refined products. Authority for the rule existed only in so far as its application furthered the statutory objectives of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). The EPAA is premised upon the Congressional determination that the adverse impacts resulting from shortages of crude oil, residual fuel oil and refined petroleum products being experienced are to be minimized by allocation on a priority basis. Sections 2 and 4 together with the Conference Report to the EPAA set forth the overall purpose and approach intended by Congress in authorizing an allocation program to deal with such shortages and supply dislocations. The purpose of the Mandatory Petroleum Allocation Regulations is therefore to provide for the allocation of crude oil and refined products for the benefit of purchasers. No purpose of the EPAA would be served by imposing upon any person the obligation to purchase crude oil or refined petroleum products. Furthermore, no authority exists under the EPAA for FEA to impose such an obligation.

In light of the objectives of the EPAA in this regard, FEA's June 11, 1976 revision of § 211.63 did not retain the provision requiring the consent of the seller, but provided for termination solely by consent of the purchaser.

Thus, on the basis of the foregoing, it is my opinion that the provisions of § 211.63 then in effect did not require MacMillan to continue purchases of crude oil from Trans World pursuant to the supplier/purchaser relationship in effect under contract between the parties on December 1, 1973, despite the requirement of that section that the seller consent to the termination of any supplier/purchaser relationship thereunder. The reference to the consent of the seller was intended only to recognize that, under conditions of crude oil shortages, the seller would have no objection to a termination under the rule and, in fact, would in most cases be attempting to obtain the purchaser's consent thereto.

Secondly, as to MacMillan's obligation for the supply of refined petroleum products to Trans World, the rule provided in part that "all supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973 shall remain in effect for the duration of this program". In cases where crude oil is exchanged for refined petroleum products under contracts in effect on December 1, 1973, FEA has ruled that the rule by its terms was applicable only to domestic crude oil and did not freeze supplier/purchaser relationships with respect to refined products. Ruling 1974–21. The supply of refined products under such exchanges is governed by the contract in effect between the parties to the extent that the contractual obligations are consistent with the FEA allocation regulations applicable to the particular product. However, the contractual relationship in effect between Macmillan and Trans World on December 1, 1973 has been terminated by Macmillan. Thus, in accordance with Ruling 1974–21, it is my opinion that the obligation of Macmillan to supply refined petroleum products to Trans World is governed solely by the provisions of 10 CFR Part 211 applicable to the particular refined product.

Price Issue for Interpretation. In view of the foregoing it is necessary to consider the second issue raised in the interpretation request. That issue is whether the discount price charged by Macmillan to Trans World for gasoline between April 1, 1973, and July 17, 1975 under the exchange agreements which were in effect during that period, constituted a "customary pricing differential" sufficient under the FEA pricing regulations to have given rise to a separate class of purchaser and, accordingly, a separate price ceiling applicable to the members thereof, or whether upon the termination of the aforementioned agreements Trans World lost its special contract price advantage and fell into Macmillan's "wholesale purchaser-reseller posted rack price" class of purchaser.

Interpretation. For purposes of this discussion, we assume that Macmillan's determination that Trans World falls into its "wholesale purchaser-reseller posted rack price" class of purchaser, rather than some other class, is proper under FEA regulations. No question was raised in the interpretation request concerning the validity of Macmillan's "class of purchaser" categorization, the appropriateness of Macmillan's classification of Trans World as falling within the rack price category (assuming no separate contract-based class of purchaser had been formed), or the lawfulness of the prices currently charged to "rack price" customers.

As pointed out in the interpretation request, ceiling prices are applied according to the product and class of purchaser concerned. 10 CFR 212.83(a). Under the definition of "class of purchaser" in 10 CFR 212.31, a class of purchaser is determined essentially on the basis of historic or "customary" price distinctions between purchasers of the same product. These price distinctions or differences may be in the form of a discount, allowance, "add-on," premium, or the like, and may be based on differences in the volume of product purchased, in the grade or quality of the product purchased, in the location or type of purchaser, or in the terms and conditions of sale or delivery. See definition of "customary price differential," 10 CFR 212.31.

In Ruling 1974–18, issued June 12, 1974, by FEA's predecessor, the Federal Energy Office, the question at issue was whether a discount or other pricing differential was "customary" or whether instead it was temporary and thus not a proper basis for establishment of a separate class of purchaser. That ruling established the guideline that discounts in effect on the base date (May 15, 1973) and either in effect or granted for a period of six months or more are presumptively "customary" and those in effect or granted for a period of less than six months are presumptively, temporary, but either presumption could be rebutted upon a showing of contrary intent on the part of the parties concerned.

This six-month rule of thumb was largely superseded by Ruling 1975–2, issued by the FEA on March 3, 1975. In Ruling 1975–2, primary emphasis was placed on the purpose for which the discount was granted, in line with the language of the Robinson-Patman Act, to the exclusion in most cases of considerations based on the duration of the discount.

Under the Robinson-Patman Act, price discrimination between customers of the same product is generally prohibited if the effect of such discrimination may be substantially to lessen competition. Many of the most important class-of-purchaser pricing distinctions validly made under FEA regulations are also proper under the Robinson-Patman Act because they do not serve to lessen competition. These include type-of-purchaser distinctions (e.g., between wholesale and retail customers), location distinctions (where geographical separation precludes competition) and volume distinctions (where substantial difference in size between large and small firms places them in different competitive markets).

Ruling 1975–2 points out that price discrimination is also possible under the Robinson-Patman Act, regardless of the effect on competition, under the "meeting competition" and the "cost saving" exceptions to the general anti-discrimination rule. The first exception, which permits the offering of a discount to meet a discount offered by a competitor, does not appear to be applicable to this interpretation request. The second exception permits discounts which are cost-justified—that is, which reflect differences in the cost of manufacture, sale or delivery resulting from different methods or volumes of sale or delivery.

It appears in this case that Macmillan was willing and able to extend a special discount price to Trans World because of the better price at which it obtained crude oil from Trans World under the crude oil and gasoline exchange agreements at issue. In other words, we may presume that Macmillan's "cost of manufacture" in connection with the production of gasoline from crude oil was reduced by virtue of an assured supply at a favorable price from Trans World. This view is consistent with Ruling 1975–2, which states that FEA will assume the validity under the Robinson-Patman Act of all discounts and price differentials in effect on May 15, 1973.

Under Ruling 1975–2, this category of discount is treated, as a general rule, as creating a separate class of purchaser for FEA price control purposes on the basis of a presumption that the cost justification under the Robinson-Patman Act is as valid currently as it was on May 15, 1973.

However, such a presumption appears not to be valid in the present case. On the contrary, the termination by Macmillan of the then-current exchange agreement on July 17, 1975, gives rise to a presumption that Macmillan no longer viewed the agreement as affording it sufficient cost savings or other business advantage to continue it in effect. Macmillan not only refused to continue the special discount to Trans World but refused also to take further deliveries of crude oil from Trans World. It was the assumed supply of crude oil at a favorable price, as noted above, which apparently formed the basis of the cost savings to Macmillan and which supported the granting of a price discount to Trans World in return. If no deliveries of crude oil from Trans World are accepted by Macmillan, there no longer exists any cost justification for the discount on gasoline sold back to Trans World.

According to Trans World, Macmillan has obtained another source of crude oil to replace Trans World. For purposes of this interpretation, we need not inquire whether Macmillan has obtained a better price from the new supplier or is offering that supplier a similar discount on gasoline sales under an exchange agreement. Crude oil is, of course, not necessarily purchased under exchange agreements.

It is therefore my opinion that this case constitutes an exception to the rule enunciated in Ruling 1975–2 that a "cost savings" discount in effect on May 15, 1973, should generally be continued in effect as having created or constituted a class of purchaser. The presumption of a permanence of the cost savings which gave rise to the discount is overcome in this case by the evidently transitory nature of the mutual advantages seen by the parties in the exchange of products. The transitory nature of the price discount in this case is indicated not only by the fact of termination of the agreement by Macmillan but also by the fact that all the exchange agreements at issue were either of limited

duration or contained provision for termination by either party without penalty upon 30 days notice.

It was stated in Ruling 1975–2 that a principal function of the class of purchaser rule is to preserve the price distinctions among purchasers that customarily existed under free market conditions. However, this statement must be read in light of the technical meaning of "customary" (i.e., historical and non-transitory) and in light of the corollary policy also mentioned in Ruling 1975–2 to allow transitory or random price differentials to be eliminated.

It is true, as pointed out in the interpretation request, that a class of purchaser consisting of a single purchaser is possible and is specifically sanctioned by Ruling 1975–2. However, this fact does not lend support to either side in a dispute as to whether a discount is a customary or transitory price differential. The FEA decision in this respect is not based on any abhorrence of single member classes of purchaser but relates essentially to the desirability of allowing non-customary or transitory discounts to elapse. To require indefinite maintenance of special pricing arrangements when they are no longsupported by any objective or recognized criteria for pricing differentials would be to foster arbitrary, inequitable and discriminatory pricing practices.

INTERPRETATION 1976–21

TO: Ford Motor Company.
DATE: November 18, 1976.
RULES INTERPRETED: §§ 211.10(g)(8), 211.10(g)(8)(i)(A), 211.12(g), 211.12(g)(1)(ii), 211.51, 211.82.
CODE: GCW–AI—Propane Allocation.

This is in response to your request on behalf of Ford Motor Company (Ford) for an interpretation of § 211.12(g) of the Mandatory Petroleum Allocation Regulations [10 CFR 211.12(g)].

Facts. Ford is a wholesale purchaser-consumer of various products allocated under the Mandatory Petroleum Allocation Regulations (10 CFR, Part 211), including propane. Ford uses propane for "industrial use" as that term is defined in 10 CFR 211.51.

During the period April 1, 1972, through March 31, 1973 (the twelve-month period covering the four quarterly base periods for propane as defined in 10 CFR 211.82), Ford imported no propane. However, in November and December 1973, Ford imported substantial quantities of propane from Venezuela. At present, Ford has 2.2 million gallons of this propane remaining in inventory in its storage facilities at Conway, Kansas, and 800,000 gallons at Mentor, Ohio.

Issue. The issue for consideration is whether Ford may use the imported propane in its inventory without regard to the special use limitation on propane imposed in the Mandatory Petroleum Allocation Regulations.

Interpretation. 10 CFR 211.10(g)(8) reads in pertinent part as follows:

"Limitation on purchaser's rights including special restrictions on propane and butane. (i) No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, *Provided*, That unless directed by FEA upon application pursuant to subpart G of Part 205 of this chapter, (A) no supplier shall supply and no end-user or wholesale purchaser-consumer [except with respect to imports acquired and distributed pursuant to § 211.12(g)(1)(ii) and (2)] shall accept or use propane or butane (including the propane and butane content of natural gas liquids and refinery gas) in excess of one hundred (100) percent of base period use for any industrial use (other than for refinery fuel use) except for the purpose of increasing inventories for such uses to the levels allowed under §§ 211.86(g) and 211.96(e). * * * "

* * * * *

10 CFR 211.12(g)(1)(ii) reads as follows:

"Imports of propane and butane other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) (A) by wholesale purchaser-consumers and end-users in excess of volumes imported in the base period and (B) by wholesale purchaser-consumers and end-users which have not previously imported these products are not subject to the use limitations imposed by § 211.10(g)(8) of this subpart."

When the exception to the proviso in § 211.10(g)(8) is read together with § 211.12(g)(1)(ii), it is seen that these two provisions permit industrial users which have never imported propane to acquire and use non-Canadian imported propane. Industrial users taking advantage of § 211.12(g) may exceed their base period uses of propane without affecting their allocation entitlement unless FEA finds that the use of non-Canadian imported propane without a reduction in domestic propane entitlements would be inconsistent with the objectives of the Emergency Petroleum Allocation Act of 1973. See 10 CFR 211.12(g)(1)(iii). These regulations do not prohibit industrial users from using imported non-Canadian propane which they have in inventory in the same manner such industrial users may use newly imported non-Canadian propane. If differing treatment had been intended, FEA would have specifically included an effective date in the body of amended § 211.12(g). Furthermore, the goal of easing restrictions on the industrial use of imported non-Canadian propane would be frustrated if a distinction were made on the basis of whether or not such propane was in inventory on the date amended § 211.12(g) was issued.

It is true that prior to the amendment to 10 CFR 211.12(g) on August 29, 1975 (40 FR 40821, September 4, 1975), no distinction was made with respect to the source of propane subject to the use limitation on propane specified in 10 CFR 211.10(g)(8)(i)(A). However, the adoption of the August 29, 1975 amendment, it is our opinion that non-Canadian propane which was not imported by an industrial user during any quarterly base period and which remained in inventory on August 29, 1975, was freed from the limitation on industrial use of propane.

INTERPRETATION 1976–22

TO: Guam Oil & Refining Co., Inc.
DATE: November 21, 1976.
RULES INTERPRETED: §§ 211.51, 211.67(d)(2), 212.53, Special Rule No. 7 to Subpart C of Part 211, EPAA §§ 3 and 4(a).
CODE: GCW–AI—Entitlements Program.

Your letter of June 5, 1975 as supplemented by your letters of June 23 and October 14, 1975 on behalf of Guam Oil & Refining Company, Inc. ("Guam Oil") requested an interpretation by the Federal Energy Administration ("FEA") of the application of FEA's Mandatory Petroleum Allocation Regulations to sales of residual fuel oil and diesel fuel by Guam Oil to a utility located in the Trust Territory of the Pacific Islands (the "Trust Territory").

Facts. Guam Oil operates a 29,500 barrel per day capacity refinery in the Territory of Guam and is a domestic refiner eligible to receive entitlements under FEA's domestic crude oil allocation program (the "entitlements program"). Guam Oil sells residual fuel oil and diesel fuel produced at this refinery for use by a utility in Saipan, Mariana Islands, located within the Trust Territory.

Issue. The issue presented for interpretation is whether Guam Oil's sales of residual fuel oil and diesel fuel into the Trust Territory are export sales under § 212.53 of the Mandatory Petroleum Price Regulations and thereby result in a deduction from the volume of Guam Oil's crude oil run to stills under the provisions of 10 CFR 211.67(d)(2).

Interpretation. Prior to its amendment on March 29, 1976, § 211.67(d)(2) provided that volumes of export sales of refined petroleum products (which, as defined in § 211.51, do not include residual fuel oil) were to be deducted from a refiner's crude oil runs to stills for purposes of entitlement calculations. In the March 29 amendment, FEA modified that provision to clarify that export sales are transactions that are exempt from price controls under § 212.53 and to include sales of residual fuel oil as a deduction effective for export sales in April 1976 and following months. Section 211.67(d)(2), as so amended, reads as follows:

"The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products (including aviation fuels as defined in § 211.142 of this part, but excluding refined lubricating oils) and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export."[4]

The purpose of the export sales deduction is first to ensure that the crude cost equalization benefits of the entitlements program are not exported, but retained within the domestic economy, and secondly not to provide such benefits for sales made in the world markets, where the prevailing crude oil costs are substantially higher than those for the domestic market. In this regard, § 212.53 provides that the prices charged for export sales, including sales to a domestic purchaser which certifies the product is for export, are exempt from the price rules prescribed in Part 212 of 10 CFR. Thus, sales in the export markets would normally be made at higher prices than would be the case for sales made in the United States.

Resolution of the issue presented for interpretation therefore requires a determination as to whether sales into the Trust Territory are export sales under § 212.53.

Pursuant to section 4(a) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), FEA's Mandatory Petroleum Allocation and Price Regulations apply to all crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States except as exempted pursuant to section 12 of the EPAA. Thus, FEA's allocation and price regulations apply only to sales occurring within the geographic areas included within the term "United States", which is defined in section 3 of the EPAA as follows:

"The term 'United States,' when used in the geographic sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States."

Export sales for purposes of the regulations promulgated pursuant to the EPAA are

[4] Special Rule No. 7 for Subpart C, as extended, temporarily exempts from the § 211.67(d)(2) deduction requirements a refiner's export sales of Bunker C and Navy Special fuel oils and No. 4 diesel for marine use for the months April through October 1976 (41 FR 37308, September 3, 1976).

those sales of refined petroleum products and residual fuel oil which are made into geographic areas outside of the United States as so defined. Whether the subject sales are export sales depends on whether the Trust Territory is a "territory or possession" of the United States.

The term "territories and possessions", however, when referred to in federal statutes is not generally construed to include the Trust Territory. For example, for purposes of export licenses, the Department of Commerce Export Administration Regulations expressly reference the Trust Territory separately from "territories and possessions" of the United States (15 CFR 370.4).

The Trust Territory is currently administered by the United States under a trusteeship agreement with the United Nations. Trusteeship Agreement for the former Japanese Mandated Islands, July 18, 1947, 61 Stat. 3301, T.I.A.S. No. 1665, 8 U.N.T.S. 189. As an administering authority designated by the United Nations, the United States is granted full powers of administration as a trustee subject to the provisions of the Trusteeship Agreement. Thus, its authority over the Trust Territory arises from its role as a trustee rather than a sovereign.

Since the United States does not exercise sovereignty over the Trust Territory, the Trust Territory does not qualify as a "territory or possession" of the United States. *See generally, Callas* v. *United States*, 253 F. 2d 838 (2d Cir.), *cert. denied*, 357 U.S. 936 (1958); *Brunell* v. *United States*, 77 F. Supp. 68 (S.D.N.Y. 1948). This view was recently confirmed in *People of Saipan* v. *United States Department of Interior*, 502 F. 2d 90 (9th Cir. 1974), *cert. denied*, 95 S. Ct. 1445 (1975). The court held that the reference in the Administrative Procedure Act ("APA") exclusionary clause to governments of "territories or possessions" of the United States does not also exclude the Trust Territory from the coverage of the APA, but that the Trust Territory was nonetheless excluded from such coverage because of a Congressional intention so to exclude all governments of that general type. With respect to the inclusion of the Trust Territory within the phrase "territories or possessions", however, the court stated:

"We also recognize, again as did the district court, that the APA exclusionary clause excludes only "the governments of the territories or possessions of the United States," 5 U.S.C. 701(b)(1)(C), and that the Trust Territory is not a territory or possession, because technically the United States is a trustee rather than a sovereign" (502 F. 2d at 95)

There is no legislative history of the EPAA which would suggest that Congress intended that the provisions of the EPAA should apply to the Trust Territory. Further, since the conditions which existed in the Trust Territory at the time of the passage of the EPAA with respect to supplies of petroleum products were substantially different than those existing in the United States, it would be difficult to infer an intent on the part of Congress to extend the EPAA to the Trust Territory.

It should be noted that a series of steps are underway to bring the Northern Mariana Islands under the sovereignty of the United States. One such interim step was enactment of Pub. L. 94-241 (March 24, 1976), which constitutes approval by Congress and the President of the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America." The successful culmination of this process would eventually result in the dissolution of the trusteeship relationship as it applies to the Northern Marianas thus subjecting them to the complete sovereignty of the United States. Upon approval by the President of a constitution for the Northern Mariana Islands, we understand that the terms of the covenant provide that laws applicable to Guam and all laws of general application to the several states shall thereafter apply to the Northern Mariana Islands.

Based on the foregoing, it is our opinion that Guam Oil's sales of diesel fuel and residual fuel oil into the Trust Territory are export sales for purposes of § 211.67(d)(2). Any volume of diesel fuel so sold in a month beginning with the month November 1974 and any volume of residual fuel so sold in a month beginning with the month April 1976 (other than a sale exempted by Special Rule No. 7 for Subpart C) must be deducted on a barrel-for-barrel basis from Guam Oil's volume of crude oil runs to stills in the month in which the sale was made.

INTERPRETATION 1976-23

TO: Champlin Petroleum Co.
DATE: December 6, 1976.
RULES INTERPRETED: §§ 211.51, 211.62, 211.71 (c)(2), Ruling 1975-8, EPAA § 14.
CODE: GCW-AI—Supplier, Refinery Yield.

This is in response to your request dated August 4, 1976 for an interpretation of the Mandatory Petroleum Allocation Regulations.

Facts. Champlin Petroleum Company (Champlin) plans to join with ICI United States Inc. (ICI-US) and Soltex Polymer Corp. (Soltex) to construct and operate a $700 million ethylene plant in Corpus Christi, Texas. The plant is to become operational in 1980, and will produce 1.2 billion pounds per year of ethylene and lesser quantities of propylene, butadiene and benzene. Champlin has agreed to supply the ethylene plant with naphtha and gas oil feedstocks and is expanding its refining capacity to be able to do so.

The expansion of Champlin's refinery capacity will be completed by early 1977—approximately three years prior to completion of the ethylene plant. In the interim, Champlin plans to utilize the increased capacity by entering into processing agreements with producers and/or other refiners. Under the agreements, Champlin will refine crude oil owned by producers or other refiners and return the refined products—gasoline and other distilled products—to the owners for a per-barrel processing fee.

The processing agreements will be negotiated so as to expire when operations commence at the new ethylene plant. At that time Champlin plans to alter its refinery yield to produce naphtha and gas oil feedstocks for the ethylene plant. According to Champlin, the change in refinery yield will not affect the refinery's other base period purchasers of gasoline and distillate if there is an adequate crude oil supply. In the event of a shortage of crude oil, however, Champlin states that it may be necessary to reduce the output of gasoline and distillate to satisfy the feedstock requirements of the ethylene plant.

Issues. The issues presented for consideration are:

1. Whether a refiner who refines crude oil pursuant to a processing agreement as defined in 10 CFR 211.62 becomes a "supplier" as defined in § 211.51 with base period supply obligations as to the products returned to the person supplying crude oil under the agreement; and

2. Whether a refiner may alter the product mix produced at its refinery.

Interpretation. Processing Agreements: It is our opinion that a refiner which processes crude oil pursuant to a processing agreement as defined in § 211.62 is not a supplier as defined in § 211.51 of the Mandatory Petroleum Allocation Regulations with respect to the refined products so produced and, therefore, incurs no base period supply obligations as to those products.

Processing agreements are defined in § 211.62 as those agreements "pursuant to which an owner of crude oil agrees to have that crude oil processed or refined by another person and retains ownership in some or all of the petroleum products so processed or refined from the crude oil." Since under its proposed agreements Champlin does not plan to acquire title to the crude oil to be processed nor to retain any ownership interest in the petroleum products produced, these agreements fall within the above definition of processing agreements.

The term "supplier" is defined in § 211.51 of the Regulations as: "Any firm * * * which presently, during the base period, or during any period between the base period and the present supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated product or crude oil to wholesale purchasers or end-users, including, but not limited to, refiners, natural gas processing plants or fractionating plants, importers, resellers, jobbers, and retailers."

In our view, the terms supply, sell, transfer or otherwise furnish in the definition of supplier require that a firm either possess title to the product and convey title to its purchasers, or that the firm perform an independent distribution function, as in the case of a consignee agent that constitutes a wholesale purchaser-reseller under § 211.51 and FEA Ruling 1975-8. As described by Champlin, title will be retained by the other parties to the processing agreements, and Champlin would therefore be unable to transfer title to the petroleum products involved. In addition, Champlin would perform no independent distribution functions with respect to those products, in that the products would be required to be returned to the other parties to the processing agreements under the terms thereof. Thus, Champlin would not be considered a supplier under the Regulations and will incur no base period supply obligations by execution of the processing agreements as described in its request.

Alteration of Refinery Yield: With respect to the second issue as to which you are seeking an interpretation, if Champlin desires to change its refinery yield when the ethylene complex comes on stream so as to no longer produce certain additional amounts of gasoline and distillates, it is our opinion that FEA's current regulations would not require Champlin to continue production of gasoline and distillates in the same volumes produced in any applicable base period. In this regard, it should be noted that FEA's allocation regulations covering middle distillates are on a standby basis.

Although § 14 of the Emergency Petroleum Allocation Act does provide FEA with authority to exercise controls over refinery yields, FEA has hesitated to utilize its authority in this regard in the past and would expect that, due to the inherent difficulties of enforcing refinery yield controls, such controls would be used only under extreme emergency supply conditions. FEA's authority in this regard is set forth in the Regulations at 10 CFR 211.71(c)(2). That section provides, in part, that:

"Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the FEA may require refiners to adjust their base percentage yield of that product or residual fuel oil in short supply. * * *"

There is, however, an additional constraint on the alteration of refinery yield. A refiner may not change refinery mix in such a way

as to frustrate the purposes of the Regulations. Thus, FEA may require a refiner to change its product mix where refinery output has been changed to circumvent the Regulations or the change significantly distorts the regulatory scheme. *See Standard Oil of California*, 2 FEA ¶ 80,618 (June 26, 1975). The rationale of the Standard Oil of California case might be particularly germane in an analysis of sales by Champlin to the proposed ethylene complex, in that these sales would necessarily be considered as sales to an affiliate of Champlin.

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PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Emergency Amendment for Propane Adopting Special Rule No. 2 to Subpart D

The Federal Energy Administration ("FEA") hereby adopts on an emergency basis Special Rule No. 2 to Subpart D to the Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, establishing procedures that will be effective through March 31, 1977, whereby upon the request of the Governor or a State office or agency authorized by the Governor, of a State experiencing shortages of propane for its highest priority users, FEA Regional Offices will be able to redirect supplies of propane from lower priority users to alleviate such shortages. The Special Rule adopted today is effective immediately.

BACKGROUND

The severely cold winter weather experienced in many parts of the nation has created record demand levels for natural gas and propane and available supplies have not been sufficient to meet the increased demand. In response to this situation, to assist gas utilities in maintaining service to meet essential human needs and protect property and to assure supplies of propane to direct residential users and for plant protection, on January 24, 1977, FEA adopted emergency amendments to its allocation regulations (42 FR 5033, January 27, 1977). These amendments raised propane allocation levels for residential and plant protection use to 100 percent of current requirements and adopted Special Rule No. 1 to Subpart D for gas utilities which are unable to meet their minimal levels of service for high priority requirements.

Special Rule No. 1 permits application to the FEA National Office by a gas utility which needs propane in excess of one hundred (100) percent of base period use to maintain gas service for essential human needs and property protection for an order adjusting its base period use and establishing new priorities of allocation for the utility's supplier. Special Rule No. 1 created emergency allocation levels with two separate priorities, requiring that, when FEA issues an order to a supplier under Special Rule No. 1, the supplier must recompute its allocation fraction so that none of its purchasers in the second priority can receive propane until all its first priority customers will receive enough propane to satisfy fully their allocation requirements.

For purposes of Special Rule No. 1, the first priority category includes agricultural production, Department of Defense use, the priorities currently set forth in 10 CFR 211.83(c)(1) (as amended to include residential and plant protection fuel use), synthetic natural gas plant feedstock use and peak shaving use for a gas utility to maintain gas service to essential human needs and property protection. The latter two uses are accorded an allocation level of one hundred percent of base period use, while all others are assigned an allocation level of one hundred percent of current requirements. All allocation levels are subject to an allocation fraction while this Special Rule is in effect for that supplier. Under this Special Rule, "gas service for essential human needs and property protection" is defined as

> * * * distribution of natural gas to residential and small commercial users with no alternate fuel capability which use less than 50,000 cubic feet of natural gas on a peak day, to industrial plants for plant protection fuel, and to apartment buildings and medical and nursing buildings with no alternate fuel capability.

The second priority category under Special Rule No. 1 includes petrochemical feedstock use, industrial use as a process fuel or where no substitute for propane is available, peak shaving other than for maintenance of gas service for essential human needs and property protection, governmental use, refinery fuel use, specified commercial and industrial use, specified transportation services and schools.

In the brief period since the adoption of Special Rule No. 1, FEA has been advised that, as between certain suppliers within a single state, available amounts of propane may differ so greatly that one supplier may have insufficient propane to meet the requirements of its first priority customers while at the same time another supplier may still be supplying second priority customers. In addition, the severely cold weather over the last weekend has caused a further deterioration of propane supplies in several states. Although FEA does not believe that there is any short-term regulatory action which it might take that could significantly alleviate the current short supply and distribution problems, it does believe that a further modification of its propane allocation regulations could, in certain critical situations in several states, serve to afford relief which would not otherwise be available. Therefore, FEA has concluded that its allocation program should immediately be further amended in order to provide FEA the greatest degree of flexibility to assure that during this emergency, available supplies of propane are allocated to meet the requirements of high priority users before being allocated to second priority users.

SPECIAL RULE NO. 2

FEA solicited the views of the Governors on a possible amendment to its regulations providing authority to the Governors to redirect propane in their states from low to high priority uses specified by FEA regulations. The Governors who responded generally favored the redirection concept. Upon further reflection, FEA concluded that this redirection authority would best be implemented by authorizing the Governors to determine when the invocation of redirection power is necessary. Then, when a Governor advises FEA that a propane emergency exists in his or her state and requests the redirection of particular propane supplies, the actual redirection orders will be prepared and issued by an FEA Regional Office. This procedure allows the FEA Regional Office to coordinate fully the Governor's request for redirection of propane with other on-going FEA Regional or National Office regulatory actions and insures that localized needs are responded to expeditiously, but in a manner consistent with FEA's overall allocation program.

To make additional volumes of propane available in emergency situations within a state where suppliers are unable to provide propane at an allocation fraction of 1.0 to their customers which would be within the first priority under the emergency allocation levels set forth in Special Rule No. 1, and other supplies are available within that state which are being supplied to second priority customers, FEA is, therefore, adopting Special Rule No. 2 to Subpart D (hereinafter referred to as the "Special Rule"). The Special Rule establishes procedures effective through March 31, 1977 whereby, in accordance with the specific request of a Governor or an authorized State office or agency of a State which is experiencing a critical propane supply situation, the FEA Regional Office for that State will order suppliers to curtail or terminate supplies of propane to customers which are in the second priority emergency allocation levels set forth in Special Rule No. 1 if those supplies can be redirected to first priority users which have no alternate fuel capabilities, either directly or through other suppliers.

To implement the Special Rule, the Governor of a State, or his or her authorized representative, must first advise the FEA National Office that an emergency situation exists in the State and that the Governor desires to invoke the emergency redirection powers under the Special Rule. The Governor would also designate the state office or agency that would exercise the State's authority in this regard. Within 24 hours of the Governor's advice to this effect, FEA would order all prime suppliers within the State and any other large propane suppliers which it could identify within the State to report to the authorized State office or agency and to the appropriate FEA Regional Office the location, storage capacity, and current level of inventory at each storage facility in that State and in adjacent States from which the supplier serves that state; the supplier's anticipated supply of propane to the State for the period between the date

of the order and March 31, 1977; and all volumes of propane scheduled for delivery to second priority purchasers in the State, from each storage or terminal facility, for each week between the date of the order and March 31, 1977.

Upon a determination that invocation of the authority contained in this Special Rule is necessary to assure adequate supplies to priority one purchasers without alternate fuel capabilities, the authorized State office or agency could then request the appropriate FEA Regional Office to issue an order under the Special Rule that would require a specified supplier (1) to redirect propane within that State from second priority customers to first priority customers of that supplier which are not receiving the volume of propane which they would receive under an allocation fraction of 1.0; (2) to redirect propane within that State from second priority customers to first priority customers of other suppliers, either directly or through such other suppliers, within that State which are not receiving the volume of propane which they would receive from such other supplier under an allocation fraction of 1.0; or (3) to curtail or terminate supplies within that State to second priority customers so as to accumulate propane in inventory to meet subsequent peak demand for service to first priority users of propane. Before an order may be issued to a supplier under the Special Rule, the FEA Regional Office must determine that the supplies proposed to be redirected or accumulated are being currently provided to second priority customers and that issuance of such an order within the particular State would operate to provide additional supplies of propane to first priority users of propane which would otherwise not receive their full allocation of propane during the period February 1 through March 31, 1977.

The Regional Office would also ensure that issuance of such an order would not be inconsistent with any other action which it might take with respect to redirecting supplies among states and would consult with the FEA National Office with respect to the state's request to ensure that the order would be consistent with the operation of other emergency allocation program for propane then in effect. A copy of the order will be served upon the supplier to which it is directed, and any order issued under the Special Rule would be appealable to FEA's National Office under the procedures set forth in Subpart H of 10 CFR Part 205.

These amendments are being issued on an emergency basis to ensure that when a propane emergency is found to exist in a State, a means exists to redirect propane from lower to higher priority users. If these amendments were not adopted until after notice and a hearing, they would not be effective until after requests for redirection of propane for essential needs should have been accomplished. FEA therefore finds that strict compliance with the notice requirements of section 7(i)(1)(B) of the Federal Energy Administration Act of 1974, as amended ("FEAA"), Pub. L. 93-275, Pub. L. 94-385, will cause serious harm and injury to the public health, safety and welfare, and the notice requirements of that section are hereby waived.

Section 7(c)(1) of the FEAA provides that FEA shall, before promulgating proposed regulations affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency ("EPA") may provide written comments concerning the impact of such regulations on the quality of the environment. Such comments are required to be published concurrently with or as part of the notice of proposed rulemaking.

Under section 7(c)(2) of the FEAA, the prior review required by section 7(c)(1) may be waived for a period of 14 days if there is an emergency situation which requires taking action at a date earlier than would permit the EPA the five day opportunity for prior comment required under section 7(c)(1). Notice of any such waiver must be given to the EPA and filed with the FEDERAL REGISTER with the notice of proposed or final FEA action and must include an explanation of the reasons for such waiver together with supporting data and factual background information.

Pursuant to section 7(c)(2) of the FEAA, FEA hereby waives the requirements of section 7(c)(1) of the FEAA concerning prior review by EPA of the environmental impact of this rulemaking. This waiver is based on an emergency situation which, as explained above, mandates that FEA take immediate steps to ensure adequate supplies of propane to high priority users. A copy of this emergency amendment has been sent concurrent with its issuance to the Administrator for his comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

Because this amendment is being issued on an emergency basis, an opportunity for oral presentation of views is not possible prior to its implementation. A public hearing, however, will be held beginning at 9:30 a.m., on February 28, 1977, in Room 3000A, 1200 Pennsylvania Avenue, N.W., Washington, D.C., to receive comments from interested persons. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, and must be received before 4:30 p.m., e.s.t., February 16, 1977. Such a request may be hand delivered to Room 3309, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through February 25, 1977. Each person selected to be heard will be so notified by FEA before 5:30 p.m., e.s.t., February 17, 1977, and must submit 100 copies or his or her statement to Office of Executive Communications, FEA, Room 3309, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

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

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

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., February 25, 1977. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to this emergency amendment to Executive Communications, Federal Energy Administration, Box KP, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Redirection

Procedures for Propane Special Rule No. 2." Fifteen copies should be submitted. All comments received by February 25, 1977, and all relevant information, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

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

Issued in Washington, D.C., February 2, 1977.

DAVID G. WILSON,
Acting General Counsel.

1. The Appendix to Subpart D of Part 211 is amended by adding Special Rule No. 2, to read as follows:

SPECIAL RULE NO. 2—EMERGENCY PROCEDURES FOR REDIRECTION OF PROPANE FOR HIGH PRIORITY USE OR INVENTORY ACCUMULATION

(1) *Scope.* This Special Rule sets forth procedures for the mandatory redirection of propane within a State for high priority use or accumulation in inventory in certain emergency situations, pursuant to FEA orders based on a request by a State under parargraph (3) below. This Special Rule shall remain in effect through March 31, 1977.

(2) *Purpose.* This Special Rule provides special procedures for redirection of propane for high priority use or inventory accumulation in order to assure the highest possible level of flexibility for allocation of propane within a State to the highest priority users with no alternate fuel capability.

(3) *Emergency procedures.*

(a) *Advice to FEA by a State as to intended use of Special Rule.* If a State intends to request that FEA issue orders applicable to that State pursuant to paragraph (c) below, the Governor of that State, or his or her authorized representative, shall advise the FEA National Office:

(i) That an emergency situation exists in the State and that the State intends to invoke the emergency redirection procedures under this Special Rule; and

(ii) That the State office or agency named is authorized to represent the Governor in requesting that these procedures be invoked as to that State under paragraph (c) below.

(b) *Suppliers' reports.* FEA shall, within twenty-four (24) hours of receipt of the Governor's advice pursuant to paragraph (a) above, issue orders directing all prime suppliers within the State and any other large propane suppliers within the State to report as soon as possible but in no event more than seventy-two (72) hours after receipt of the order to the authorized State office or agency and to the appropriate FEA Regional Office:

(i) The location, storage capacity, and current level of inventory at each storage facility in that State and in adjacent States from which the supplier serves that State;

(ii) The supplier's anticipated supply of propane to the State for the period between the date of the order and March 31, 1977; and

(iii) All volumes of propane scheduled for delivery to second priority purchasers in the State, from such storage or terminal facility, for each week between the date of the order and March 31, 1977.

(c) *Redirection orders.* (i) Upon a determination that invocation of the emergency redirection procedures contained in this Special Rule is necessary to assure adequate supplies to first priority purchasers without alternate fuel capability, the authorized State office or agency may request the appropriate FEA Regional Office to issue an order under this Special Rule that would require a specified supplier:

(A) To redirect propane within that State from second priority purchasers to first priority purchasers of that supplier which are not receiving the volume of propane which they would receive under an allocation fraction of 1.0; or

(B) To redirect propane within that State from second priority purchasers to first priority purchasers of other suppliers, either directly or through such suppliers, within that State which are not receiving the volume of propane which they would receive from such other supplier under an allocation fraction of 1.0; or

(C) To curtail or terminate supplies within that State to second priority purchasers so as to accumulate propane in inventory to meet subsequent peak demand for service to first priority users of propane.

(ii) A copy of the order shall be served upon the supplier to whom it is directed, and any order issued under this Special Rule may be appealed by filing an appeal with the FEA National Office under the procedures set forth in Subpart H of 10 CFR Part 205.

(iii) (A) The FEA Regional Office may issue an order under this paragraph (c) if it determines:

(1) That the supplies proposed to be redirected or accumulated are being currently provided to second priority purchasers and that issuance of such an order within the particular State would operate to provide additional supplies of propane to first priority users of propane which would otherwise not receive their full allocation entitlement to propane during the period between the date of the order and March 31, 1977; and

(2) That issuance of such an order would not be inconsistent with any other action which it might take with respect to redirecting supplies among States.

(B) The FEA Regional Office shall advise the FEA National Office of the State's request to ensure that the order would be consistent with the operation of other emergency allocation programs for propane in effect.

(d) For purposes of this Special Rule—

"First priority purchasers" means purchasers classified as first priority purchasers under paragraph (5)(a) of Special Rule No. 1 to Subpart D.

"Second priority purchasers" means purchasers classified as second priority purchasers under paragraph (5)(b) of Special Rule No. 1 to Subpart D.

"Large propane supplier" means any supplier which is not a prime supplier and which is obligated to supply propane to any wholesale purchasers during the period January 1, 1977 through March 31, 1977.

[FR Doc.77-3876 Filed 2-3-77;10:25 am]

CHAPTER III—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PART 710—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION

Miscellaneous Amendments

On November 22, 1976, a notice of proposed rulemaking was published in the FEDERAL REGISTER (41 FR 51420-51422) stating that the Energy Research and Development Administration was considering an amendment to Part 710 of its regulations that would adopt the provisions of Part 710 as the criteria and procedures to be used in determining eligibility for access to significant quantities of special nuclear material.

Interested persons were given 30 days in which to submit written comments. No comments have been received and the proposed amendment is hereby adopted without change, as set out below.

Effective date: February 8, 1977.

(Sec. 145, 68 Stat. 942, as amended (42 U.S.C. 2165); sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 104, 88 Stat. 1237 (42 U.S.C. 5814); sec. 105, 88 Stat. 1238 (42 U.S.C. 5815).)

Dated: January 27, 1977.

ALFRED D. STARBIRD,
Assistant Administrator for National Security.

Therefore 10 CFR Part 710 is amended as set out below.

1. The name of the part would be revised to read "Criteria and Procedures for Determining Eligibility for Access to Restricted Data, National Security Information or Significant Quantities of Special Nuclear Material."

2. Section 710.1 would be revised to read as follows:

§ 710.1 Purpose.

(a) This part establishes the criteria, procedures, and methods for resolving questions concerning the eligibility of individuals who are employed by or applicants for employment with ERDA contractors, agents, and access permittees of the ERDA, individuals who are ERDA employees or applicants for ERDA employment and other persons designated by the Administrator of the ERDA for access to Restricted Data or significant quantities of special nuclear material pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974 or for access to national security information.

(b) This part is published to implement Executive Orders 10865, 25 FR 1583 (February 24, 1960) and 10450, 18 FR 2489 (April 27, 1954).

3. In § 710.3, Section 161 of the Atomic Energy Act, as revised, would be set forth as follows:

§ 710.3 Reference.

Sec. 161. General provisions. In the performance of its functions the Commission is authorized to:

(a) Establish advisory boards to advise with and make recommendations to the Commission on the legislation, policies, administration, research and other matters; *Provided*, That the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board.

(b) Establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property.

(c) Make such studies and investigations, obtain such information, and hold such meetings or hearings as the Commission may deem necessary or proper to assist it in the administration or enforcement of this Act, or any regulations or orders issued thereunder. For such purposes the Commission is authorized to administer oaths and affirmations, and by subpoena to require any person to appear and testify, or to appear and produce documents, or both, at any designated place. No person shall be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1893, shall apply with respect to any individual who specifically claims such privilege. Witnesses subpoenaed, under this subsection, shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

* * * * *

(i) Prescribe such regulations or orders as it may deem necessary (1) to protect Restricted Data received by any person in connection with any activity authorized pursuant to this Act, (2) to guard against the loss or diversion of any special nuclear material acquired by any person pursuant to Section 53 or produced by any person in connection with any activity authorized pursuant to the Act, to prevent any use or disposition thereof which the Commission may determine to be inimical to the common defense and security, including regulations or orders designating activities, involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations, and loyalty shall have been investigated under standards and specifications established by the Commission and as to whom the Commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security, and (3) to govern any activity authorized pursuant to this Act, including standards and restrictions governing the design, location, and operation of facilities used in the conduct of such activity, in order to protect health and to minimize danger to life or property;

* * * * *

(n) Delegate to the General Manager or other officers of the Commission any of those functions assigned to it under this Act except those specified in Sections 51, 57b., 61, 108, 123, 145b. (with respect to the determination of those persons to whom the Commission may reveal Restricted Data in the national interest), 145f. and 161a.

* * * * *

(p) Make, promulgate, issue, rescind, and amend such rules and regulations as may be necessary to carry out the purposes of this Act.

4. In § 710.5, paragraph (a) would be revised and paragraph (g) would be added to read as follows:

§ 710.5 Definitions.

As used in this part:

(a) "Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with ERDA contractors, agents, and access permittees of the ERDA is eligible for access to Restricted Data or National Security Information or is eligible for access to, or control over, significant quantities of special nuclear material; and an individual (including a consultant) who is an ERDA employee or applicant for ERDA employment and other persons designated by the Administrator of the ERDA is eligible for security clearance;

* * * * *

(g) "Significant quantity of special nuclear material" means unclassified special nuclear material, not subject to an NRC license, in one facility or one shipmnt in the following quantities:

(1) Uranium 235 (contained in uranium enriched 20% or more in the Uranium 235 isotope) alone, or in combination with Plutonium and/or Uranium 233 when (multiplying the plutonium and/or content by 2½) the total is 5,000 grams or more.

(2) Plutonium and/or Uranium 233 when the Plutonium and/or Uranium 233 content is 2,000 grams or more.

6. In § 710.11, paragraph (b)(7) would be revised to read as follows:

§ 710.11 Derogatory information.

* * * * *

(b) * * *

(7) Has been grossly careless in failing to protect or safeguard Restricted Data, national security information or special nuclear material.

* * * * *

7. Section 710.20 would be revised to read as follows:

§ 710.20 Purpose of the procedures.

These procedures establish methods for the conduct of Personnel Security Board hearings and administrative review of questions concerning an individual's eligibility for access authorization when it is determined that such questions cannot be favorably resolved by interview or other investigation.

8. Section 710.21 would be revised to read as follows:

§ 710.21 Suspension of access authorization.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for ERDA access authorization, the Manager of the office concerned shall forward to the Assistant Administrator for National Security via the Director, Division of Safeguards and Security, ERDA, recommendation as to whether the individual's access authorization should be suspended pending the final determination resulting from the operation of the procedures provided in this part. In making this recommendation the Manager shall consider such factors as the seriousness of the derogatory information developed, the possible access of the individual to classified information or significant quantities of special nuclear material, and the individual's opportunity by reason of his position to commit acts adversely affecting the national security. The access authorization of an individual shall not be suspended except by direction of the Assistant Administrator for National Security.

Section 710.27 is amended by revising paragraph (m)(2), (o), and paragraph (p)(2) as follows:

§ 710.27 Conduct of proceedings.

* * * * *

(m) * * *

(2) The Administrator or his special designee for that particular purpose has preliminarily determined, after considering information furnished by the investigative agency as to the reliability of the person and the accuracy of the statement concerned, that the statement concerned appears to be reliable and material, and the Administrator or such special designee has determined that failure of the Board to receive and consider such statement would, in view of the access to Restricted Data, national security information, or significant quantities of special nuclear material sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify (i) due to death, severe illness, or similar cause, in which case the identity of the person and the information to be considered shall be made available to the individual, or (ii) due to some other cause determined by the Administrator to be good and sufficient.

* * * * *

(o) Records compiled in the regular course of business, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that such information has been furnished to the ERDA by an investigative agency pursuant to its responsibilities in connection with assisting the Administrator to safeguard Restricted Data, national security information or significant quantities of special nuclear material.

(p) * * *

(2) The Administrator or such designee has made a determination that failure to receive and consider such physical evidence would, in view of the access to Restricted Data, national security information or significant quantities of special nuclear material sought, be substantially harmful to the national security; and

* * * * *

12. In § 710.33, paragraph (c) would be revised to read as follows:

§ 710.33 Action by the Administrator.

* * * * *

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Administrator to deny or revoke access to Restricted Data, national security information, or significant quantities of special nuclear material if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the Administrator determines that the procedures prescribed in § 710.27 (m), (n), (o), or (p) cannot be invoked consistently with the national security and such determination shall be conclusive.

13. In § 710.34, paragraph (b) would be revised to read as follows:

§ 710.34 Reconsideration of cases.

* * * * *

(b) Where, pursuant to these procedures, the Administrator or the Assistant Administrator for National Security has made a determination denying access authorization to an individual, the individual's eligibility for access authorization may be reconsidered when there is a bona fide offer of employment requiring access to restricted data, national security information or significant qauntities of special nuclear material and either material and relevant new evidence, which the individual and his representatives are without fault in failing to present before, or convincing evidence of reformation or rehabilitation. Requests for reconsideration shall be submitted in writing to the Assistant Administrator for National Security through the Manager of Operations having jurisdiction over the position for which access authorization will be reconsidered and, if so, the method by which such reconsideration will be accomplished.

* * * * *

(Sec. 145., 68 Stat. 942, as amended; 42 U.S.C. 2165; Sec. 161., 68 Stat. 948, as amended; 42 U.S.C. 2201; Sec. 104, 88 Stat. 1237; 42 U.S.C. 5814; Sec. 105., 88 Stat. 1238; 42 U.S.C. 5815.)

[FR Doc.77-3930 Filed 2-7-77;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Official Staff Interpretations; Correction

F.R. document 76-34112 appearing at page 47409 of the issue for Monday, November 22, 1976, contained an error in FC-0017. FR Doc. 76-35586 appearing at page 54477 of the issue for Tuesday, December 14, 1976 incorrectly stated that FC-0017 was reprinted in that document. The last paragraph and signature of FC-0017 should read as follows:

I trust this is responsive to your inquiry. This is an official staff interpretation of Regulation Z issued under § 226.1(d)(3) and is limited to the facts outlined herein.

Sincerely,

JERAULD C. KLUCKMAN,
Assistant Director.

Board of Governors of the Federal Reserve System, February 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3894 Filed 2-7-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Doc. No. CP77-116]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Interpretive Order; Correction

JANUARY 17, 1977.

In the order interpreting § 2.68 of the Commission's general policy and interpretations, issued January 14, 1977, published in the FEDERAL REGISTER on January 26, 1977 (42 FR 4834), make the following changes:

1. Revise page 4834, paragraph 1, second sentence to read:

At the time of the telegrams Houston had been selling and delivering approximately 150,000 Mcf per day of natural gas to Transco at the points at which it proposed to sell and deliver gas to United and had been delivering approximately 85,000 Mcf per day of natural gas to United at the point it proposed to sell and deliver gas to Transco.

2. Revise page 4835, footnote 3, by adding the name of Congressman Edgar L. Jenkins of Georgia.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3759 Filed 2-7-77;8:45 am]

SUBCHAPTER H—REGULATIONS UNDER THE EMERGENCY NATURAL GAS ACT OF 1977

PART 295—EMERGENCY REGULATIONS

The Administrator shall issue emergency delivery and transportation orders pursuant to section 4 of Pub. L. 95-2, and authorizations for emergency purchases and transportation thereof, pursuant to section 6 of that Act. He shall act on his own initiative or pursuant to requests for action.

Subject to the promulgation of further regulations, requests for action under either section of the statute should be in written form marked "Attention of the Administrator," Room 9200, 825 North Capitol Street NE., Washington, D.C. 20426. Requests will be acted upon promptly based upon information to be secured by the Administrator through direct communications with and from the public, other governmental agencies, and appropriate natural gas pipeline and distribution systems.

In the consideration of questions of allocation under section 4 of the Act, the Administrator will, to the extent practicable, consider the relative impact on employment in different areas of the country from which gas may be allocated. He shall also, to the extent practicable, consider the FPC priority category of the use from which gas would be allocated.

Pub. L. 95-2 contemplated the necessity for procedural and data gathering regulations. A form of regulations will be issued subsequently based upon initial experience in the administration of Pub. L. 95-2.

Order No. 1 of the Administrator establishes the structure through which consultation may take place for purposes of administration of Pub. L. 95-2.

Order No. 2 of the Administrator establishes general criteria for emergency purchases under section 6 of Pub. L. 95-2.

Order No. 3 establishes details for daily and weekly consultation through conference procedures.

ORDER NO. 1

Pursuant to the authority granted to the President by the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2, and the authority delegated to me by the President pursuant to Executive Order No. 11969, I hereby establish the organizational structure through which various personnel may assist me in my administration of the provisions of such Act. The decisional responsibility and the legal actions to be taken under Pub. L. No. 95-2 are those of the Administrator and not those of any non-governmental personnel. Participation of non-governmental personnel in the personnel groups established herein is for information data gathering and general advisory purposes only.

In my administration of the Act, I shall consult with a group composed of the following persons: (1) Governmental representatives to be designated by the Attorney General, the Secretaries of the Interior and Agriculture, the Federal Trade Commission, the Administrator of the Federal Energy Administration, as well as staff members to be assigned by the Federal Power Commission; (2) consumer representatives designated by the Secretaries of Health, Education, and Welfare and Housing and Urban Development from members of the general public; (3) representatives of state and local governments, as designated by the National Governors' Conference, the Conference of Mayors, and the National Association of Counties; (4) representatives of the natural gas industry, including interstate and intrastate natural gas pipelines and local distribution companies.

These personnel shall be further divided into working groups, as necessary.

ORDER NO. 2

(1) Under Section 6(a) of the Act the President may authorize emergency purchases of gas upon appropriate terms and conditions which shall include provisions for fair and equitable prices. Until further order, the Administrator herein determines that the term "fair and equitable" is satisfied by the setting of price levels comparable to the price at

which natural gas has recently sold in intrastate commerce. Therefore, emergency purchases may be made without prior notification to or authorization by the Administrator where the price for such sales is equal to or less than $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. No subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction complying with this section and otherwise complying with the Act.

(2) Where the seller of the gas will be required to use alternate fuel to replace the volumes sold, emergency purchases may be made without prior notification to or authorization by the Administrator, where such price is equal to or less than the cost of alternate fuel plus 7 percent. No subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction complying with this section and otherwise complying with the Act.

(3) Where a distribution company makes an emergency sale it may receive its overall replacement cost plus applicable transportation and storage costs, if any. No subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction complying with this section and otherwise complying with the Act. Emergency purchases may be made without prior notification to or authorization of the Administrator where such price is equal to or less than its overall replacement cost plus applicable transportation and storage costs, if any.

(4) Purchase of natural gas at prices in excess of the levels set forth above shall be permitted only upon authorization by the Administrator upon a showing that the subject gas is not otherwise available, and that the purchase of such gas by the purchaser will promote the objectives of this Act and is fair and equitable in the circumstances. Where the seller of the gas will be required to use alternate fuel to replace the volumes sold, the Administrator will consider the appropriateness of such price, based upon the cost of alternate fuel suitably adjusted for loss of efficiency and increased maintenance costs. Upon authorization of such higher price, no subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction so authorized.

ORDER No. 3

As provided in Order No. 1, representatives of various parties are to participate in conferencing procedures under Pub. L. 95-2. The Emergency Gas Requirements Group will meet weekly on Wednesday at 10 a.m., Room 9200, 825 North Capitol Street NE., Washington, D.C. 20426. The functions of this group are to review the prior week's national gas operations, consider general gas transfer operational guidelines covering the next week's gas flows, consider plans for refilling storage during future periods and to assemble data for reports to the President through the Administrator concerning actions taken under Pub. L. 95-2.

The Daily Work Group will meet in Room 9200, 825 North Capitol Street NE., Washington, D.C. at 8:30 a.m. The functions of this group are to include the maintenance of daily contact with pipelines and distributors to determine their expected daily requirements and supply, to comment on requests for orders requiring the transportation and/or deliveries of gas and to recommend proposed actions appropriate to the resolution of these matters. The Daily Work Group will meet with the Emergency Gas Requirements Group at their weekly meetings.

The membership and functions of both groups will change from time to time as the situation demands.

A copy of this order is to be published in the FEDERAL REGISTER.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 3, 1977.

[FR Doc.77-4117 Filed 2-4-77;3:05 pm]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF TREASURY

[T.D. ATF-40; Reference No. 305]

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

PART 290—EXPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

PART 295—REMOVAL OF CIGARS, CIGARETTES AND CIGARETTE PAPERS, AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

PART 296—MISCELLANEOUS REGULATIONS RELATING TO CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Large Cigar; Taxation; Revision of Procedures

Correction

In FR Doc. 77-2407 appearing at page 4997 as the Part VIII of the issue of Wednesday, January 26, 1977, in the second column of page 4999, in the paragraph following paragraph (9), in the second line the number "28", should read "26".

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 70a—PROTECTION OF INDIVIDUAL PRIVACY IN RECORDS

Adoption of Regulations

Correction

In FR Doc. 77-2873 appearing at page 6106 in the FEDERAL REGISTER of Tuesday, February 1, 1977, the effective date, given on page 6116 as "March 33, 1977", should read "March 3, 1977".

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1611—PRIVACY ACT REGULATIONS

Adoption of Amendments

Notice is hereby given that, pursuant to 5 U.S.C. 3301 and 552a and 42 U.S.C. 2000e-12(a), the Equal Employment Opportunity Commission (hereinafter, the Commission) hereby amends Part 1611, which implements the Privacy Act of 1974, 5 U.S.C. 552, with regard to systems of records maintained by the Commission.

These regulations set forth the procedures whereby individuals can request information about, access to, or amendments of records pertaining to them which are contained in a systems of records maintained by the Commission. They also set forth the procedures the Commission is to follow in processing those requests.

At 41 FR 49656 (November 10, 1976), the Commission published notice that it proposed to amend its Privacy Act Regulations, 29 CFR Part 1611. There, the Commission republished Part 1611 in proposed form; incorporating the proposed amendments.

The amendments to Part 1611 are being adopted to conform the Commission's procedures with those established by the Civil Service Commission (hereinafter, CSC) for systems of records under CSC jurisdiction. The following are the major changes accomplished by the adopted amendments:

1. Section 1611.1 is amended to clarify that CSC Privacy Act Regulations apply to Commission records which are contained in the government wide systems of personnel records of which notices have been published by the CSC.

2. In § 1611.3(a) a provision is added whereby individuals can obtain access to an accounting of disclosures made about them from Commission maintained systems of records;

3. In § 1611.3(a) it is also clarified that individuals can request access to a record or an accounting by appearing in person at the office where the system is maintained;

4. Section 1611.3(b) has been substantially amended to reflect the provisions of the CSC Privacy Act Regulations which specify the offices to which requests for access to government wide systems should be directed;

5. A new subsection (d) is added to § 1611.4. This new subsection provides for the verification of the identity of those requesting access to a system by mail;

6. Current subsection (d) of § 1611.4 is designated as new subsection (e);

7. Current subsection (e) of § 1611.4 is designated as new subsection (f);

8. Subsection (g) of § 1611.4 is added as a new subsection;

9. Sections 1611.7(c), (8) and (9) have been amended to bring them into conformity with the provisions of CSC Privacy Act Regulations;

10. Section 1611.14 has been amended by adding a statement as to the reasons the Commission has determined to exempt system EEOC-3, Charge of Discrimination Case Files, from all of the allowable provisions of the Privacy Act.

The Equal Employment Opportunity Commission has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11321 and OMB Circular A–107.

The period for comment having expired, without comment from the public, the Commission hereby adopts Part 1611 as published below.

Effective date: February 8, 1977.

Signed at Washington, D.C. this 14th day of January 1977.

ETHEL BENT WALSH,
Vice Chairman.

Sec.

1611.1 Purpose and scope.
1611.2 Definitions.
1611.3 Procedures for requests pertaining to individual records in a record system.
1611.4 Times, places and requirements for identification of individuals making requests.
1611.5 Disclosure of requested information to individuals.
1611.6 Special procedures; medical records.
1611.7 Request for correction or amendment to record.
1611.8 Agency review of request for correction or amendment to record.
1611.9 Appeal of initial adverse agency determination on correction or amendment.
1611.10 Disclosure of record to person other than the individual to whom it pertains.
1611.11 Fees.
1611.12 Penalties.
1611.13 General exemptions [Reserved].
1611.14 Specific exemptions.

AUTHORITY: 5 U.S.C. 552a.

§ 1611.1 Purpose and scope.

This Part contains the regulations of the Equal Employment Opportunity Commission (Commission) implementing the Privacy Act of 1974, 5 U.S.C. 552a. It sets forth the basic responsibilities of the Commission with regard to the Commission's compliance with the requirements of the Privacy Act (the Act) and offers guidance to members of the public who wish to exercise any of the rights established by the Act with regard to records maintained by the Commission. Those Commission records which are contained in the government wide systems of personnel records, of which notices have been published by the Civil Service Commission, are subject to the Civil Service Commission's Privacy Act Regulations, 5 CFR Part 297. Where Civil Service Commission Privacy Act notices permit access to these records through the employing agency, the individual should submit requests for access or for an accounting of disclosures to the Commission offices as described in § 1611.3(b) below.

§ 1611.2 Definitions.

For purposes of this Part, the terms "individual," "record," and "system of records" shall have the meanings set forth in 5 U.S.C. 552a.

§ 1611.3 Procedures for requests pertaining to individual records in a record system.

(a) Any person who wishes to be notified if a system of records maintained by the Commission contains any record pertaining to him or her, or to request access to such records or to an accounting of disclosures made of such records, shall submit a written request, either in person or by mail, in accordance with the instructions set forth in the system notice:

(1) The name of the individual making the request;

(2) The name of the system of records (as set forth in the system notice to which the request relates);

(3) Any other information specified in the system notice; and

(4) When the request is one for access, a statement as to whether the requester desires to make a personal inspection of the records, or be supplied with copies by mail.

(b) Requests pertaining to personnel records contained in system CSC/GOVT–1 (Appeals, Grievances and Complaints Records) of which notice has been published by the Civil Service Commission in the FEDERAL REGISTER should be directed to the Director, Office of Personnel, EEOC, Washington, D.C. 20506. Requests pertaining to personnel records contained in system CSC/GOVT–2 (Confidential Employment and Financial Interest Statements) should be directed to the Office of General Counsel, U.S. Civil Service Commission, Washington, D.C. 20415, or the Office of General Counsel, EEOC, Washington, D.C. 20506. Requests pertaining to personnel records contained in systems CSC/GOVT–3 (General Personnel Records) and CSC/GOVT–5 (Recruiting, Examining and Placement Records) should be directed to Commission offices as follows:

(1) For present Commission employees of GS–13 and lesser grade or non-General Schedule employees of equivalent grade, whose normal duty station is a District or Regional Office of the Commission, requests may be directed to the Regional Director having jurisdiction over the duty station. The locations of the Regional Offices are set forth in 29 CFR § 1610.21(b).

(2) For all other present Commission employees, requests may be directed to the Director, Office of Personnel, EEOC, Washington, D.C. 20506.

(3) For all former Commission employees, requests for access to government-wide system CSC/GOVT–3 (General Personnel Records) shall be directed to the National Personnel Records Center, General Services Administration, St. Louis, Missouri 63118.

(c) Any person whose request for access under paragraph (a) of this section is denied, may appeal that denial in accordance with § 1611.5(c).

§ 1611.4 Times, places, and requirements for identification of individuals making requests.

(a) If a person submitting a request for access under § 1611.3 has asked that the Commission authorize a personal inspection of records pertaining to that person, and the appropriate Commission official has granted that request, the requester shall present himself or herself at the time and place specified in the Commission's response or arrange another, mutually convenient time with the appropriate Commission official.

(b) Prior to inspection of the records, the requester shall present sufficient personal identification (e.g., driver's license, employee identification card, social security card, credit cards). If the requester is unable to provide such identification, the requester shall complete and sign in the presence of a Commission official a signed statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to $5,000.

(c) Any person who has requested access under § 1611.3 to records through personal inspection, and who wishes to be accompanied by another person or persons during this inspection, shall submit a written statement authorizing disclosure of the record in such person's or persons' presence.

(d) If an individual submitting a request by mail under § 1611.3 wishes to have copies furnished by mail, he or she must include with the request a signed and notarized statement asserting his or her identity and stipulating that he or she understands that knowingly or willfully seeking or obtaining access to records about another individual under false pretenses is a misdemeanor punishable by fine up to $5,000.

(e) A request filed by the parent of any minor or the legal guardian of any incompetent person shall: state the relationship of the requester to the individual to whom the record pertains; present sufficient identification; and, if not evident from information already available to the Commission, present appropriate proof of the relationship or guardianship.

(f) A person making a request pursuant to a power of attorney must possess a specific power of attorney to make that request.

(g) No verification of identity will be required where the records sought are publicly available under the Freedom of Information Act.

§ 1611.5 Disclosure of requested information to individuals.

(a) Upon receipt of request for notification as to whether the Commission maintains a record about an individual and/or request for access to such record:

(1) The appropriate Commission official shall acknowledge such request in

writing within 10 working days of receipt of the request. Wherever practicable, the acknowledgement should contain the notification and/or determination required in paragraph (a)(2) of this section.

(2) The appropriate Commission official shall provide, within 30 working days of receipt of the request, written notification to the requester as to the existence of the records and/or a determination as to whether or not access will be granted. In some cases, such as where records have to be recalled from the Federal Records Center, notification and/or a determination of access may be delayed. In the event of such a delay, the Commission official shall inform the requester of this fact, the reasons for the delay, and an estimate of the date on which notification and/or a determination will be forthcoming.

(3) If access to a record is granted, the determination shall indicate when and where the record will be available for personal inspection. If a copy of the record has been requested, the Commission official shall mail that copy or retain it at the Commission to present to the individual, upon receipt of a check or money order in an amount computed pursuant to § 1611.11.

(4) When access to a record is to be granted, the appropriate Commission official will normally provide access within 30 working days of receipt of the request unless, for good cause shown, he or she is unable to do so, in which case the requester shall be informed within 30 working days of receipt of the request as to those reasons and when it is anticipated that access will be granted.

(5) The Commission shall not deny any request under § 1611.3 concerning the existence of records about the requester in any system of records it maintains, or any request for access to such records, unless that system is exempted from the requirements of 5 U.S.C. 552a in §§ 1611.13 or 1611.14.

(6) If the Commission receives a request pursuant to § 1611.3 for access to records in a system of records it maintains which is so exempt, the appropriate Commission official shall deny the request.

(b) Upon request, the appropriate Commission official shall make available an accounting of disclosures pursuant to 5 U.S.C. 552a(c)(3).

(c) If access to a record is denied pursuant to paragraph (a)(2) of this section, the determination shall specify the reasons therefor, and shall advise the individual that he or she may appeal that denial in writing to the Chairman, Equal Employment Opportunity Commission, Washington, D.C. 20506, if the request was for access to a system designated as an EEOC system of records. An appeal from a denial of access to a government-wide system of records, CSC/GOVT 1–5, shall be made to the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C. 20415 (See 5 CFR 297.113). When taking an appeal, the requester should clearly label the envelope "Personal Information Access Appeal."

(d) In the event that upon an appeal under paragraph (c) of this section, access to a record is denied by the Chairman, the Chairman shall advise the individual of his or her right to bring a civil action in federal district court to seek review of the denial, in accordance with 5 U.S.C. 552a(g).

(e) Nothing in 5 U.S.C. 552a or this Part allows an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 1611.6 Special procedures: medical records.

In the event the Commission receives a request pursuant to § 1611.3 for access to medical records (including psychological records) the disclosure of which the appropriate Commission official determines could be harmful to the individual to whom they relate, he or she may refuse to disclose the records directly to the requester but shall transmit them to a physician designated by that individual.

§ 1611.7 Request for correction or amendment to record.

(a) Any person who wishes to request correction or amendment of any record pertaining to him or her, which is contained in a system of records maintained by the Commission, shall submit that request in writing in accordance with the instructions set forth in the system notice for that system of records. If the request is submitted by mail, the envelope should be clearly labeled "Personal Information Amendment." The request shall include:

(1) The name of the individual making the request;

(2) The name of the system of records (as set forth in the system notice to which the request relates);

(3) A description of the nature (e.g., modification, addition or deletion) and substance of the correction or amendment requested; and

(4) Any other information specified in the system notice.

(b) Any person submitting a request pursuant to paragraph (a) of this section shall include sufficient information in support of that request to allow the Commission to apply the standards set forth in 5 U.S.C. 552a(e).

(c) All requests to amend pertaining to personnel records described in § 1611.3 (b) shall conform to the requirements of paragraphs (a) and (b) of this section and may be directed to the appropriate officials as indicated in § 1611.3 (b). Such requests may also be directed to the system manager specified in the Civil Service Commission's systems notices.

(d) Any person whose request under paragraph (a) of this section is denied may appeal that denial in accordance with § 1611.9(a).

§ 1611.8 Agency review of request for correction or amendment to record.

(a) When the Commission receives a request for amendment or correction under § 1611.7(a), the appropriate Commission official shall acknowledge that request in writing within 10 working days of receipt. He or she shall promptly either:

(1) Determine to grant all or any portion of a request for correction or amendment; and

(i) Advise the individual of that determination;

(ii) Make the requested correction or amendment; and

(iii) Inform any person or agency outside the Commission to whom the record has been disclosed, and where an accounting of that disclosure is maintained in accordance with 5 U.S.C. 552a (c), of the occurrence and substance of the correction or amendments, or;

(2) Inform the requester of the refusal to amend the record in accordance with the request; the reason for the refusal; and the procedures whereby the requester can appeal the refusal to the Chairman of the Commission.

(b) If the Commission official, informs the requester of the determination within the 10-day deadline, a separate acknowledgement is not required.

(c) In conducting the review of a request for correction or amendment, the Commission official shall be guided by the requirements of 5 U.S.C. 552a(e).

(d) In the event that the Commission receives from the agency which maintains the record a notice of correction or amendment to information in a record contained in a system of records which the Commission also maintains, it shall comply with paragraph (a)(1) of this section in the same manner as if the Commission itself had made the original correction or amendment.

(e) Requests for amendment or correction of records maintained in the government-wide systems for which notices have been published by the Civil Service Commission shall be governed by § 297.-112 of the CSC Privacy Act regulations, 5 CFR 297.

§ 1611.9 Appeal of initial adverse agency determination on correction or amendment.

(a) If the appropriate Commission official determines not to grant all or any portion of a request for correction or amendment, the requester may appeal this determination in writing to the Chairman, Equal Employment Opportunity Commission, Washington, D.C. 20506. When taking such an appeal, the requester should clearly label the envelope "Personal Information Amendment Appeal." With respect to the personnel records maintained in the government-wide systems of records for which notices were published by the Civil Service Commission, the appeal of a Commission decision pertinent thereto shall be made to the Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, Washington, D.C. 20415. The Civil Service Commission Privacy Act regulations, 5 CFR 297.113, shall govern said appeals.

(b) The Chairman shall make a final determination with regard to an appeal submitted under pargraph (a) of this

section not later than 30 working days from the date on which the individual requests a review, unless, for good cause shown, the Chairman extends this 30-day period and so notifies the requester together with an estimate of the date on which a final determination will be made. The authority to extend this period may not be delegated. Such extension should be utilized only in exceptional circumstances and should not normally exceed 30 days.

(c) In conducting the review of an appeal submitted under paragraph (a) of this section, the Chairman shall be guided by the requirements of 5 U.S.C. 552a (e).

(d) If the Chairman determines to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall so inform the requester, and the appropriate Commission official shall comply with the procedures set forth in § 1611.8 (a)(1) (ii) and (iii).

(e) If the Chairman determines in accordance with paragraphs (b) and (c) of this section not to grant all or any portion of a request on an appeal submitted under paragraph (a) of this section, he or she shall inform the requester:

(1) Of this determination and the reasons therefor;

(2) Of the requester's right to file a concise statement of reasons for disagreement with the determination of the Chairman;

(3) That such statements of disagreement will be made available to anyone to whom the record is subsequently disclosed, together with (if the Commission deems it appropriate) a brief statement summarizing the Commission's reasons for refusing to amend the record;

(4) That prior recipients of the disputed record will be provided with a copy of the statement of disagreement together with (if the Commission deems it appropriate) a brief statement of the Commission's reasons for refusing to amend the record, to the extent that an accounting of disclosures is maintained under 5 U.S.C. 552a(c); and

(5) Of the requester's right to file a civil action in federal district court to seek a review of the Chairman's determination, in accordance with 5 U.S.C. 552a(g).

(f) The Chairman shall ensure that any statements of disagreement submitted by a requester are handled in accordance with paragraphs (e) (3) and (4) of this section.

§ 1611.10 Disclosure of record to person other than the individual to whom it pertains.

The Commission shall not disclose any record which is contained in a system of records it maintains, by any means of communication to any person or to another agency, except pursuant to a written request by or with the prior written consent of the individual to whom the record pertains, unless the disclosure is authorized by one or more provisions of 5 U.S.C. 552a(b).

§ 1611.11 Fees.

(a) No fee shall be charged for searches necessary to locate records. No charge shall be made if the total fees authorized are less than $1.00. Fees shall be charged for services rendered under this Part as follows:

(1) Copies made by photocopy device or otherwise (per page), $.05.

(2) Attestation of each record as a true copy, $.75.

(3) Certification of each record as a true copy under the seal of the Commission, $1.00.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to "Treasurer of the United States."

§ 1611.12 Penalties.

The criminal penalties which have been established for violations of the Privacy Act of 1974 are set forth in 5 U.S.C. 552a(i). Penalties are applicable to any officer or employee of the Commission; to contractors and employees of such contractors who enter into contracts with the Commission on or after September 27, 1975, and who are considered to be employees of the Commission within the meaning of 5 U.S.C. 552a (m); and to any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses.

§ 1611.13 General exemptions. [Reserved]

§ 1611.14 Specific exemptions.

Pursuant to subsection (k)(2) of the Act, 5 U.S.C. 552a(k)(2), the following system of records is exempt from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Act, and from the corresponding provisions of this part:

(a) Charge of Discrimination Case Files. The Commission has determined to exempt this system from the above-named provisions of the Privacy Act for the following reasons:

(1) The files in this system contain information obtained by the Commission in the course of investigations of charges that violations of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e et seq., have occurred. As part of its investigation, the Commission often obtains information regarding unlawful employment practices other than those complained of by the subject individual of the file. Therefore, it would impede the law enforcement activities of the Commission for it to be restricted to maintaining in an individual's case file only information which is relevant and necessary to the subject individual's allegations.

(2) The subject individuals of the case files in this system know that the Commission is maintaining a file on their charges, and the general nature of the information contained therein.

(3) The subject individuals of this system have been provided a means of access to their records by the Commission's Freedom of Information Act Regulations, 29 CFR Part 1610, and by section 83 of the Commission's Compliance Manual.

(4) The Commission has determined that the non-exemption of system EEOC-3 from the above-named subsections of the Privacy Act would impede the agency's law enforcement efforts.

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CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1960—SAFETY AND HEALTH PROVISIONS FOR FEDERAL EMPLOYEES

Safety and Health Training Guidelines

On June 11, 1976, a notice was published in the FEDERAL REGISTER (41 FR 23722) proposing to amend 29 CFR Part 1960 by adding new regulatory guidelines for the establishment of Federal employee training programs as § 1960.20. The proposal was based upon and followed, with only minor modification, guidelines formulated by the Federal Advisory Council on Occupational Safety and Health (FACOSH), which adopted a recommendation, at its public meeting of December 3, 1975, that the guidelines be promulgated by the Secretary of Labor. The notice proposing the addition of § 1960.20 invited interested persons to submit written data, views or arguments by August 10, 1976. Comments were received from representatives of the U.S. Department of Defense and the U.S. Department of Agriculture. In addition, the Chairman of the FACOSH committee that formulated the guidelines submitted his views to OSHA concerning the aforementioned comments. Finally, comments received from the U.S. Department of Transportation after the adoption by FACOSH of its recommendation but prior to the publication of the proposal, and comments received from the NIOSH (National Institute of Occupational Safety and Health) consultant to FACOSH after close of the official comment period, were all considered as comments on the proposal. The comments on the proposal focused principally on the provisions of § 1960.20(b)(2), which would establish training requirements for agency employees who are also representatives of employee groups such as recognized labor unions. Section 1960.20 (b)(2) was also the principal matter of contention in the deliberations of FACOSH. Only a few limited comments were made on the other proposed provisions of the regulatory guidelines. On October 15, 1976, FACOSH published notice in the FEDERAL REGISTER that it would conduct a final review, and consider approval of the proposed amendment at its public meeting on November 3, 1976 (41 FR 45637). The Council welcomed written data, views or comments on this and other agenda items and provided an opportunity for oral presentations. At the November 3 meeting, after considering the comments received on the pro-

posal, FACOSH adopted a recommendation that the phrase "OSHA safety and health standards" in proposed § 1960.20 (b) be revised to read "agency safety and health standards" and that the proposal, as modified, be promulgated as a regulatory guideline. This recommendation is adopted and implemented herein.

1. The principal objective of the new section is to establish uniform guidelines for all Federal agencies in the development of programs for the occupational safety and health training of enumerated categories of employees: Upper echelon management officials, supervisors, safety and health specialists, safety and health inspectors, collateral duty safety personnel, representatives of employee organizations, and agency employees. The section also defines the assistance the Department of Labor will provide to Federal agencies in carrying out their training responsibilities. The intent of the section is to further delineate and clarify certain responsibilities specifically imposed on Federal agencies generally, and on the Department of Labor in particular, by Executive Order 11807 of September 28, 1974, which in turn implements the provisions of section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. § 668). Section 2(4) of the Executive Order imposes on the head of each agency a duty to "[p]rovide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupational safety and health inspections, and other employees." This training, pursuant to section 2(4), "shall include dissemination of information concerning the operation of the agency occupational safety and health program and the means by which each such person may participate and assist in the operation of that program." With regard to the role of the Department of Labor in the training of Federal employees, section 3(3) of the Executive Order requires the Secretary to "provide leadership and guidance to agencies in the adequate occupational safety and health training of agency personnel" and section 3(4) requires the Secretary to "train appropriate agency safety and health personnel" when the Secretary deems this service necessary and appropriate and the agency requests this service and agrees to reimburse the Secretary for the expenses thereof. Finally, section 3(1) of the Executive Order requires the Secretary to issue detailed guidelines to the agencies to assist them in carrying out their responsibilities under the Act and the Executive Order and section 2(7) of the Executive Order requires the head of each agency to observe these guidelines. The attention given in the Executive Order to programs for training employees in occupational safety and health matters is a clear indication of the importance of such training in the development of comprehensive and effective agency safety and health programs. Section 1960.20 embodies a recognition of the importance of training programs and of the duties imposed on the Secretary of Labor and other agency heads by the Act and the Executive Order, as stated above.

2. The only deviation between the proposal and the regulatory guidelines herein promulgated was recommended by a representative of the U.S. Department of Defense and concurred in first by the Chairman of the FACOSH committee that developed the guidelines and then by FACOSH at its November 3 public meeting. The proposal, in § 1960.20(b), would have established a general requirement that training for all employees include training in OSHA safety and health standards. This provision has been changed to a requirement that training for all employees include training in their agency's safety and health standards. This change is clearly justified in view of the overall structure of the Federal safety program. OSHA standards; that is, standards promulgated by the Secretary of Labor pursuant to section 6 of the Act, are not directly applicable to Federal employment and places of employment. Instead the head of each agency has the obligation to promulgate agency standards that are consistent with OSHA standards but applicable to the employment and places of employment of the agency's employees (29 U.S.C. 668(a)(1); Section 2(3) of Executive Order 11807; 29 CFR Part 1960, Subpart E). Agency standards may differ from OSHA standards although they must provide protection to employees that is at least as effective as the protection that would have been provided if the OSHA standards had applied (29 CFR 1960.40). Clearly, the relevant training for Federal employees is training in the occupational safety and health standards applicable to their own employment and places of employment. Accordingly, they should be trained in the provisions of agency rather than OSHA standards.

3. Section 1960.20 enumerates the various categories of Federal employees who have defined roles in the safety and health programs agencies are required to establish. It then establishes guidelines for the training programs to be provided for each category of employees. There is no apparent dispute over the providing of agency training programs for employees generally, for safety and health personnel, and for management employees at various levels. There has, however, been disagreement as to whether training should be provided for agency employees who are representatives of employee organizations such as recognized labor unions. FACOSH recommended that agencies provide training programs for such employees and that recommendation has been adopted. It may be argued that providing training programs for employee representatives is expressly required by the Executive Order. Section 2(3) thereof states that training shall be provided to all employees as to "the means by which each such person may participate and assist in the operation of [the agency] program" and also requires agencies to provide training for "employees responsible for conducting occupational safety and health inspections." Both section 19 of the Act and section 2 of the Executive Order establish a general requirement that the head of the agency consult with representatives of employees in establishing and operating the agency safety and health program. Moreover, the Secretary's regulatory guidelines promulgated at 29 CFR Part 1960 suggest several specific instances, including the conducting of safety and health inspections, where employee representatives are to be involved in the agency program. See, for example, 29 CFR 1960.17, 1960.27(f), 1960.29(a) and 1960.31(b). It therefore appears that employee representatives should be trained, pursuant to section 2(3), in the means by which they may participate in the agency program and carry out their responsibilities under the program. In any event, regardless of whether such training is specifically required, the provision of such training is clearly consistent with the purpose and intent of the Act, the Executive Order, and the Secretary's regulatory guidelines. The underlying premise of the Federal safety program is that the objective of creating safe and healthful Federal employment and places of employment is to be achieved through the common and cooperative efforts of labor and management. A corollary to that premise is that the effectiveness of agency safety and health programs will be increased if all Federal employees, including their representatives, are kept informed by the agency of their rights and their obligations under the program and of the opportunities available to them for participation in the agency program. Agency training of employee representatives, as required by § 1960.20(b)(2), should provide these representatives with the knowledge, e.g., of the provisions of the agency program, that will enable them to effectively participate in the agency program and hence should ultimately result in a more effective agency program.

4. The foregoing discussion should not be misinterpreted as an indication that an agency need only inform its employees who are employee representatives as to the provisions of its safety and health program. Thus, for example, § 1960.20(b) provides that employee representatives should be trained "to enable them to effectively assist in the conducting of workplace safety and health inspections." Such training might properly include courses in such technical matters as hazard recognition or safety problems peculiar to the workplaces in which the represented employees are employed. Indeed, any training that would enable employee representatives to more fully carry out their obligations or exercise their rights under the agency's safety program would be relevant training under the regulatory guidelines.

5. Some comments indicated a belief that § 1960.20(b)(2) represents an improper determination by the Secretary of Labor that the nature and extent of

agency training of employee representatives is a negotiable issue under agency-union collective bargaining agreements and executive orders relating to collective bargaining in the Federal sector. The Secretary has not made such a determination. Both section 19 of the Act and Executive Order 11807 require the head of each agency to consult with representatives of employees prior to establishing and maintaining an occupational safety and health program. Since an employee training program should be a major component of an agency's overall program, it follows that an agency should consult with employee representatives prior to establishing the agency's training program. However, whether such consultation must be in the form of negotiations (in the sense of collective bargaining) is not a matter to be determined by the Secretary of Labor pursuant to Executive Order 11807. Instead, it is a matter to be determined according to the terms of the agency's collective bargaining agreement(s) and other pertinent requirements of Federal labor-management law. In other words, the Secretary's regulatory guidelines neither create a duty to negotiate over training programs where no such duty existed before nor negate a duty to negotiate where such a duty existed before under the terms of an agency's collective bargaining agreement or other provisions of Federal labor-management law.

6. Comments have also been received indicating a belief that § 1960.20(b) could be interpreted as establishing a requirement that agencies provide safety and health training for employee representatives who are not employees of the agency. The regulatory guidelines, however, clearly relate solely to agency training of agency employees. The duty placed upon the head of each agency by section 2(4) of Executive Order 11807 is a duty to provide training for employees of that agency. Section 1960.20 does not in any way expand upon that duty by requiring agencies to provide training programs for persons who are not employees of the agency.

7. Other comments received recommended greater specificity in the provisions of § 1960.20 in terms of defining the various categories of employees and/or the contents of the training programs to be provided for particular categories. Greater specificity, however, is neither practical nor desirable. Executive Order 11807 recognizes that the various Federal agencies differ in terms of their missions, their sizes and their organizations (see, for example, sections 2(7) and 3(1) thereof). Accordingly, the Secretary's regulatory guidelines should allow the agencies sufficient flexibility to develop training programs that are responsive to their own particular needs. Clearly, all Federal employees should be fully informed of the provisions of their agency's occupational safety and health program and of their rights and responsibilities under that program. The goal of all training under an agency's program must be to enable each employee to fully participate in the agency's program and to perform his or her work in a safe and healthful manner. It is therefore evident that the training that should be provided for any particular Federal employee depends upon the provisions of the agency's occupational safety and health program, the role assigned to that employee in implementing that program, and the employee's particular work duties. Since these factors necessarily vary from agency to agency, the regulatory guidelines necessarily must be stated in generalized terms in order to be applicable to all agencies.

Accordingly, pursuant to section 19 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609; 29 U.S.C. 668), Secretary of Labor's Order 8–76 (41 FR 25059) and Executive Order 11807, sections 3(1), 3(3) and 3(4), 29 CFR Part 1960 is amended by adding § 1960.20 as follows:

§ 1960.20 Agency safety and health training guidelines.

(a) *Purpose.* The purpose of this section is to establish uniform training guidelines for all agencies, thereby assisting agency heads in meeting the requirement of Section 2, paragraph 4 of Executive Order 11807 to "provide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupational safety and health inspections, and other employees."

(b) *Agency training programs.* Appropriate job-related safety and health training, including training as required in agency safety and health standards, should be provided for the following groups: employees, employee representatives, supervisors, senior officials, and safety and health personnel:

(1) Occupational safety and health training for employees as defined in 29 CFR 1960.2(c) should include specialized job safety and health training appropriate to the work performed by the employees, for example: clerical, printing, welding, crane operation, chemical analysis, computer operations, etc. Such training should also include informing employees of their rights and responsibilities under section 19 of the Occupational Safety and Health Act of 1970, Executive Order 11807, 29 CFR Part 1960, and the agency's safety program.

(2) Training for employees of the agency who are representatives of employee groups such as labor organizations which are recognized by the agency should include introductory and specialized courses and materials which will enable such groups to function appropriately in the interest of ensuring safe and healthful working conditions and practices in the workplace, and, in particular, to enable them to effectively assist in the conducting of workplace safety and health inspections. Nothing in this paragraph shall be construed to alter the provisions of Executive Order No. 11491, as amended by Executive Orders Nos. 11636, 11616 and 11838, nor other provisions of law providing for collective bargaining agreements and procedures, nor any agreements entered into pursuant to such provisions.

(3) Supervisors should be trained through introductory and specialized courses, materials, and learning experiences which will enable them to recognize and eliminate occupational safety and health hazards in their working units. Such training should also include the development of requisite skills in managing the agency's safety program within the work unit, including the training and motivation of subordinates toward safe and healthful work practices.

(4) Designated safety and health officials as defined in § 1960.2(g) and other top management officials should receive orientation and other learning experiences, which will enable them to manage the occupational safety and health programs of their agencies. Such orientation should include coverage of the Occupational Safety and Health Act of 1970, Executive Order 11807, the requirements of 29 CFR Part 1960—Safety and Health Provisions for Federal Employees, and applicable agency safety and health standards.

(5) Safety and health specialists as defined in § 1960.2(h), should be trained through courses, laboratory experiences, field study, and other learning experiences, to perform the necessary technical monitoring, consulting, testing, inspecting, designing, and other tasks which will enable them to determine whether applicable agency standards are being met in the workplace. Training should be designed so as to develop skill in recommending specific corrective actions where standards are not being met and in functioning as consultants to agency management.

(6) Safety and health inspectors, as defined in § 1960.2(i), should be trained through courses, field study, and other learning experiences, to perform inspection of workplaces, including the preparation of reports and documentation to support the results of inspections.

(7) Collateral duty safety personnel should be trained through courses in the basic elements of safety and health planning to organize, plan, and implement an effective safety and health program.

(c) *Department of Labor assistance.* The Department of Labor will provide each Federal agency head with training materials which will assist agencies to fulfill the training needs in paragraph (b) of this section. The Department of Labor will also provide resident and field training courses through the Occupational Safety and Health Training Institute, designed to meet selected training needs of a Federal agency's safety and health specialists and/or safety and health inspectors as defined in § 1960.2 (h), (i). These materials and courses in no way reduce the responsibility of each agency to provide whatever specialized training is required by the unique characteristics of its work.

Effective date: This amendment to Part 1960 shall be effective February 8, 1977.

(Sec. 19, 84 Stat. 1609 (29 U.S.C. 668).)

Signed at Washington, D.C., this 3rd day of February 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-3953 Filed 2-7-77;8:45 am]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

PART 40—STANDARDS OF CONDUCT

Promulgation; Correction

A revision to 32 CFR 40 was published in the FEDERAL REGISTER (42 FR 3646, January 19, 1977) (FR Doc. 77-1918).

A correction is required to correct an error in § 40.5. The corrected § 40.5 Equal Opportunity reads as follows:

§ 40.5 Equal opportunity.

"DoD personnel shall scrupulously adhere to the DoD program of equal opportunity regardless of race, color, religion, sex, age, or national origin, in accordance with DoD Directive 1100.15, 'The Department of Defense Equal Opportunity Program,' June 3, 1976."

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

JANUARY 31, 1977.

[FR Doc.77-3826 Filed 2-7-77;8:45 am]

Title 39—Postal Service

CHAPTER I—UNITED STATES POSTAL SERVICE

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION, OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

Rules of Practice; Office Business Hours

AGENCY: United States Postal Service (Judicial Officer).

ACTION: Final Rule.

SUMMARY: The Judicial Officer of the Postal Service hereby amends parts 952 and 954 of the Rules of Practice to make the statement of office business hours in § 952.4 and § 954.4 conform to existing office hours.

EFFECTIVE DATE: February 7, 1977.

FOR FURTHER INFORMATION CONTACT: Paul J. Kemp, 202-245-4638.

Accordingly, 39 CFR is amended as follows:

§ 952.4 [Amended]

1. By deleting "8:45 a.m. to 5:15 p.m." in § 952.4 and inserting "8:15 a.m. to 4:45 p.m." in lieu thereof.

§ 954.4 [Amended]

2. By deleting "8:45 a.m. to 5:15 p.m." in § 954.4 and inserting "8:15 a.m. to 4:45 p.m." in lieu thereof.

EDWARD F. LUSSIER,
Judicial Officer.

[FR Doc.77-3828 Filed 2-7-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

HEALTH PLANNING

Capital Expenditure Review, Certificate of Need, and Review of New Institutional Health Services

Correction

In FR Doc. 77-1741 appearing on page 4001 in the issue for Friday, January 21, 1977, the following corrections should be made:

(1) On page 4018, first column, in the 9th line of the first full paragraph the CFR section numbers should read "§ 122.308(b) and § 123.409(b)".

(2) On the same page, in the 16th line of the second full paragraph, the CFR section number should read "§ 122.-305(a)".

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 15—RADIO FREQUENCY DEVICES

Editorial Amendments Updating Certain Rules and Deleting Parts of Others

Adopted: January 31, 1977.

Released: February 1, 1977.

Order. In the matter of amendment to Part 15 of the Commission's rules and regulations.

1. A revised edition of Part 15 included in Volume II of the Commission's rules and regulations, August 1976, will contain the following editorial amendments updating certain rules and deleting parts of others which no longer apply.

2. Concluding that the adoption of these amendments will serve the public interest, the prior notice of rule making, effective date provisions, and public procedure are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(b), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. *Therefore, it is ordered,* That pursuant to sections 4(i), 303(r), and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, Part 15 of the Commission's rules and regulations are amended as set forth below, effective February 15, 1977.

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

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

§ 15.183 [Amended]

1. § 15.183(c) the reference § 15.116 (b) should read: § 15.120(b).

§ 15.192 [Amended]

2. In § 15.192, table, under MHz, 13.556 should read: 13.566 and 22000 to 22250 should read: 24000 to 24250.

§ 15.305 [Amended]

3. In § 15.305(b) 22,125 MHz should read: 24,125 MHz.

§ 15.363 [Amended]

4. Section 15.363 is amended to read: * * * with the procedure specified in EIA Standard RS-204A dated July 1972, or equivalent procedure. * * *

§ 15.365 [Amended]

5. Section 15.365 is amended to read: * * * with the procedure specified in EIA Standard RS-204 A dated July 1972, or equivalent procedure. * * *

[FR Doc.77-3933 Filed 2-7-77;8:45 am]

[Docket No. 20783; RM-2598]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Monterey, California; Table of Assignments

Adopted: January 27, 1977.

Released: February 1, 1977.

Report and order. Proceeding Terminated in the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Monterey, California); Docket No. 20783, RM-2598.

1. The Commission has under consideration its notice of proposed rule making, adopted April 19, 1976, 41 FR 17786, inviting comments on a proposal to assign FM Channel 224A to Monterey, California. This proceeding was instituted on the basis of a petition filed by Kent B. Tegtmeier ("petitioner"). Comments were filed by petitioner reaffirming his intention to apply for the proposed channel immediately upon its assignment. Comments opposing the proposal were filed by Mt. Toro Broadcasting Corp. ("KWYT") licensee of Stations KWTY and KWYT(FM), Salinas, California.

2. Monterey, California (pop. 26,302),[1] in Monterey County (pop. 250,071) is located approximately 137 kilometers (85 miles) south of San Francisco. Monterey is served by three radio stations: KIDD, Class III unlimited-time; KMBY, Class IV unlimited-time; and KWAV(FM) (Channel 245B).

3. Petitioner states that the community of Monterey and Monterey County have a vital need for the assignment of Channel 224A because stations from San Francisco are quite difficult to receive. He notes that the Monterey Peninsula attracts many tourists for recreation and special events such as golf tournaments, automobile races, and music festivals. Petitioner adds that only one commercial FM station is assigned to Monterey and that from a proposed Monterey site a

[1] All population figures cited are taken from the 1970 U.S. Census.

station on Channel 224A could render primary service to the northern end of Monterey County.

4. In opposing comments KWYT contends that facts advanced by petitioner are misleading and, even if correct, are insufficient to support the proposals. Assignment of the channel, it is said, would result in the intermixture of a Class A and Class B channel; and the assignment is alleged to be in direct opposition to several, if not all, of the Commission's policy considerations underlining FM assignments. KWYT asserts that petitioner has not made a sufficient showing that tourists, or any persons, are not served by the existing stations. It also states that the areas, which petitioner claims the proposed channel will serve, are already being served by local stations. KWYT contends that petitioner's assertion that San Francisco stations are difficult to receive in the area is not true in light of the coverage listed in the Salinas/Monterey Arbitron surveys. KWYT states that petitioner's claim that the station is needed to provide live remote coverage of sporting and tourist events is not supported by any showing of need for this coverage in view of the coverage already provided by Stations KRML, Carmel, and KWYT, Salinas.[2] KWYT notes that the proposed assignment would not provide a first local FM service and insists that the entire area to be served has an abundance of services.

5. The preclusion study shows that ten communities would be precluded from the use of Channel 224A: Pacific Grove, Seaside, Delray Oaks, Del Monte Park, Carmel, Hatton Fields, Carmel Valley, Gonzales, Carmel Woods, and Pebble Beach. These communities range from 1,000 to 35,935 in population. Channel 240A is available for future assignment to any of these communities except for Gonzales (pop. 2,575) which could be assigned Channel 249A. In addition, preclusion would affect Marina (pop. 8,343), which has no local aural service, and Salinas (pop. 58,896), which has three FM stations. Pacific Grove, Seaside, and Carmel each have a Class A FM station. With the exception of these three communities with Class A stations, as well as Gonzales and Salinas, the only affected communities are located within a radius of ten miles of Monterey. Thus under § 73.203(b) of the rules use of Channel 224A at these communities could be proposed if it were assigned to Monterey. Under these circumstances, we do not believe that preclusion is an impediment to assignment of the channel as proposed.

6. Although it is true that the proposed assignment would contravene our usual policy by intermixing a Class A with a Class B channel at Monterey, we have deviated from this policy where there is no Class B channel available for assignment, where there is a demand for a Class A channel, and where there is someone willing to compete under such circumstances. Yakima, Washington, 42 F.C.C. 2d 548, 550 (1973); Key West, Florida, 45 F.C.C. 2d 142, 145 (1975). In this instance, there is no Class B channel that could be assigned to Monterey. Moreover, petitioner has expressed a desire to apply for Channel 224A at Monterey in spite the intermixture situation. We believe that a second FM channel for Monterey is warranted and in this connection, we note that the presence of other aural services emanating from other communities is not determinative. Only a Monterey station could be expected to meaningfully respond to the needs of that community. Responsiveness to local needs is the point here, not whether stations present a particular sports event or present a particular entertainment format.

7. In view of the foregoing, *it is ordered*, That effective March 14, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City	*Channel No.*
Monterey, Calif	224A, 245

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

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

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

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

[FR Doc.77-3932 Filed 2-7-77;8:45 am]

[2] An affidavit was filed in this proceeding by Joseph J. Thompson, Vice President and General Manager of KWYT and KWYT(FM), Salinas, California, stating that these stations have live remote broadcasts of the Crosby Golf Tournament, the Lynx Invitational Golf Tournament, Laguna Seca Triple Crown Formula Auto Racing, Salinas, Rodeo, and that they plan to continue this service.

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Quivira National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on February 8, 1977.

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

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Sport fishing on the Quivira National Wildlife Refuge, Stafford, Kansas is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 990 acres, are delineated on maps available at refuge headquarters, Stafford, Kansas and from the office of the Area Manager, U.S. Fish and Wildlife Service, 601 East 12th Street, Room 1748, Kansas City, Missouri 64106. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from May 1, 1977 to September 30, 1977, inclusive.

(2) Fishing will be with closely attended rod(s) and line(s) only.

(3) The use of boats is not permitted. One-man floater tubes may be used.

(4) Overnight camping is not permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1977.

CHARLES R. DARLING,
Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.

JANUARY 21, 1977.

[FR Doc.77-3878 Filed 2-7-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 683-3]

PART 455—PESTICIDE CHEMICALS MANUFACTURING POINT SOURCE CATEGORY

Correction and Further Extension of Public Comment Period

Notice is hereby given that the EPA is correcting 40 CFR 455, the Pesticide Chemicals Manufacturing Point Source Category as set forth below. On November 1, 1976, the Agency published a notice of interim final rulemaking (41 FR 48088) establishing effluent limitations and guidelines for existing sources for the pesticide chemicals manufacturing point source category. Section 455, General Definitions, as it appears in the Table of Contents and in the text is corrected to read § 455.00, General Definitions.

In addition, on page 48088, column 3, paragraph 5, CFR Part 454 is corrected to read CFR Part 455.

Subsequent to this notice of interim final rulemaking the Agency published, on December 13, 1976, a notice correcting errors in the preamble, Subparts A through E, and Appendices A through E (41 FR 54181) of the Pesticide Chemicals Manufacturing Point Source Category.

On page 54181, column 1, number 4, Section 455, General Definitions is corrected to read Section 455.00, General Definitions.

The comment period was extended on January 11, 1977, to February 10, 1977, due to the unavailability of the development document. The public comment period is being further extended to March 15, 1977, at the request of the

industry. The Agency will accept comments and amendments to comments already filed until March 15, 1977.

Dated: January 27, 1977.

ANDREW W. BREIDENBACH,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.77-3869 Filed 2-7-77;8:45 am]

[FRL 683-2]

SUBCHAPTER C—AIR PROGAAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTAL PLANS

Revocation of Bus-Purchase Regulations (Maryland, Virginia, District of Columbia)

AGENCY: Environmental Protection Agency.

ACTION: Revocation.

SUMMARY: This document revokes regulations concerning the purchase of additional buses for the bus fleets serving the National Capital Metropolitan Area (Washington, D.C., and its Maryland and Virginia suburbs) and the Metropolitan Baltimore Area in Maryland. The effect of the revocation will be to remove requirements originally intended to assure expansion of these bus fleets as one of a number of measures proposed by the affected jurisdictions to reduce air pollution resulting from the use of private vehicles. On reconsideration of the technical basis for the regulations, EPA has concluded that they are no longer appropriate.

EFFECTIVE DATE: February 8, 1977.

FOR FURTHER INFORMATION CONTACT:

John O. Hidinger, Director, Office of Transportation and Land Use Policy (AW-4455), Office of Air and Waste Management, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460 (202-755-0480).

SUPPLEMENTARY INFORMATION: On November 15, 1973 (38 FR 31536), and December 6, 1973 (38 FR 33702), EPA approved or promulgated a number of transportation control measures under section 110 of the Clean Air Act (42 U.S.C. 1857c-5) for the Washington, D.C., Virginia, and Maryland portions of the National Capital Interstate Air Quality Control Region ("AQCR"). On December 12, 1973 (38 FR 34240), EPA approved or promulgated similar measures for the Metropolitan Baltimore Intrastate AQCR. Among the measures submitted by the affected States for EPA approval were proposed purchases of additional buses to expand the bus fleets serving these areas. EPA approved the bus-purchase measures with specified exceptions, one of which concerned the absence of firm commitments for the necessary funding. To remedy this deficiency, EPA promulgated supplementary "compliance schedule" requirements designed to assure that such commitments would be made in a timely manner by the affected jurisdictions. See, e.g., 40 CFR 52.476(g); 38 FR 33706 (December 6, 1973).

EPA's authority to require expansion of bus fleets in appropriate cases was subsequently upheld in "District of Columbia v. Train," 521 F.2d 971, 983, 989-90 (D.C. Cir. 1975). That decision and several others involving transportation control measures are presently before the Supreme Court in "Environmental Protection Agency v. Brown et al.," Sup. Ct. Nos. 75-909 et al. (argued January 12, 1977). Among the issues raised in the Supreme Court case is the legality of the "compliance schedule" requirements for expansion of the bus fleet serving the National Capital Metropolitan Area (Washington, D.C., and its Maryland and Virginia suburbs). In their brief to the Supreme Court, the affected States argue that these requirements are unconstitutional, that they are inconsistent with the Washington Metropolitan Area Transit Authority ("WMATA") Compact (80 Stat. 1324), and that they are arbitrary and capricious because the purchase of new buses would be ineffective without strong disincentives to the use of automobiles. As to the latter argument, the States contend that EPA's revocation (38 FR 1848, January 15, 1974) and Congress' subsequent prohibition (Energy Supply and Environmental Coordination Act of 1974, 88 Stat. 246) of certain parking-surcharge measures have removed the main premise for the bus-purchase measures.

For reasons set forth in its briefs to the Supreme Court, among others, EPA continues to believe that it has authority to require expansion of bus fleets in appropriate cases, that such requirements are consistent with the WMATA Compact, and that such requirements are constitutional.

The States' remaining argument, that expansion of bus fleets cannot be required because the parking surcharge requirements are no longer in force, was raised for the first time in their brief to the Supreme Court. Since then, EPA has reconsidered the technical basis for the requirements relating to bus purchases for the two metropolitan areas and has concluded that they are no longer appropriate in the particular circumstances that prevail. Without parking surcharges to discourage the use of private vehicles, bus purchases will be less effective than originally contemplated. (The extent of their effectiveness without parking surcharges is somewhat uncertain because bus purchases and other service improvements are in themselves incentives to patronage of mass transit, and some measures other than parking surcharges, such as exclusive bus lanes, can discourage the use of private vehicles.) In addition, the advent of subway service in the National Capital Metropolitan Area may decrease the demand for bus service to some extent in that area, although the timing and extent of such a decrease are still somewhat uncertain.

Finally, EPA has recently called for revision of the implementation plans for the National Capital Interstate and Metropolitan Baltimore Intrastate AQCR's under section 110(a)(2)(H) of the Clean Air Act, in part on the ground that the plans are "substantially inadequate" to attain the national ambient air quality standards for automobile-related pollutants. 41 FR 28632, 28637, 28643 (July 12, 1976). In effect, these calls for revision provide an opportunity for the affected States to avoid promulgation of further EPA regulations by submitting revised or additional control measures of their own choosing, and EPA has urged them to rely heavily on the expertise of their transportation planners in developing mass transit improvements and other transportation-related measures. Further consideration of the need for and the benefits of expanding the existing bus fleet in each area, perhaps in conjunction with a new mix of incentive and disincentive measures, can usefully be carried out in that context.[1] EPA has always believed that adequate measures developed by the affected jurisdictions are preferable to measures promulgated by EPA.

For the reasons set forth above, EPA has concluded that the regulations in question are no longer appropriate and should be revoked. The Agency finds that notice of this revocation and public procedure thereon are impracticable and contrary to the public interest because the affected jurisdictions must soon submit initial plan revisions, in accordance with the calls for revision referred to above, and it will be necessary for them to take into account this action in developing, analyzing, and evaluating such revisions, obtaining any necessary legislation and funding, and providing for adequate public participation as required by 40 CFR Part 51 before submitting the revisions to EPA. In addition, EPA's conclusion that expansion of the affected bus fleets will be less effective without the parking surcharge requirements amounts to a finding that there is an inadequate basis for the bus-purchase requirements in the present circumstances, and it would be contrary to the public interest to leave the requirements in force any longer. Finally, the action relieves existing requirements, and for that reason as well as those discussed above the Agency finds good cause for making the revocation effective immediately on publication.

[1] Although bus purchases and other transit improvements may be beneficial even in the absence of disincentives to automobile use, EPA encourages State and local governments to coordinate transit improvements and auto disincentives where possible; in doing so, it is often desirable to schedule transit improvements, carpool incentives, and similar measures to precede implementation of auto disincentives.

The Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: February 3, 1977.

JOHN QUARLES,
Acting Administrator.

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

1. In Subpart J, Paragraph (g) of § 52.476 is revoked and reserved.

§ 52.476 [Reserved]

2. In Subpart V, paragraphs (g) and (j) of § 52.1080 are revoked and reserved.

§ 52.1080 [Amended]

3. In Subpart VV, paragraph (e) of § 52.2435 is revoked and reserved.

§ 52.2435 [Amended]

(Secs. 110, 301 of the Clean Air Act, as amended (42 U.S.C. 1857c–5, 1857g).)

[FR Doc.77–4178 Filed 2–7–77;9:59 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

[7 CFR Part 650]

COMPLIANCE WITH NEPA

Preparation of Environmental Impact Statements—Guidelines

On June 3, 1974, the Soil Conservation Service (SCS) published the subject guidelines (39 FR 19646). These guidelines were amended on September 3, 1974 (39 FR 31879), on December 20, 1974 (39 FR 43993), on March 10, 1975 (40 FR 10952), and on June 22, 1976 (41 FR 24975).

The SCS is considering revising 7 CFR 650 Subpart A and adding § 650.20, Reviewing and Commenting on EIS's Prepared by other Agencies to Subpart B, Related Environmental Concerns. The revision has been prepared in consultation with the staff of the Council on Environmental Quality.

Interested persons are invited to participate in the proposed regulation change by submitting written comments as they may desire. Comments should be referenced to specific subsections of the regulation and submitted to:

Administrator, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written communications received on or before March 10, 1977, will be considered before any action is taken on the proposed rule change. The proposal contained in this notice may be changed due to comments received. All comments submitted before the closing date will be made available by the Administrator of SCS for examination by interested persons.

The proposed revised regulation is published herewith.

(Catalog of Federal Domestic Assistance Prog. numbered 10.901 and 10.904 National Archives Reference Services.)

Dated: January 28, 1977.

NORMAN A. BERG,
Associate Administrator,
Soil Conservation Service.

PART 650—COMPLIANCE WITH NEPA

1. Subpart A is revised in its entirety. Several section titles are changed and § 650.11 is reserved. The information formerly in § 650.11, Reviewing and Commenting on Environmental Impact Statements Prepared by other Federal and Nonfederal Agencies is transferred to Subpart B to become § 650.20. The revised Subpart is as follows:

Subpart A—Preparation of Environmental Impact Statements—Guidelines

Sec.

650.1 Purpose.
650.2 Applicability.
650.3 Policy.
650.4 Definition of terms.
650.5 Environmental assessment in the planning process.
650.6 Obtaining information during environmental assessment.
650.7 Public involvement during environmental assessment.
650.8 SCS actions requiring an EIS.
650.9 EIS format and content.
650.10 EIS distribution and comment.
650.11 [Reserved]

AUTHORITY: Pub. L. 91-190, 83 Stat. 852 (42 U.S.C. 4321); EO 11514 35 FR 4247; 38 FR 20550.

§ 650.1 Purpose.

This part prescribes Soil Conservation Service (SCS) guidelines for the preparation, coordination, and review of environmental impact statements (EIS's) as required by Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (Pub. L. 91-190, as amended, 83 Stat. 852 (42 U.S.C. 4321 et seq.)). These guidelines are consistent with Executive Order 11514, dated March 5, 1970, and the Council on Environmental Quality Guidelines for Preparation of Environmental Impact Statements, 40 CFR 1500.

§ 650.2 Applicability.

This part applies to those land and water resource projects for which state and local units of government receive federal financial assistance from SCS, (7 CFR 620-624 and 640-643). These regulations are effective on the date of publication of the final regulations.

§ 650.3 Policy.

(a) *General.* SCS administers programs in accordance with the National Environmental Policy Act of 1969 (NEPA). The assessment of environmental quality in SCS-assisted programs shall be carried out in harmony with the activities and procedures of those to whom assistance is provided.

(b) *Responsible federal officials.* The SCS administrator is the responsible federal official (RFO) for proposed legislation, legislative reports, regulations, program EIS's, and formulating policy relating to NEPA. SCS state conservationists (STC's) are the responsible federal officials for complying with the provisions of NEPA in other project actions. When an SCS-assisted major federal action involves more than one state, the administrator will designate one STC as the RFO for that action.

(c) *Interdisciplinary planning.* SCS uses an interrelated interdisciplinary environmental assessment and planning process in which individuals having different technical expertise jointly assess existing natural and human environmental quality and opportunities for improvement. The interdisciplinary group considers complexity of problems, structure, and function of natural resources, and the economic, social, and other effects of alternative actions.

(d) *Consultation.* The SCS administrator maintains liaison with the Council on Environmental Quality (CEQ). SCS policies and procedures relating to NEPA are coordinated with CEQ. SCS-assisted projects are also coordinated with agencies to ensure the proper implementation of environmental concerns.

§ 650.4 Definition of terms.

(a) *Environmental assessment.* The environmental assessment is an inseparable part of the planning process. The environmental assessment provides a range of pertinent physical and natural environmental data as well as social and economic information to indicate the need for an EIS and alternatives for decisionmaking on the use and development of resources.

(b) *Federally-assisted projects.* Projects are formulated and carried out by local sponsoring organizations with financial assistance provided by the SCS. Such projects are under the jurisdiction and control of the local sponsors. (See § 620.2 of this chapter.)

§ 650.5 Environmental assessment in the planning process.

Environmental assessment and initial planning efforts for land and water resource projects commence simultaneously. Factors to be considered in the assessment depend upon the existing resources, present and anticipated resource use, and problems associated with these uses. The degree and intensity of the assessment is dependent on the planning objectives. The environmental assessment continues throughout the planning process. The interrelated environmental assessment and planning elements are as follows:

(a) Indentify the planning objectives and study needs of the sponsoring local organizations. The environmental quality objectives are considered on a coequal basis with national economic development objectives.

(b) Inventory and evaluate the resource base giving due consideration to future uses. Environmental factors are to be studied consistent with the planning objectives.

(c) Formulate alternative plans and display impacts.

(d) Analyze and compare alternative plans. Alternative plans will reflect environmental considerations as appropriate.

§ 650.6 Obtaining information during environmental assessment.

(a) *Use of available data.* SCS will make use of available reports, plans, and publications which relate to the environmental issues involved.

(b) *Study by SCS.* The SCS will perform surveys and investigations using an interdisciplinary team.

(c) *Study by others.* SCS will determine if additional studies are necessary and will enter into contracts or other arrangements with qualified organizations or individuals to produce needed environmental data.

§ 650.7 Public involvement during environmental assessment.

(a) *General considerations for developing public involvement.*

(1) *Identification of interested public.* Public involvement begins with the initial steps of the environmental assessment and planning process. The interested public consisting of, but not limited to individuals, groups, organizations, and governmental agencies, are to be encouraged to participate and contribute in the interrelated planning process and environmental assessment activities as appropriate.

(2) *Documentation.* A reviewable record of public involvement will be maintained. In some cases, the RFO may determine that a verbatim transcript of the formal hearing or meeting is appropriate.

(b) *Public meetings.* The RFO, after consultation with the sponsors, will determine when public meetings or hearings are to be held. Environmental information will be presented and discussed along with other appropriate information. To the extent practical, pertinent information should be made available prior to the meetings.

(c) *Public notices.* Public notice of each public meeting and public hearing discussed in paragraph (b) of this section is to be made available to the public prior to the meeting. Where official action by the local sponsors on the matters considered at a meeting or hearing is governed by state statute, the public notice and mailing requirements will be followed.

§ 650.8 SCS actions requiring an EIS.

(a) *Criteria for determining if an action is a major federal action significantly affecting the human environment.* The RFO will determine the need for an EIS on an individual case basis. An EIS will be prepared if the proposed action is a major federal action significantly affecting the human environment. An environmental assessment, using a systematic interdisciplinary analysis and evaluation of data and information relating to the five elements of section 102(2)(C) of NEPA, will assist the RFO in deciding if the action will require the preparation of an EIS. The analysis and evaluation of environmental concerns will generate questions such as the following:

(1) *Environmental impact.* Will the action significantly affect the quality of the natural environment: e.g., significantly alter or destroy valuable wetlands or perennial stream ecosystems?

(2) *Adverse environmental impacts which cannot be avoided.* What are the important environmental amenities that would be lost?

(3) *Alternatives.* Are there alternative solutions that will achieve the same goals with essentially the same commitment of resources while avoiding major adverse environmental impacts?

(4) *Short-term uses versus long-term productivity.* Will the proposed actions, when cumulatively added to other similar actions, foreclose the enhancement of significant long-term productivity as a tradeoff for short-term uses?

(5) *Commitment of resources.* Will the proposed action irreversibly and irretrievably commit the use of important resources?

(b) *When to prepare an EIS.* If it is determined that the proposed action is a major federal action that will generate significant effects on the quality of the human environment, the RFO will prepare an EIS. As soon as the decision to prepare an EIS is made, the RFO will circulate a "Notice of Intent."

(c) *When an EIS is not prepared.* An EIS will not be prepared if the RFO determines that the proposed action is not a major federal action or is a major federal action, but will not generate impacts that will significantly affect the quality of the human environment. The RFO will prepare a written Statement of Findings which includes the rationale for this negative determination analyzing the five (5) questions in 650.8(a)(1) thru (5). These data will be maintained in a public reviewable record. The RFO will circulate a "Notice of Intent."

(d) *Lead agency.* In certain instances, several federal agencies may have program responsibilities relative to a major federal action with significant environmental impact. If it is mutually decided that SCS is the lead agency, the RFO will coordinate the input of all concerned agencies in the development of the EIS. If it is mutually decided that another agency is the lead agency, SCS will cooperate in the development of an EIS. In actions involving several Departments or agencies within USDA, the role of SCS will be determined in consultation with the USDA Office of the Coordinator of Environmental Quality Activities.

(e) *Status of EIS's.* A current list of land and water resource projects on which EIS's are to be prepared is to be maintained by the STC.

(f) *Program EIS.* The SCS, in certain instances, will prepare an EIS which covers an entire program administered by SCS. Such program EIS's are prepared at the national level in SCS.

(g) *EIS's for more than one project-action.* The SCS in certain instances will prepare an EIS covering several similar actions which are interrelated in purpose and scope. If the actions involve more than one state, the administrator of SCS will designate one state conservationist as the RFO.

§ 650.9 EIS format and content.

(a) *General.* The EIS should be written in concise language in order for it to be easily used as a tool in the decisionmaking process. The EIS should be a public disclosure of the major issues surrounding the proposed action as set forth in Section 102(2)(C) of NEPA to ensure that environmental factors are considered in decisions pertaining to the proposed action.

(b) *Sections to be included in the EIS.* The following sections, as a minimum, will be included in the EIS. In complex actions the STC in consultation with the director of the SCS technical service center may include additional sections, maps, drawings, photographs, and other data.

(1) *Title page.*

(2) *Summary of proposed action, impacts, and alternatives.*

(3) *Environmental impact of the proposed action.* This section should contain a brief description of the environmental impacts both within and outside the planning area that may result if the proposed action is implemented. In general, the EIS will describe the impacts of the proposed action on physical and natural resources, terrestrial and aquatic ecosystems, prime agricultural land, and demographic and social representations.

(4) *Any adverse environmental effects which cannot be avoided should the proposal be implemented.* This section should analyze and describe those adverse impacts of the proposed action which are unavoidable.

(5) *Alternatives to the proposed action.* This section should contain an analysis and description of alternatives studied during the interrelated environmental assessment and the planning process. Environmental impacts of each alternative shall be described and appropriately displayed.

(6) *The relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity.* This section should analyze and describe the cumulative effects of the proposed action when added to other similar actions in an area or region. The long-term consequences on the human environment should be described. This section should disclose the consequences of short-term uses of man's environment which subsequently may produce long-term impacts.

(7) *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* This section should identify the extent to which the pro-

posed action will curtail or change man's use and enjoyment of resources within the planning area.

(8) *Consultation and review with appropriate federal, state, and local agencies and others.* This section will briefly describe the overall processes of consultation and coordination with interested agencies, groups, and individuals during the environmental assessment and planning process. A listing of agencies and groups requested to review the draft EIS should be included in this section of the draft EIS. This section should be expanded in the final EIS to provide a response to significant environmental concerns and comments received on the draft EIS.

(9) *Appendices.* The draft and final EIS should contain appropriate appendices, as necessary, to assist the decision maker in understanding the environmental condition and impacts.

§ 650.10 EIS distribution and comment.

(a) *Draft EIS's.* The following steps will be taken in filing and distributing draft EIS's for review and comment:

(1) *CEQ and others.* Five copies of draft EIS's will be sent to CEQ by the RFO. At the same time the RFO will send copies to:

(i) *Federal agencies* who have jurisdiction by law or special expertise with respect to any environmental impact involved.

(ii) *State and local agencies.* OMB Circular No. A-95 (Revised) through its system of state and areawide clearinghouses provides a means for obtaining the views of state and local environmental agencies which can assist in the preparation and review of EIS's.

(iii) *Organizations, groups, and individuals.* A copy of the draft EIS will be sent to the appropriate official of each organization or group and each individual who has requested a copy. A charge may be made for multiple copy requests. Unsolicited comments will be considered.

(2) *Time period for comment.* The time period for review shall end 45 days after the date the CEQ publishes the notice of public availability of the draft EIS in the FEDERAL REGISTER. A 15-day extension of time for review and comment will be considered by the RFO when such requests are submitted in writing. If neither comments nor a request for an extension is received at the end of the 45-day period, it will be presumed that the agency or party from whom comments were requested has no comments to make.

(3) *News releases* The RFO shall announce the availability of the draft EIS in an appropriate media serving the area

(4) *Revising a draft EIS.* If significant changes in the proposed action are made as a result of significant comments on the draft EIS, a revised draft EIS may be necessary. The revised draft EIS will be recirculated for comment in the same manner as a draft EIS.

(b) *Final EIS's.* At the end of the review period for the draft EIS, the RFO will prepare a final EIS, taking into consideration comments and opposing viewpoints received. The following steps will be taken in filing and distributing final EIS's:

(1) Letters of comment will be appended to the final EIS. If numerous repetitive responses are received, summaries of the repetitive comments and a list of the commentators may be appended in lieu of the actual letter.

(2) The RFO shall send five (5) copies of the final EIS to the CEQ and a copy of the final EIS to each state and federal agency, organization, group, and individual who furnished comments on the draft EIS. Single copy requests for copies of the final EIS will be provided. A charge may be made for multiple copy requests.

(c) *Administrative action.* The RFO will take no administrative action in a land and water resource project until 30 days after the final EIS has been made available to the public and the notice of availability for the final EIS has been published in the FEDERAL REGISTER by CEQ. The signing of the statement of findings by the RFO constitutes an administrative action.

(d) *Statement of findings.* A statement of findings is a concise rationale of the RFO for proceeding with the proposed action. It will briefly describe significant concerns that were encountered in the decisionmaking process. The statement of findings will be prepared on proposed actions requiring an EIS after the 30-day waiting period has expired following the notice of availability of the final EIS as published in the FEDERAL REGISTER by CEQ. For proposed project actions for which it has been determined that an EIS will not be prepared, a statement of findings will be developed after the decision to proceed has been made. It will be dated, signed by the RFO, and made a part of the reviewable record for the project.

(e) *Supplements to EIS's.*

(1) If SCS determines that it is necessary to clarify or amplify a point of concern raised after the final EIS is filed with CEQ, appropriate clarification or amplification will be sent to CEQ with informational copies furnished to those who received copies of the final EIS. Waiting periods are not applicable.

(2) If the RFO determines that the final EIS previously filed has become inadequate due to a major change in the plan of development which significantly affects the human environment, a new EIS will be prepared, filed, and distributed as provided in paragraphs (a), (b), (c), and (d) of this section.

(f) *Expedited procedures.* When unusual circumstances make it necessary to take action with significant environmental impact without observing the review provisions of paragraphs (a), (b), (c), and (d) of this section, the STC shall request the administrator to consult with CEQ concerning alternative arrangements.

§ 650.11 [Reserved]

2. Subpart B is amended by adding § 650.20 as follows:

Subpart B—Related Environmental Concerns

§ 650.20 Reviewing and commenting on EIS's prepared by other agencies.

(a) *SCS employees assigned to review and comment* on EIS's prepared by other agencies are to be familiar with SCS policies and guidelines contained in this part, and NEPA.

(b) *EIS's received for review by SCS for which SCS has expertise or interest* shall be responded to promptly. Comments are to be objective with the intent to offer suggestions to help minimize adverse impacts of the proposed action and to ensure the health and welfare of the agricultural community. Comments are to be based on knowledge readily available. Field office technical guides, soil surveys, field investigation reports, and other resource data and reference materials developed by SCS and other agencies should be used and cited. It is not intended that special surveys or investigations be conducted to acquire additional information for use in preparing comments.

(c) *The SCS reviewer should consider the following kinds of concerns:*

(1) *The suitability or limitations of the soils for the proposed action.* Would an alternative route, location, or layout minimize land use problems and adverse environmental impacts?

(2) *Provisions for control of erosion and management of water during construction.* Are there resources downstream that would be affected by sediment from the construction area, and does the statement provide for adequate control measures? Will lack of erosion control cause air pollution? Is the stockpiling of top soil for future use considered in the EIS?

(3) *Provisions for soil and water conservation management measures on project lands, rights-of-way, access roads, and borrow areas.* Does the statement indicate that enduring soil and water practices are to be installed and maintained?

(4) *The effects of water discharges from project lands or rights-of-way onto other properties.* Will discharges cause erosion or flooding on other lands? Will discharges affect water quality?

(5) *The effects of disruption of the natural drainage patterns and severance of private land units.* Does the statement indicate that natural drainage patterns will be maintained? Will bridges, culverts, and other water control structures be located to ensure that adjacent lands are not flooded or otherwise restricted in use? Does the EIS describe the effects of severance on private land ownerships?

(6) *The impact on existing soil and water conservation management systems.* To what extent will conservation systems be altered, severed, or suffer blocked outlets? Will land use or cover be affected?

(7) *Impacts on prime agricultural land* Would an alternative location or route require less prime agricultural land? Does the EIS consider secondary effects on prime agricultural land? What benefits are foregone if prime agricultural land is taken?

(8) *Impacts on ecosystems.* Does the EIS describe impacts on major plant communities, and terrestrial and aquatic ecosystems?

(9) *Impacts on SCS-assisted projects.* Does the statement reflect the effect of the proposed action on present or planned SCS-assisted projects?

(d) *EIS's referred to SCS for departmental comments.* EIS's referred by the USDA Coordinator of Environmental Quality Activities to the SCS national office may designate SCS as the lead agency for preparing comments for USDA. In this case, the SCS national office determines whether inputs from STC's and other USDA agencies are needed. If so, STC's and other USDA agencies are requested to furnish comments for use in preparing the USDA response.

(e) *EIS's referred to SCS for agency comments.* EIS's received by the SCS national office are screened to determine whether inputs from STC's are needed. If so, the STC concerned is requested to provide comments on the EIS. In some cases, the administrator will designate the STC to make the agency reply.

(f) *EIS's sent to SCS offices other than the national office.* If an STC receives an EIS from another agency, the STC is to respond to the initiating agency. A copy of his comments is to be sent to the Director of the Environmental Services Division.

(1) *If EIS's are addressed to SCS area or field offices,* these offices are to contact the AC or STC as appropriate for instructions on coordinating and handling the comments.

(2) *If the EIS's are submitted to conservation districts,* SCS may furnish needed soil, water, and related resource information to the district.

(g) *Distribution of SCS comments on other agencies' EIS's.* Five copies of review comments made by SCS on EIS's prepared by other federal agencies are to be sent to CEQ.

(h) *Third party requests for a copy of SCS comments* on another agency's EIS will be filled after SCS has forwarded copies of its letter of comments to CEQ.

[FR Doc.77-3880 Filed 2-7-77;8:45 am]

Agricultural Stabilization and Conservation Service

[7 CFR Part 723]

CIGAR-FILLER (TYPE 41) AND MARYLAND TOBACCOS

Referendums

Notice is hereby given that on February 22-25, 1977, inclusive, separate referenda will be held of farmers engaged in the production of the 1976 crop of cigar-filler (type 41) or Maryland tobacco, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended. Notice was given (41 FR 55549) that consideration would be given to data, views and recommendations on establishing the date or period for holding the referenda and whether the referenda would be conducted at polling places rather than by mail ballot. No data, views, or recommendations regarding the referenda were received pursuant to such notice.

It is hereby determined that the referenda will be held by mail ballot during the period specified above. The purpose of each referendum is to determine whether the farmers favor marketing quotas for the 1977-78, 1978-79, 1979-80 marketing years for the respective kinds of tobacco. The referenda will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the Regulations Governing the Holding of Referenda on Marketing Quotas, as amended, Part 717 of this chapter.

NOTE.—Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A 107.

Signed at Washington, D.C., on February 2, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-3902 Filed 2-7-77;8:45 am]

[7 CFR Part 724]

VIRGINIA SUN-CURED TOBACCO

Referendum

Notice is hereby given that on February 22-25, 1977, inclusive, a referendum will be held of farmers engaged in the production of the 1976 crop of Virginia sun-cured tobacco, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended. Notice was given (41 FR 55550) that consideration would be given to data, views and recommendations on establishing the date or period for holding the referendum and whether the referendum should be conducted at polling places rather than by mail ballot. No data, views, or recommendations regarding the referendum were received pursuant to such notice.

It is hereby determined that the referendum will be held by mail ballot during the period specified above. The purpose of the referendum is to determine whether the Virginia sun-cured tobacco farmers voting favor marketing quotas for the 1977-78, 1978-79, and 1979-80 marketing years. The referendum will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the Regulations Governing the Holding of Referenda on Marketing Quotas, as amended, Part 717 of this chapter.

NOTE.—Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A 107

Signed at Washington, D.C., on February 2, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-3903 Filed 2-7-77;8:45 am]

[7 CFR Part 726]

BURLEY TOBACCO

Referendum

Notice is hereby given that on February 22-25, 1977, inclusive, a referendum will be held of farmers engaged in the production of the 1976 crop of burley tobacco, pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended. Notice was given (41 FR 55551) that consideration would be given to data, views and recommendations on establishing the date or period for holding the referendum and whether the referendum should be conducted at polling places rather than by mail ballot. The data, views and recomendations regarding the referndum have been considered within the limitations permitted by the Act.

It is hereby determined that the referendum will be held by mail ballot during the period specified above. The purpose of the referendum is to determine whether the burley tobacco farmers voting favor marketing quotas for the 1977-78, 1978-79 and 1979-80 marketing years. The referendum will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the Regulations Governing the Holding Referenda on Marketing Quotas, as amended, Part 717 of this chapter.

NOTE.—Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A107.

Signed at Washington, D.C., on February 2, 1977.

SEELEY G. LODWICK,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-3901 Filed 2-7-77;8:45 am]

Agricultural Marketing Service

[7 CFR Part 1006]

[Docket No. AO-356-A15]

MILK IN THE UPPER FLORIDA MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn, 626 Lee Road (Intersection of Interstate 4 & Lee Rd.), Orlando, Florida, beginning at 9:30 a.m., local time, February 17, 1977, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling

of milk in the Upper Florida marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY UPPER FLORIDA MILK PRODUCERS ASSOCIATION PROPOSAL NO. 1

Amendment § 1006.7(b) as follows:

§ 1006.7 Pool plant.

* * * * *

(b) A supply plant:

(1) From which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section; or

(2) Operated by a cooperative association and from which milk shipped as fluid milk products, except filled milk, together with the milk of member-producers physically received at pool plants pursuant to paragraph (a) of this section is not less than 50 percent of the total milk of member-producers during the month.

* * * * *

PROPOSED BY THE DAIRY DIVISION, AGRICULTURAL MARKETING SERVICE: PROPOSAL NO. 2

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, John D. Nord, P.O. Box 11368, Ft. Lauderdale, Florida 33306, or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on February 3, 1977.

WILLIAM T. MANLEY,
Deputy Administrator,
Program Operations.

[FR Doc.77-3910 Filed 2-7-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1409]

GOVERNMENT IN THE SUNSHINE ACT

Meetings of the Board of Directors of CCC

Notice is hereby given that Commodity Credit Corporation is considering promulgating the following rules for implementing the provisions of the Government in the Sunshine Act (Public Law 94-409, September 13, 1976, 5 U.S.C. 552b). The proposed rules include provisions for giving advance public notice of meetings of the Board of Directors of Commodity Credit Corporation, for holding meetings which may lawfully be closed to the public, for maintaining copies of transcripts, electronic recordings or minutes of closed meetings and for the availability of the nonexempt portions of such records to the public.

Commodity Credit Corporation is an agency and instrumentality of the United States within the United States Department of Agriculture. The Corporation's activities, by law, are subject to the general supervision and direction of the Secretary of Agriculture. It was created by Congress through the Commodity Credit Corporation Charter Act (15 U.S.C. 714) for the purpose of stabilizing, supporting, and protecting farm income and prices, assisting in the maintenance of balanced and adequate supplies of agricultural commodities, products thereof, foods, feeds and fibers and facilitating their orderly distribution. The Corporation is specifically authorized to: (1) Support prices of agricultural commodities through loans, purchases, payments, and other operations; (2) make available materials and facilities required in the production and marketing of agricultural commodities; (3) procure agricultural commodities for sale to other Government agencies, foreign governments, and domestic, foreign or international relief or rehabilitation agencies, and to meet domestic requirements; (4) remove and dispose of or aid in the removal or disposal of surplus agricultural commodities; (5) increase domestic consumption of agricultural commodities through development of new markets, marketing facilities, and uses; (6) export or cause to be exported, or aid in the development of foreign markets for agricultural commodities; and (7) carry out such other operations as Congress may specifically authorize or provide for.

The management of the Corporation is vested in a Board of Directors whose actions are subject to the approval of the Secretary of Agriculture. The Board consists of seven members who are appointed by the President by and with the advice and consent of the Senate and the Secretary of Agriculture, who is an ex officio director and Chairman of the Board. Although the directors are not required to be Federal Government employees, historically, all of the directors have been high officials of the Department of Agriculture responsible for the operation of major agencies and programs of the Department.

While the ultimate authority to control the activities of the Corporation is vested in the Secretary of Agriculture under the applicable price support legislation, questions and issues with respect to the terms and conditions of the various programs and the levels of support to be afforded are generally considered by the Board. Premature disclosure of deliberations with respect to matters of this kind would permit individuals to obtain improper advantages in commodity trading activities before such programs are publicly announced. Based upon a review of items of business before the Board over a two year period, approximately 70 percent of the matters submitted to the Board for consideration are in this category. Thus, the majority of Board actions have a serious impact on national and foreign markets. Premature disclosure with respect to such deliberations would probably lead to significant financial speculation in agricultural commodities and might endanger the stability of financial institutions. Premature disclosure would also tend to frustrate the implementation of the decisions reached by the Board and the Secretary of Agriculture.

Since the actions of the Corporation have a direct effect on agricultural market prices, the Corporation has a significant regulatory impact on agricultural commodities and the products thereof. For this reason, the proposed regulation treats the Corporation as an agency which "regulates" commodities within the meaning of section (c)(9)(A) of the Government in the Sunshine Act (5 U.S.C. 552b), and a majority of the Corporation's meetings will be closed to the public. However, to the extent practicable, advance notice will be given of such meetings, and, if they are not closed by a vote of the majority of the Board of Directors immediately preceding the meetings, they will be open to the public.

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rules to the Secretary, Board of Directors, Commodity Credit Corporation, U.S. Department of Agriculture, 14th Street and Independence Avenue, Washington, D.C. 20250. All written comments must be received no later than March 10, 1977 in order to be sure of consideration before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in room 218-W, Administration Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. 20250.

It is proposed to amend Chapter XIV of Title 7 of the Code of Federal Regulations by adding a new Part 1409—Meetings of the Board of Directors of Commodity Credit Corporation to Subchapter A—General Regulations and Policies to read as follows:

PART 1409—MEETINGS OF THE BOARD OF DIRECTORS OF COMMODITY CREDIT CORPORATION

Sec.

1409.1 General Statement
1409.2 Definitions.
1409.3 Open meetings
1409.4 Exemptions.
1409.5 Closure of meetings.
1409.6 Notices to the public.
1409.7 Records retention.
1409.8 Public inspection and copying of records; applicable fees.
1409.9 Report to Congress.

AUTHORITY: The provisions of this Part 1409 issued under sec. 3(a), 90 Stat. 1244 (5 U.S.C. 552b), and sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b).

§ 1409.1 General Statement.

(a) It is the policy of Commodity Credit Corporation, under the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b) to make available to the public, to the fullest extent practicable, information regarding the decision process of the Board of Directors of Commodity Credit Corporation.

(b) This part sets forth the procedural requirements designed to provide the public with such information while continuing to protect the rights of individuals and to maintain the capabilities of Commodity Credit Corporation in carrying out its responsibilities under the statutes administered by Commodity Credit Corporation.

§ 1409.2 Definitions.

(a) The term "Board" means the Board of Directors of Commodity Credit Corporation.

(b) The term "Director" means an individual who is a member of the Board of Directors of Commodity Credit Corporation and includes the Secretary of Agriculture, who is by statute an ex-officio director and Chairman of the Board.

(c) The term "General Counsel" means the General Counsel or the Assistant General Counsel of Commodity Credit Corporation.

(d) The term "meeting" means the deliberations of at least five (quorum) Directors of the Board of Directors of Commodity Credit Corporation where such deliberations determine or result in the joint conduct or disposition of official Board business but shall not include deliberations for (1) closing a portion or portions of a meeting or series of meetings as provided in § 1409.5 (a) and (b) of this Part, or (2) calling a meeting at a date earlier than announced as provided in paragraph 1409.6(a)(2) of this Part; or (3) changing the subject matter of a publicly announced meeting as provided in § 1409.6(d) of this Part; or (4) determining whether or not to withhold from disclosure information pertaining to a meeting or portions of a meeting or series of meetings as provided in § 1409.5(b) of this Part.

(e) The term "public observation" means the right of any member of the public to attend and observe, but not participate or interfere in any way in an open meeting of the Board, within the limits of reasonable and comfortable accommodations made available for such purpose by Commodity Credit Corporation.

§ 1409.3 Open Meetings.

Every portion of every meeting of the Board of Directors will be open to public observation except as provided in §§ 1409.4 and 1409.5 of this Part.

§ 1409.4 Exemptions.

(a) A portion or portions of a Board meeting may be closed to the public and any information pertaining to such meeting otherwise required by section 1409.3 of this Part to be disclosed to the public may be withheld, where the Board determines that public disclosure of information to be discussed at such meetings is likely to—

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (ii) in fact properly classified pursuant to such Executive order;

(2) Relate solely to the internal personnel rules and practice of Commodity Credit Corporation;

(3) Disclose matters specifically exempted from disclosure by statute (other than the Freedom of Information Act, 5 U.S.C. 552), provided that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

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

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or to an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, or (iv) disclose the identity of a confidential source, and, in the case of a record compiled by a criminal enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

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

(9) Disclose information the premature disclosure of which would be likely to (i) lead to significant financial speculation in agricultural commodities or significantly endanger the stability of any financial institution; or (ii) significantly frustrate implementation of a proposed Board action except where the Board has already disclosed to the public the content or nature of its proposed action or where Commodity Credit Corporation is required by law to make such disclosure on its own initiative prior to taking final action on such proposal; or

(10) Specifically concern Commodity Credit Corporation's participation in a civil action or proceedings.

(b) Any Board meeting or portion thereof, which may be closed, or any information which may be withheld under paragraph (a) of this section, will not be closed or withheld, respectively, in any case where the Board finds the public interest requires otherwise.

§ 1409.5 Closure of meetings.

(a) *Procedure for closing a majority of the meetings.* (1) A majority of the meetings of the Board will be closed to the public pursuant to exemptions 4, 8, (9)(A) and 10 of § 1409.4(a) of this Part. These meetings will include deliberations such as those relating to the levels of price support for various agricultural commodities, the allocation of quantities of commodities for export programs, and the interest rates for commodity loans and farm storage facility loans. Board meetings will be closed pursuant to exemptions 4, 8, (9)(A) and 10 when at least five Directors vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting. A copy of the vote, reflecting the vote of each Director on the question, will be made available to the public. The Board will, except to the extent that such information is exempt from disclosure under the exemptions in paragraph 1409.4(a) of this Part, provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof, at the earliest practicable time.

(2) The provisions of paragraph (b) of this section and section 1409.6, except § 1409.6(e), of this Part will not apply to any meeting or portion thereof to which paragraph (a) of this section applies.

(b) *Procedure for closing other meetings.* (1) A separate vote of the entire membership of the Board will be taken with respect to each Board meeting a portion or portions of which are proposed to be closed to the public or any information which is proposed to be withheld from the public on the basis of one or more of the exemptions in § 1409.4(a) of this Part. The vote of each Director will be recorded and no proxy shall be allowed.

(2) A portion or portions of a meeting may be closed on the basis of one or more of the exemptions in § 1409.4(a) of this Part only when at least five Directors vote to take such action.

(3) A single vote of the entire membership of the Board may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public or with respect to the withholding of any information concerning such series or meetings, on the basis of one or more of the exemptions in § 1409.4(a) of this Part. Each meeting in such series must involve the same particular matters and must be scheduled to be held no more than thirty days after the initial meeting in such series. The

vote of each Director participating in such vote will be recorded and no proxy vote shall be allowed.

(4) Whenever any person whose interests may be directly affected by a portion of a Board's meeting requests that the Board close such portion to the public on the basis of exemptions (5), (6), or (7) of § 1409.4(a) of this Part, the Board, upon the request of any one of its members, will vote whether or not to close such portion of the meeting. The vote of each Director participating in such vote will be recorded and no proxy shall be allowed.

(c) *General counsel's certification.* For every Board meeting closed on the basis of one or more of the exemptions in § 1409.4(a) of this Part, the General Counsel will publicly certify that, in his opinion, the meeting may be closed to the public and shall state each relevant exemption.

§ 1409.6 Notices to the public.

(a) (1) The Secretary of the Board will make public announcement at least one week before each Board meeting of (i) the time and place of the meeting, (ii) the subject matter of the meeting, except to the extent that such information is exempt from disclosure under § 1409.4(a) of this Part, (iii) whether the meeting is to be open or closed to the public and (iv) the name and business telephone number of the Secretary of the Board.

(2) Notwithstanding paragraph (a) (1) of this section, less than one week advance public notice for a meeting may be given when at least five Directors determine by recorded vote that the Board business requires that a meeting be called at an earlier date, but in such case, announcement of the meeting will be made at the earliest practicable time.

(b) (1) When the Board votes on whether to close a portion or portions of a meeting or a series of meetings, or with respect to withholding any information concerning such meeting or series of meetings, in accordance with § 1409.5(b) of this Part, the Secretary of the Board will make available to the public a written copy of such vote reflecting the vote of each member on the question within one business day of such vote.

(2) If the Board votes to close a portion or portions of a meeting or a series of meetings in accordance with § 1409.5 (b) of this Part, the Secretary of the Board will make available to the public within one business day of such vote, (i) a list of the names and affiliations of persons expected to be present at such closed portion or portions of the meeting or series of meetings and (ii) a full, written explanation of the Board's action in closing the portion or portions of the meeting or series of meetings, unless such disclosure would reveal the information that the meeting itself was closed to protect.

(c) The time or place of a Board meeting may be changed following the public announcement as required by paragraph (a) (1) of this section only if the Board publicly announces such change or changes at the earlies practicable time.

(d) The subject matter of a Board meeting or the determination of the Board to open or close a meeting or portions thereof to the public, may be changed following the public announcement as required by paragraph (a) (1) of this section only if (i) five Directors determine by recorded vote that Board business so requires and that no earlier announcement of the change was possible and (ii) the Board publicly announces such change and the vote of each Director upon such change at the earliest practicable time.

(e) The Secretary of the Board shall use all reasonable means to keep the public promptly and fully informed of public announcements including the use of a bulletin board outside the office of the Secretary of the Board at the address indicated in § 1409.8(b) of this Part. Requests for information concerning Board meetings should be addressed to the Secretary of the Board.

(f) Immediately following each public announcement required by this section, the information provided in such public announcement will be submitted for publication in the FEDERAL REGISTER.

(g) The Board usually meets in room 200-A, Administration Building, United States Department of Agriculture, 14th Street and Independence Avenue, S.W., Washington, D.C. Each person interested in attending an open meeting of the Board should notify the Secretary of the Board at least one business day prior to the open meeting of their intention to attend the meeting. Any person who fails to do so may not be accommodated if there is insufficient space in the meeting room.

§ 1409.7 Records retention.

(a) The Secretary of the Board will maintain the following records for each Board meeting, or portion thereof which is closed to the public pursuant to a vote under § 1409.5 of this Part:

(1) A copy of the General Counsel's certification required by § 1409.5(c) of this Part.

(2) A copy of a statement from the presiding officer which sets forth the time and place of the closed meeting or portion thereof and list of persons present; and

(3) A complete verbatim transcript or electronic recording adequate to record fully the proceedings of each Board meeting or portion of a meeting, except that in the case of a meeting or portion of a meeting closed to the public on the basis of exemptions (8), (9)(A) or (10) of § 1409.4(a) of this Part, the Secretary of the Board will maintain either a transcript, electronic recording, or a complete set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll-call vote reflecting the vote of each member on the question. All documents considered in connection with any action will be identified in such minutes.

(b) The retention period for the records required by paragraph (a) of this section will be for a period of at least two years after the particular Board meeting, or until one year after the conclusion of any Board proceeding with respect to which the meeting or portion thereof was held, whichever occurs later.

§ 1409.8 Public inspection and copying of records; applicable fees.

(a) The Secretary of the Board will make promptly available to the public the transcript, electronic recording, transcription of the recording, or minutes of the discussion of any item on the agenda of a Board meeting, or any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the Secretary of the Board determines to contain information which may be withheld on the basis of one or more of the exemptions in § 1409.4(a) of this Part.

(b) Requests for public inspection of electronic recording, transcripts or minutes of Board meetings shall be made to the Secretary of the Board of Directors of Commodity Credit Corporation, Room 218-W, Administration Building, United States Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

(c) The transcripts, minutes, or transcriptions of electronic recordings of a Board meeting will disclose the identity of each speaker, and will be furnished to any person at the actual cost of transcription or duplication.

§ 1409.9 Report to Congress.

The Secretary of Agriculture will annually report to the Congress regarding the Board's compliance with the Government in the Sunshine Act, including a tabulation of the total number of open meetings, the total number of closed meetings, the reasons for closing such meetings and a description of any litigation brought against the Board pursuant to the Government in the Sunshine Act, including any costs assessed against Commodity Credit Corporation in such litigation.

Signed at Washington, D.C., on February 4, 1977.

FRANK G. MCKNIGHT,
Secretary, Commodity Credit Corporation.

[FR Doc.77-3998 Filed 2-7-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 438]

PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

Advertising, Disclosure, Cooling-Off and Refund Requirements; Removal of Public Record for Microfilming; Indices; Effect on Comment Period

The public record in this matter has been closed to public inspection for a

limited time. The record has been removed from the Commission's Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, for the purpose of being microfilmed. A subsequent notice will be published in the FEDERAL REGISTER announcing the reopening of the public record for public use and inspection. It is anticipated that the microfilming will be complete in early to mid-February.

In addition, as an accommodation to interested persons, the Commission has directed the Bureau of Consumer Protection to place on the public record four indices of the public record. These indices are being made available to the public to assist in the review of the record, the presiding officer's report (see 41 FR 47267 (October 28, 1976)) and the staff report (see 42 FR 1483 (January 7, 1977)). The indices, which were prepared by the staff as a tool to gain access to the record, are in no way a substitute for the record or for either of the reports, and the Commission does not guarantee the accuracy of any information contained in the indices.

Microfilmed copies of the record will be available from the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, upon completion of the copying. The indices will be made available at the time the record is reopened for public inspection. Copies of the microfilmed record and the indices will be available under the user fee schedule of Commission Rule 4.8, 16 CFR 4.8.

The notice announcing the availability of the staff report (42 FR 1483 (January 7, 1977)), stated that the post record comment period required by Rule 1.13(h) would conclude on March 8, 1977. The Commission has determined that the post record comment period will recommence, for a period of 60 days, on the date of a subsequent FEDERAL REGISTER notice announcing the reopening of the record for public inspection.

By direction of the Commission, dated February 3, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-4084 Filed 2-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 18]

[Docket No. 76N-0175]

MILK

Proposal To Allow Use of Stabilizers and Emulsifiers in Lowfat and Skim Milk; Extension of Comment Period

The Food and Drug Administration is extending the time for comments on the proposal to allow the use of stabilizers and emulsifiers in lowfat and skim milk to April 11, 1977.

In the FEDERAL REGISTER of October 26, 1976 (41 FR 46873) the Commissioner of Food and Drugs proposed amendments to the standards of identity for lowfat milk (21 CFR 18.10) and skim milk (21 CFR 18.20) that would permit the optional use of safe and suitable stabilizers to increase the viscosity of the food, with or without added emulsifiers. The proposal also provided for definitions of the terms "nonfat milk solids" and "nonfat milk-derived solids." Comments were to be filed on or before December 27, 1976.

The Commissioner has received requests for a 6-month extension of the comment period from the Milk Industry Foundation and for a 60-day extension from Stein Hall & Company, Inc., to permit the preparation of meaningful comments. The Association of New England Milk Dealers has also requested an extension. The Commissioner concludes that 60 additional days will provide adequate time to permit the preparation of meaningful comments and hereby extends the period for filing comments on the subject proposal to close of business April 11, 1977.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857 written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: January 31, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-3779 Filed 2-7-77;8:45 am]

[21 CFR Part 540]

[Docket No. 77N-0012]

PENICILLIN

Revocation of Certain Regulations

The Food and Drug Administration (FDA) proposes to revoke regulations for certain penicillin drugs intended for animal use; comments by March 10, 1977.

The Commissioner of Food and Drugs is proposing to revoke certain regulations that provide for conditions of certification and tests and methods of assay for antibiotic drugs subject to the provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(n)). This proposal covers antibiotic drugs for which no certification has been requested for at least 5 years.

The monographs were originally promulgated under section 507 of the act (21 U.S.C. 357), before enactment of the Animal Drug Amendments of 1968, Pub. L. 90-399. They are now obsolete because the monographs cover antibiotic drugs for which no certification has been requested for at least 5 years. (No current approvals are in effect under section 512 (c) of the act (21 U.S.C. 360b(c)) for these monographs, and none are known to exist under section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90-399 (82 Stat. 353)).) Furthermore, the records and reports requirement of section 512(1) of the act (21 U.S.C. 360b (1)) and §§ 510.300 and 510.310 (21 CFR 510.300 and 510.310) for these drugs have not been satisfied by anyone who may hold such an approval. For these reasons, the Commissioner is proposing to revoke the regulations and withdraw any approvals that may be based on the monographs. Any person who intends to assert or rely on an approval granted by the transitional provision of the Animal Drug Amendments of 1968 must submit proof of the approval's existence within the period allowed by this notice, and the failure of any person to submit such proof within the allotted period shall constitute a waiver of any right to assert or rely on it.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512 (l), (n), 701(a), 52 Stat. 1055, 82 Stat. 348, 350-351 (21 U.S.C. 360b (l), (n), 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), it is proposed that Part 540 be amended as follows:

§ 540.153 [Revoked]

1. By revoking § 540.153 *Aluminum penicillin tablets.*

§ 540.155 [Revoked]

2. By revoking § 540.155 *Benzathine penicillin G oral suspension, benzathine penicillin G for oral suspension (benzathine penicillin G powder).*

§ 540.163 [Revoked]

3. By revoking § 540.163 *Ephedrine penicillin tablets.*

§ 540.166 [Revoked]

4. By revoking § 540.166 *Hydrabamine penicillin G oral suspension.*

§ 540.174c [Revoked]

5. By revoking § 540.174c *Procaine penicillin in oil capsules.*

§ 540.180 [Revoked]

6. By revoking § 540.180 *Penicillin oral dosage forms.*

§ 540.180a [Revoked]

7. By revoking § 540.180a *Penicillin and novobiocin capsules.*

§ 540.180b [Revoked]

8. By revoking § 540.180b *Penicillin-streptomycin tablets; penicillin-dihydrostreptomycin tablets.*

§ 540.181a [Revoked]

9. By revoking § 540.181a *Crystalline penicillin G oral suspension, crystalline*

penicillin G sodium oral suspension, potassium penicillin G oral suspension.

§ 540.250 [Revoked]

10. By revoking § 540.250 *Penicillin-streptomycin; penicillin-dihydrostreptomycin.*

§ 540.253 [Revoked]

11. By revoking § 540.253 *Aluminum penicillin in oil.*

§ 540.255b [Revoked]

12. By revoking § 540.255b *Benzathine penicillin G in oil.*

§ 540.259 [Revoked]

13. By revoking § 540.259 *Chloroprocaine penicillin O aqueous injection.*

§ 540.260 [Revoked]

14. By revoking § 540.260 *Dibenzylamine penicillin and streptomycin in oil; dibenzylamine penicillin and dihydrostreptomycin in oil.*

§ 540.265 [Revoked]

15. By revoking § 540.265 *1-Ephenamine penicillin G implantation and injectable dosage forms.*

§ 540.265a [Revoked]

16. By revoking § 540.265a *1-Ephenamine penicillin G in oil.*

§ 540.265b [Revoked]

17. By revoking § 540.265b *1-Ephenamine penicillin G for aqueous injection.*

§ 540.274e [Revoked]

18. By revoking § 540.274e *Procaine penicillin and streptomycin in oil; procaine penicillin and dihydrostreptomycin in oil.*

§ 540.274f [Revoked]

19. By revoking § 540.274f *Penicillin and dihydrostreptomycin - streptomycin sulfates; procaine penicillin in dihydrostreptomycin-streptomycin sulfates solution.*

§ 540.280 [Revoked]

20. By revoking § 540.280 *Sodium penicillin (penicillin sodium, penicillin sodium salt), calcium penicillin (penicillin calcium, penicillin calcium salt) crystalline penicillin (crystalline penicillin sodium, crystalline penicillin sodium salt, crystalline penicillin potassium, crystalline penicillin potassium salt, crystalline penicillin G sodium, crystalline penicillin G sodium salt, crystalline penicillin G potassium, crystalline penicillin G potassium salt, crystalline penicillin Q sodium, crystalline penicillin O sodium salt, crystalline penicillin O potassium, crystalline penicillin O potassium salt).*

§ 540.281a [Revoked]

21. By revoking § 540.281a *Crystalline penicillin and epinephrine in oil.*

§ 540.881 [Revoked]

22. By revoking § 540.881 *Crystalline penicillin-streptomycin-polymyxin-oxytetracycline-carbomycin powder; crystalline penicillin - dihydrostreptomycin-polymyxin - oxytetracycline - carbomycin powder.*

Interested persons may, on or before March 10, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: February 3, 1977.

JOSEPH P. HILE,
Acting Commissioner of Food and Drugs.

[FR Doc.77-4001 Filed 2-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 221]

SAN CARLOS INDIAN IRRIGATION PROJECT, ARIZONA

Proposed Revisions

Pursuant to the authority vested in the Secretary of the Interior for issuance of irrigation operation and maintenance orders fixing assessments against villages, towns, and schools included in Indian Irrigation Projects, delegated to the Commissioner of Indian Affairs by Order No. 2508 (10 BIAM 2.1, section 15a) and redelegated to the Area Directors by 10 BIAM 4.1, notice is hereby given that it is proposed to modify § 221.65 *Assessment, villages, towns, and schools,* of Title 25, Code of Federal Regulations, dealing with charges to villages, towns, and schools of the San Carlos Irrigation Project, Arizona, by changing the date July 1, 1972, to October 1, 1977, and increasing the charge per acre-foot of water delivered from $15.00 to $26.00 in the second sentence of subpart (a) and in the second sentence of subpart (b), change the year 1972 to 1977, the date July 1, 1972 to October 1, 1977, and add after this date the phrase "and each year thereafter until further order", and increase the amount the District shall retain from $7.50 to $14.00 per acre foot collected.

The revised section should read as follows:

§ 221.65 **Assessment, villages, towns, and schools.**

(a) Such project water as shall be available may be delivered to the villages, towns, and schools, not included in the designated area of the San Carlos Irrigation Project, for the irrigation of lawns and gardens. Beginning on October 1, 1977, and until further order, the charge for such services shall be $26.00 per acre-foot of water delivered, payable in advance of delivery.

(b) The delivery of water and the collection therefor shall be made by the San Carlos Irrigation and Drainage District. It is agreed that, for the balance of the season of 1977, commencing on October 1, 1977, and each year thereafter until further order, the District shall retain $14.00 per acre-foot on which collection shall be made, as its compensation for rendering the service. The remainder of the collections shall be paid to the Project Engineer for the San Carlos Irrigation Project for the benefit of the joint works.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment, to John H. Artichoker, Area Director, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona, 85011, on or before March 10, 1977.

CHARLES D. WORTHMAN,
Assistant Area Director.

[FR Doc.77-3885 Filed 2-7-77;8:45 am]

[25 CFR Part 221]

FLORENCE-CASA GRANDE INDIAN IRRIGATION PROJECT, ARIZONA

Charges and Conditions; Proposed Revisions

Pursuant to the authority vested in the Secretary of the Interior for issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian Irrigation Projects, delegated to the Commissioner of Indian Affairs by Order No. 2508 (10 BIAM 2.1, section 15a) and redelegated to the Area Directors, by 10 BIAM 4.1, notice is hereby given that it is proposed: (1) to modify § 221.70 *Charges,* of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessments against irrigated lands of the Florence-Casa Grande Project, Arizona, by increasing the per acre assessment rate from $7.50 to $17.00 for each acre of land, and (2) to modify § 221.72 *Conditions,* of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessment against irrigable lands of the Florence-Casa Grande Project, Arizona, by increasing the District's per acre compensation rate from $5.00 to $8.50 for each acre of land.

The revised sections should read as follows:

§ 221.70 **Charges.**

Pursuant to the Act of May 18, 1916 (39 Stat. 130), and supplementary acts,

and an agreement with the landowners commonly called the Florence-Casa Grande landowners' agreement, the operation and maintenance charges, including the administration of the Gila River Decree, which shall be assessed against privately owned lands of the Florence-Casa Grande Irrigation Project, are hereby fixed at $17.00 per acre for the calendar year 1977 and until further notice.

§ 221.71 Time of payment.

No change.

§ 221.72 Conditions.

The San Carlos Irrigation and Drainage District, pursuant to §§ 221.69a–221.69m, shall collect the charges as provided for in §§ 221.70 and 221.71, and shall make delivery of water to the lands of the Florence-Casa Grande Project. The District shall be compensated for such service at the rate of $8.50 per acre for each acre to which water shall be delivered and the charges collected, and shall pay the balance of such amount to the Project Engineer of the San Carlos Irrigation Project for the benefit of the joint works.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendments, to John H. Artichoker, Area Director, Phoenix Area Office, P.O. Box 7007, Phoenix, Arizona, 85011, on or before March 10, 1977.

CHARLES D. WORTHMAN,
Assistant Area Director.

[FR Doc.77-3886 Filed 2-7-77;8:45 am]

Mining Enforcement and Safety Administration

[30 CFR Parts 55, 56, 57]

NEW AND REVISED HEALTH AND SAFETY STANDARDS

Notice of Proposed Rulemaking

Republication

In FR Doc. 77-2462 appearing at page 5545 as the Part II of the issue of Friday, January 28, 1977, on page 5560, certain portions of column three are unreadable. For the convenience of the reader, all of column three on page 5560 is hereby being reprinted in its entirety.

cable to surface and underground as follows:

57.9-73 *Mandatory.* MNMSAC.—Defective equipment, removed from service as unsafe to operate, shall be tagged to prohibit further use until repairs are completed.

236. It is proposed to revise advisory standard 57.9-112 which is applicable to underground only and make it mandatory as follows:

57.9-112 *Mandatory.* MNMSAC.—On rail haulage, trip lights shall be used on the rear of pulled trips and on the front of pushed trips.

§ 57.11 [Amended]

T. Section 57.11 "Travelways and escapeways" is proposed to be amended as follows:

237. It is proposed to revise mandatory standard 57.11-50 which is applicable to underground only as follows:

57.11-50 *Mandatory.* MNMSAC.—Every mine shall have two or more separate, properly maintained escapeways to the surface from the lowest levels which are so positioned that damage to one shall not lessen the effectiveness of the others. A method of refuge shall be provided while a second opening to the surface is being developed. A second escapeway is recommended, but not required, during the exploration or development of an ore body.

In addition to separate escapeways, a method of refuge shall be provided for every employee who cannot reach the surface from his working place through at least two separate escapeways within a time limit of one hour when using the normal exit method. These refuges must be positioned so that the employee can reach one of them within 30 minutes from the time he leaves his workplace.

238. It is proposed to revise mandatory standard 57.11-55 which is applicable to underground only as follows:

57.11-55 *Mandatory.* MNMSAC.—Designated escapeways inclined more than 30 degrees from the horizontal, and more than 300 feet in vertical extent, shall be provided with emergency hoisting facilities.

§ 57.12 [Amended]

U. Section 57.12 "Electricity" is proposed to be amended as follows:

239. It is proposed to revise mandatory standard 57.12-1 which is applicable to surface and underground as follows:

57.12-1 *Mandatory*—Electrical circuits and equipment shall be protected against overloads and short circuits by automatic-trip circuit breakers or fuses. Such circuit breakers or fuses shall be capable of interrupting overloads and short circuits without damage to the circuit or equipment. Overload protective devices shall open all ungrounded conductors of the circuit whenever any one conductor becomes overloaded. Thermal devices used to protect the equipment and circuits against overloads shall be backed up by short-circuit protection.

240. It is proposed to revise mandatory standard 57.12-3 which is applicable to surface and underground as follows:

57.12-3 *Mandatory.*—Individual overload and short-circuit protection shall be provided for the trailing cables of mobile equipment.

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 683-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revision to Stanislaus County Rules and Regulations in the State of California

On July 25, 1973, July 19, 1974, April 10, 1975, and August 2, 1976, the Air Resources Board of the State of California submitted revised Rules and Regulations of the Stanislaus County Air Pollution Control District (APCD) as a revision to the California State Implementation Plan (SIP). Because the July 19, 1974, April 10, 1975, and August 2, 1976 submissions supersede the July 25, 1973 submission only those will be addressed in this notice, except when such submissions are deficient in a specific area. In this event, the appropriate portions of the earlier submissions have been evaluated and will be discussed in this notice.

On April 21, 1976 revisions to Rules 411 and 411.1 concerning transfer of gasoline into stationary storage containers and vehicle fuel tanks were submitted by the Air Resources Board. These rules are not being acted upon in this notice because of the many unique questions involved in this area of air pollution control. These rules will be addressed in a separate FEDERAL REGISTER notice.

Regulation VI, submitted on July 19, 1974 and August 2, 1976, dealing with the Air Pollution Emergency Contingency Plan, is not being acted upon at this time because the Air Resources Board has indicated to EPA that a revision is forthcoming of all local agency regulations addressing the emergency episode requirements. This action by the State is in response to the recent approval by EPA of the State of California Emergency Episode Plan. The State's plan sets forth requirements which the local agencies' plans must meet. A separate FEDERAL REGISTER notice addressing this issue will be published after the submission to EPA of all local agency emergency episode regulations by the State.

Additionally, the significant changes to the Stanislaus County new source review rules (Regulation II), submitted on July 19, 1974, April 10, 1975, and August 2, 1976, will be acted upon in a separate FEDERAL REGISTER notice.

The changes contained in the July 19, 1974, April 10, 1975, and August 2, 1976 submissions being acted upon by this package include the following: deletion of certain definitions; exemption of emission data from confidentiality clauses; addition of regulations controlling hydrocarbon emissions; additions and deletions of agricultural burning requirements; addition of a requirement that a variance petitioner submit a compliance schedule; addition of regulations dealing with New Source Performance Standards and Emission Standards for Hazardous Air Pollutants; and other minor changes of a procedural nature.

It is the purpose of this notice to propose approval of all the changes included in the July 19, 1974, April 10, 1975, and August 2, 1976 submissions except the rules and regulations specified above which are not being acted upon at this time.

Rule 103, *Confidential Information*, now allows emission data to be made available to the public, which is consistent with 40 CFR Part 51.10(e); it is proposed to approve Rule 103, rescind the current disapproval notice in 40 CFR Part 52.224(a), and rescind the substi-

tute regulation in 40 CFR Part 52.224(b) for Stanislaus County.

Rule 409, *Organic Solvents*, has been revised to be consistent with the organic solvent portion of the Federally promulgated regulation now appearing in 40 CFR 52.254 except that it does not contain hourly emission limits. The revisions made to Rules 409.1 and 409.2, which control the use of architectural coatings and the disposal and evaporation of solvents are identical to the Federal regulation. Therefore, it is proposed to approve Rules 409, 409.1, and 409.2 and rescind the provisions of 40 CFR Part 52.254 for Stanislaus County with the exception of the hourly emission limits contained in Part 52.254 (b), (c), and (d).

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as a SIP revision and, therefore, invites public comment on the State's submission and his proposed approval or disapproval.

Copies of the proposed revision are available for public inspection during normal business hours at the following locations.

Stanislaus County Air Pollution Control District, 1213 14th Street, Suite 3, Modesto, California 95354.
California Air Resources Board, 1709 11th Street, Sacramento, California 95814.
Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments to the Regional Administrator, Attn: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section; EPA, Region IX; 100 California Street, San Francisco, California 94111. Relevant comments received on or before March 10, 1977 will be considered. Comments received will be available for inspection during normal working hours at the Region IX office and the EPA Public Information Reference Unit.

This notice is issued under the authority of section 110 of the Clean Air Act, as amended.

(42 U.S.C. 1857c-5).

Dated: January 27, 1977.

PAUL DE FALCO, Jr.,
Regional Administrator.

[FR Doc.77-3870 Filed 2-7-77;8:45 am]

[40 CFR Part 52]

[FRL 683-4]

COMMONWEALTH OF VIRGINIA

Proposed Revision to the Virginia State Implementation Plan

On June 16, 1976, the Commonwealth of Virginia submitted amendments in the Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as a revision of the Virginia State Implementation Plan for the attainment and maintenance of national ambient air quality standards.

The amendments consist of changes to Part I (Definitions), Part IV (Existing Sources), and Part V (New and Modified Sources). Specifically, the changes consist of the following:

1. Part I—Definitions:

a. *Rated Capacity* (added)—"The capacity as stipulated in the purchase contract for the condition of 100 percent load, or such other capacities as mutually agreed to by the Board and owner."

b. *Total Capacity.*—"The sum of the rated capacities of all existing, new and modified fuel burning equipment which must be operated simultaneously under conditions of maximum load at a facility, expressed as heat input". (This definition represents a modification of a version previously submitted by Virginia on August 14, 1975, 40 FR 53595. No approval action has been taken by EPA since then.)

2. Part IV—Existing Sources

a. Rule EX-3 (Particulate Emissions from Fuel Burning Equipment).

(1) [Applicable to State Regions 1 through 6] Section 4.30(a)(1) is amended as follows:

(a) The term "facilities" replaces the term "operations."

(b) Maximum allowable emissions for all size facilities are based on total capacity, rather than total heat input.

(c) Mamixum allowable emissions for facilities with a total capacity of less than 10 million/hour shall be 0.6 pounds per million btu (1b/mbtu). (The current regulation provides for maximum allowable emissions of 0.4 1b/mbtu for operations with a total heat input of less than 25 million btu/hour.)

(d) Maximum allowable emissions for facilities with a total capacity between 10 million and 10 billion btu/hour shall be determined by the equation $E=1.0906H^{-0.2274}$, where:

E=allowable emission rate in 1b/mbtu input; and
H=total capacity in mbtu/hour.

(The current regulation provides for maximum allowable emissions for operations with a total heat input between 25 million and 10 billion btu/hour determined by the equation $E=0.8425H^{-0.2314}$, where:

E=maximum allowable emission, 1b/mbtu input; and
H=total heat input in mbtu/hour.

(2) [Applicable to State Region 7] Section 4.30(a)(2) is amended as follows:

(a) The term "facilities" replaces the term "operations".

(b) Maximum allowable emissions for all size facilities are based on total capacity, rather than total heat input.

(c) Maximum allowable emissions for facilities with a total capacity of less then 100 million btu/hour shall be 0.3 1b/mbtu. (The current regulation provides for maximum allowable emissions of 0.3 1b/mbtu for operations with a total heat input of less than 87 million btu/hour.)

(d) Maximum allowable emissions for facilities with a total capacity between 100 million and 10 billion btu/hour shall be determined by the equation $0.9000H^{-0.2314}$, where:

E=allowable emission ratio in 1b/mbtu input; and
H=total capacity in mbtu/hour.

(The current regulation provides for maximum allowable emissions for operations with a total heat input between 87 million and 10 billion btu/hour determined by the equation $E=0.8425H^{-0.2314}$, where:

E=maximum allowable emission, 1b/mbtu input; and
H=total heat input in mbtu/hour.)

(3) Section 4.30(b) [applicable statewide] is being amended to indicate that maximum allowable particulate emissions shall be the product of the total capacity and emission ratio. (The current regulation states that maximum allowable particulate emissions are based on total heat input.)

(4) A new Section 4.31 [applicable statewide] is added, stating that for the purpose of emission testing, the particulate emissions for each of the fuel burning equipment units of the facility shall be its contribution to the total allowable emissions from the facility when operating at total capacity. In cases when it is not possible or satisfactory to perform emission tests at the rated capacity of an individual fuel burning unit, or jointly all units in operation, the emissions at reduced load will be related to allowable emissions from rated capacity, corrected for decreases in control equipment efficiency. (The current SIP regulation specifies that emissions testing should follow recognized ASME test methods). The former Section 4.31 is redesignated as Section 4.32.

(5) Former Section 4.32 (Bacharach Scale) is deleted.

b. Rule EX-5 (Gaseous Pollutants).

(1) Section 4.52(e)(3)(i), pertaining to Stage II vapor recovery, is amended by changing the gallons per month throughput exemption level from 26,000 gallons to 20,000 gallons. The term "facilities" replaces the term "service stations."

(2) Section 4.52(f)(3)(ii), pertaining to State II vapor recovery, is amended by changing the gallons per month throughput exemption from 26,000 gallons to 20,000 gallons. The term "facilities" replaces the term "service stations."

3. *Part V (New and Modified Sources)*—Section 5.31—The Commonwealth of Virginia has requested that the New Source Performance Standards for the following five categories of stationary sources be incorporated into the Virginia SIP for informational purposes only. The five categories are: primary copper smelters, primary lead smelters, primary zinc smelters, primary aluminum reduction plants and coal preparation plants.

The Commonwealth of Virginia justifies the need for the amendments in Rule EX-3 of Part IV on the fact that the original intent of this regulation at the time of initial adoption (March 17, 1972) was to allow emissions from fuel burning facilities to be based on the sum of the fuel-burning capacities of all fuel-fired units at any one site which are normally operated at the same time; the language of the current SIP requirement limits emissions to levels based on actual fuel usage. The Commonwealth contends that the application of a regulation on the basis of fuel usage rates produces an economic impact on small boilers which is much greater than the air quality benefits provided by controlling particulate matter emissions from such small boilers to 0.4 lb/mbtu. The Commonwealth further contends that increasing the allowable particulates-to-fuel ratio for boilers under 10 million btu/hour to 0.6 lb/mbtu heat input and providing for a new proportionate scale for boilers equal to or more than 10 million btu/hour and equal to or less than 10 billion btu/hour will allow small underfeed stoker boilers to operate in compliance without mechanical emission controls. Such changes would also provide for greater flexibility in the choice of emission control devices for the larger coal-fired boilers. The Commonwealth submitted documentation with this submittal to demonstrate that the above changes to emission limitations will not result in violations of the national ambient air quality standards for particulates.

The amendment in Rule EX-5 of Part IV results from initial consultations between the Commonwealth and EPA Region III regarding possibly acceptable exemptions that would still ensure "adequate" regionwide hydrocarbon emission reductions from gasoline handling facility operations.

The Commonwealth submitted proof that simultaneous public hearings with adequate public notice, were held both on January 12, 1976 and March 22, 1976 in Richmond and in all seven regional districts, in accordance with the requirements of 40 CFR Section 51.4.

The public is invited to submit comments on whether the amendments to Part I, Part V, and Rules EX-3 and EX-5 of Part IV of the Virginia Regulations for the Control and Abatement of Air Pollution should be approved or disapproved as a revision of the Virginia State Implementation Plan. Only comments received on or before March 10, 1977 will be accepted.

The Administrator's decision to approve or disapprove this proposed SIP revision will further be based on whether it meets the requirements of Section 110 (a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed revision and the analysis on which it is based are available during normal business hours at the following locations:

United States Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Mr. Harold Frankford.

Virginia State Air Pollution Control Board, Room 1106—Ninth Street State Office Building, Richmond, Virginia 23219, ATTN: Mr. John Daniel, Jr. P.E.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments should be addressed to:

Mr. Howard R. Helm, Chief, Air Programs Branch (3AH10), Air & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: AH009VA.

(42 U.S.C. 1857(c)-5)

Dated: January 25, 1977.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.77-3871 Filed 2-7-77;8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

[45 CFR Part 1904]

STATE MEETINGS, RULES OF PROCEDURE

Organization and Conduct

Under the authority vested in it by Pub. L. 94-167, the National Commission on the Observance of International Women's Year proposes to establish in 45 CFR, Chapter XIX, a new Part 1904, State Meetings, Rules of Procedure.

Part 1904 sets down the procedure which the Coordinating Committee will use to organize itself and to organize and conduct the State Meeting, including the selection of representatives from the State Meeting to participate in the National Women's Conference.

Interested persons may submit written comments, suggestions, data or arguments relating to the procedures contained in this part to Judge Elizabeth Athanasakos, Presiding Officer, National Commission on the Observance of International Women's Year, D/IWY, Department of State, Washington, D.C. 20520, attention: General Counsel. Material submitted to the Presiding Officer by February 23, 1977, will be considered. All comments in response to this proposal will be available for public inspection during normal business hours in Room 3100, National Commission on the Observance of International Women's Year, 2401 E Street, N.W., Washington, D.C.

It is therefore proposed to issue 42 CFR Part 1904 in the manner set forth below.

PART 1904—STATE MEETINGS, RULES OF PROCEDURE

Subpart A—Coordinating Committee Organization

Sec.
1904.1 Initial exploratory meeting.
1904.2 Organizing meeting.
1904.3 Coordinating Committee officers.
1904.4 Coordinating Committee duties.

Subpart B—State Meeting Organization

Sec.
1904.5 Call to the State meeting.
1904.6 State meeting program.
1904.7 Voting body.
1904.8 Registration.
1904.9 Seating.
1904.10 Discussion.
1904.11 Motions.
1904.12 Voting requirements.

Subpart C—Selection of State Representatives to the National Conference

1904.13 Entitlement.
1904.14 Composition.
1904.15 Advance notices.
1904.16 Nominating Committee.
1904.17 Election.

Subpart D—Conduct of the State Meeting

1904.18 Discussion groups.
1904.19 Doorkeepers and timekeepers.
1904.20 Credentials Committee.
1904.21 Minutes.
1904.22 Parliamentary authority.

AUTHORITY: E.O. 11832, 3 CFR 106, 40 FR 2415, January 18, 1975, Pub. L. 94-167, 89 Stat. 1003 December 23, 1975.

Subpart A—Coordinating Committee Organization

§ 1904.1 Initial exploratory meeting.

(a) The Temporary convenor of the Coordinating Committee, appointed by the Commission, shall call and preside over an initial exploratory meeting of the Committee, upon 10 days advance written notice to all members. The exploratory meeting shall:

(1) Indoctrinate all members as to the law and the regulations;

(2) Assess the talents of committee members with a view to designating them for services as officers and committee assignments;

(3) Give preliminary consideration to structuring the work of the Committee;

(4) Issue a call for an organizing meeting and fix the time and place for such meeting; and

(5) Appoint a Nominating Committee of not less than three members charged with presenting a slate of nominees for permanent offices for action by the Organizing Meeting.

(b) However, if, in the combined judgment of the Temporary Convenor and the Regional Coordinator, time limitations and/or travel distances render it impossible or impracticable to hold the initial meeting provided for in paragraph (a) of this section, the Temporary Convenor, with approval of the Regional Coordinator, shall appoint a Nominating Committee, shall supply all its members with full data respecting members of the Coordinatnig Committee as a guide in making nominations, and shall call a meeting of the Nominating Committee preceding the opening of the Organizing Meeting. Indoctrination, assessment of talents, and structuring must then be deferred to the Organizing Meeting.

§ 1904.2 Organizing meeting.

The Organizing meeting of the Committee shall be held as expeditiously as possible, and upon at least 10 days written notice to all members as to the time and place as well as the Nominating Committee's procedure. The following

actions, among others, shall be taken at such meeting:

(a) Decide upon preliminary structure and assignment of functions leading up to the State Meeting;

(b) Receive the report of the Nominating Committee, call for nominations from the floor, and elect Committee officers by ballot;

(c) Authorize the opening of a bank account and notify the Fiscal Officer of her responsibilities for administering funds in accordance with Commission requirements;

(d) Consider the place for holding the State Meeting to be held prior to July 10, 1977, unless prior approval of the Commission is secured;

(e) Appoint such Committees as are immediately needed, for example, arrangements, finances, program, et cetera;

(f) Work out a calendar of action for future meetings;

(g) Issue a call for the succeeding meeting

§ 1904.3 Coordinating Committee officers.

The Committee shall elect the following officers from among its members: A Chair and one or more Vice Chairs, a Fiscal Officer, a Recording Secretary and a Correspondence Secretary. These elected officers shall constitute the Executive Committee. The Executive Committee is authorized to act on routine and emergency matters between meetings of the Coordinating Committee, subject to ratification by the Coordinating Committee.

§ 1904.4 Coordinating Committee duties.

The Coordinating Committee shall have overall responsibility for the planning and conduct of the State Meeting in accordance with the purposes of the Act, including the following enumerated duties, among others:

(a) Fixing the time and place for the Meeting, issuing a call thereto, and providing notice of these in accordance with § 1904.5;

(b) Electing a Presiding Officer for the State Meeting and appointing all Chairs or officials deemed necessary for the proper and efficient functioning and orderly conduct of the meeting, including, for example, Credentials and Registration Committee, Nominating Committee, Elections Committee, a Recorder, a Parliamentarian, Timekeepers, Floor Tellers, Elections Committee Tellers, Doorkeepers, Sergeant-at-Arms, et cetera.

(c) Submitting to the National Commission promptly and in accordance with Commission instructions, a listing of elected State Representatives to the National Conference;

(d) Rendering a final Report to the IWY Commission which shall set forth all the recommendations or significant actions taken at the State Meeting;

(e) Budget and finance accountability to the Commission.

Subpart B—State Meeting Organization

§ 1904.5 Call to the State Meeting.

Notices of the time, place and purposes of the State meeting shall be mailed to State and local organizations which work to advance the rights of women, and publicity shall be given to the Meeting through all media (including newspapers, radio and television) with special efforts to reach all sections of the public.

§ 1904.6 State meeting program.

The program content for the State meeting shall conform to the requirements of Pub. L. 94-167 and § 1903.2 of this chapter.

§ 1904.7 Voting body.

(a) The voting body of the Meeting shall consist of: (1) Members of the Coordinating Committee; (2) bona fide residents aged 16 or over of the State who have been registered upon acceptable proof of residence, and (3) persons, aged 16 or over, who are enrolled in educational institutions in the State and are duly registered at the meeting.

(b) Persons who desire merely to audit the proceedings, without vote, may register as observers upon compliance with registration requirements.

§ 1904.8 Registration.

(a) All persons shall be required to register in accordance with prescribed indentification and fee requirements. A registration badge shall be issued to each registrant and will be necessary for admission to the Meeting. Badges shall identify each person as a voter or as an observer.

(b) A non-transferable voting card shall be issued each registrant who is qualified to vote.

§ 1904.9 Seating.

Designated seating spaces will be reserved for members of the Coordinating Committee, Committee Chairs, special guests, the Voting Body, and for non-voting registered observers.

§ 1904.10 Discussion.

(a) In order to address the Meeting, a registrant must address the chair, await recognition, give her name and identification, and state whether she is speaking in the affirmative or negative. In the discretion of the Presiding Officer, an observer may participate in the discussion by the same procedure.

(b) Except by unanimous consent of the Meeting, no person may speak more than two minutes on a motion, nor speak a second time until all others have had an opportunity to do so, nor speak more than twice to a given question.

§ 1904.11 Motions.

(a) Only persons duly registered as members of the voting body may make motions or vote. All motions, except on procedural matters, shall be written and signed by the proponent. The Presiding Officer may require such written motion before action is taken.

(b) The Presiding Officer shall require a showing of voting cards upon the taking of a vote.

(c) A motion to table or postpone indefinitely shall require a two-thirds vote.

§ 1904.12 Voting requirement.

(a) The State Meeting shall indicate its action on substantive questions by consensus or by majority vote.

(b) There shall be no proxy voting.

Subpart C—Selection of State Representatives to the National Women's Conference

§ 1904.13 Entitlement.

Each State shall be entitled to a minimum of 10 representatives plus twice the number of Congressional Districts in the State. It may elect up to five persons available as alternate representatives to serve in the event of the absence or incapacity of a prior ranking representative. The alternate must either be registered as a delegate, or must have in her possession the badge of the temporarily absent representative she is replacing, in order to cast a vote at the National Women's Conference.

§ 1904.14 Composition.

The State Meeting shall select representatives to the National Conference on the principle of balanced representation as set forth in Pub. L. 94-167, Sec. 3(a)(1) and (2), reading as follows:

Sec. 3(a) The Conference shall be composed of—(1) representatives of local, State, regional, and national institutions, agencies, organizations, unions, associations, publications, and other groups which work to advance the rights of women; and (2) members of the general public, with special emphasis on the representation of low-income women, members of diverse racial, ethnic, and religious groups, and women of all ages.

§ 1904.15 Advance notices.

The Coordinating Committee shall include in its call to the meeting the information as to the number of State Representatives to the National Conference allotted to the State, and the balanced representation requirements of the law.

§ 1904.16 Nominating Committee.

(a) A State Nominating Committee shall be named consisting of five persons, at least three of whom shall be members of the Coordinating Committee. Two additional persons shall be appointed as alternates to serve in the event of the absence or incapacity of any of the five members. Not less than four persons, three of whom shall have been named as members, shall constitute a quorum.

(b) The Nominating Committee shall hold its initial meeting upon call of the Chair of the Coordinating Committee, at the earliest possible date.

(c) The Nominating Committee shall prepare and present a balanced list of nominees for the State's Representatives with name, address, statement of willingness to serve and other data specified by the Commission.

(d) The list of nominees shall be presented to the Coordinating Committee not less than 10 days prior to the State Meeting, and shall be made available immediately to any inquiring person or group. The Nominating Committee shall also present its report during the first plenary session of the State Meeting, which shall be followed by the call for nominations from the floor.

(e) Nominations from the floor shall require prior consent of the nominee and

submission of the data required from all nominees.

(f) Immediately following the close of nominations, the Chair of the Nominating Committee shall post in the Meeting hall and at the delegate registration desk, the names of all nominees, together with a brief statement of their background and affiliations according to Commission instructions.

(g) The Nominating Committee shall prepare ballots listing the names of all Nominating Committee candidates, with appropriate spaces for write-in votes or for names of floor nominees.

§ 1904.17 Election.

(a) The Coordinating Committee shall appoint an Elections Committee which shall have charge of elections, with authority to decide any challenge to the validity of a ballot or compliance with the rules. Every ballot shall be counted where the intent of the voter is clear.

(b) The Coordinating Committee shall fix the hours for nomination and for the elections, including the hour for closing the polls. This information shall be included in the printed program.

(c) Election shall be by ballot. No ballots shall be distributed prior to the closing of nominations. Ballots will be issued only to those wearing voter registration badges, and each voter's badge will be marked upon the casting of her ballot.

(d) A plurality vote shall elect. The allowable number of persons receiving the highest number of votes shall be the elected representatives. In the event of a tie vote for the finally allotted post, there shall be a further ballot to resolve this selection, the loser to be designated as first alternate. A total of five alternates shall be allowed, ranked according to votes received, who shall be named to serve as representative in the event of the absence or incapacity of an elected representative.

(e) The Elections Committee shall supervise and direct the work of the tellers in the counting of ballots. Several sets of tellers shall be named, each set to consist of four persons, two to look over each ballot together while one reads it aloud, and two to record the vote on the tally sheet. The Elections Committee Chair shall combine the results from the tellers into a final election report which shall be announced to the Meeting. Tellers shall maintain strict secrecy as to the outcome of the voting until such time as the final report is given to the Meeting.

(f) The Elections Committee Chair shall be responsible for the safety and custody of the ballots along with tally sheets, and turn them over to the Presiding Officer to be held for at least 24 hours.

(g) Each State Representative and alternate elected to attend the National Conference shall be issued a certificate attesting thereto which shall be signed by the Chair of the Coordinating Committee and the Recording Secretary of the State Meeting.

Subpart D—Conduct of the State Meeting

§ 1904.18 Discussion groups.

(a) Workshops or other scheduled discussion groups shall have a Chair and a Recorder and shall be conducted under the procedures set out in §§ 1904.10–1904.12 above.

(b) Recommendations for action by the scheduled work groups or by the Coordinating Committee. Proposals for action from any other source may be entertained only after a majority vote to consider.

§ 1904.19 Doorkeepers and timekeepers.

Doorkeepers shall require the showing of registration badges for admission to the Meeting. The timekeepers shall indicate to each speaker the expiration of the time allowed.

§ 1904.20 Credentials Committee.

The Credentials Committee shall be responsible for requiring proper information for registration, and shall have authority to decide any registration question. It shall report the registration to the State Meeting as scheduled in the printed program or as requested by the Presiding Officer.

§ 1904.21 Minutes.

(a) Accurate and detailed minutes shall be kept on the plenary sessions, which shall be submitted to the Commission.

(b) The Recording Secretary, the Chair of the Coordinating Committee, and the Presiding Officer shall be authorized to give final approval to the minutes. The Chair of the Coordinating Committee shall be responsible for furnishing a copy of the minutes to the Presiding Officer of the Commission within 30 days after the close of the State Meeting.

§ 1904.22 Parliamentary authority.

In matters not covered by these rules, Roberts Rules of Order, Newly Revised, shall be the parliamentary authority.

Dated: February 2, 1977.

ELIZABETH ATHANASAKOS,
Presiding Officer, National Commission on the Observance of International Women's Year.

[FR Doc.77-3636 Filed 2-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for Six Butterflies and Two Plants

The Director, United States Fish and Wildlife Service (hereinafter, the Director and the Service, respectively) hereby issues a Proposed Rulemaking which would determine Critical Habitat for the Lotis Blue Butterfly (*Lycaeides argyrognomon lotis*), Lange's Metalmark Butterfly (*Apodemia mormo langei*), San Bruno Elfin Butterfly (*Callophrys mossii bayensis*), Mission Blue Butterfly (*Icaricia icarioides missionensis*), Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*), El Segundo Blue Butterfly (*Shijimiaeoides battoides allyni*), Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*), and the Antioch Dunes Evening Primrose (*Oenothera deltoides* ssp. *howellii*). This Proposal is issued pursuant to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884; hereinafter the Act).

BACKGROUND

All eight species herein considered are denizens of coastal California and are species whose habitats have been severely impacted by man's activities. For the butterflies, maintenance of sufficiently large areas containing their caterpillar food plants and adult nectar plants is necessary for their continued survival. For the plants, maintenance of sufficiently large areas with proper soil type and exposure and sufficiently large areas to maintain populations of the appropriate insect pollinators is necessary. The Service recognizes that areas containing such sites may qualify for recognition as Critical Habitat as referred to in section 7 of the Act.

The areas delineated below are known to have been populated by these insects and plants in recent years or are known to contain significant populations of the insect's caterpillar food, plants. It is emphasized that these areas may not represent all of what may be the overall Critical Habitat of these species in the United States, and additional areas may be proposed for designation in the future.

Information which enabled delineation of the Critical Habitat zones proposed herein was derived from the personal knowledge of Dr. Paul A. Opler (Staff Biologist, FWS/OES), published scientific papers, and an unpublished report prepared for the California Department of Food and Agriculture by Mr. Julian Donahue (National History Museum of Los Angeles County).

EFFECTS OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term "Critical Habitat" was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764–17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with Section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critictal Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to Section 7 of the Act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted be as accurate as possible in delineating the Critical Habitats of the Lotis Blue Butterfly, Lange's Metalmark Butterfly, San Bruno Elfin Butterfly, Mission Blue Butterfly, Smith's Blue Butterfly, El Segundo Blue Butterfly, Contra Costa Wallflower, and the Antioch Dunes Evening Primrose. The Director, therefore, desires, to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these Proposed Rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this Proposal.

ENVIRONMENTAL ASSESSMENT

An environmental assessment, prepared in conjunction with this proposal, is on file in the Service's Office of Endangered Species, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined there during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this Rulemaking by submitting written comments preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments received no later than April 8, 1977, will be considered. The Service will attempt to acknowledge receipt of comments, but substantive responses to individual comments may not be provided. Comments received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street, N.W., Washington, D.C.

Dated: January 21, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend 50 CFR Part 17:

1. By amending the table of sections for Subpart I of Part 17 to read as follows:

Subpart I—Interagency Cooperation

Sec.
17.95 Critical Habitat.
17.96 Plants.

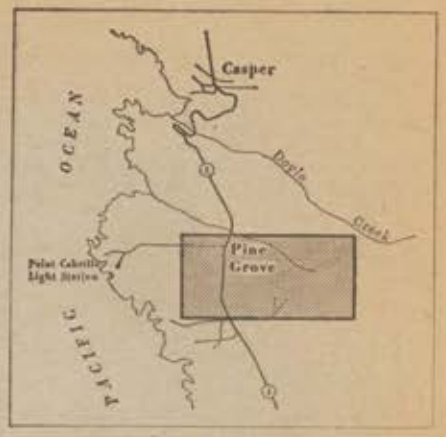
2. By adding new § 17.95(i), 1–6 and § 17.96, a and b reading as follows:

§ 17.95 **Critical habitat.**

* * * * *

(i) *Insecta.*—(1) *Lotis Blue Butterfly.* The following area is Critical Habitat for the Lotis Blue Butterfly (*Lycaeides argyrognomon lotis*):

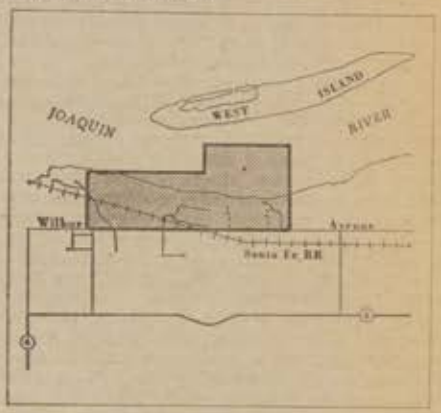
California—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in Mendocino County with the following components: T17N R17W SW¼ of Sec. 7, SE¼ of Sec. 12.



PROPOSED CRITICAL HABITAT FOR LOTIS BLUE BUTTERFLY

(2) *Lange's Metalmark Butterfly.* The following area is Critical Habitat for the Lange's Metalmark Butterfly (*Apodemia mormo langei*):

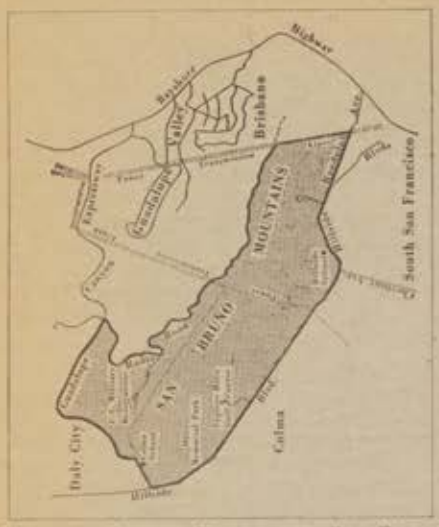
California—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County with the following components: T2N R2E SW¼ Sec. 17, E½ of S½ Sec. 18.



PROPOSED CRITICAL HABITAT FOR LANGE'S METALMARK BUTTERFLY

(3) *San Bruno Elfin Butterfly.* The following area is Critical Habitat for the San Bruno Elfin Butterfly (*Callophrys mossii bayensis*):

California—an area of land, water, and airspace (exclusive of those existing man-made structures or settlements which are not necessary to the survival or recovery of the species) in San Mateo County with the following components: all that portion of the San Bruno Mountains (excluding Cypress Hills Golf Course, Olivet Memorial Park, Hillside School and Colma School) bounded by a line extending along Guadalupe Canyon Expressway from its junction with Hillside Boulevard to its junction with Radio Road, thence along Radio Road to its terminus, thence southeastwardly along an unimproved dirt road which runs down the highest ridge of the mountains for about two miles to its intersection with a triple-pole power-line, thence southwardly along the power-line right-of-way to its intersection with Randolph Avenue to its intersection with Hillside Boulevard, thence northwestwardly along Hillside Boulevard to its intersection with Guadalupe Canyon Expressway.



PROPOSED CRITICAL HABITAT FOR SAN BRUNO ELFIN BUTTERFLY

(4) *Mission Blue Butterfly.* The following areas are Critical Habitat for the Mission Blue Butterfly (*Icaricia icarioides missionensis*):

California—Twin Peaks Zone: An area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in San Francisco County, with the following components: an area bounded by a line extending from the junction of Mountain Spring Street and Twin Peaks Boulevard southwardly along Twin Peaks Boulevard to its junction with Panorama Road, thence westwardly along Panorama Road to its junction with Midcrest Way, thence northeastwardly along Midcrest Way to its junction with Cityview Way, thence westwardly along Cityview Way to its junction with Skyview Way, thence northwardly along Skyview Way to its junction with Aquavista Way, thence northwardly along Aquavista Way to its junction with Marview Way, thence northwardly along Marview Way to its junction with Palo Alto Avenue, thence westwardly along Palto Alto Avenue to its junction with Glenbrook Avenue, thence northeastwardly along Glenbrook Avenue to its junction with Mountain Spring Street, thence eastwardly along Mountain Spring Street to its junction with Twin Paks Boulevard.



PROPOSED CRITICAL HABITAT FOR MISSION BLUE BUTTERFLY (Twin Peaks Zone)

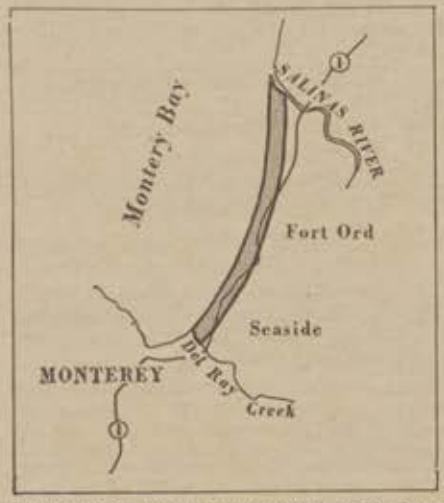
San Bruno Mountains Zone: An area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in San Mateo County, with the following components: an area enclosed within a line extending from the junction of Guadalupe Canyon Expressway and Bayshore Highway, thence southwardly along Bayshore Highway to Randolph Avenue, thence northwestwardly along Randolph Avenue to its junction with Hillside Boulevard, thence northwestwardly along Hillside Boulevard to its junction with Guadalupe Canyon Expressway, thence eastwardly along Guadalupe Canyon Expressway to its junction with Bayshore Highway.



PROPOSED CRITICAL HABITAT FOR MISSION BLUE BUTTERFLY (SAN BRUNO MOUNTAINS ZONE)

(5) *Smith's Blue Butterfly.* The following area is Critical Habitat for the Smith's Blue Butterfly (*Shijimiaeoides enoptes smithi*):

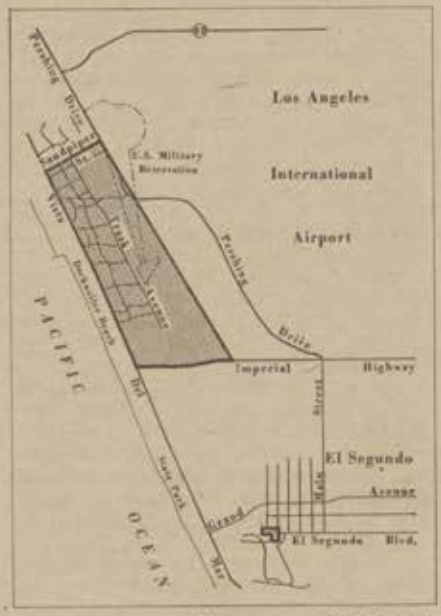
California—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Monterey County with the following components: an elongate strip of coastal sand dunes, extending one kilometer inland in a westward direction from the Pacific Ocean (mean higher high tide line), bounded by Del Rey Creek on the south and the Salinas River on the north.



PROPOSED CRITICAL HABITAT FOR SMITH'S BLUE BUTTERFLY

(6) *El Segundo Blue Butterfly.* The following areas are Critical Habitat for the El Segundo Blue Butterfly (*Shijimiaeoides battoides allyni*):

California—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Los Angeles County, with the following components: (1) An area to the east of Los Angeles International Airport bounded by a line extending from the junction of Vista Del Mar and Sandpiper Street westwardly along Sandpiper Street to its junction with Pershing Drive, thence southwestwardly along Sandpiper Street to its tion to the junction of Imperial Highway and Hillcrest Street, thence westwardly along Imperial Highway to its junction with Vista Del Mar, thence northwestwardly along Vista Del Mar to its juunction with Sandpiper Street; (2) A two-acre area of natural sand dune to the south of and abutting the western terminus of EL Segundo Boulevard (118°25'0'' W Long., 33°55'0'' N Lat.) in El Segundo.



PROPOSED CRITICAL HABITAT FOR EL SEGUNDO BLUE BUTTERFLY

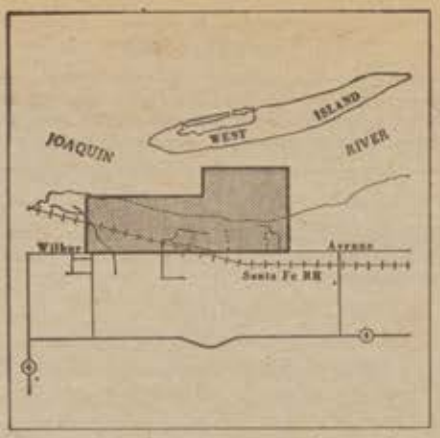
§ 17.96 Plants.

(a) Contra Costa Wallflower. The following area is Critical Habitat for the Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*):

California—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County, with the following components: T2N R2E SW¼ Sec. 17, E½ of S½ Sec. 18.

(b) Antioch Dunes Evening Primrose. The following area is Critical Habitat for the Antioch Dunes Evening Primrose (*Oenothera deltoides* ssp. *howellii*):

California—an area of land, water, and airspace (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) in Contra Costa County, with the following components: T2N R2E SW¼ Sec. 17, E½ of S½ of Sec. 18.



PROPOSED CRITICAL HABITAT FOR CONTRA COSTA WALLFLOWER AND ANTIOCH DUNES EVENING PRIMROSE

[FR Doc.77-3635 Filed 2-7-77;8:45 am]

notices

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

DEPARTMENT OF AGRICULTURE

Forest Service

DRAFT ENVIRONMENTAL STATEMENT COOPERATIVE SPRUCE BUDWORM SUPPRESSION PROJECT—MAINE 1977

Availability of Draft Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service has prepared a Draft Environmental Statement for the 1977 Cooperative Spruce Budworm Suppression Project in Maine, USDA-FS-NA(Adm.) NA-77-01.

The Draft Statement concerns a proposed cooperative suppression project on a maximum of 930,000 acres of State and private woodlands in Aroostook, Franklin, Oxford, Penobscot, Piscataquis, Somerset, and Washington counties, Maine, to protect forest resources from unacceptable damage by the spruce budworm. Registered use of chemical insecticides, silvicultural practices to reduce infestation potential, accelerated logging to reduce losses, normal forest management practices, and an integrated pest management system are the alternatives being considered to accomplish the objective.

This Draft Statement was filed with CEQ on January 31, 1977.

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

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave., SW., Washington, DC 20250.

USDA, Forest Service, 6816 Market Street, Upper Darby, PA 19082.

A limited number of single copies are available upon request to Robert D. Raisch, Area Director, Northeastern Area, State and Private Forestry, 6816 Market Street, Upper Darby, Pennsylvania 19082.

Copies of the Draft Environmental Statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

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

Comments concerning the proposed action and requests for additional information should be addressed to Robert D. Raisch, Area Director, U.S. Forest Service, Northeastern Area, State and Private Forestry, 6816 Market Street, Upper Darby, Pennsylvania 19082. Telephone: 215/596-1640. Comments must be received by March 31, 1977 in order to be considered in preparation of the Final Statement.

Dated: January 31, 1977.

ALFRED H. TROUTT,
Acting Area Director, NA-S&PF.

[FR Doc.77-3837 Filed 2-7-77;8:45 am]

EVANS NOTCH UNIT PLAN WHITE MOUNTAIN NATIONAL FOREST

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on the Evans Notch Unit Plan for the White Mountain National Forest, USDA-FS-R9-DES-(ADM)-76-05.

The environmental statement concerns a proposed land use plan for 51,000 acres of Forest Service land located on the White Mountain National Forest in Oxford County in the State of Maine and Carroll and Coos Counties in the State of New Hampshire.

This final environmental statement was transmitted to CEQ on January 28, 1977.

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

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. & Independence Ave., SW, Washington, D.C. 20250.

USDA, Forest Service, Eastern Region 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203.

USDA, Forest Service, White Mountain National Forest, Federal Building, 719 Main St., P.O. Box 638, Laconia, New Hampshire 03246.

A limited number of single copies are available upon request to Forest Supervisor, White Mountain National Forest, Federal Building, 719 Main Street, P.O. Box 638, Laconia, New Hampshire 03246.

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

JAMES H. FREEMAN,
Director, Programing and Land Use Planning.

JANUARY 28, 1977.

[FR Doc.77-3717 Filed 2-7-77;8:45 am]

WESTERN SPRUCE BUDWORM SUPPRESSION AND EVALUATION

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Western Spruce Budworm Suppression and Evaluation, mostly on the Santa Fe National Forest, New Mexico, USDA-FS-R3 DES Adm 77-03.

The environmental statement considers a proposed plan to evaluate western spruce budworm on 81,500 acres of Federal and Indian lands, mostly on the Santa Fe National Forest, New Mexico.

The draft environmental statement was transmitted to CEQ on January 31, 1977.

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

USDA, Forest Service, So. Agricultural Bldg., Rm. 3230, 14th and Independence Ave., SW, Washington, D.C. 20250.

USDA, Forest Service, Southwestern Region, 517 Gold Avenue, SW, Albuquerque, N. Mex. 87102.

Santa Fe National Forest, Federal Building, Santa Fe, N. Mex. 87501.

A limited number of single copies are available upon request to Regional Forester, U.S. Forest Service, Southwestern Region, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102.

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

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

Comments concerning the proposed action and requests for additional information should be addressed to Donald P. Graham, Director, Forest Insect and Disease Management, U.S. Forest Service, 517 Gold Avenue, SW, Albuquerque, New Mexico 87102.

GARY E. CARGILL,
Acting Regional Forester, Region 3.

JANUARY 31, 1977.

[FR Doc.77-3838 Filed 2-7-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and

end at 10:00 p.m. on March 17, 1977, at I-95 Maine Turnpike Exit 12 Washington Street, Auburn, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of Committee projects and follow-up to Committee's conference on the banking project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee,
Management Officer.

[FR Doc.77-3831 Filed 2-7-77;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 12:30 a.m. and end at 5:00 p.m. on March 3, 1977, at Jewish Labor Committee, 27 School Street, Boston, Massachusetts.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of Committee projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3832 Filed 2-7-77;8:45 am]

MISSOURI ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 9:00 p.m. on February 25, 1977, and will reconvene at 9:30 a.m. and end at 3:30 p.m. on February 26, 1977, at the Holiday Inn, City Center, 1301 Wyandotte Street, Kansas City, Missouri 64105.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Room 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to plan new program activities for the fiscal year, and followup on prevous projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 31, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3835 Filed 2-7-77;8:45 am]

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and end at 3:00 p.m. on February 23, 1977, at Wesley House, 2001 N 35th Street, Omaha, Nebraska 68111.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central Regional Office of the Commission. Old Federal Office Building, 911 Walnut Street, Room 31003, Kansas City, Missouri 64106.

The purpose of this meeting is program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3829 Filed 2-7-77;8:45 am]

NEW JERSEY ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and end at 10:00 p.m. on March 3, 1977, at the Ramada Inn, New Brunswick, New Jersey.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of Committee projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3834 Filed 2-7-77;8:45 am]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) of the Commission will convene at 8:00 p.m. and end at 11:00 p.m. on February 25, 1977 and convene at 10:00 a.m. and end at 4:00 p.m. on February 26, 1977, at Cleveland Plaza Hotel 12th and Euclid Street, Cleveland, Ohio 44115.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of these meetings is for orientation for newly appointed members and to further develop the 1st phase for the Comprehensive study of the problems of Cleveland. Complete the organization of project proposal on the Affirmative Action programs in Cleveland as they relate to Federal funding.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3833 Filed 2-7-77;8:45 am]

VERMONT ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Vermont Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and end at 10:00 p.m. on March 28, 1977, at Tavern Motor Inn, Montpelier, Vermont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeast Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss status of Committee projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 2, 1977.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.77-3830 Filed 2-7-77;8:45 am]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public

Law 92-463, notice is hereby given that the Advisory Committee on Administrative Law Judges will meet at 10 a.m. on Friday, February 25, 1977. This meeting will be held in the Commission meeting room, enter Room 5H09, of the U.S. Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Advisory Committee's agenda will consist of a discussion of the application procedure for ALJ appointment including, recruitment efforts, the voucher system as a means of soliciting opinions on applicant qualifications, the evaluation and grading of applications, the merits of the written examination and the oral interview, the procedure for selecting interview panelists, the adequacy of the appeals procedure, and the time factors involved during the various application stages before appointment; and such other matters as members of the Advisory Committee may wish to discuss including issues to be considered at future meetings.

This meeting will be open to the public.

Inquiries regarding this notice may be addressed to Arthur L. Burnett, Assistant General Counsel, Legal Advisory Division, Office of General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, telephone: Area Code 202-632-5421 or 632-5422.

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

[FR Doc.77-3948 Filed 2-7-77;8:45 am]

DEPARTMENT OF COMMERCE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commisison revokes the authority of the Department of Commerce to fill by noncareer executive asignment in the excepted service the position of Associate Director (Planning and Coordination), Office of Policy Development, Office of the Secretary.

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

[FR Doc.77-3787 Filed 2-7-77; 8:45 am]

DEPARTMENT OF THE NAVY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary of the Navy, Immediate Office of the Secretary of the Navy.

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

[FR Doc.77-3785 Filed 2-7-77;8:45 am]

DEPARTMENT OF THE NAVY

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Deputy Under Secretary of the Navy, Office of the Secretary of the Navy.

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

[FR Doc.77-3786 Filed 2-7-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, February 24, 1977, at 9:00 a.m., in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Discussion of work program, including classification methods for foreign availability and technical classification.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before of after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of national security. All materials to be reviewed and discussed by the Committee during Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: AC/ 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof is hereby published.

Dated: February 3, 1977.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, United States Department of Commerce.

COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

DETERMINATION

In response to written requests of representatives of a substantial segment of the computer industry, the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established by the Secretary of Commerce pursuant to section 5(c)(1) of the Export Administration Act of 1969, 50 U.S.C. App. 2404(c)(1) (Supp. V, 1975), to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has eleven members representing industry and seven members representing government agencies, will terminate no later than August 29, 1978, unless extended by the Secretary of Commerce or his designee. All members of the Committee have the appropriate security clearances.

The Committee's activities are conducted pursuant to 50 U.S.C. App. 2404 (c)(1), Pub. L. 94-362, 50 U.S.C. App. 5(b), Executive Order No. 11940, 15 CFR 390.1, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), the Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the Committee is concerned with matters listed in section 552(b) of Title 5 of the United States Code. Section 5(c) of the Government In the Sunshine Act Pub. L. 94-409, effective March 12, 1977, provides that advisory committee meetings or portions thereof may be exempt from the open meeting and public participation requirements of the Federal Advisory Committee Act if the President, or the head of the agency to which the Advisory Committee reports, determines that such portion of such meeting may be closed to the public in accordance with 5 U.S.C. 552b(c).

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, and is in fact properly classified pursuant to such Executive Order.

5 U.S.C. 552b(c)(1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order.

Notices of Determination authorizing the closing of meetings, or portions thereof, of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and its formal subcommittees, dealing with security classified matters, were approved on June 18, 1973 for meeting of July 9, 1973; on July 17, 1973 for the meeting of July 25, 1973; on August 21, 1973, for a series of meetings from August 21, 1973 through December 31, 1973; on December 26, 1973, covering a series of meetings for the period January 1, 1974 through April 30, 1974, on May 16, 1974, covering a series of meetings from May 1, 1974 through January 3, 1975; on December 16, 1974, covering a series of meetings from January 4, 1975 to January 3, 1976; and on November 25, 1975, for a series of meetings from January 4, 1976 to January 3, 1977.

In order to provide advice to the Department under the terms of its charter, the Committee and formal subcommittees thereof will continue to hold a series of meetings dealing with the matters set forth in the first paragraph of this Determination. These meetings will include discussions of the COCOM control list as it relates to the commodities and technical data under its purview, and with the foreign availability of these commodities and technical data. In addition, the Committee and its formal subcommittees will be preparing recommendations for the Department's consideration relating to the U.S. Government's negotiating position on COCOM-related matters. Much of the information relating to the COCOM control list, as well as proposed changes, is now or will be security classified for national defense or foreign policy reasons, pursuant to Executive Order No. 11652, 3 CFR 339 (1974). In order for the Committee and its formal subcommittees to provide required advice to the U.S. Government, it will be necessary to provide the Committee and its formal subcommitees with such classified material. Therefore, the portions of the series of meetings of the Committee and of subcommittees thereof that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, must be closed to the public. The remaining portions of the series of meetings will be open to the public.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94-409, that those portions of the series of meetings of the Committee and of any subcommittees thereof, dealing with the aforementioned classified materials shall be exempt, for the period from the date of the signing of this determination, to August 29, 1978, from the provisions of section 10 (a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subcommittee discussions will be concerned with matters listed in 5 U.S.C. 552(b)(1) and 5 U.S.C. 552b(c)(1). The remaining portions of the meetings will be open to the public.

Dated: January 27, 1977.

GUY W. CHAMBERLIN, JR.,
Acting Assistant Secretary for Administration.

ALFRED MEISNER,
Acting General Counsel.

[FR Doc.77-3927 Filed 2-7-77;8:45 am]

Maritime Administration

[Docket No. S-541]

WATERMAN STEAMSHIP CORP.

Application

Notice is hereby given that Waterman Steamship Corporation (Waterman) has filed an application before the Assistant Secretary of Commerce for Maritime Affairs, dated January 31, 1977, under section 805(a) of the Merchant Marine Act, 1936, as amended (the Act), for the grant of written permission for Tropigas Carriers, Inc., an affiliate of Waterman within the meaning of section 805(a) of the Act, to operate the chartered vessel MV *Tropigas Far East*, as liquified petroleum gas (LPG) carrier of approximately 2,900 tons, in the following coastwise or intercoastal services:

U.S. Gulf/East Coast trade for a maximum of five voyages in February and March of this year to supply the Atlantic Energy LPG terminal in Chesapeake, Virginia (a joint venture of Tropigas International Corp. and Commonwealth Natural Gas Co. Richmond).

Section 805(a) provides that every person, firm, or corporation having any interest in such application shall be permitted to intervene and that the Maritime Administration shall give a hearing to the applicant and intervenors. The statute further provides that no application shall be granted if the Maritime Administration finds that it will result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service or that it would be prejudicial to the purposes and policy of the Act.

In view of the nature of the trade involved, the immediacy with which the situation arose, and the current emergency situation with respect to the availability and transportation of fossil fuels in the Eastern United States, Waterman requests the most expeditious possible treatment of its application. On the basis of supportive data furnished by the applicant and otherwise available, the

Maritime Administration is of the opinion that the applicant's request for expeditious treatment of the application is justified.

Accordingly, on February 1, 1977, the Maritime Administration sought to contact all parties known to it to be engaged in coastwise or intercoastal service with vessels capable of participating in the proposed movement. The names of these parties are as follows:

Petro-Tex Chemical Corp.
Union Carbide Corporation
Warren Petroleum
Commonwealth Oil Refining Co.
Hendy International Co.
Hercules Inc.
Pittsburgh Plate Glass Co.
Marine Transport Lines
Distrigas Corporation
Collier Carbon and Chemical Corp.

Nine of the parties indicated that their vessels would be unavailable for the proposed movement, and indicated that they would not seek to intervene under section 805(a) of the Act in regard to Waterman's application. One party indicated that it would not object to the first voyage.

The Assistant Secretary of Commerce for Martime Affairs is of the opinion that the grant of written permission to Waterman is appropriate, in view of the relatively small amounts of commerce involved, the short term nature of the request, the present strain placed upon the energy delivery systems of the United States by the extreme weather conditions to the service proposal. There is no evidence that the grant of written permission would result in any unfair competition to any person, firm, or corporation engaged exclusively in coastwise or intercoastal trade or that such a grant would be prejudicial to the purposes and policy of the Act.

Accordingly on February 3, 1977, the Assistant Secretary, acting pursuant to delegated authority, granted written permission pursuant to section 805(a) to Waterman for its affiliate Tropigas Carriers, Inc. to operate the vessel MV *Tropigas Far East* on one voyage in the coastwise trade from a U.S. Gulf port to the port of Chesapeake, Virginia, carrying approximately 2,800 long tons of LPG, to commence on or about February 5, 1977, and to terminate on or about February 19, 1977.

On the foregoing basis, the Assistant Secretary is also prepared to grant written permission to Waterman for Tropigas Carriers, Inc. to operate the MV *Tropigas Far East* on not more than four additional voyages in such coastwise service, commencing on or about February 20, 1977, and terminating no later than April 30, 1977.

Any person, firm, or corporation, having an interest in the application within the meaning of section 805(a), and who would contest the above proposed action by the Assistant Secretary is invited to file by the close of business on February 15, 1977, a written statement showing cause why this action should not be taken. Any such party desiring an evidentiary hearing on the application pursuant to section 805(a) should set forth its interest in the application within the meaning of section 805(a), and articulate with particularity any showing it would make at such hearing, including any facts it would seek to demonstrate as indicative that the grant of written permission would result in unfair competition to any person, firm, or corporation engaged exclusively in coastwise or intercoastal service. Any such allegations of material issues of fact which the party wishes the Assistant Secretary to consider in a hearing shall include the grounds upon which such allegations rest, in such detail as to permit the Assistant Secretary to determine their exact nature.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS).)

Dated: February 3, 1977.

By order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-3999 Filed 2-7-77;8:45 am]

COMMISSION ON FEDERAL PAPERWORK

PRIVACY ACT OF 1974

Systems of Records

Pursuant to the provisions of Privacy Act of 1974, Public Law 93-579, 5 U.S.C. 552a, the Commission on Federal Paperwork, hereafter known as the Commission, hereby publishes for comment those system of records subject to the Privacy Act of 1974 which are maintained by the Commission. Any person interested in commenting on the routine use portions of the system notices may do so by submitting comments in writing to the Director, Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582. Comments should be submitted by March 10, 1977. The Commission on Federal Paperwork procedures for access to records in the systems are contained in FEDERAL REGISTER, Vol. 41, 152, p. 32774, August 5, 1976.

FRANK HORTON,
Chairman,
Commission on Federal Paperwork.

DECEMBER 23, 1976.

CFP-1

System name:

General Personnel Files—CFP.

System location:

Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582.

Categories of individuals covered by the system:

Past and present employees of the Commission; Commissioners of the Commission; experts and consultants who have been employed on an intermittent or temporary basis.

Categories of records in the system:

Informal personnel information, including: social security number, home address, home phone number, age, biographical data, resumes, letters of reference, and other documents.

Authority for maintenance of the system:

An Act to create a Commission on Federal Paperwork, Sec. 6, Pub. L. 93-556, 88 Stat. 1789.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records stored in file folders.

Retrievability:

Retrieved manually, by name of individual.

Safeguards:

Records are stored in locking metal file cabinets in secured premises; access is limited to those whose official duties require access.

Retention and disposal:

Records retained indefinitely.

System manager(s) and address:

Administrative Officer, Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582.

Notification procedure:

Address inquiries to Administrative Officer, at above address.

Record access procedures:

Same as above.

Contesting record procedures:

Same as above.

Record source categories:

Individual to whom records pertain; supervisors; official personnel records.

CFP-2

System name:

Financial Records—CFP.

System location:

General Services Administration, Central Office; copies held by the Commission. (GSA holds records for the Commission under agreement).

Categories of individuals covered by the system:

Commission employees; Commissioners; experts and consultants who have been employed on an intermittent or temporary basis.

Categories of records in the system:

SF 1038, Application and account for advance of funds; Vendor register and

vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; also An Act to establish a Commission on Federal Paperwork, Sec. 3, 6, Pub. L. 93-556, 88 Stat. 1789 (44 U.S.C. 3501).

Routine uses of records maintained in the system, including categories of users and the purposes of uses:

See appendix Records also are released to General Accounting Office for audits; to the Internal Revenue Service for investigations and to private attorneys, pursuant to power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager(s) and address:

Administrative Officer, Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582.

Notification procedure:

Address inquires to Administrative Officer at the above address.

Record access procedures:

Same as above.

Contesting record procedures:

Same as above.

Record source categories:

The subject individual; the Commission.

Systems exempted from certain provisions of the act:

None.

CFP-3

System name:

Payroll Records—Commission on Federal Paperwork.

System location:

General Services Administration, Region 3 Office; copies held by the Commission. (GSA holds records for the Commission under contract.)

Categories or records maintained in the system:

Varied payroll records, including among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records, requests for deduction; tax forms, W-2 forms, overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees, and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for the system:

31 U.S.C., generally. Also An Act to establish a Commission on Federal Paperwork, Secs. 3, 6, Pub. Law 93-556, 88 Stat. 1789, (44 U.S.C. 3501).

Routine use of records:

See Appendix. Records also are disclosed to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W-2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Director, Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the General Counsel, Commission on Federal Paperwork.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with Section 7 of the Privacy Act, Public Law 93-579.

Policies and practices for storing and retrieving, accessing, retaining and disposing of records in the system:

(1) *Storage:* Paper and microfilm.

(2) *Retrievability and accessing:* Social Security Number.

(3) *Safeguards:* Stored in guarded building; released only to authorized personnel.

(4) *Retention and disposal:* Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System (OAD P 1820.2).

System manager:

Administrative Officer, Commission on Federal Paperwork, 1111 20th St., N.W., Suite 200, Washington, D.C. 20582.

Notification procedures:

Refer to Commission access regulations contained in Federal Register, Vol. 41, 152, p. 32774, August 5, 1976.

Record access procedures:

Refer to Commission access regulations contained in Federal Register, Vol. 41, 152, p. 32774, August 5, 1976.

Contesting records procedures:

Refer to Commission access regulations contained in Federal Register, Vol. 41, 152, p. 32774, August 5, 1976.

Categories of sources of records in the system:

The subject individual; the Commission.

APPENDIX

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaint examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement or a grievance, complaint or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of federal personnel management.

A record from this system of records may be disclosed to officers and employees of a federal agency for purposes of audit.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

[FR Doc.77-3798 Filed 2-7-77;8:45 am]

COMMUNITY SERVICES ADMINISTRATION

CSA PROCEDURES FOR THE FEDERAL PROJECT NOTIFICATION AND REVIEW SYSTEM

Waiver of Clearinghouse Notification Requirements for Projects Funded Under the Economic Opportunity Act of 1964

Notice is hereby given that the Community Strvices Administration has received from the Office of Management and Budget a procedural variation from the normal notification processes for funding of Emergency Energy Conservation projects under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended. Due to the need to assure immediate operations of projects at the local and State levels which will provide relief for those suffering hardships resulting from the unusually severe weather conditions across the country, OMB has approved a waiver of the A-95 notification and review process for all applications for section 222(a)(12) funds including those applications currently under review by clearinghouses. Therefore, applications may be submitted directly to the appropriate CSA Administering Office for immediate processing without initiating or completing clearinghouse review. However, applicants are urged to forward copies of all applications to clearinghouses for their information.

ROBERT C. CHASE,
Acting Director.

[FR Doc.77-3892 Filed 2-7-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JANUARY 31, 1977.

The USAF Scientific Advisory Board ad hoc Committee on the EF-111A will hold meetings at Kirtland AFB, New Mexico on March 1 and 2, 1977 from 9:00 a.m. to 5:00 p.m. each day.

The Committee will receive classified briefings and hold classified discussions on the EF-111A.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-3881 Filed 2-7-77;8:45 am]

Department of the Army

DEPARTMENT OF THE ARMY HISTORICAL ADVISORY COMMITTEE

Open Meeting

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee.
Date: 1 April 1977.
Place: Conference Room, 6A-097, Forrestal Building, Washington, D.C. 20314.
Time: 1000-1140; 1345-1515.
Proposed agenda: 1000-1140—Review of historical activities; 1345-1515—Discussion of activities and executive session of the committee.
Purpose of meeting: The committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations to the Secretary of the Army for advancing the purposes of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the April 1 meeting.

3. Any member of the public may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to LTC D. A. Roberts, Advisory Committee Management Officer for the Chief of Military History, Room 6B-018, Forrestal Building, Washington, D.C. 20314.

Dated: January 25, 1977.

DONALD A. ROBERTS,
LTC, AD Executive Officer.

[FR Doc.77-3883 Filed 2-7-77;8:45 am]

US ARMY MILITARY HISTORY RESEARCH COLLECTION ADVISORY COMMITTEE

Open Meeting

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of committee: US Army Military History Research Collection Advisory Committee.
Date of meeting: 22 April 1977.
Place: Upton Hall, Carlisle Barracks, Pennsylvania.
Time: 0900-1645, 22 April 1977.
Proposed agenda: 0900-1515—Review of Military History Research Collection activities; 1515-1645—Executive session.
Purpose of meeting: The Committee will review the activities of the US Army Military History Research Collection (MHRC) activities during the past year based on reports and records and will formulate a recomendation to the Secretary of the Army for the advancement and development of MHRC.

2. Meetings of the Advisory Committee are open to the public. Public attendance, depending on available space, may be limited to those persons who have notified the Advisory Committee Management Officer in writing, at least 5 days prior to the meeting of their intention to attend the April 22 meeting.

3. Any person may file a written statement with the Committee before, during or after the meeting. To the extent that time permits the Committee Chairman may allow public presentation of oral statements at the meeting.

4. All communications regarding this Advisory Committee meeting should be addressed to: LTC James Shepard, Advisory Committee Management Officer for the US Army Military History Research Collection, USAMHRC, Carlisle Barracks, Pennsylvania 17013.

Dated: January 25, 1977.

DONALD A. ROBERTS,
LTC, AD, Executive Officer.

[FR Doc.77-3884 Filed 2-7-77;8:45 am]

Department of the Navy

RICHARD A. MORIN

Intent To Grant Limited Exclusive Patent License

Pursuant to the provisions of Part 746 of Title 32, Code of Federal Regulations (41 FR 55711-55714, December 22, 1976) the Department of the Navy announces its intention to grant to Richard A. Morin of Buffalo, New York, a revocable, nonassignable, exclusive license for a period of five years under United States Patent Number 3,698,591 entitled "Pressure Chamber Closure" issued October 17, 1972, to inventors Richard A. Morin and Edward H. Lanphier.

This license will be granted unless on or before April 11, 1977 an application for a nonexclusive license from a responsible applicant is received by the Office of Naval Research (Code 302), Arlington, VA 22217 and the Chief of Naval Research or his designee determines that such applicant has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or the Chief of Naval Research or his designee determines that a third party has presented to the Office of the Naval Research (Code 302) evidence and argument which has established that it would

not be in the public interest to grant the exclusive license.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed to the Office of Naval Research (Code 302), Arlington, VA 22217 on or before April 11, 1977. Also, copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Dated: January 31, 1977.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.77-3836 Filed 2-7-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 683-7]

MOTOR VEHICLE POLLUTION CONTROL; RECALL ORDER—CHRYSLER CORPORATION

Public Hearing

Section 207(c)(1) of the Clean Air Act, as amended (hereinafter the "Act") (42 U.S.C. 1857f-5a(c)(1)), provides in part that:

> If the Administrator determines that a substantial number of any class or category of vehicles or engines, although properly maintained and used, do not conform to the regulations prescribed under section 202 [1857f-1], when in actual use throughout their useful life (as determined under section 202(d) [1857f-1(d)]), he shall immediately notify the manufacturer thereof of such nonconformity, and he shall require the manufacturer to submit a plan for remedying the nonconformity of the vehicles or engines with respect to which such notification is given. The plan shall provide that the nonconformity of any such vehicles or engines which are properly used and maintained will be remedied at the expense of the manufacturer. If the manufacturer disagrees with such determination of nonconformity and so advises the Administrator, the Administrator shall afford the manufacturer and other interested persons an opportunity to present their views and evidence in support thereof at a public hearing.

By letter dated December 8, 1976, pursuant to section 207(c)(1) of the Act, as implemented by 40 CFR 85.1802(a), the Chrysler Corporation was notified that the Administrator of the Environmental Protection Agency (EPA) had determined that a substantial number of vehicles in Chrysler's 1975 F-B2-C and F-LA2L-C, CII and CIII engine families although properly maintained and used do not conform with the 1975 Federal standard of 15 grams per mile (g/m) for carbon monoxide (CO) emissions when in actual use throughout their useful life. Chrysler was therefore notified that a nonconformity exists and was ordered to submit a plan for remedying the nonconformity. Such plan was to be submitted no later than forty-five days after receipt of the December 8 letter.

The Chrysler engine families named above include vehicles equipped with 360 and 400 cubic inch displacement (CID) engines, two barrel carburetors, and catalytic converters. The Administrator's determination was based upon data from state Inspection/Maintenance programs, EPA's Emission Factor Program, and EPA's confirmatory test program at Olson Laboratories. These data indicate that carburetor idle CO misadjustment is the primary cause of the nonconformity. EPA's investigation into this matter has led to the determination that these misadjustments are occurring in in-use vehicles which have been properly maintained by owners.

The available information indicates that in the first year of operation of these vehicles, carburetor misadjustments are routinely performed by Chrysler dealerships. In addition, EPA's investigation has concluded that vehicles are misadjusted whether maintained at dealerships or non-dealer service facilities as a result of Chrysler's carburetor idle system design and carburetor adjustment procedures. In particular, EPA has found that the idle system is sensitive to small adjustment of the idle mixture screw and engine temperature, which facilitates improper adjustment. It is EPA's judgment that Chrysler is responsible for these carburetor misadjustments because Chrysler should have foreseen that its carburetor design and adjustment procedures would cause widesperad misadjustments. In addition, it is EPA's view that authorized dealerships of Chrysler are acting as Chrysler's agents in performing service, repair, or adjustment of Chrysler vehicles and therefore Chrysler is liable for any improper adjustments performed by such dealerships.

By letter dated January 19, 1977, the Chrysler Corporation stated that they disagree with the Administrator's finding of nonconformity and requested a public hearing seeking withdrawal of the Administrator's determination of nonconformity. As discussed in the letter of January 19, the basis upon which Chrysler contests the Administrator's order is as follows:

(i) EPA data indicate that the vehicles in question conform to the standard when properly adjusted to Chrysler's specifications.

(ii) As a matter of law, a vehicle which is not properly adjusted to Chrysler specifications cannot be considered "properly maintained" as the term is used in section 207(c) of the Act.

(ii) A manufacturer is not responsible for improper adjustments whether or not such improper adjustments are foreseeable.

(iv) Chrysler authorized dealerships do not act as agents of Chrysler in performing service, repair or adjustments of Chrysler vehicles and Chrysler is not liable for any actions of its dealers.

(v) By issuing a certificate of conformity EPA approved the carburetor design and adjustment procedures for the vehicles in question. EPA cannot now argue that the design or adjustment procedures were improper or that they caused the nonconformities of the vehicles in question.

(vi) Chrysler's carburetor design and adjustment procedures are acceptable within the state-of-the-art existing when 1975 model year emission control systems were designed, are similar to those found on other competitive vehicles, and the idle adjustment procedure is not overly difficult and is capable of providing accurate settings in the field.

(vii) Data from state inspection and maintenance programs cannot be used to establish nonconformities since the test procedure used is not the Federal Test Procedure (FTP) and does not correlate with the FTP and the data do not indicate the maintenance history of the vehicles.

(viii) Data from EPA's Emission Factor Program cannot be used to establish nonconformities since the test procedure used is not fully in accordance with the FTP and the maintenance history of the vehicles is not fully known.

(ix) EPA has failed to establish a statistically valid basis for concluding that a substantial number of vehicles do not conform to regulations under section 202 of the Act.

Pursuant to the request of the Chrysler Corporation, a public hearing will be held to consider those issues raised by Chrysler. The regulations governing this hearing can be found in 40 CFR 85.1807. The date and location of the hearing will be announced after a decision of the hearing will be announced after a decision has been made on all petitions for intervention.

Any person desiring to intervene in the hearing must file a petition setting forth the facts and reasons why he thinks he should be permitted to intervene. All such petitions (an original plus two copies) must be filed with the Hearing Clerk at the address given below, by March 7, 1977, and must conform to the requirements of 40 CFR 85.1807(g). A copy of all such petitions must be served on all parties. Any opposition to a petition for intervention must be filed with the Hearing Clerk within (5) days of such service.

Any paper or document required or permitted to be filed with the Hearing Clerk should be mailed to: Hearing Clerk, U.S. Environmental Protection Agency (A-110), Room 1019E, 401 M Street, S.W., Washington, D.C. 20460. Documents on file with the Hearing Clerk are available for review by the public in the Office of the Hearing Clerk on working days between the hours of 8:00 am and 4:30 pm.

Documents or papers to be served upon the Director of Mobile Source Enforcement Division should be mailed to: Director, Mobile Source Enforcement Division, U.S. Environmental Protection Agency (EN-340), 401 M Streets, S.W., Washington, D.C. 20460.

Documents or papers to be served upon the Chrysler Corporation should be mailed to: Michael W. Grice, Esquire, Office of the General Attorney, Chrysler Corporation, P.O. Box 1919, Detroit, Michigan 48231; or James A. Hourihan, Esquire, Hogan & Hartson, 815 Conneci-

cut Avenue, N.W., Washington, D.C. 20006.

Dated: January 31, 1977.

STANLEY W. LEGRO,
Assistant Administrator for Enforcement (EN-329).

[FR Doc.77-3873 Filed 2-7-77;8:45 am]

[FRL 683-6; OPP-33000/49]

RECEIPT OF APPLICATION FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (39 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended ["Interim Policy Statement"]. On January 22, 1976, EPA published in the FEDERAL REGISTER a document entitled "Registration of a Pesticide Product—Consideration of Data by the Administrator in Support of an Application" [41 FR 3339]. This document described the changes in the Agency's procedures for implementing section 3(c)(1)(D) of FIFRA, as set out in the Interim Policy Statement, which were effectuated by the enactment of the recent amendments to FIFRA on November 28, 1975 [Pub. L. 94-140], and the new regulations governing the registration and re-registration of pesticides which became effective on August 4, 1975 [40 CFR Part 162].

Pursuant to the procedures set forth in these FEDERAL REGISTER documents, EPA hereby gives notice of the applications for pesticide registration listed below. In some cases these applications have recently been received; in other cases, applications have been amended by the submission of additional supporting data, the election of a new method of support, or the submission of new "offer to pay" statements.

In the case of all applications, the labeling furnished by the applicant for the product will be available for inspection at the Environmental Protection Agency, Room 209, East Tower, 401 M Street, S.W., Washington DC 20460. In the case of applications subject to the new section 3 regulations, and applications not subject to the new section 3 regulations which utilize either the 2(a) or 2(b) method of support specified in the Interim Policy Statement, all data citations submitted or referenced by the applicant in support of the application will be made available for inspection at the above address. This information (proposed labeling and, where applicable, data citations) will also be supplied by mail, upon request. However, such a request should be made only when circumstances make it inconvenient for the inspection to be made at the Agency offices.

Any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after January 1, 1970, is being used to support an application described in this notice, (c) desires to assert a claim under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data or the status of such data under section 10 must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Product Control Branch, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the Interim Policy Statement of November 19, 1973.

Specific questions concerning applications made to the Agency should be addressed to the designated Product Manager (PM), Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone as follows:

PM 11, 12, & 13—202/755-9315
PM 21 & 22—202/426-2454
PM 24—202/755-2196
PM 31—202/426-2635
PM 33—202/755-9041
PM 15, 16, & 17—202/426-9425
PM 23—202/755-1397
PM 25—202/426-2632
PM 32—202/426-9486
PM 34—202/426-9490

The Interim Policy Statement requires that claims for compensation be filed by April 11, 1977. With the exception of 2(c) applications not subject to the new section 3 regulations, and for which a sixty-day hold period for claims is provided, EPA will not delay any registration pending the assertion of claims for compensation or the determination of reasonable compensation. Inquiries and assertions that data relied upon are subject to protection under Section 10 of FIFRA, as amended, should be made within 30 days subsequent to publication of this notice.

Dated: February 1, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

APPLICATIONS RECEIVED (OPP-33000/491)

EPA Reg. No. 11037-14. Hacienda Enterprises, 565 Charles St., San Jose CA 95112. HACIENDA FRUIT AND VEGETABLE INSECT SPRAY. Active Ingredients: O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosporothioate 25.00%; Xylene 56.00%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Revised offer to pay statement submitted. PM15

EPA File Symbol 11659-E. Walling Chemical Co., 415 Falls Ave., Sioux Falls SD 57102. A-215. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio)-ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 12014-RR. A & V Inc., PO Box 211, Butler WI 53007. A & V CONCENTRATED ACID DISINFECTANT TOILET BOWL CLEANER. Active Ingredients: Octyl decyl dimethyl ammonium chloride 1.250%; Dioctyl dimethyl ammonium chloride 0.625%; Didecyl dimethyl ammonium chloride 0.625%; Alkyl amino betaine 1.000%; Hydrogen chloride 17.500%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 12015-RU. Allied Laboratories, Inc., 975 Lake Rd., Medina OH 44256. SPEEDEE—1000. Active Ingredients: Octyl decyl dimethyl ammonium chloride 5.0%; Didecyl dimethyl ammonium chloride 2.5%; Dioctyl dimethyl ammonium chloride 2.5%; Isopropyl alcohol 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12015-RA. Allied Laboratories, Inc. SPEEDEE 4.5. Active Ingredients: Octyl decyl dimethyl ammonium chloride 4.50%; Dioctyl Dimethyl Ammonium Chloride 2.25%; Didecyl Dimethyl Ammonium Chloride 2.25%; Tetrasodium Ethylenediamine Tetraacetate 2.40%; Isopropyl Alcohol 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12265-L. Acme Chemex, Inc., 239 S. Cooper, Memphis TN 38104. CHEMEX 980 ALGAECIDE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylenedichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 12598-A. Cherryville Distributing Co., 322 E. Main St., Cherryville NC 28021. NDC 12.5. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 6.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 6.25%; Tetrasodium ethylenediamine tetraacetate 3.60%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 12598-T. Cherryville Distributing Co. NDC 4.5. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA Reg. No. 13186-0. Maintenance Research Laboratories, 11940 Grand River, Detroit MI 48204. VIKING FLEGAL CWT ALGAECIDE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylenedichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 20642-R. Cindy Pools, Inc., U.S. Highway 22, Watchung NJ. ALGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(c) of interim policy. PM24

EPA File Symbol 21363-E. Malone Chemical, Inc., Linden NJ 07036. MALONE NO. 75 DISPLAY CASE CLEANER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.0352%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.0352%; Tetrasodium ethylenediamine tetraacetate 0.0156%; Sodium Carbonate 0.0468%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 21326–G. Malone Chemical, Inc. MALONE NO. 76 CLEANER DISINFECTANT DEODORIZER FUNGICIDE. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%; Tetrasodium ethylenediamine tetraacetate 1.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 25889–R. Ace Chemical Products, 4233 Second St., N.E., Minneapolis MN 55421. ALGAETROL W. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene dimethyliminio) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 27586–E. U.S. Forest Service, USDA, PO Box 2417, Washington DC 20013. GYPCHEK BIOLOGICAL INSECTICIDE FOR THE GYPSY MOTH. Active Ingredients: (Polyhedral inclusion bodies of gypsy moth nucleopolyhedrosis virus) 20%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: New chemical. PM17

EPA File Symbol 32965–L. Water Chemists, Inc., PO Box 8, Park 31 Industrial Complex, Greenwood IN 46142. MICROBIOCIDE M–205. Active Ingredients: Sodium Penta Chlorophenate 4%; Sodium Salts of Other Chlorophenols 1%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 32969–R. All-Chem. Corp., 14411 Ellis, Detroit MI 48228. ALL-GUARD No. 8. Active Ingredients: Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chloride 10.00%; Ethanol 2.50%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 33955–LGO. PBI/Gordon Corp., 300 S. Third St., Kansas City KS 66118. ACME BENOMYL SYSTEMIC FUNGICIDE FOR ROSES & FLOWERS. Active Ingredients: Benomyl (Methyl 1-(butylcarbamoyl)-2-benzimidazole - carbamate) 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM22

EPA File Symbol 34077–RN. Excelsior Varnish, 2790 Grand Ave., Cleveland OH 44104. BIOCIDE NO. 164. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylenedichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 35571–T. Chem Pro Laboratory, Inc., 941 W. 190th St., Gardena CA 90248. CHEM PRO ALGAE CONTROL P LIQUID. Active Ingredients: Sodium pentachlorophenate 24.57%; Sodium salts of other chlorophenols 3.42%. Method of Support: Application proceeds under 2(d) of interim policy. PM32

EPA File Symbol 35571–RR. Chem Pro Laboratory, Inc. CHEM PRO BIOCIDE NO. 44G. Active Ingredients: Sodium pentachlorophenate 15.8%; Sodium salts of other chlorophenols 2.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 35571–RU. Chem Pro Laboratory, Inc. CHEM PRO BIOCIDE NO. 404 B. Active Ingredients: Sodium pentachlorophenate 79.0%; Sodium salts of other chlorophenols 11.0% Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 35571–RN. Chem Pro Laboratory, Inc. CHEM PRO BIOCIDE NO. 44. Active Ingredients: Sodium pentachlorophenate 8.937%; Sodium salts of other chlorophenols 1.244%. Method of Support: Application proceeds under 2(b) of interim policy. PM32.

EPA File Symbol 35896–T. CP Chemicals, Inc., PO Box 158, Sewaren NJ 07077. CP BASIC COPPER TS–53–WP. Active Ingredients: Copper (As metallic) 53%. Method of Support: Application proceeds under 2(b) of interim policy. PM22.

EPA File Symbol 37532–E. Mogul Maintenance Systems, Div. of The Mogul Corp., Pine & Mogul Sts., Chagrin Falls OH 44022. MOGUL-CIDE 256. Active Ingredients: Octyl Decyl Dimethyl Ammonium Chloride 3.750%; Dioctyl Dimethyl Ammonium Chloride 1.875%; Didecyl Dimethyl Ammonium Chloride 1.875%; Alkyl (C14 50%, C12 40%, C16 10%) Benzyl Dimethyl Ammonium Chloride 5.000%; Tetrasodium Ethylenediamine Tetraacetate 3.420%; Isopropyl Alcohol 3.000%; Ethyl Alcohol 1.000%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 37752–E. Williard, Inc., 375 Highland Ave., Jenkintown PA 19046. WILCHEM BIOCIDE-W. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 15.0% Method of Support: Application proceeds under 2(b) of interim policy. PM24

EPA File Symbol 37753–R. Waters Chemicals, 729 Beach Pl., Mundelein IL 60060. CW–211. Active Ingredients: Poly[oxyethylene (dimethylimino) ethylene-(dimethylimino) ethylenedichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37754–R. Lubchem, Inc., PO Box 38449, Houston TX 77088. LUBCIDE–IB. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37754–E. Lubchem, Inc. LUBCIDE–IC. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37754–G. Lubchem, Inc. LUBCIDE–ID. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37754–U. Lubchem, Inc. LUBCIDE–IA. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37785–G. Ray W. Hawksley Co., Inc., 220 Cutting Blvd., Richmond CA 94804. BIOCIDE SERIES 302. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylenedichloride] 12.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37785–U. Ray W. Hawksley Co., Inc. BIOCIDE SERIES 303. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylenedichloride] 20.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37785–L. Ray W. Hawksley Co., Inc. BIOCIDE SERIES 304. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37879–R. San Joaquin Chemicals, Inc., 4684 E. Hedges Ave., Fresno CA 93703. SANACIDE 2015. Active Ingredients: Poly [oxyethylene (dimethylimino) ethylene (dimethylimino) ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 37879–E. San Joaquin Chemicals, Inc. SANACIDE 2013. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride] 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38438–R. Dane Pool Service, 8348 Griffin Rd., Davie FL 33328. DANE POOL GUARD. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38459–U. Dolphin Chemical Co., 270 S.W. 33rd Ct., Ft. Lauderdale FL 33315. VANCON 2–M3. Active Ingredients: Disodium cyanodithiomidocarbonate 3.68%; Potassium N-methyldithiocarbamate 5.07%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA File Symbol 38547–R. Riviera Pool Service, Inc., 4215 N. Federal H'ghway, Ft. Lauderdale FL 33308. AQUA PURE. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 38752–RN. Chemtech Concentrate, 443 W. Midlothian St., Youngstown OH 44503. CHEMTECH CONCENTRATE. Active Ingredients: Poly [oxyethylene (dimethyliminio) ethylene-(dimethyliminio) ethylenedichloride] 60.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39149–E. Homestead Pools, Inc., PO Box 1178, Homestead FL 33030. HP–100. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39479–E. Galaxy Chemical Corp., 2012 Whitfield Park Ave., Sarasota FL 33580. GALAXIDE CD 4.5. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39669–R. Pro-Specialties, Inc., 7754 W. Harwood Ave., Wauwatosa WI 53213. PSI PRO–132–1. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39669–G. Pro-Specialities, Inc. PSI–PRO–134–1. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 2.25%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 2.25%; Sodium Carbonate 3.00% Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39669–U. Pro-Specialties, Inc. PSI PRO–135–1. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 1.6%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 1.6%; Sodium Carbonate 3.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39669-L. Pro-Specialties, Inc. PSI PRO-136-1. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5%; n-Alkly (68% C12, 32% C14) dimethyl ethylbenzene ammounium chlorides 5%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 39766-R. Leisure Northwest, Div. of Northwest Pool & Patio Supply, Inc., 17720 Southcenter Parkway, Seattle WA 98188. LEISURE NORTHWEST. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Sybmol 39767-R. Ace-Hi Pool Service & Supply, Inc., 810 W. Bay Dr., Largo FL 33540. ACE-HI. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39768-R. Everglades Pool Supplies, 4226 N.W. 12th St., Lauderhill FL 33313. EVERGLADES POOL SUPPLIES. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39769-R. Loomis Chemical Co., PO Box 17342, 2011 N. Columbia Blvd., Portland OR 97217. LOOMIS BRAND SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 12.5%. Method of Support: Application proceeds under 2 (b) of interim policy. PM34

EPA File Symbol 39770-R. Oceanside Pools, Inc., 2615 S. Dixie Highway, Delray Beach FL 33444. OCEANSIDE POOL GUARD. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39771-R. Paragon Pools, 999 N.W. Midway, Port Charlotte FL 33952. AQUARIAN POOLS SANITIZER. Active Ingredients. Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39772-R. Ruskin Pool Service, 307 Shell Point Rd., N.W., Ruskin FL 33570. AQUA-KLEER. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39773-R. Van Bower Pool & Patio, 1131 71st St., Miami Beach FL 33141. V B 1000. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA File Symbol 39774-R. University Pool Supplies, 2560 University Dr., Sunrise FL 33322. SODIUM HYPOCHLORITE. Active Ingredients: Sodium Hypochlorite 9.2%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

[FR Doc.77-3872 Filed 2-7-77;8:45 am]

[FRL 684-1; OPP-210006A]

PESTICIDE PROGRAMS

Kepone Levels in Certain Seafood; Extension of Public Comment Period

On December 26, 1976, the Environmental Protection Agency (EPA) gave notice of its intent to hold public hearings to solicit comments and information relevant to the Agency's review of the current action levels for residues of the pesticide Chlordecone (Kepone) in finfish, shellfish, and crabs. These hearings were held on January 24 and January 26, 1977. The period for the submission of written comments was to close January 26 with the Agency making final recommendations on these action levels to the Food and Drug Administration (FDA) by February 11, 1977.

As a result of the public review process, EPA learned that additional data could be made available for review if the period for public comment remained open during the month of February. The National Marine Fisheries Service stated that it could provide detailed statistics on the consumption of possible Kepone-contaminated seafood, while the Virginia Marine Resources Commission indicated it could provide economic impact information and residue analyses. Additional comments and analyses relating to the EPA's risk evaluation and extrapolation are also forthcoming from several groups who attended the hearings, and further comments on the weighing and comparison of risk and benefits attendant to Kepone action levels is being developed by the Environmental Defense Fund.

EPA's desire to make recommendations to the FDA by early February was to facilitate planning for the upcoming fishing season by those most affected by such recommendations. Shad fishermen are of primary concern because the shad run usually occurs early in the year. However, the severe winter may delay the 1977 shad season and, in this case, no significant impacts on Chesapeake Bay fishermen would be expected if the Agency delays final recommendation.

Therefore, the public comment period with regard to Kepone action levels is being extended until February 23, 1977. EPA recommendations will be made to the Food and Drug Administration by March 10, 1977. Interested persons are invited to submit written comments in response to this notice to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 401, East Tower, 401 M St. SW, Washington, DC 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Written comments should bear a notation indicating the document control number "OPP-210006". All written statements submitted at the hearings, transcripts of the hearing, and comments filed pursuant to this notice will be available for public inspection in the Office of the Federal Register Section from 8:30 a.m. to 4 p.m. Moday through Friday.

Until the Agency makes a recommendation to the FDA to either maintain or modify the existing action levels and such recommendation is accepted, the currently enforced action levels will remain in effect.

Dated: February 3, 1977.

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

[FR Doc.77-3990 Filed 2-7-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21091; File No. TS 43-75; FCC 77-70]

MOBILE MARINE RADIO, INC. AND SOUTH CENTRAL BELL TELEPHONE CO.

Memorandum Opinion and Order Designating Matter for Hearing

Adopted: January 26, 1977.

Released: February 7, 1977.

In the matter of Mobile Marine Radio, Inc.,[1] Complainant, Docket No. 21091, v. South Central Bell Telephone Company, Defendant, File No. TS 43-75.

1. We have before us for consideration (1) a formal complaint filed pursuant to Section 208 of the Communications Act of 1934, as amended, by Mobile Marine Radio, Inc. (MMR) of Mobile, Alabama against South Central Bell Telephone Company (South Central); (2) South Central's answer; (3) MMR's reply to the answer; and (4) certain correspondence exchanged between the two parties in an attempt to negotiate a settlement.[2] MMR is the licensee of marine public coast station WLO in Mobile which provides public coast telegraphy, telephony and radioteletype services.[3] MMR alleges that the terms and conditions of certain interconnection agreements between it and South Central for interconnection of station WLO with the landline telephone network are unjust and unreasonable and constitute unjust and unreasonable discrimination in charges, practices, classifications, regulations, facilities and services in violation of sections 201 and 202 of the Act.[4]

2. South Central provides interconnection of station WLO to the landline telephone network pursuant to traffic agreements with MMR.[5] By the terms of the agreements, maritime mobile radio telephone service is "interchanged" between the systems of MMR and South Central. South Central bills and collects both the landline and radio link charges for ship-originated calls as well as for calls from land stations to ships.[6] The landline portion of an interconnected call is billed at operator-assistance rates. However, it is

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[1] We also have before us a supplemental complaint by MMR and South Central's answer to it.

[2] Station WLO offers all three types of maritime service: Class I high seas service to ships at sea up to several thousand miles; Class II regional coastal harbor service; and Class III local VHF service.

[3] MMR also alleges that these charges, practices, classifications, regulations, facilities and services unlawfully restrain trade in violation of sections 1 and 2 of the Sherman Anti-Trust Act (15 U.S.C. 1, 2).

[4] The interconnection agreements consist of a Ship Telephone Service Traffic Agreement effective in 1969 and a High Seas Telephone Service Traffic Agreement effective in 1973.

[5] Under the terms of the traffic agreements, MMR must concur in the radio link charges specified in AT&T Tariff F.C.C. No. 263.

MMR's operators who, pursuant to the agreements, time and ticket all calls in a manner prescribed by South Central regardless of the point of origin. In addition, MMR operators are required to complete all dialable calls originating on ships and must follow through to establish connection on non-dialable calls not initially completed. South Central receives all revenues identified by applicable tariffs as related to the landline portion of an interconnected call while MMR receives only the revenues for the radio link portion of the call.

3. MMR alleges that the terms and conditions of interconnection offered to station WLO are less favorable than those for similar marine public coast stations of South Central and AT&T with which it competes.[6] MMR states that it is not compensated for performing the operator function for the landline portion of interconnected calls even though those functions are the same as the operator functions performed by South Central's operators in handling calls over Bell System public coast facilites. According to MMR, this arrangement is unjust and unreasonable since South Central receives revenue for the landline portion of interconnected calls at operator-assistance rates while MMR receives only its radio link charges. It therefore argues that it is entitled to compensation for its operator expenses in a manner similar to that received by South Central since it competes with South Central public coast facilities. In essence, MMR contends that it should share a portion of the landline revenue to compensate its operator costs. MMR asserts that since it performs the operator function, the service rendered by South Central is in reality comparable to direct distance dial (DDD) service and revenue derived at the operator-assistance rate should not accrue entirely to South Central.[7] Therefore, MMR maintains that it should be compensated for performing the operator function on a basis of the difference between the operator-assisted and DDD rates.[8] Accordingly, MMR asks us to (1) require South Central to establish and maintain just, reasonable, and nondiscriminatory terms and conditions for interconnection and interchange of traffic, (2) prescribe if necessary, the terms, conditions and charges for interconnection and interchange of traffic, and (3) award damages arising out of South Central's refusal to maintain just, reasonable and nondiscriminatory terms and conditions of interconnection.

4. South Central denies that it discriminates with regard to terms and conditions of interconnection against MMR in favor of Bell System marine public coast stations. It is willing to compensate MMR for performance of the operator function based upon net savings to MMR determined by its current operator savings at Mobile less the additional costs for special processing required to handle the billing records manually prepared by MMR operators.[9] South Central denies that MMR's access to the landline network is equivalent to customer utilized DDD service and refuses to compensate MMR for performing the operator function upon a basis of the difference between operator-assistance and DDD rates.[10] South Central states that the difference between the operator-assistance and the DDD rate is not equal to, and in fact, is in excess of the savings achieved by MMR's performance of the operator function.[11] In addition, South Central maintains that MMR's participation in the toll portion of interconnected calls is limited to performing a portion of the landline operator function and that this limited participation does not constitute the provision of message toll service. It denies that MMR must follow the same functions as its operators and concludes that since the only facilities provided by MMR are radio link facilities, MMR is entitled to earn only on those facilities.

Discussion

5. We consider the licensee of a marine public coast station, such as MMR, to be a common carrier within the meaning of the Communications Act and entitled, upon reasonable request made pursuant to Section 201 of the Act, to interconnection of its facilities to the local landline telephone network.* Although the pleading filed by MMR has been procedurally treated as a complaint under our rules, it may also be considered on its merits as a petition for interconnection under section 201(a) of the Act. See "Tri-City Telephone Company," 20 FCC 2d 674, 675 (1969); "Peoples Telephone Cooperative, Inc., et al.," FCC 2d (FCC 76-1147, December 15, 1976). Under section 201(a), we have authority to order the establishment of physical connections between carriers, and to establish through routes and charges applicable thereto and the division of such charges. This provides us with a sufficient jurisdictional basis to order a hearing to consider the matters raised by MMR. See "Carpenter Radio Company," 13 FCC 2d 722 (1968); 12 FCC 2d 857 (1968).

6. South Central states that the terms and conditions of interconnection and interchange of traffic with MMR "* * * are favorable, if not more favorable in some respects, as the terms and conditions of defendant's interconnection and interchange of traffic with other RCC's offering maritime mobile or other radiotelephone service." Notwithstanding the possible accuracy of this statement, it does not focus on the basic issues raised herein. Those issues are, first, whether South Central affords MMR interconnection of facilities on terms and conditions no less favorable than those which it affords to its own public coast facilities or those of AT&T which compete with Station WLO, and, second, whether AT&T's tariff allows terms and conditions of interconnection that serve the public

[6] South Central is the licensee of Class II-B Public Coast Station WAK in New Orleans, Louisiana and several Class III-B public coast stations, including Station KKM 650 in Gulfport, Louisiana. MMR must compete directly with these stations since their service areas partially overlap Station WLO's coastal harbor and VHF service areas. (Southern Bell Telephone and Telegraph Company's VHF Station KII 294 in Pensacola, Florida also has a service area partially overlapping Station WLO's VHF service area). AT&T is the licensee of Class I stations providing high seas service located at Fort Lauderdale, Florida (WOM), Manahawkin, New Jersey (WOO), and Point Reyes, California (KMI). MRR's high seas service directly competes with these stations.

[7] The problem is further exacerbated according to MMR since its customers are charged for the landline portion of interconnected calls at a three minute minimum based on the operator-assistance rate while South Central's DDD customers are charged on a per minute basis without a minimum charge in accordance with recent rate revisions in AT&T's MTS tariff.

[8] MMR compares the total revenue derived at operator-assistance rates from the landline portion of a charge for an interconnected call to the total system usage at DDD rates. Thus, if South Central received revenue for the landline portion of a call only at the equivalent of the DDD rate, MMR contends that it would realize in excess of $30,000 per year, the difference between average revenue per completed call and the average DDD rate for such calls which would accrue to the benefit of MMR to the extent of $0.65 per call for the more than 4000 ticketed calls per month handled by MMR. The $0.65 figure is the difference between (1) the amount derived by dividing the DDD metered rate for the total usage of the landline system (including usage not resulting in chargeable calls such as incompleted person-to-person calls) by the number of ticketed calls to arrive at an average DDD cost per completed call and (2) the average landline portion of charges actually billed to customers.

[9] South Central does not elaborate on the nature of the special processing of MMR billing records. MMR states in its reply that it prepares billing tickets as specified by South Central.

[10] South Central states that (1) customer utilized DDD service is recorded and billed by automatic methods whereas station WLO's calls are billed manually; (2) each DDD customer is billed for each call upon answer whereas interconnected person-to-person calls through station WLO are not billed unless the party desired is reached; (3) DDD customers in Mobile are not subject to long distance charges for calls to telephones in the local Mobile calling area whereas all interconnected calls over station WLO to and from landline telephones in the Mobile area are subject to the operator rate for the one-mile stop; and (4) DDD customers in Mobile are subject to intrastate long distance rates for calls to telephones outside the Mobile calling area and within Alabama whereas all interconnected calls over station WLO are subject to interstate long distance rates.

[11] South Central contends that the difference between the operator-assistance rate and the dial rate is not attributed solely to the difference in costs of such calls. It states that while costs are elements in determining these rates, they are reflective of nationwide averages and are not necessarily applicable to the specific costs of providing operator-assistance in Mobile.

interest. South Central incorrectly compares the terms and conditions offered to MMR with those offered to other independent marine and radio common carriers.[13] In the "Guardband" decision, we stated that wireline common carriers must offer the same interconnection services to non-wireline common carriers that are offered to their own radio common carriers. See "Allocation of Frequencies in 150.8–162 Mc/s Band," 12 FCC 2d 841, reconsideration denied, 14 FCC 2d 269 (1968) affirmed sub nom., "Radio Relay, Inc. v. FCC," 409 F. 2d 322 (2d Cir. 1969).[14] We held that wireline carriers were to make their facilities available to competing non-wireline carriers at costs identical to those they use in computing their own costs for providing competitive services. The "Guardband" decision serves to underscore the significance we attach to competitive equality between wireline and non-wireline carriers. See "United Telephone Company of Ohio," 26 FCC 2d 417 (1970). This policy of competitive equality between carriers was also applied to interconnection services offered by wireline carriers to specialized common carriers. We have required established carriers with local exchange facilities to provide in their tariffs an option to permit specialized common carriers or their customers, to obtain local distribution service or facilities under terms and conditions that are reasonable and are not discriminatory with regard to an affiliated carrier and which do not show favoritism among competitors.[15] We believe that these principles are equally applicable to the terms and conditions of interconnection offered by wireline carriers to marine carriers. It makes no significant difference conceptually that they were developed with respect to interconnection of one-way paging systems, specialized common carriers, or domestic satellites while we are concerned here with marine public coast stations. A primary function of a marine public coast station such as station WLO is to provide subscribers with access to the landline public telephone network. The efficient provision of such service requires interconnection with the landline network on just, reasonable and nondiscriminatory terms and conditions. Terms and conditions imposed on independent marine public coast stations which are less favorable than those granted by the wireline carrier to its own marine public coast facilities may violate sections 201(a) and 202(a) of the Act.

7. It is clear that MMR receives only its radio link charges as specified in AT&T Tariff No. 263 and otherwise is not specifically compensated for performing the operator function. However, it is not clear whether South Central recoups the operator expenses for its VHF and coastal harbor public coast stations through only its radio link charge, as does MMR, or through its landline operator-assistance charges.[16] While stating that the operator-assistance rate is based on costs reflective of nationwide averages and not specific costs for providing operator assistance in Mobile, South Central insists that compensation to MMR for its performance of the operator function must be based only on local cost savings. At the same time, South Central insists on continuing to receive revenue for the landline portion of interconnected calls with MMR at operator-assistance rates even though it does not appear to perform the operator function.[17] Substantial questions are therefore raised as to whether South Central offers terms and conditions of interconnection less favorable to those granted to South Central or Bell System public cost stations, and whether it utilizes its status as a wireline carrier to exercise unjust and unreasonable competitive advantage over MMR. In addition, questions are raised as to the reasonableness of the Bell System radio link and operator-assistance charges for interconnected marine calls. Established Commission policy holds that the cost of providing service is at the heart of the statutory requirements of sections 201 through 205 of the Act for just, reasonable and nondiscriminatory rates, and must be considered as the reference point or benchmark, from which to measure the extent of departures.[18] Departures from a cost-basis concept must be "clearly-warranted".[19] South Central is silent concerning the extent, if any, by which radio link charges cover operator costs incidental to the completion of VHF and coastal harbor calls. It states that operator costs incidental to the completion of high seas calls are recovered by the radio link portion of the total high seas charge.[20] However, we have not yet determined the reasonableness of AT&T's high seas radio link charges, nor have we specifically focused on the accuracy of the operator costs upon which they are partly predicated.

8. We therefore believe that an evidentiary hearing is required to resolve the issues raised by this complaint. We must determine the basic issue before us—whether the terms and conditions of interconnection offered by South Central to MMR are less favorable than those provided to competing South Central and AT&T public coast stations of the Bell System. We must also consider such underlying issues as whether the radio link charges for marine public coast service in the applicable provisions of AT&T's tariff are reasonably based on the costs of such service; to what extent the costs of South Central's and AT&T's public coast facilities are borne by landline charges; the reasonableness of South Central's operator-assistance charge for use of the landline network in connected calls by MMR's customers when no operator function is performed by South Central; and the basis for compensation to MMR, if any is warranted, for performance of the operator function. In doing so, however, we will not merely grant MMR a portion of the landline revenue should it be determined that such revenue is collected by South Central at an unjustified rate.[21] An interchange of traffic arrangement conceptually requires that all costs incidental to providing service, including marine operator costs, be reflected in the radio link charge. Where a landline carrier subsidizes its marine operator costs by landline charges, a concurring marine carrier performing the operator function, such as MMR, may not fairly recover its op-

[13] South Central's comparison raises the question of whether it has offered the same terms and conditions offered MMR to marine carriers other than MMR.

[14] The Guardband decision involved one-way paging in the Domestic Public Land Mobile Radio Services and not marine service.

[15] See Specialized Common Carrier Services, 29 FCC 2d 870 (1971), aff'd sub nom., Washington Utilities and Transportation Commission v. FCC, 513 F. 2d 1142 (9th Cir. 1975); Domestic Communications Satellite Facilities, 35 FCC 2d 844 (1972); Bell System Tariff Offerings, 46 FCC 2d 413 (1974), aff'd sub nom., Bell Telephone Company of Pennsylvania v. FCC, 503 F. 2d 1250 (1974); AT&T et al. (Offer of Facilities for Use by Other Common Carriers), 52 FCC 2d 727 (1975).

[16] Section 3.5.1(C)(10) of AT&T Tariff No. 263 provides that high seas radio link charges are $13.50 for the initial three minutes or a fraction thereof and $4.50 for each additional minute or fraction thereof. However, § 3.5.2 (C)(1) of the tariff provides that coastal harbor service radio link charges are $1.85 for the initial three minutes or a fraction thereof and $0.60 for each additional minute or fraction thereof and § 3.5.5(C)(1) provides that VHF service radio link charges are $1.05 for the initial three minutes or fraction thereof and $0.35 for each additional minute or fraction thereof. MMR claims that South Central's marine operator functions are merged with landline operator functions. South Central denies this.

[17] We note that South Central has rejected a proposal by MMR that it be compensated on the basis of toll settlement schedules used by the Bell System and the United States Independent Telephone Association.

[18] Private Line Rate Cases, 34 FCC 244, 297 (1961), 34 FCC 217, 231 (1963); Re WATS, 35 FCC 149, 153–56 (1963); Re WATS, 37 FCC 695, 698 (1964); Re Part 61 of the Rules, 25 FCC 957, 965 (1970), 40 FCC 2d 149, 154 (1973); Re 48 kHz, 29 FCC 2d 493 (1971); Hi-Lo, 55 FCC 2d 224, 241 (1975), 58 FCC 2d 362, 366 (1976); Re WATS, 59 FCC 2d 671 (FCC 76–497, 1976).

[19] Private Line Rate Cases, 34 FCC at 231, 291; Re WATS 59 FCC 2d 671 (1976).

[20] High Seas (Class I) service is offered on a through rate basis consisting of separately identified radio link and landline charges. Landline charges consist of a flat charge of $0.50 per minute, subject to a three minute minimum irrespective of whether the coast station handles the call or location of the landline party AT&T stated, upon filing the now effective revisions in its high seas tariff, that application of a flat landline link rate would permit operational flexibility without affecting the charge for the call. It further stated that it planned to shift traffic among the Bell System high seas stations as load conditions warrant without regard to the location of the ship or land telephone involved in the call in order to spread the traffic more evenly among the Bell System stations and thereby gain operating efficiencies and economy. Thus, for high seas calls, operator costs are shifted to the radio link charge.

[21] It appears that MMR desires to receive a portion of the operator-assistance charge while keeping its radio link charge the same as South Central's.

erator costs. Thus, alternatives to insure a true competitive balance may be to restructure the landline carrier's radio link charges to reflect all marine costs, or require that the two parties enter into a through service arrangement with a formula for division of revenues.[21] Whether an interchange or through service arrangement is determined to be in the public interest, we will consider requiring that it be uniformly offered by tariff to other maritime common carriers in similar circumstances.

9. Accordingly *It is ordered*, That pursuant to the provisions of sections 4(i), 4(j), 201(a), 201(b), 202(a), 203, and 208 of the Communications Act of 1934, as amended, this matter is hereby designated for hearing on the following issues:

(1) To determine the function of MMR's operators in the provision of high seas, VHF, and coastal harbor service for interconnected calls;

(2) To determine what costs are incurred by MMR in performing the operator function for high seas, VHF, and coastal harbor service for interconnected calls;

(3) To determine the function of South Central's operators in the provision of VHF and coastal harbor service for interconnected calls through South Central public coast stations;

(4) To determine what costs are incurred by South Central in performing the operator function for VHF and coastal harbor service for interconnected calls thorugh South Central public coast stations;

(5) To determine the function of Bell System operators in the provision of high seas service for interconnected calls through AT&T high seas stations;

(6) To determine what costs are incurred by AT&T in performing the operator function for high seas service for interconnected calls through AT&T high seas stations;

(7) To determine whether the costs incurred by South Central in performing the operator function for VHF and coastal harbor service are entirely covered by the radio link charges provided in AT&T Tariff F.C.C. No. 263;

(8) To determine whether South Central's operator-assistance charges for the landline portion of interconnected calls through its public coast stations subsidize any costs incurred by public coast stations providing VHF and coastal harbor service;

(9) To determine whether MMR is afforded terms and conditions of interconnection which are less favorable than those afforded to public coast stations of South Central and AT&T;

(10) To determine what other methods of interconnection are available to MMR from South Central and AT&T, and whether their terms and conditions are less favorable than those afforded to public coast stations of South Central and AT&T;

(11) To determine whether MMR is entitled to compensation from South Central and AT&T for rendition of the operator function in the provision of high seas, VHF, and coastal harbor service for interconnected calls;

(12) To determine whether the public interests requires that any such compensation be provided in the form of division of revenues or settlements between MMR and South Central and AT&T or by some other appropriate method;

(13) To determine whether the terms and conditions of interconnection afforded to MMR by South Central: (a) Are unjust and unreasonable in violation of section 201(a) of the Act; (b) give any undue or unreasonable preference or advantage to marine public coast stations licensed to South Central or AT&T in violation of section 202(a) of the Act; or (c) subject MMR to any undue or unreasonable prejudice or disadvantage in violation of section 202(a) of the Act;

(14) To determine whether South Central's operator-assistance charges for the land-line portion of calls interconnected with station WLO when no operator function is performed by South Central are just and reasonable in accordance with section 201(b) of the Act;

(15) To determine whether it is necessary or desirable in the public interest to order South Central to establish new terms and conditions of physical connection with station WLO, and, if so, whether it is necessary or desirable in the public interest to establish through routes and charges applicable to such physical connection and the divisions of such charges, and what facilities and regulations for operating such through routes should be established and provided.

10. *It is further ordered*, That the hearing in this proceeding shall be held before an Administrative Law Judge at a time and place to be specified by subsequent order; and that such Administrative Law Judge shall upon closing of the record, prepare and issue an initial decision, which shall be subject to the submittal of exceptions and requests for oral argument as provided in §§ 1.276 and 1.277 of the Commission's rules (47 CFR 1.276 and 1.277), after which the Commission shall issue its decision as provided in § 1.282 of the Commission's rules (47 CFR 1.282).

11. *It is further ordered*, That Mobile Marine Radio, Inc., South Central Bell Telephone Company, and American Telephone and Telegraph Company are made parties to this proceeding.

12. *It is further ordered*, That the Chief, Hearing Division, Common Carrier Bureau, shall participate as a party pursuant to § 1.1209(d) of the Commission's Rules.

13. *It is further ordered*, That the burden of proof with regard to issues (1), (2), (9), (10), (11), (12), (13) and (15) shall be with MMR and the burden of proof with regard to issues (3) through (8) and (14) shall be with South Central and AT&T.

14. *It is further ordered*, That the parties herein may avail themselves of an opportunity to be heard by filing with the Commission pursuant to § 1.221(e) of the Rules within twenty (20) days of the release date of this Memorandum Opinion and Order, a written notice stating an intention to appear on the date set for hearing and present evidence on the issues specified.

FEDERAL COMMUNICATIONS COMMISSION,[22]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-3934 Filed 2-7-77;8:45 am]

[21] AT&T's tariff for high seas service provides for a division of revenues with participating ships and aircraft.

[22] Commissioner Lee absent.

FEDERAL POWER COMMISSION

[Doc. No. RI77-12]

C. A. HURST

Amended Petition for Special Relief

JANUARY 28, 1977.

Take notice that on January 18, 1977, C. A. Hurst (Petitioner), P.O. Box 2683, Laurel, Mississippi 39440, filed in Docket No. RI77-12 an amended petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). On November 22, 1976, Petitioner filed a petition for special relief in this docket seeking a rate of 87.50 cents per Mcf for the sale of natural gas to Texas Eastern Transmission Corporation from four wells located in the Siloam Field, Clay County, Mississippi. By its amended petition Petitioner now requests authorization for a rate of 73.6 cents per Mcf for the sale. Petitioner further requests that relief be granted effective as of the date of filing of its petition because of hardships incurred and expenditures made to maintain production during adverse conditions.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 18, 1977, file with the Federal Power Commission, Washigton, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3757 Filed 2-7-77;8:45 am]

[Doc. No. CP77-145]

COLUMBIA GAS TRANSMISSION CORP.

Application

JANUARY 28, 1977.

Take notice that on January 25, 1977, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP77-145 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing the transportation of natural gas on a best-efforts basis on behalf of Weirton Steel Division of National Steel Corporation (Weirton), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Weirton states that it has been advised by Columbia Gas of West Virginia, Inc. (Columbia, W. Va.) that it could expect to receive only its plant protection volumes for the months of February and March 1977. It is stated that in order to offset these curtailments, Weirton has contracted with David S. Towner dba David S. Towner Enterprises (Towner) to purchase gas for a primary term of approximately two years with an option to extend the term for an additional three years. It is further stated that Towner has contracted to sell from its leases in Washington County, Ohio, an average volume of 2,000 Mcf per day from November 1 through April 30 of each contract year and an average volume of 1,000 Mcf per day from May 1 through October 31 of each contract year, and Weirton has agreed to pay for 80 percent of the average daily volume whether the gas is taken or not. It is stated that Weirton would pay Towner $2.10 per Mcf from first delivery to April 30, 1977; $2.00 per Mcf from May 1 through October 31, 1977; and a 10 cent per Mcf increase in each six-month period of the life of the contract through May 31, 1982.

Applicant states that it has agreed to transport up to 3,500 Mcf of gas per day for an initial two-year period for Weirton, which gas should be received by Applicant into its Line Q-217 in Watertown Township, Washington County, Ohio, at a specific point to be mutually agreed upon and delivered to Columbia, W. Va., a wholesale customer of Applicant, at existing points of delivery in Hancock County, West Virginia. It further states that Columbia, W. Va. would make such gas available to Weirton through existing facilities, pursuant to authority of the Public Service Commission of West Virginia. Applicant states it would charge Weirton 22.21 cents per Mcf for this transportation service and would retain for company-use and unaccounted-for gas 3.1 percent of the volumes received for the account of Weirton. Applicant further states that all receipts and deliveries would be effectuated by means of existing facilities, and such transportation service would be subject to the limits of its pipeline capacity and to its service obligations to its CD, WS, SGES, G and SGS customers.

It is stated that the gas from the leases covered by the Weirton contract has never been sold in interstate commerce, and that the gas would not be sold in the interstate market because intrastate markets are available in the area at prices comparable to the price contained in the Weirton contract.

It is stated that Towner would construct a pipeline of approximately five miles in length at an estimated cost of $200,000 in order to deliver such gas into Applicant's Line Q-217, and such line would be operative by February 1, 1977. It is further stated that Weirton has made an advance payment for gas in the amount of $200,000, which advance would be credited against future gas sales at the rate of 25.0 cents per Mcf delivered. It is also stated that interest on the advance payment is to be calculated at the floating prime-rate of the First National City Bank of New York, calculated monthly on the unpaid balance and deducted from the amount paid by Weirton to Towner for the gas delivered.

It is stated that Weirton manufactures steel products in the form of hot and cold rolled sheets, zinc coated sheets, tin and chrome coated stock, semi-finished steel used by other divisions of the National Steel Corporation and a small quantity of structural shapes, and supplies about 20 percent of all the steel can stock sold in the United States. It is further asserted that Weirton employs 12,500 people in the City of Weirton, West Virginia and Steubenville, Ohio, and is the largest private employer in the state of West Virginia. Applicant indicates that such severe curtailments would cause economic hardship to Weirton and Steubenville and to the steel industry in general.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3754 Filed 2-7-77;8:45 am]

[Doc. No. CP77-140]

DELHI GAS PIPELINE CORP.

Application

JANUARY 28, 1977.

Take notice that on January 24, 1977, Delhi Gas Pipeline Corporation (Applicant), Fidelity Union Tower Building, Dallas, Texas 75201, filed in Docket No. CP77-140 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas on an interruptible basis to United Gas Pipe Line Company (United) for a limited term commencing May 1, 1977, and ending February 1, 1978, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the natural gas to be sold to United is gas that is dedicated by it to Lower Colorado River Authority (LCRA) under three separate intrastate long-term gas contracts but which has been released by LCFR for the period May 1, 1977, to February 1, 1978. Such gas, it is stated, has been purchased by LCRA for use as boiler fuel in electric generating units, but LCRA advises that because of the availability of fuel-oil, other supplies of natural gas and hydro-electric power, it does not anticipate a need for this gas prior to February 1, 1978. It is further stated that the release of such gas by LCRA to Applicant is subject to "call" by LCRA when in its opinion such gas is needed to satisfy its fuel requirements.

Applicant estimates the volume of gas so released and made available for sale to United would be approximately 56,000-60,000 Mcf per day, and states it would charge United $2.245 per million Btu's for such gas. Applicant further states that the point of delivery of such gas would be into the pipeline facilities of Northern Natural Gas Company (Northern) located in Pecos County, Texas.

It is stated that Applicant has been advised by United that this limited-term purchase is necessary because of a severe gas supply shortage existing on United's system which has prevented and would continue to prevent United from serving its high priority users.

Applicant states that since its business is restricted entirely to intrastate operations, except for emergency deliveries, and would continue to be solely intrastate in character upon the expiration of such emergency deliveries, it requests that the limited-term certificate issued herein be made subject to the following conditions:

(1) The certificate issued herein be limited to authorization of the proposed sale to United and facilities necessary to make such sale;

(2) The Commission waive its accounting and other reporting requirements with repect to Applicant for the term of the limited-term certificate sought herein. Applicant would be willing to report the volumes sold to United pursuant to the requested authorization;

(3) The non-jurisdictional status of the facilities and operations of independent producers and other suppliers from whom Applicant purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the limited-term certificate;

(4) With the exception of the sale to be certificated herein, all of Applicant's existing facilities, its operation of such facilities, and its sales from its system are and would continue to be exempt from Commission regulation, and the non-jurisdictional status of all of Applicant's existing and proposed purchases of natural gas, and the non-jurisdictional status of all of Applicant's existing sales from its system, would not be rendered jurisdictional or otherwise affected by Commission regulation by the certificate issued for the proposed sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3756 Filed 2-7-77;8:45 am]

[Doc. No. CP77-132]

FLORIDA GAS TRANSMISSION CO. AND SOUTHERN NATURAL GAS CO.

Application

JANUARY 28, 1977.

Take notice that on January 19, 1977, Florida Gas Transmission Company (Florida Gas), First City National Bank Building, Houston, Texas 77002, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP77-132 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Florida Gas to sell to Southern up to 100,000 million Btu's of gas per day for a limited term of 30 days, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Southern is currently curtailing Priority 1 consumers on its system by 9 percent because of unprecedented cold weather. Further, it is stated that many of Southern's customers are taking gas in excess of the gas allocated to them by Southern which puts an additional strain on Southern's gas supply.

It is asserted that Amoco is currently selling gas to Florida Gas pursuant to authorization issued in Docket No. CI65-584 under a warranty contract providing for the ultimate delivery of a specified volume, and Amoco is also selling gas to Florida Power and Light Company (FP&L) under a warranty contract calling for a specified daily volume, which volume Florida Gas is currently transporting pursuant to the Commission's order issued in Docket No. CP65-393 (34 FPC 1184). It is stated that FP&L has agreed to permit Amoco to reduce its deliveries to FP&L by an amount up to 100,000 million Btu's per day for a period of 30 days on the condition that such gas would be sold by Amoco to Florida Gas for resale to Southern for use as Priority 1 gas and to replenish storage. It is further stated that Florida Gas would enter into a sales agreement with Southern to effectuate said sale, and that the gas would be delivered to Southern at existing exchange interconnections.

It is stated that Florida Gas would pay to Amoco a price per million Btu's equal to the price currently charged Florida Gas under the contract between Amoco and Florida Gas certificated in Docket No. CI65-584, which price is approximately 22 cents per million Btu's. It is further stated that FP&L would continue to pay Florida Gas the full transportation rate under Florida Gas' Rate Schedule T-3, approximately 36 cents per million Btu's.

It is stated that FP&L would substitute for the gas released the equivalent volumes of No. 5 or No. 6 fuel oil, and in order to keep FP&L whole, Southern would pay to FP&L's fuel supplier the cost of the No. 5 or 6 fuel oil less the price FP&L would have paid Amoco for the released gas, such price to be approximately $2.25 per million Btu's. It is also stated that Southern would pay FP&L all of FP&L's costs associated with this transaction, estimated at 1 cent per million Btu's, so that this transaction would not affect the cost of power to FP&L's rate payers.

It is asserted that the parties herein are in the process of preparing and executing the relevant contracts.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant's to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3763 Filed 2-7-77;8:45 am]

[Doc. No. ER76-5]

INDIANA & MICHIGAN POWER CO.

Filing of Offer of Settlement

JANUARY 28, 1977.

Take notice that the Indiana & Michigan Power Company has transmitted to the office of the Secretary of the Federal Power Commission an Offer of Settlement of the captioned docket. The accompanying letter will be deemed by the Commission to be a motion for approval

of the Offer of Settlement therein contained and an opportunity is hereby provided for comments thereon by all interested parties.

The Offer of Settlement now pending before the Commission deals with what is claimed by Indiana & Michigan Power Company to be the sole issue in the captioned docket, namely, the rate of return to be allowed on common equity under the initial filing made by Indiana & Michigan Power Company in the captioned docket. Copies of the Offer of Settlement are on file for the inspection of all interested parties.

Any person desiring to comment upon any of the matters contained in the Offer of Settlement above described should file such comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before February 14, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3752 Filed 2-7-77;8:45 am]

[Doc. No. E-9329 (Limited Issue); ER76-792]

INDIANA & MICHIGAN ELECTRIC CO.

Order of Settlement

JANUARY 28, 1977.

Take notice that in a letter dated January 7, 1977, addressed to Staff Counsel in the captioned Dockets, counsel for Indiana & Michigan Electric Company (I&M) proposed an Offer of Settlement of the captioned Dockets pursuant to § 1.18 of the Commission's Rules of Practice and Procedure. According to I&M, its Offer of Settlement disposes of all of the issues in the captioned Dockets. Copies of I&M's letter of January 7, 1977 and the attachments thereto are available for inspection in the offices of the Commission.

Any party desiring to file comments with respect to the Offer of Settlement may do so and all such comments, if any, shall be filed on or before February 14, 1977. Comments so filed, if any, will be considered by the Commission in determining what action it should take on the Offer of Settlement, but will not serve to make the party filing such comments an intervenor herein. Persons wishing to become parties shall, unless they have already done so, file a petition to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3764 Filed 2-7-77;8:45 am]

[Doc. No. CP77-134]

MISSISSIPPI RIVER TRANSMISSION CORP.

Application

JANUARY 28, 1977.

Take notice that on January 21, 1977, Mississippi River Transmission Corporation (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP77-134 an application pursuant to section 7 of the Natural Gas Act for permission and approval to abandon certain existing facilities and for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has two 10-inch pipelines each totaling 1.07 miles which cross the Mississippi River at Mile 171.9 near St. Louis, Missouri, referred to as Line A-75. It further states that on December 31, 1976, the northernmost of the two lines was struck and damaged by a towboat, causing Applicant to take that line out of service. Applicant states that the remaining line may also be struck by a boat or barge because of the low water conditions of the River.

Applicant proposes to abandon its Line A-75 and to construct a new 10-inch pipeline and related facilities because it states that a new river crossing would have to be buried beneath the bottom of the River, a costly operation. It is stated that such new facilities would be constructed between the terminus of Applicant's existing Line A-127 on the Missouri side of the Mississippi River and its existing delivery points to Laclede Gas Co. and National Lead Co., customers served by Applicant's Line A-75. It is further stated that the proposed facilities would be approximately .76 mile in length and would cost an estimated $340,000, which cost would be financed from available funds. Applicant states there would be no change in sales or sales volumes.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3761 Filed 2-7-77;8:45 am]

[Doc. No. CP77-131]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

JANUARY 28, 1977.

Take notice that on January 19, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-131 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 15,000 Mcf of natural gas per day for Mississippi River Transmission Corporation (MRT) and the construction and operation of facilities to effectuate such transportation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant and MRT have entered into a gas transportation and sales agreement dated November 18, 1976, whereby Applicant would receive up to 15,000 Mcf of natural gas per day from MRT at its Grady County, Oklahoma, delivery point and would redeliver to MRT 75 percent of such volumes on a thermally equivalent basis at an existing redelivery point in Clinton County, Illinois, and at MRT's option, at the existing Randolph County, Arkansas redelivery point. Applicant states that the term of the agreement is 20 years from the date of first delivery.

It is further stated that Applicant would purchase the remaining 25 percent for an amount equal to the product of the volume of such gas times the volume-weighted average purchase price per Mcf paid by MRT for such gas. Applicant states that it would charge MRT 15 cents per Mcf of gas delivered for the transportation service performed.

Applicant proposes to construct and operate an additional 8-inch measuring facility at its Grady County, Oklahoma, installation in order to implement the transportation service, and states that no additional facilities would be required at the Clinton County, Illinois, or Randolph County, Arkansas, redelivery points. Applicant further states that the cost of the additional measuring facilities would be approximately $29,000, and would be financed from funds on hand.

It is stated that the subject transportation and sales arrangement would be beneficial to Applicant in that gas retained for purchase by Applicant would augment Applicant's overall gas reserves

to the benefit of all its customers, and would have no effect on any other sales or services now rendered by Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-5753 Filed 2-7-77;8:45 am]

[Doc. No. CP77-135]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

JANUARY 28, 1977.

Take notice that on January 21, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-135 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 4,000 Mcf of natural gas per day with Texas Eastern Transmission Corporation (Texas Eastern), and the operation of facilities to effectuate such exchange, all as more fully set forth in the application which is on file with the Comsion and open to public inspection.

Applicant states that it has entered into long-term sales contracts dated September 3, 1976, with Napeco Inc., a subsidiary of Applicant, to purchase gas from the East Rock Island Field, Colorado County, Texas, and the East McCaskill Area, Goliad County, Texas, but its nearest existing facilities to which the gas production from these areas might be connected are 20.3 and 20.5 miles away, respectively. It is stated that Texas Eastern has existing facilities approximately 1.0 and 1.4 miles away, respectively, to which gas production could be connected.

It is stated that Applicant and Texas Eastern have entered into a gas exchange agreement dated December 22, 1976, by which Applicant would deliver up to 2,000 Mcf of gas per day to Texas Eastern at a point on Texas Eastern's 24-inch pipeline in the George W. Wright Survey, A-583, Colorado County, Texas (Colorado Delivery Point), and up to 2,000 Mcf of gas per day at a point on Texas Eastern's 16-inch pipeline in the Maria de Jesus Ybarbo Survey, A-51, Goliad County, Texas (Goliad Delivery Point). It is further asserted that Texas Eastern would redeliver equivalent volumes to Applicant at the existing point of interconnection of the parties in Brazoria County, Texas.

Applicant states that it would construct the necessary gas purchase facilities to connect the two production areas to the proposed exchange points under its currently effective gas purchase facilities budget-type authorization (Docket No. CP76-460; (56 FPC ——)).

It is stated that the transaction would be a straight gas-for-gas exchange. Applicant states that Texas Eastern would construct tap connections in Colorado and Goliad Counties, Texas, and Applicant would reimburse Texas Eastern for the cost thereof.

Applicant states that the proposed authorization would obviate the necessity of constructing approximately 38 miles of pipeline otherwise required to connect the purchased gas into its nearest existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 22, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3755 Filed 2-7-77;8:45 am]

[Doc. No. CP75-232]

NORTHWEST PIPELINE CORP.

Petition To Amend

JANUARY 28, 1977.

Take notice that on January 13, 1977, Northwest Pipeline Corporation (Petitioner), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP75-232 a petition to amend the Commission's order issued pursuant to section 7(c) of the Natural Gas Act on July 30, 1975 (54 FPC —), in the instant docket so as to authorize the transportation of natural gas for RMNG Gathering Company (RMNG), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by the Commission's order issued July 30, 1975, to transport natural gas for RMNG to a gas transportation agreement between RMNG and Petitioner dated November 26, 1974, by which Petitioner would purchase 25 percent of the volumes made available by RMNG and would transport and deliver the remaining 75 percent to RMNG for the account of Rocky Mountain Natural Gas Company (Rocky Mountain) at an existing interconnection between the transmission systems of Mountain Fuel Resources (Resources) and Petitioner in Rio Blanco County, Colorado.

Petitioner further states that pursuant to a transportation agreement dated February 4, 1976, it filed an application on June 25, 1976, in Docket No. CP76-408 for a certificate of public convenience and necessity requesting authorization to transport natural gas for IGC Production Company (IGC), Thermal Exploration, Inc. (Thermal), and Development Associates, Inc. (Development), wholly-owned subsidiaries of Intermountain Gas Company (Intermountain), Washington Natural Gas Company (Washington Natural) and The Washington Water Power Company (Water Power), respectively, the latter companies (Intermountain, Washington Natural and Water Power) being existing customers of Petitioner. Further, it is stated that pursuant to a gas transportation agreement dated February 4, 1976, among RMNG, Rocky Mountain, IGC, Thermal and Development, gas produced in the Big Hole and

Blue Gravel Fields, Moffet County, Colorado, would be delivered by IGC, Thermal and Development to RMNG which would deliver equivalent volumes to Petitioner at the Bar-X delivery points for the account of IGC, Thermal, and Development. Equivalent volumes, it is stated, would be redelivered by Petitioner to Intermountain, Washington Natural, and Water Power, respectively, at various existing delivery points on Petitioner's system where Petitioner is presently authorized to sell and deliver volumes of natural gas to Intermountain, Washington Natural and Water Power.

Petitioner proposes to amend the Commission's order issued July 30, 1975, so as to implement the gas transportation agreement of February 4, 1976, with IGC, Thermal and Development by receiving a portion of the 75 percent of unpurchased gas delivered by RMNG at the Bar-X delivery points for the accounts of IGC, Thermal and Development and delivering such gas to Intermountain, Washington Natural and Water Power, respectively.

It is also stated that RMMG has available a supply of natural gas to be produced from additional acreage near the Bar-X and South Canyon Fields. Pursuant to an amendment to the original gas transportation agreement between Petitioner and RMNG dated January 5, 1977, Petitioner proposes to transport the additional volumes of gas available to RMNG. It is stated that Petitioner agrees to redeliver 66⅔ percent of such gas to the same interconnection of the transmission systems of Resources and Petitioner in Rio Blanco County, Colorado. Petitioner states that in consideration of this transportation service, it has the right to purchase 33⅓ percent of the gas delivered from the additional acreage, and it would charge RMNG $.05 per Mcf of gas transported which is the same amount presently being charged RMNG.

It is asserted that the amendment dated January 5, 1977, extends the termination date of the gas transportation agreement between Petitioner and RMNG until September 30, 1984, and it provides that Petitioner would retain 2 percent of the gross heating value of all volumes of gas redelivered to Resources for the account of RMNG.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3762 Filed 2-7-77;8:45 am]

[Docket No. ER77-87]

SOUTHERN CALIFORNIA EDISON CO.

Rate Change

JANUARY 28, 1977.

Take notice that Southern California Edison Company (Edison) on December 1, 1976, tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreement with the City of Anaheim as embodied in Rate Schedule FPC No. 83. The new rate for these scheduling and dispatching services will be $460 per month effective January 1, 1977.

The Company states that copies of this filing were mailed to the city of Anaheim, California, the attorney for the city of Anaheim, California, and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or to protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commisison's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3751 Filed 2-7-77;8:45 am]

[Doc. Nos. CP76-462; CP77-77]

SOUTHERN UNION GAS CO., ET AL.

Consolidating Proceedings, etc.

JANUARY 28, 1977.

These proceedings involve applications filed pursuant to section 7(a) of the Natural Gas Act (15 U.S.C. 717f(a))[1] by Southern Union Gas Company (Southern Union)[2] against Cities Service Gas Company (Cities Service) and Northern Natural Gas Company (Northern Natural). Southern Union requests that Cities Service's and Northern Natural's certificates be amended to permit Southern Union to purchase and receive additional volumes of natural gas to supply residential, commercial, public authority, and industrial customers in Beaver, Ellis, Harper, Roger Mills, Texas and Woodward counties, Oklahoma. For the reasons set forth below, these proceedings should be consolidated and set for hearing to resolve the issues raised by the various pleadings submitted in the proceedings.

In Docket No. CP76-462, Southern Union seeks an order directing Cities Service Gas Company (Cities Service) to sell and deliver Southern Union's maximum contract volumes of 1,360 Mcfd and 496,000 Mcf per year and permitting Southern Union to use these volumes to serve previously uncertificated residential, commercial, public authority and industrial customers in Beaver and Texas Counties, Oklahoma, in addition to the certificated service for irrigation and other incidental farm uses on the Adams and Turpin irrigation systems. On September 7, 1976, Cities filed its answer opposing the application and requesting that the Commission order Southern Union to isolate physically the Adams and Turpin irrigation systems from its integrated distribution system on the grounds that the requested service will cause and has caused its existing customers to experience increased curtailments.

Prior to the installation of Cities Service's facilities pursuant to the Commission's August 5, 1968 order, the Adams and Turpin irrigation system, which were then owned by the Peoples Natural Gas Division of Northern Natural Gas Company (Peoples), were served by Southern Union and Western Gas. That order permitted Cities Service to replace Southern Union and Western Gas as suppliers of gas to Peoples "for resale for irrigation and other incidental farm uses in and about Texas County, Oklahoma."[3] Southern Union acquired Peoples' interest in these irrigation systems effective March 15, 1973, and, on September 6, 1973, the Commission authorized Cities Service to continue to deliver gas "to be

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[1] Section 7(a) provides: Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to extend or improve its transportation facilities, to establish physical connection of its transportation facilities with the facilities of, and sell natural gas to, any person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial as to the public, and for such purpose to extend its transportation facilities to communities immediately adjacent to such facilities or to territory served by such natural-gas company, if the Commission finds that no undue burden will be placed upon such natural-gas company thereby: *Provided*, That the Commission shall have no authority to compel the enlargement of transportation facilities for such purposes, or to compel such natural-gas company to establish physical connection or sell natural gas when to do so would impair its ability to render adequate service to its customers.

[2] Southern Union is a division of Southern Union Company. Also, Western Gas Interstate Company (Western Gas) is a wholly owned subsidiary of Southern Union Company.

[3] Cities Service Gas Company, Western Gas Interstate Company, 40 F.P.C. 220 (1968).

resold for irrigation and other incidental farm uses" to Southern Union on the identical terms, rates, and conditions as it had delivered and sold gas to Peoples.[4]

Subsequent to the Commission's order authorizing Cities Service to continue service to Southern Union, Southern Union's operating personnel, allegedly not realizing the certificate restrictions, interconnected the irrigation facilities with its integrated distribution system and commingled the gas purchased from Cities Service with other gas supplies to serve residential, commercial, public authority and industrial customers in an expanded market area in addition to serving the certificated irrigation and farm customers. Southern Union now seeks an order requiring Cities Service to sell the maximum contract quantity of 1,360 Mcfd and 496,400 Mcf per year and permitting it to resell such volumes to customers other than irrigation and farm use customers.

Prior to March 1974, Cities Service's deliveries to Southern Union were substantially less than the contract limit of 1,360 Mcfd. The deliveries subsequent to that month have approached and, during many months, exceeded the maximum quantity. The irrigation system requirements have remained fairly constant while the total requirements have increased significantly. In fact, Southern Union's total requirements for 1976, and for subsequent years, are most likely to exceed the annual contract limitation. These increases are primarily attributable to growth in the requirements of the uncertificated residential, commercial, public authority and industrial customers.

Cities Service opposes the application which would mandate increased annual, and possibly peak day, deliveries and requests that Southern Union be ordered to separate the Adams and Turpin irrigation systems from its integrated distribution system. Cities Service views acquiescence in the application as inconsistent with its refusal since 1971 to permit other distribution customers to attach new towns and communities. Cities Service further states that its worsening gas supply situation is such that even serving Southern Union's residential customers will have and has had a negative impact on its existing customers.

In Docket No. CP77-77, Southern Union seeks an order directing Northern Natural to sell and deliver to Southern Union an additional 344,668 Mcf per year of natural gas for distribution and resale to customers in Beaver, Ellis, Harper, Roger Mills, Texas and Woodward Counties, Oklahoma. If the proposed order is granted, Northern Natural will be authorized to sell and deliver to Southern Union a maximum of 1,000,000 Mcf per year of natural gas for consumption through the subject distribution systems. Southern Union alleges that the additional volumes are required to meet increased irrigation requirements resulting from prolonged dry weather and demands for service from new customers which have been attached to the subject distribution systems.

In Docket No. CP72-224, Northern Natural was authorized to deliver up to a maximum of 450,000 Mcf per year to Southern Union to serve Northern Natural's pipeline right-of-way grantors and other customers for irrigation-pump fuel and other rural domestic uses.[5] On rehearing this volume was increased to 536,000 Mcf per year to meet annual rainfall variances.[6]

Southern Union was required to render service to any right-of-way grantors not then receiving service subject to Northern Natural's receipt of certificate authorization to add delivery points to provide such service. By orders issued in Docket Nos. CP74-294, CP75-13, and CP75-106, the annual delivery limitations was increased to 629,689 Mcf.

On August 14, 1974, Northern Natural and Southern Union amended their service argument to provide service to right-of-way grantors in Roger Mills County, Oklahoma and to increase the annual delivery limitations to 1,000,000 Mcf. By orders issued November 14, 1975, and August 13, 1976, in Docket No. CP75-333, Northern Natural was authorized to deliver additional gas volumes to Southern Union to serve additional right-of-way grantors. This service will increase the annual volumetric limitations to 655,332.

Southern Union states that it requires the total contractual entitlement of 1,000,000 Mcf to satisfy increased demands from existing customers and also new customers served by the subject distribution systems. Although Southern Union states that these additional volumes are required to serve increased irrigation requirements resulting from prolonged dry weather, the application shows substantial increases in the other service categories (See Exhibit I).

In addition, the application shows an extremely high percentage of the historical and future requirements as "unaccounted for." To date, Southern Union has not submitted a statement explaining this high percentage and corrective measures to be undertaken to reduce this loss to an acceptable level. We shall require that such evidence be introduced at the hearing in these proceedings.

Notice of this application was issued on December 13, 1976, and published on December 17, 1976 (41 FR 55237). Petitions to intervene were filed by Northern Illinois Gas Company (NI Gas), Iowa-Gas and Electric Company (Iowa-Illinois), Minnesota Gas Company (Minnesota Gas), Iowa Electric Light and Power Company (Iowa Electric), and jointly by the Iowa Task Force, Minnesota Municipal Utilities Association, and the Utilities Section of the League of Nebraska Municipalities (Municipal Utilities). Minnesota Gas raised a number of issues which it asserted should be considered at a hearing, and NI Gas and Iowa Electric intervened in opposition to the proposed request. All petitioners claimed that the requested relief could have an adverse impact on their own gas supplies. We find that it is in the public interest to grant these petitions to intervene.

The hearing in these proceedings should address, inter alia, the following issues:

1. The basis of Southern Union's allegation that its operating personnel were unaware of the certificate conditions which limit the use of gas purchased from Cities Service to irrigation and other incidental farm uses.

2. Whether the Commission should require Southern Union, as a condition of receiving continued service from Cities Service, to separate physically the Adams and Turpin from its other distribution facilities Beaver, Ellis, Harper, Roger Mills, Texas and Woodward Counties, Oklahoma.

3. The impact of denying the application and requiring physical isolation of the Adams and Turpin irrigation systems on the customers served by Southern Union's other distribution facilities in the above-named counties.

4. The extent to which Southern Union has added, and continues to add, new towns or communities or new residential, commercial, public authority and industrial customers to its distribution system in the above-named counties since the purchase of those facilities from Peoples (Southern Union's evidence on this issue should set forth, by year, the type and number of new customers added, the annual and peak day requirements of such customers, and the classification of such customers according to the priorities specified in 18 CFR 2.78(a)(1).

5. The impact of granting the applications on Cities Service's and Northern Natural's existing customers.

6. The basis for Southern Union's allegation that prolonged dry weather has increased the requirements for irrigation pumping fuel.

7. The basis for the increased requirements represented by new customers to be attached by Southern Union.

8. Whether the public interest would be served by permitting Southern Union to receive the additional volumes requested.

9. The basis for the high percentage of gas listed an "unaccounted for" and the corrective measures to be undertaken to reduce that percentage to an acceptable level.

10. Whether Southern Union has declined to purchase any available intrastate supplies of gas to serve its customers in the above-named counties because of price or other contractual considerations.

11. Whether, if either or both applications are granted, the order should be conditioned to prohibit Southern Union from attaching any new customers (residential, commercial, industrial, or public authority) to its distribution systems in the above-named counties.

We also find that Western Gas should be required to file an application for certificate authority to transport the gas which Southern Union purchases from

[4] Cities Service Gas Company, 50 F.P.C. 676 (1973).

[5] 48 F.P.C. 1523 (1972). Prior to this order, the subject facilities were owned and operated by Peoples. 48 F.P.C. 1523, 1524.

[6] 49 F.P.C. 474 (1973).

Cities Service.[1] While the necessity of such an application will ultimately depend on the Commission's decision in this proceeding, Western Gas currently lacks certificate authority to transport this gas and its transportation of such gas may constitute a violation of the Natural Gas Act and the Commission's Regulations under the Natural Gas Act and will continue to constitute such violations unless and until Western Gas applies for and receives temporary or permanent certificate authorization pending a decision in this proceeding.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in these proceedings as described above.

(2) Due to the related nature of the applications and since there may be common questions of law or fact involved, it is appropriate to consolidate the proceedings in Docket Nos. CP76-462 and CP 77-77.

(3) Western Gas Interstate Company should be required to file an application for temporary and/or permanent certificate authorization to transport for Southern Union gas purchased from Cities Service pending a decision in this proceeding.

(4) Participation in these proceedings by the above-named petitioners may be in the public interest.

The Commission orders: (A) The proceedings in Docket Nos. CP76-462 and CP77-77 are hereby consolidated for purposes of hearing and disposition.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure (18 CFR Part 1), and the Regulations under the Natural Gas Act (18 CFR Chapter I, Subchapter E), the prehearing conference shall be held on February 22, 1977, commencing at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, to discuss procedural issue and the clarification of issues.

(C) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the prehearing conference in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(D) On or before February 11, 1977, Western Gas Interstate Company shall file an application for certificate authorizing the continued transportation of Southern Union's gas purchased from Cities Service pending a decision in this proceeding.

(E) The above-mentioned intervenors are permitted to intervene in the instant consolidated proceeding subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order of the Commission entered in the proceeding.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3760 Filed 2-7-77;8:45 am]

[Docket No. RI77-25]

WOODS EXPLORATION & PRODUCING CO., ET AL.

Petition for Special Relief

JANUARY 28, 1977.

Take notice that on January 10, 1977, Woods Exploration & Producing Company, et al. (Woods, et al.), 1600 C & I Building, Houston, Texas 77002, filed on behalf of itself and other petitioners named therein a Petition for Special Relief, pursuant to § 2.76 of the Commission's Statements of Policy and Interpretations and Order No. 551, covering certain sales from six wells in the East Bernard Field, Wharton County, Texas, to Tennessee Gas Pipeline Company under a contract dated April 18, 1960, as amended on February 6, 1976.

Woods, et al. seek to increase the applicable base rate to 62.79 cents per Mcf at 15.025 psia in order to permit working interest owners to prolong the productive life of these wells through remedial work of various kinds. The sales of natural gas are currently being made under an FPC Small Producer Certificate, issued in Docket No. CS71-270.

Woods, et al. urge the Commission to omit the intermediate decision procedure and waive oral hearing and the right to file exceptions, but reserve the right to file a motion for rehearing.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 18, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3758 Filed 2-7-77;8:45 am]

[Docket No. RP76-31]

LOUISIANA-NEVADA TRANSIT CO.

Settlement Agreement

FEBRUARY 1, 1977.

Take notice that on January 11, 1977, Louisiana-Nevada Transit Company filed with the Commission a "Stipulation and Agreement In Settlement of Rate Issues" in the above-captioned docket. Appendix B, attached to the Stipulation and Agreement, sets forth the cost of service upon which the settlement is based.

Any person desiring to file comments or to protest any aspect of the proposed settlement agreement should file same with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 18, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3945 Filed 2-7-77;8:45 am]

[Docket No. ER77-102]

PENNSYLVANIA POWER CO.

Order Accepting in Part and Rejecting in Part Proposed Municipal Resale Service Rate, Permitting Intervention, Providing for Hearing, and Establishing Procedures

JANUARY 28, 1977.

On January 8, 1976, Pennsylvania Power Company (Penn Power) submitted for filing a proposed interim high voltage service rate[1] for the Borough of Elwood City (Elwood City). This filing was submitted to comply with the Commission's Order Affirming Initial Decision[2] With Respect to High Voltage Service dated August 20, 1975, in Docket No. E-8159, in which Penn Power was ordered to file rates for high voltage (69 kv) service, containing discount rates for such service, within 45 days of receipt of notice from a municipal customer that it is ready and able to receive such service. The filing's proposed high voltage discount is in compliance with that developed by the Commission and Administrative Law Judge Kaplan, but the filing's limitation of service to Ellwood

[1] As a result of Southern Union's interconnection of the irrigation facilities with its integrated distribution system, Western transports a portion of the Cities Service gas to various communities served by Southern Union and may thereby render a jurisdictional transportation service.

[1] Designated as: Pennsylvania Power Company, Supplement No. 4 to Rate Schedule, FPC No. 26 (Supersedes Supplement No. 3).

[2] Presiding Administrative Law Judge's Initial Decision on the Reserved Issues Concerning High Voltage Service in Docket No. E-8159, issued April 23, 1975.

City to one delivery point and one delivery voltage is beyond compliance with the Commission's order.

Notice of the filing of the initial interim transmission rate was issued January 13, 1977, with protests or petitions to intervene due on or before January 21, 1977. A protest, petition to intervene, and motion for expedited and emergency action was filed on January 27, 1977, by Ellwood City.

Penn Power and Ellwood City entered into a ten-year contract on August 1, 1966. Penn Power currently provides full requirements service to Ellwood City at the primary voltage (4.16 kv) rate, which consists of blocked capacity and energy charges subject to fuel adjustment and tax adjustment clauses. Section 8 of the contract provides that:

> The company will furnish and maintain one meter or one unified set of meters for *each* delivery point. Service supplied through each meter shall be billed separately and shall not be combined for billing purposes. (Emphasis added).

The present contract also provides that service to Ellwood City is to be furnished in accordance with a written contract.

Under the proposed rates Penn Power will provide service at either the primary voltage rate or the transmission voltage (69 kv) rate. Such rates are identical to the present charges for primary voltage service with the exception that a discount of $.30/kva of billing load with a 2% reduction of the billing load and kWh of energy has been incorporated in the rate for transmission voltage service. Penn Power proposed that implementation of new rate be deferred pending determination that Ellwood City's customers are able to receive service from the new delivery point and at the higher delivery voltage. Penn Power indicates that either low voltage 4.16 kv) or high voltage (69 kv) service, but not both, will be offered to Ellwood City and only at one delivery point.

The provision in the proposed rates that restricts the supply of electric power and energy to one delivery point and at one delivery voltage may not be consistent with the contract. Additionally, the proposed limitation may not be in the public interest. We shall set this matter for hearing.

The Commission finds: (1) The proposed high voltage discount is identical to that developed in the proceedings in Docket No. E-8159 and is in compliance with the Commission's Order Affirming Initial Decision With Respect to High Voltage Service, issued in relation to these proceedings on August 20, 1975.

(2) The provision in the proposed rates that restricts the supply of electric power and energy to one delivery point and at one delivery voltage may not be consistent with either the contract or the public interest and therefore that provision should be set for hearing and decision, as hereinafter ordered.

(3) The participation of Elwood City in this proceeding may be in the public interest.

The Commission orders: (A) The proposed high voltage discount rate contained in the instant filings is hereby accepted for filing as being in compliance with the Commission's Order of August 20, 1975 in Docket No. E-8159.

(B) Pursuant to the authority contained in the Federal Power Act, the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act, a public hearing shall be held concerning the lawfulness of the provision in Penn Power's submittal of December 8, 1976 pertaining to the restriction of the supply of electric power and energy at one delivery point and at one delivery voltage.

(C) Pending hearing and decision thereon, the provision set forth in Ordering paragraph B above is hereby accepted for filing and its effectiveness is suspended until July 28, 1977, when it shall become effective subject to refund in accordance with the provisions of the Federal Power Act.

(D) Ellwood City is hereby permitted to intervene in Docket No. ER77-102: *Provided, however,* That participation by Ellwood City shall be limited to matters affecting asserted rights and interests as specifically set forth in its petition to intervene: *Provided, further,* That the admission of Ellwood City shall not be construed as recognition by the Commission that Ellwood City might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(E) Penn Power shall file its case-in-chief including testimony and exhibits in support of its provision contained in paragraph B above and shall file such evidence within 30 days from the date of issuance of this order.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at an initial conference in this proceeding to be held on March 15, 1977, at 10:00 A.M., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever and motions to dismiss), as provided for in the Rules of Practice and Procedure.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3941 Filed 2-7-77;8:45 am]

[Docket No. RP77-30]

PHILADELPHIA GAS WORKS, COMPLAINANT VS. TRANSCONTINENTAL GAS PIPELINE CORP., DEFENDANT

Order Requiring Hearing on Complaint Filed by Philadelphia Gas Works

JANUARY 28, 1977.

On January 27, 1977, Philadelphia Gas Works (PGW—Complainant) pursuant to Section 7(b) of the Natural Gas Act and § 1.6 of the Commission's Rules of Practice and Procedure filed a complaint against Transcontinental Gas Pipeline Corporation (Transco) in which it contended:

(1) That Transco is currently delivering a curtailed quantity of gas to PGW under the general terms and conditions contained in its gas tariff No. 1 on file with the Federal Power Commission.

(2) PGW notes that the general terms and conditions have been restructured to conform with Opinion Nos. 778 and 778-A issued by the Commission on October 8, 1976, and December 8, 1976, respectively.

(3) PGW was allocated a seasonal quantity of gas under the aforementioned curtailment plan, and further indicated that the curtailment plan provides that any customer on the system may request up to its full contract quantity on any day that volume is required.

(4) PGW complains that on January 18, 1977, that Transco notified it that its maximum daily quantity was being reduced to 55 percent of its contract quantity.

(5) It is the position of PGW that under Section 13.5(c) of the General Terms and Conditions under Transco FPC Gas Tariff First Revised Volume No. 1 that where there is a curtailment because of *force majeure* or operating conditions that "seller shall next order curtailment of sales to buyers under all firm rate schedules proportionately to each buyer's entitlement to the extent possible." PGW complains that had Transco properly applied this provision it would have received a greater maximum daily volume than accorded to it by Transco.

(6) PGW contends that FPC Opinion No. 778 specifically rejected pro-rata curtailment and mandated end-use curtailment. PGW asserts that Transco has ignored these mandates.

PGW evidently contends that there is no justifiable basis to support the level of curtailment imposed upon it by Transco. It, therefore, requests that the Commission investigate the application by Transco of the provisions of its approved and effective curtailment plan and cause Transco to properly apply the provisions specified in its tariff. PGW requests that the Commission deal with the situation on an expedited basis in light of an extreme emergency on its system which it contends has been partially caused by the misapplication by Transco of the provisions set forth in its currently effective curtailment plan on file with the Commission.

PGW has requested that the Commission act expeditiously to resolve this matter. The substantially colder than normal winter weather now prevailing east of the Rocky Mountains has resulted in extreme emergency conditions on many of the pipelines serving that area resulting in increasing difficulties by a number of pipelines in procuring emergency supplies of gas to cope with the current crisis confronting them. In these circumstances, the Commission is constrained to waive its regulations so that the issues raised by PGW's complaint can be resolved promptly.

The Commission will, in view of the serious nature of the allegations made by PGW at a time when the entire nation east of the Rocky Mountains is plagued by numerous emergency situations due to the shortage of natural gas because of record cold weather, set the complaint of PGW down for prompt hearing. It will advise all of Transco's customers of the expedited hearing provided for herein by telegram. The Commission finds that except for the telegrams referred to above, prior public notice is impracticable, unnecessary and contrary to the public interest given the circumstances set forth herein. The Administrative Law Judge designated to preside over this proceeding shall render an initial decision on this matter as promptly as possible.

The witness sponsored by PGW in the recent Columbia Gas Transmission Corporation proceeding in Docket No. CP77-126 indicated that PGW did not have an established curtailment plan and as of the date of his testimony (January 24, 1977) was still rendering service to industrial customers. PGW should provide a witness at the hearing provided for herein capable of addressing these matters.

The Commission orders: (A) Pursuant to § 1.20 of the Commission's Rules of Practice and Procedure, a public hearing shall be convened on January 31, 1977, at 2:00 P.M., E.S.T., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. for the purpose of considering on the issues raised herein. Because of the urgency of this matter, the 15-day notice period is waived.

(B) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [see Delegation of Authority, 18 CFR 3.4(d)] shall preside at the hearings in this proceeding and shall prescribe relevant procedural matters not herein provided for in ordering paragraph (A) of this order.

(C) All persons desiring to intervene in this proceeding are hereby directed to notify the Secretary of such intention, and such notification shall constitute the basis for participation in this proceeding as a party intervenor.

(D) The Secretary shall publicly post copies of this order today and shall also submit copies of this order to the Federal Register with the request that it be published in the FEDERAL REGISTER at the earliest possible date.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3942 Filed 2-7-77;8:45 am]

[Docket Nos. CP77-100 CP77-101, and CP77-102 and CP77-103]

TENNECO ATLANTIC PIPELINE CO. AND TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Extension of Time

JANUARY 31, 1977.

On January 31, 1977, the New Hampshire Attorney General filed a motion to extend the time for filing petitions to intervene fixed by notices issued January 6, 1977 in the above-designated proceeding.

Upon consideration notice is hereby given that an extension of time is granted to and including February 22, 1977, for filing petitions to intervene.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-3944 Filed 2-7-77;8:45 am]

[Docket Nos. RP77-26 and RP76-136]

TRANSCONTINENTAL GAS PIPELINE CORP.

Order Accepting for Filing and Suspending Proposed Increase in Transportation Rates, Consolidating Proceedings, and Permitting Interventions

JANUARY 31, 1977.

On December 30, 1976, Transcontinental Gas Pipeline Company (Transco) tendered for filing certain revised tariff sheets [1] to its FPC Gas Tariff, Original Volume No. 2, thereby proposing an increase in rates for interruptible transportation service. Transco currently charges 22 cents per Mcf for transporting interruptible gas anywhere on it system. Transco now proposes to charge 28.2 cents per dekatherm (dth) in its rate zone 1, 29.8 cents per dth in zone 2 and 31.5 cents per dth in zone 3. These rates would produce approximately $275,000 of additional revenues annually based on the test period volumes as reflected in Transco's general rate proceeding currently pending in Docket No. RP76-136.

In its filing in Docket No. RP76-136, Transco did not propose any change in in the rate for interruptible transportation service. However, Transco observes that the staff in the submission of its top sheets in RP76-136 has allocated transportation costs by zones, and that Transco's present transportation rate is less than compensatory in comparison to the staff's allocated transportation costs. In order that its transportation rates be compensatory in the event the staff's allocation methods are ultimately approved, Transco has developed the proposed transpotration rates herein based on the staff's allocation methods.

Transco requests an effetive date of January 31, 1977, for the proposed revised transportation rates, and requests that the proposed rates be suspended for one day so as to become effective following suspension on February 1, 1977, coinciding with the effective date of the proposed increased rates in RP76-136.

Public notice of Transco's filing was issued on January 1977, providing for protests or petitions to intervene to be filed on or before January 28, 1977. On January 21, 1977, petitions to intervene were filed by Nabisco, Inc., Cannon Mills Company, and Cone Mills Corporation. These petitions shall be granted.

Upon review of facts and circumstances outlined by Transco in its filing herein, the Commission finds that the proposed increased transportation rates should be accepted for filing, suspended for one day, and permitted to become effective thereafter on February 1, 1977, subject to refund. In view of the fact that the proposed rate changes are an integral part of Transco's pending rate proceeding in Docket No. RP76-136, the proceedings in that docket and the present Docket No. RP77-26 shall be consolidated for purposes of hearing and decision.

The Commission orders: (A) Transco's proposed increased transportation rates are accepted for filing, suspended for one day, and permitted to become effective thereafter on February 1, 1977, subject to refund.

(B) The proceedings in Docket Nos. RP76-136 and RP77-26 are consolidated for purposes of hearing and decision.

(C) The above-mentioned petitions are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of said intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in its petition to intervene; and *Provided, further,* The admission of said intervenors shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders entered in this proceeding.

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

By the Commission.

KENNETH F. PLUMB,
Secretary

[FR Doc.77-3943 Filed 2-7-77;8:45 am]

[1] First Revised sheet Nos. 637, 670, 755, 761, 766, 774, 781, 788, 795, 802, 829, 836, 843, 877, 884, 916, 922, 927, 933, 943, 948, and 955.

TRANSCONTINENTAL GAS PIPELINE CO., LOVACA GATHERING CO. AND NORTHWEST PIPELINE CO.

Emergency Natural Gas Act of 1977; Emergency Order

Transcontinental Gas Pipeline Company (Transco) has requested "* * *

approval * * * for the purchase of approximately 150,000 Mcf per day of natural gas from three distributor-customers of Northwest Pipeline Corporation." The request for approval was filed with the Federal Power Commission on February 2, 1977, in contemplation of the passage of Pub. L. 95–2.

Pursuant to delegated authority of the President Executive Order No. 11969, dated February 2, 1977, I [1] have determined that LoVaca Gathering Company (LoVaca) should be ordered to deliver up to 150,000 Mcf/day to Transco for a period of up to 60 days hereafter, available from equivalent volumes released by the distributor customers of Northwest Pipeline Corporation (Northwest). This gas will be delivered to LoVaca by El Paso Natural Gas Company which will receive gas from Northwest. LoVaca is so ordered, pursuant to section 6(c)(1) Pub. L. 95–2. This order is subject to further action of the Administrator.

Transco advises the LoVaca's transportation charge will approximate 18¢/Mcf plus 2% of the volumes for fuel. Accordingly, I find no reason for purposes of this order to fix another transportation charge for the use of LoVaca facilities.

LoVaca has agreed to transport this gas and advised that the deliveries can be accomplished through existing facilities. Thus, there is no reason to require LoVaca to construct and operate facilities as permitted under section 6(c)(1) of the Act. LoVaca shall advise the Administrator upon the commencement of deliveries that it has available capacity to transport up to 150,000 Mcf per day for Transco. If LoVaca is unable to transport up to 150,000 Mcf per day, LoVaca shall advise the Administrator of the volumes it is able to transport.

Inasmuch as Transco's request for approval was filed in advance of the enactment of Pub. L. 95–2, and in advance of the promulgation of Order Nos. 1, 2 and 3 of the Administrator, Emergency Natural Gas Act, the stated price for the emergency purchases of the 150,000 Mcf per day of natural gas is not referenced to the "fair and equitable" pricing criteria as set forth in section 6(a) of Pub. L. 95–2. There is need for prompt action in this circumstance and the approval herein given is conditioned upon Transco's certification to the Administrator within four (4) hours from the issuance of this order that the purchase price does meet the criteria of Order No. 2, paragraph 3 and, as a part of such certification, how the criteria are satisfied. That paragraph provides in part as follows:

(3) Where a distribution company makes an emergency sale it may receive its overall replacement cost plus applicable transportation and storage costs, if any. No subsequent action by the Administrator may require a refund of any monies collected or the reduction of prices in any transaction complying with this section and otherwise complying with the Act. * * *

[1] Acting as Administrator, Emergency Natural Gas Act.

Data from the files of the Federal Power Commission show that contractual provisions between LoVaca and its producers prohibit the sale of natural gas in interstate commerce and commingling of LoVaca's general system gas supply with gas moving in interstate commerce. The physical movement of gas for which Transco seeks approval will result in some commingling of interstate natural gas with LoVaca's normal system gas supply.

The contractual provisions referred to above fall within the terms of Section 9 of Pub. L. 95–2. That section provides that such terms are not enforceable by reason of the transportation of natural gas volumes pursuant to an authorization granted pursuant to section 6(a). Therefore, LoVaca's producers may not terminate existing contracts with LoVaca, and LoVaca shall refer to the Administrator all relevant information relating to any such attempt for such action as the Administrator find appropriate.

According to the official files of the Federal Power Commission, LoVaca is not classified as a natural gas company within the meaning of the Natural Gas Act. Section 6(c)(2) of Pub. L. 95–2 provides:

Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State law.

This order shall be served upon Transco, LoVaca and Northwest. It shall be published in the FEDERAL REGISTER.

This order and the authorization herein granted is subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 3, 1977.

[FR Doc.77-4118 Filed 2-4-77;3:05 pm]

TRANSCONTINENTAL GAS PIPELINE CO., LOVACA GATHERING CO., NORTHWEST PIPELINE CORP., SOUTH TEXAS, TEXAS UTILITIES FUEL CO. AND TEXAS ELECTRIC SERVICE CO.

Emergency Natural Gas Act of 1977; Supplemental Emergency Authorization

This authorization supplements an order isued today in this matter.

Counsel for LoVaca Gas Gathering (LoVaca) has advised that in addition to LoVaca's transportation of emergency gas for Transcontinental Gas Pipeline Company (Transco), it is also necessary to use the facilities of South Texas Natural Gas Gathering Company (South Texas) to move such gas supplies from LoVaca to Transco. The emergency order issued February 3, 1977 to which this order is a supplement, authorized and directed LoVaca to move such gas for Transco. The intent of that order was that the gas be delivered to Transco.

In view of the foregoing representation by LoVaca that it is necessary to use the facilities of South Texas to effect such movement, the aforementioned order is hereby supplemented to authorize the use of South Texas' facilities to transport such gas for delivery to Transco.

Counsel for Texas Utilities Fuel Company and Counsel for LoVaca have advised that LoVaca's transportation of these supplies may result in the commingling of interstate natural gas with gas owned by other companies, as well as gas owned by LoVaca. Depending upon the physical operation of LoVaca's system, gas to be delivered to Transco may be commingled with gas owned by Texas Utilities Fuel Company and Texas Electric Service Company. I have been advised that these companies have contracts similar to LoVaca's contracts which prohibit the commingling of their gas with gas flowing in interstate commerce. In the course fo such transportation, from point of origin to destination, there may be commingled with gas to be delivered to Transco, volumes of gas owned by parties other than LoVaca. This order shall be considered as applying to all such commingled gas and under the provisions of Pub. L. 95–2 the producers of such gas which is so commingled, may not terminate existing contracts with such other parties, nor shall such other parties thereby become subject to the Natural Gas Act or to regulation as a common carrier under any provision of state law. These contractual termination or prohibition conditions are not enforceable by reason of section 9 of Pub. L. 95–2 since LoVaca is transporting gas for Transco pursuant to an authorization granted pursuant to section 6(a) thereof.

It should also be noted, on February [illegible] Transco filed a certification statement in response to the aforementioned order.

This order shall be served upon Transco, LoVaca, Northwest Pipeline Corporation, South Texas, Texas Utilities Fuel Company and Texas Electric Service Company. It shall be published in the FEDERAL REGISTER.

This authorization is subject to the continuing authority of the Administrator under Pub. L. 95–2 and the rules and regulations which may be issued thereunder.

RICHARD L. DUNHAM,
Administrator.

FEBRUARY 3, 1977.

[FR Doc.77-4119 Filed 2-4-77;3:05 pm]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 3]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending January 15, 1977

ACTIONS OF THE BOARD

National Survey of consumer awareness and use of credit, to be conducted by the Survey Research Center, Institute for Social Research, University of Michigan.

Clear Bancorp, Inc., Chicago, Illinois, extension of time to March 11, 1977, within which to acquire Clearing Bank, Chicago, Illinois.[1]

SYB Corporation, Oklahoma City, Oklahoma, extension of time to February 7, 1977, within which to consummate the acquisition of Stock Yards Bank, Oklahoma City, Oklahoma.[1]

Trinity Capital Corporation, Los Alamos, New Mexico, extension of time to March 14, 1977, within which to consummate the acquisition of Los Alamos National Bank, Los Alamos, New Mexico.[1]

Farmers Bank of Lincoln, Lincoln, Missouri, to make an investment in bank premises.[1]

Mercantile Bank of Farmington, Farmington Missouri, to make an investment in bank premises.[1]

Peoples Bank and Trust Company, Van Wert, Ohio, to make an investment in bank premises.[1]

Valley State Bank, Yankton, South Dakota, extension of time within which to establish the detached drive-up facility.[1]

First Citizens Bank of Butte, Butte, Montana, extension of time within which to accomplish membership.[1]

First Bank, Delray Beach, Florida, Delray Beach, Florida, and First Bank West, Palm Beach County, Florida, proposed merger with First Bank and Trust, Boynton Beach, Florida, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Industrial Park Branch of First National Bank in Spokane, Spokane, Washington, proposed acquisition by Old National Bank of Washington, Spokane, Washington, report to the Comptroller of the Currency on competitive factors.[1]

Pan American Bank of Inverrary, Lauderhill, Florida, proposed acquisition by Pan American Bank of Broward County, National Association, Oakland Park, Florida, report to the Comptroller of the Currency on competitive factors.[1]

Subsidiaries of First Bancshares of Florida, Inc., Boca Baton, Florida, proposed merger with American National Bank and Trust Company of Fort Lauderdale, Fort Lauderdale, Florida, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Mercantile Bank of Farmington, Farmington, Missouri. Branch to be established at the Southwest corner of Highway 32 (Woodlawn Drive) and Second Street in Leadington, St. Francois County.[1]

* * * * *

To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act.

APPROVED

The Commercial Bank, Delphos, Ohio, for approval to merge with The Farmers Bank of Elida, Ohio.[2]

* * * * *

Thirty Day Notice of Intention to Establish an Additional Branch of a Member Bank in a Foreign Country.

APPROVED

Citibank, N.A.: Branch—Two in Egypt, one each in Alexandria and Port Said.

* * * * *

[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended.

APPROVED

Manufacturers Hanover International Finance Corporation: Investment—Additional in Arab Finance Corporation (International) S.A.L., Luxembourg.

Continental International Finance Corporation: Investment—to acquire all the shares of Underwriters Overseas (Nominees) Ltd., Hong Kong.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

APPROVED

FM Co., Milligan, Nebraska, for approval to acquire an additional 78 per cent of the voting shares of Farmers and Merchants Bank, Milligan, Nebraska.[2]

MINGO BANCSHARES, INC., Puxico, Missouri, for approval to acquire 92.2 per cent or more of the voting shares of Puxico State Bank, Puxico, Missouri.[2]

DENIED

American National Bancshares, Inc., Midwest City, Oklahoma, for approval to acquire 80 per cent or more of the voting shares of American National Bank of Midwest City, Midwest City, Oklahoma.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

SUSPENDED

TIC, Inc., Kansas City, Kansas, for approval to acquire an additional 52.82 per cent of the voting shares of Tower State Bank, Kansas City, Kansas.

APPROVED

Exchange Bancorporation, Inc., Tampa, Florida, for approval to acquire 80 per cent or more of the voting shares of Southeast Bank of Gulf Gate, Sarasota, Florida.

Exchange Bancorporation, Inc., Tampa, Florida, for approval to acquire 80 per cent or more of the voting shares of Southeast National Bank of Manatee, Manatee County (P.O. Bradenton), Florida.

Southeast Banking Corporation, Miami, Florida, for approval to acquire 80 per cent or more of the voting shares of the Exchange Bank of Westshore, Tampa, Florida.

Southeast Banking Corporation and Southeast Acquisition Company, both in Miami, Florida, for approval to acquire 80 per cent or more of the voting shares of The Exchange Bank of North Winter Haven, Winter Haven, Florida.

Indiana National Corporation, Indianapolis, Indiana, for approval to retain 8.16 per cent of the voting shares of Gary National Bank, Gary, Indiana.

Mountain Financial Services, Inc., Denver, Colorado, for approval to acquire 98 per cent or more of the voting shares of Southeast State Bank, Denver, Colorado.

DENIED

Sellon, Inc., Toledo, Ohio, for approval to retain 5,509 voting shares of Nevada National Bank, Reno, Nevada.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) *of the Bank Holding Company Act of 1956.*

DELAYED

National Detroit Corporation, Detroit, Michigan, notification of intent to engage in de novo activities (making, acquiring, and servicing for its own account and for the account of others, mortgage loans and other extensions of credit in connection with the purchase, development and/or improvement of real property and all activities incidental thereto) at 715 East Front Street, Traverse City, Michigan, through its subsidiary, NBD Mortgage Company (1/11/77).[3]

United Banks of Colorado, Inc., Denver, Colorado, notificcation of intent to relocate de novo activities (a mortgage banking business limited to the origination and closing of real estate mortgage loans) from 102 North Cascade Avenue, Colorado Springs, Colorado to 614 North Academy Boulevard, Colorado Springs, Colorado, through a subsidiary, United Mortgage Company (1/13/77).[3]

Security Pacific Corporation, Los Angeles, California, notificaion of intent to engage in de novo activities (acting as broker or agent for the sale of credit-related property and casualty insurance) at 1400 North Harbor Boulevard, Fullerton, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as broker or agent for the sale of credit-related property and casualty insurance) at Del Amo Financial Center, 21515 Hawthorne Blvd., Torrance, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[3]

REACTIVATED

Texas American Bancshares Inc., Fort Worth, Texas, notification of intent to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) at Livestock Exchange Building, 4701 Marion Street, Denver, Colorado, through a subsidiary, American Cattle and Crop Services Corporation (1/5/77).[3]

PERMITTED

Centran Corporation, Cleveland, Ohio, notification of intent to engage in de novo activities (the making and acquiring of consumer finance loans for its own account or the account of others, (including loans to individuals secured by second mortgages or deeds of trust on residential property) the purchasing of installment sales contracts; the sale as agent of credit life insurance and health and accident insurance to borrowers at their request in connection with extensions of credit; the sale as agent of fire, inland marine, and extended coverage insurance on real property, furniture, household goods, and vehicular physical damage insurance on vehicles taken as collateral on loans made or purchased; and the servicing of loans and other extensions of credit for any person) at 8803 Sudley Road, Manassas, Virginia, through a wholly-owned subsidiary, Major Finance Corporation, Silver Spring, Maryland (1/14/77).[3]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Mellon National Corporation, Pittsburgh, Pennsylvania, notification of intent to engage in de novo activities (leasing real or personal property or acting as agent, broker, or adviser in leasing such property; the lease shall serve as the functional equivalent of an extension of credit to the lessee and the transaction will provide a sufficient return to compensate the lessor for the full investment in the property plus the estimated cost of financing the property over the term of the lease; making or acquiring, for its own account or the account of others, loans or other extensions of credit to be secured by real or personal property; servicing leases on real or personal property and loans secured by real or personal property for its own account or the account of others) at 3714 Mellon Bank Building, Mellon Square, Pittsburgh, Pennsylvania, through a wholly-owned subsidiary, Mellon National Leasing and Management Corporation (1/10/77).[5]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to relocate de novo activities (making installment loans to individuals for personal, family, or household purposes; purchasing sales finance contracts executed in connection with the sale of personal, family, or household goods or services; acting as agent in the sale of credit life and credit accident and health insurance directly related to its extensions of credit; and acting as agent in the sale of insurance protecting collateral held against the extensions of credit) from 939 Broad Street, Camden, South Carolina to 2612 N. Broad Street, Camden, South Carolina, through its subsidiary, Landmark Financial Services, Inc. (1/10/77).[5]

Citizens and Southern Holding Company, Atlanta, Georgia, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including specifically (but without limitation upon the foregoing) the making of loans secured by second mortgages upon residential and other real property and servicing loans and other extensions of credit) at 6445 Powers Ferry Road, Atlanta and 1895 Phoenix Boulevard, College Park, both located in Georgia, through a subsidiary, Citizens and Southern Equity Mortgage Company (1/16/77).[5]

BankAmerica Corporation, San Francisco, California, notification of Intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans and purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by real or personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit by FinanceAmerica Corporation of Massachusetts) from Suite 200, 74 Merrimack Street, Lowell, Massachusetts to 1105 K. Lakeview Avenue, Dracut, Massachusetts, through its indirect subsidiary, FinanceAmerica Corporation of Massachusetts (1/10/77).[5]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at 1400 North Harbor Boulevard, Fullerton, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[5]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit related life/accident and health insurance) at Del Amo Financial Center, 21515 Hawthorne Blvd., Torrance, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[5]

APPROVED

Mountain Financial Services, Inc., Denver, Colorado, for permission to engage de novo in the sale as agent of credit life, credit accident and health insurance directly related to extensions of credit by Southeast State Bank, Denver, Colorado.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

PERMITTED

Warner Communications Inc., New York, New York, notification of intent to acquire 25 percent of the capital stock of SP&S Records (Holdings) Limited, through its subsidiary, WCI United Kingdom (1/9/77).[5]

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Merrill Trust Company, Bangor, Maine. Branch to be established on Maine Road, Winterport.

Union Trust Company of Maryland, Baltimore, Maryland. Branch to be established at the intersection of Crusader Road and Meteor Avenue, Cambridge, Dorchester County.

First Bank and Trust Company of South Bend, South Bend, Indiana. Branch to be established at 300 Michigan Street, Walker, St. Joseph County.

Citizens Fidelity Bank & Trust Company, Louisville, Kentucky. Branch to be established at 2901 Bardstown Road, Louisville, Jefferson County.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

Mahaska Investment Company, Oskaloosa, Iowa, for approval to acquire 51.47 percent of the voting shares of Farmers Savings Bank, Fremont, Iowa.

Buffalo Bank Corporation, Buffalo, Wyoming, for approval to acquire 80 percent or more of the voting shares of Wyoming Bank and Trust Company, Buffalo, Wyoming.

First National David City Corporation, David City, Nebraska, for approval to acquire 80 percent or more of the voting shares of The First National Bank of David City, David City, Nebraska.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

Marshall & Ilsley Corporation, Milwaukee, Wisconsin, for approval to acquire 80 percent or more of the voting shares of Fox Heights State Bank, Ashwaubenon Township (P.O. Green Bay), Wisconsin.

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Albany, Albany, Georgia.

Trust Company of Georgia, Atlanta, Georgia, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Brunswick, Brunswick, Georgia.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; and acting as broker for the sale of consumer credit related life/accident and health insurance and consumer credit related property and casualty insurance; if this proposal is effected, Nationwide Financial Corporation of Nevada will offer to sell insurance as follows: group credit life/accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death, or, to make the contractual monthly payments on the loans in the event of the borrower's disability; individual physical damage insurance on personal property subject to security agreements including liability only when such insurance is sold as part of an insurance package on such property; further, in regard to the sale of credit related insurance, Nationwide Financial Corporation of Nevada will not act as a general insurance agency) from 390 N. Virginia Street, Reno, Nevada to 151 North Rock Boulevard, Sparks, Nevada, through its subsidiary, Nationwide Financial Services Corporation and its subsidiary, Nationwide Financial Corporation of Nevada (1/14/77).[5]

Fidelcor, Inc., Rosemont, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals including second mortgage loans, servicing these loans and possibly other loans secured by mortgages in Massachusetts where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from the sale of personal property and services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance, and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring credit life insurance and credit accident and health insurance sold; the location indicated is relevant to the reinsurance only as establishing a location of credit transactions to which the insurance relates) from 95 Main Street, Brockton, Massachusetts to 721A Belmont Street, Brockton, Massachusetts, through a subsidiary, Fidelcor Financial Centers, Inc. (1/10/77).[5]

Maryland National Corporation, Baltimore, Maryland, notification of intent to engage in de novo activities (engaging generally in the business of leasing personal property including, but not limited to, the leasing of various types of equipment, machinery, vehicles; transportation equipment, and data processing equipment; originating personal property leases as principal or agent; servicing personal property leases for affiliated or non-affiliated individuals, partnerships or corporations; buying and selling and otherwise dealing in personal property lease contracts as principal or agent; acting as adviser in personal property leasing transactions; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and/or mortgage redemption insurance; engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or nonaffiliated individuals, partnerships, corporations, or other entities; buying, selling, and otherwise dealing in real property leases as principal, agent, or broker and acting as adviser in real property leasing transactions) at 300 E. Joppa Road, Towson, Maryland, through a subsidiary, Maryland National Leasing Corporation (1/10/77).[3]

Mahaska Investment Company, Oskaloosa, Iowa, for approval to continue to engage directly in the activity of leasing real property and to continue to engage indirectly in personal property leasing through its wholly-owned subsidiary, MIC Leasing, Inc., Oskaloosa, Iowa.

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extensions of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans and purchasing installment sales finance contracts, and making loans to small businesses and extensions of credit secured by real or personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit by FinanceAmerica Corporation of Massachusetts) from 1545 Blue Hill Avenue, Mattapan, Massachusetts to 524 Washington Street, Norwood, Massachusetts, through its indirect subsidiary, FinanceAmerica Corporation of Massachusetts, a subsidiary of FinanceAmerica Corporation (1/6/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making loans and extending credit and providing services incident to such loans and extension of credit such as would be made or provided by a finance company including, but not limited to, making consumer installment loans and purchasing installment sales finance contracts, and making loans to small businesses; acting as agent or broker for the sale of credit related life, credit related accident and disability insurance, and credit related property insurance in connection with extensions of credit by FinanceAmerica Corporation) from 20495 Van Dyke Avenue, Detroit, Michigan to 2074 Eighteen Mile Road, Troy, Michigan, through its indirect subsidiary, FinanceAmerica Corporation (a Michigan Corporation), a subsidiary of FinanceAmerica Corporation (1/6/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company, and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) at 32015–23rd Avenue South, Suite B, Federal Way, Washington, through a subsidiary, Securities-Intermountain, Inc. (1/4/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company, and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) at or near the intersection of Campus Commons Road and Commons Drive, Sacramento, California, through its subsidiary, Securities-Intermountain, Inc. (1/5/77).[3]

First Security Corporation, Salt Lake City, Utah, notification of intent to relocate de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as are normally made by a mortgage company and the servicing of such accounts for others; and to a limited extent through a subsidiary, acting as an insurance agent with respect to insurance directly related to said extensions of credit) from 2333 Camino Del Rio South to Suite 172, 2550 Fifth Avenue, San Diego, California, through its subsidiary, Securities-Intermountain, Inc. (1/4/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extension of credit, including making consumer installment personal loans, purchasing consumer sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at 1322 East Shaw Avenue, Fresno, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance and credit-related property and casualty insurance) at Olympic Plaza Building, 1243 Alpine Road, Walnut Creek, California, through its subsidiary, Security Pacific Finance Corp. (1/10/77).[3]

Utah Bancorporation, Salt Lake City, Utah, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit including issuance of letters of credit and accepting drafts such as would be made by a mortgage company; servicing loans and other extensions of credit for any person) at 1220 South State Street, Orem, Utah, through its subsidiary, Valley Mortgage Corporation (1/5/77).[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

N. L. Industries, Inc., New York, New York, notification of intent to merge with The Rucker Company, Oakland, California (1/14/77).[3]

* * * * *

REPORTS RECEIVED

Current Report Field Pursuant to Section 13 of the Securities Exchange Act.

Southwest Bank of St. Louis, St. Louis, Missouri.

Board of Governors of the Federal Reserve System, February 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3893 Filed 2-7-77;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Longer Run Ranges for Monetary Aggregates

In accordance with the Committee's rules regarding availability of information, notice is given that on January 18, 1977, the Federal Open Market Committee adopted the following ranges for rates of growth in monetary aggregates for the period from the fourth quarter of 1976 to the fourth quarter of 1977: M–1, 4½ to 6½ percent; M–2, 7 to 10 percent; and M–3, 8½ to 11½ percent.

By order of the Federal Open Market Committee, February 3, 1977.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.77-3986 Filed 2-7-77;8:45 am]

HAWAII BANCORPORATION

Order Approving Acquisition of Resource Financial Corp.

Hawaii Bancorporation, Inc., Honolulu, Hawaii ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act ("Act"), has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), to acquire shares of Resource Financial Corp., Honolulu, Hawaii ("Company"), a company that will engage *de novo* in the activity of operating an industrial loan company. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(2)).

Applicant initiated the instant application by furnishing the Federal Reserve Bank of San Francisco a copy of a notice of the instant proposal in proper form and timely published in a newspaper of general circulation in Honolulu, Hawaii, the community to be served. Adverse comments of a substantive nature from the Hawaii Consumer Finance Association ("Protestant") were received by the Reserve Bank. The Reserve Bank informed Applicant that the proposal

should not be consummated unless specifically authorized by the Board.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (41 FR 37420). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those of Protestant and First Hawaiian, Inc., Honolulu, Hawaii ("FHI"), a bank holding company, in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is the largest banking organization in the State of Hawaii, and controls Bank of Hawaii, Honolulu, Hawaii, which holds deposits of approximately $1.1 billion, representing approximately 38.8 percent of total deposits in the eight commercial banks located in Hawaii.[1] Through nonbanking subsidiaries, Applicant is also engaged in personal property leasing and consumer finance activities. FHI, the second largest Hawaiian bank holding company, controls approximately 32 percent of market deposits. In 1975, the Board approved FHI's acquisition of an established Hawaiian industrial loan company, Hawaii Thrift and Loan, Inc. (HTL") (61 Fed. Res. Bull. 524 (1975)). At that time HTL was under severe financial pressure and was daily experiencing substantial withdrawals of funds by its investment certificate holders.

Company, a proposed industrial loan company, will engage in the activity of making commercial, mortgage, and consumer loans pursuant to Chapter 408 of the Hawaii Revised Statutes.[2] Company's sole office is to be located in downtown Honolulu.

Protestant's major contentions with regard to Applicant's proposal to acquire Company may be summarized as follows:[3]

The Hawaiian banking market is unique as it includes only eight banks and beyond its boundaries, the nearest bank is 2,500 miles away. The market is highly concentrated and is dominated by Applicant and FHI. Together, their banking subsidiaries hold approximately 70 percent of market deposits. In their business operations, Protestant's members utilize borrowed funds to supplement the funds acquired through investment certificates and debentures. According to Protestant, a significant portion of these borrowed funds is derived from Bank of Hawaii and FHI's subsidiary bank. Protestant asserts that the creation of Company may encourage Bank of Hawaii to restrict the amount and terms of credit available to Protestant's members. Bank of Hawaii, as of March 31, 1976, held 31% ($7.5 million) of loans to real estate investment trusts and mortgage companies made by Hawaii's eight banks and 55.2% ($11.8 million) of loans to other non-depository financial institutions made by Hawaii's eight banks. The majority of loans to industrial loan companies are encompassed within the latter group. Were Bank of Hawaii and FHI's subsidiary bank to restrict credit to Protestant's members, many of these companies, according to Protestant, could not turn to mainland banks for credit, but would have to resort to the remaining six Hawaiian banks for funds. Of these banks, two have lending limits below $1 million and the other four have lending limits below $2 million. Further, Protestant asserts that the dependency of its members on Applicant's subsidiary bank for funds would allow Company access to an extensive amount of confidential information regarding those members, thus granting Company an unfair competitive advantage.

Bank of Hawaii is both regulated and insured by the Federal Deposit Insurance Corporation ("FDIC"). Industrial loan companies, however, are regulated by the State of Hawaii and are uninsured. Protestant believes consumers will confuse Bank of Hawaii and Company and will believe that Company will be regulated, and its certificates will be insured, by FDIC. Protestant cites advertisements in which HTL was characterized as a member of the "First Hawaiian Family" for a limited period of time after its acquisition by FHI. The type of consumer confusion such advertising may cause, according to Protestant, eliminates the probability that Company will be viewed as an additional competitor.

Finally, Protestant contends that creation of Company will encourage tying and conflicts of interest. The formation of Company will enable Applicant to offer second mortgage loans, a service it does not currently offer. The nature of second mortgage loans, according to Protestant, will readily lead to tying because of the existence of potentially related first mortgage loans, and Applicant has indicated that it will refere first mortgage customers of Bank of Hawaii to Company.

There are approximately 90 industrial loan companies located in Hawaii. These companies have total assets of $798 million. During the period 1970 through 1975, deposits in Hawaiian banks grew at an average annual rate of 10.1 percent while industrial loan investment certificates and debentures grew at an average annual rate of 23.0 percent. Hawaiian industrial loan companies derive their funds from two major sources: first, debentures and investment certificates offered to the public, which amounted to approximately $423 million as of December 1975, and second, borrowed funds, which accounted for approximately $143 million at that time. Of this $143 million approximately $12 million is derived from Bank of Hawaii, which currently has lending relationships with 16 of the 90 Hawaiian industrial loan companies. Nine of these 16 firms have little dependence on Applicant as they are either national firms or major Hawaiian companies and have access to many sources of credit. The remaining seven firms have lines of credit of approximately $2 million with Applicant's banking subsidiary of which approximately $1 million is currently being used.

In addition to the fact that Applicant's banking subsidiary currently is the source of a relatively small amount of credit to Hawaii's industrial loan companies, it appears that normal market forces will encourage that bank to remain competitive with the other seven banks located in Hawaii in the provision of credit to industrial loan companies. In the Board's judgment, it is unlikely that Applicant would intentionally jeopardize its business relationships with creditworthy customers by restricting credit.[4]

Although Protestant has asserted that the six Hawaiian banks not affiliated with industrial loan companies are not large enough to meet the credit needs of Hawaii's largest industrial loan companies, it is not the larger firms, but rather the smaller firms that may be dependent on local banks, and it appears that these smaller firms would be adequately served by the six non-affiliated Hawaiian banks in the unlikely event any of the adverse effects predicted by Protestant were to occur. In any case, the Board is not persuaded that bank holding company affiliation with an industrial loan company will result in restrictions of credit to nonaffiliated firms. Protestant has offered no evidence that such an adverse effect is at all likely to occur and the Board concludes that, in view of the above discussion, the mere possibility of such occurrences is entitled to little weight in this instance.

For the same reasons, the Board is unable to conclude that Protestant's mere assertions of a possibility of misuse of confidential information should be regarded as a significant factor in its consideration of Applicant's proposal. FHI has now been operating an industrial loan company for approximately 18 months, and its subsidiary bank currently has more than $5.5 million in loans outstanding to industrial loan companies. As a consequence of these loans, according to Protestant, FHI should

[1] Unless otherwise noted, all financial data are as of June 30, 1976.

[2] Chapter 408 also grants industrial loan companies the power "to issue and sell certificates for the payment of money * * * provided, that nothing herein shall be construed to authorize any industrial loan company to receive deposits or to create any liability due on demand." Applicant has indicated, however, that it does not intend to issue certificates for the payment of money in its first year of operation and accordingly the Board does not regard the issuance of such certificates as being within the scope of the proposed transaction.

[3] The Board has considered all submissions made by Protestant. In this Order, the Board has summarized and dealt specifically with the major arguments advanced by Protestant. To the extent that any arguments opposing Applicant's proposal are not treated individually in this Order, they have been considered and dismissed as without merit.

[4] Indeed, the record reflects no instance of any such abuse in the case of FHI's subsidiary bank, which is affiliated with HTL.

have access to substantial amounts of confidential information regarding firms that compete with its industrial loan subsidiary. There has been no suggestion that it has made improper use of whatever confidential information it may have access to. Indeed, one of Protestant's member firms that also borrows from FHI's subsidiary bank indicates that FHI has not misused any confidential information regarding that firm and describes its relationship with FHI's subsidiary bank as "very good".[5]

Turning to the issue of potential consumer confusion, the Board does not believe that Company's affiliation with Applicant will result in significant confusion regarding the regulation and insurance of industrial loan companies. In Hawaii, industrial loan companies, like banks, are highly regulated and examined.[6] The fact that any Hawaiian industrial loan company, bank-affiliated or not, is a financial intermediary that issues deposit-like investment certificates and makes consumer and mortgage loans, may lead certain consumers to believe that the certificates are insured like deposits in most, albeit not all, commercial banks. That such an industrial loan company is affiliated with a bank holding company should not significantly enhance whatever confusion may already exist. Indeed, whatever potential for confusion may exist regarding Hawaiian industrial loan companies is substantially diminished by the fact that State law requires that each investment certificate issued by an industrial loan company bear the words "this is not a certificate of deposit". Protestant also asserts that Company will not be viewed as an additional competitor to Bank of Hawaii. The Board does not accept this assertion because Company will provide services, such as second mortgage loans, that may not lawfully be provided by that bank.

With regard to Protestant's concern that acquisition of Company will create the potential for tying of services, section 106 of the 1970 Bank Holding Company Act Amendments provides a significant deterrent to coercive tying by bank holding companies as it enables any person injured by such tying to bring a civil action for treble damages plus reasonable attorney's fees.[7] Protestant contends however, that even absent any coercive action on Applicant's part, Applicant's customers may think that the chance for approval if a first mortgage from Bank of Hawaii will be enhanced by requesting a second mortgage from Company. In an effort to reduce the possibility of such "voluntary" tying, Applicant has, on its own initiative, volunteered to provide all of Company's borrowing customers a statement to the effect that loans are not conditioned in any way on obtaining other services from Applicant and its subsidiaries. It is the Board's judgment that the number of first mortgage sources in Hawaii is such as to provide "a reasonable basis for the conclusion that the total amount of possible voluntary tying is not of the magnitude Congress was concerned about",[8] particularly in view of Applicant's commitment.

As Applicant proposes to enter the industrial loan field on a *de novo* basis, the proposed transaction would neither eliminate existing or potential competition nor cause an increase in the concentration of resources in any relevant area. Indeed, the Board deems it likely that Applicant's entry will have a pro-competitive effect. HTL, since its affiliation with FHI, has lowered its interest rates on certain loans. It further appears that this reduction has resulted in the lowering of interest rates by industrial loan companies not affiliated with banks. Further bank holding company entry in the industrial loan field may have similar effects.

As the industrial loan industry in Hawaii has experienced some financial instability in the past, the additional financial and managerial resources Applicant will provide may tend to increase the overall strength of the industry and promote public confidence in it. Thus, increased bank holding company participation in this industry may encourage more investors to purchase investment certificates and debentures, thereby enlarging the amount of funds available for consumer loans in Hawaii.

Based upon the foregoing and other considerations reflected in the record, the Board has determined in accordance with the provisions of section 4(c)(8) of the Act, that Applicant's acquisition of Company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved, and Applicant's proposal is specifically authorized by the Board. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

This transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco, pursuant to authority hereby delegated.

By order of the Board of Governors,[9] effective January 31, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3839 Filed 2-7-77;8:45 am]

[5] The same firm has not found the availability of credit from FHI's subsidiary bank restricted since FHI's acquisition of HTL.

[6] With regard to the amount of regulation to which industrial loan companies are subject, the Board notes that they are regularly examined by the state bank examiner who is empowered to order the discontinuance of any illegal or unsafe practices or to place the company in receivership in appropriate circumstances. Hawaii Rev. Stat. § 401-5, 12 (1968).

[7] 12 U.S.C. § 1971 et seq.

[8] Alabama Ass'n. of Ins. Agents v. Board of Governors, 553 F.2d 224, 250-51 (5th Cir. 1976).

[9] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

NEW YORK MILLS BANCSHARES, INC.

Formation of Bank Holding Company

New York Mills Bancshares, Inc., New York Mills, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80.8 per cent of the voting shares of Farmers & Merchants State Bank of New York Mills, Incorporated, New York Mills, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 28, 1977.

Board of Governors of the Federal Reserve System, January 31, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-3840 Filed 2-7-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[FPMR Temporary Regulation F-411]

ADMINISTRATOR, ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government in proceedings on a request by the Gas Company of New Mexico to change Rule No. 6 of the New Mexico Public Service Commission.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Administrator, Energy Research and Development Administration, to represent the consumer interests of the executive agencies of the Federal Government before the New Mexico Public Service Commission, involving the application of the Gas Company of New Mexico for a change in Commission Rule No. 6, entitled "Short-

age of Gas Supply and Interruption of Service."

b. The Administrator, Energy Research and Development Administration, may redelegate this authority to any officer, official, or employee of the Energy Research and Development Administration.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JACK ECKERD,
Administrator of General Services.

JANUARY 31, 1977.

[FR Doc.77-3882 Filed 2-7-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0507]

FD&C RED NO. 40

Availability of Interim Report of the Working Group

The Food and Drug Administration (FDA) announces that the Working Group on FD&C Red No. 40 has submitted to the Acting Director, Bureau of Foods, and the Acting Commissioner of Food and Drugs its first interim report concerning ongoing studies with FD&C Red No. 40. It is the conclusion of the Working Group that a definitive assessment of the safety of FD&C Red No. 40 must await an evaluation of more complete data from the ongoing animal studies. Copies of the report are available from the office of the Hearing Clerk, FDA, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FD&C Red No. 40 is principally the disodium salt of 6-hydroxy-5-[(2-methoxy-5-methyl - 4 - sulfophenyl)azo]-2-naphthalenesulfonic acid. It is listed "permanently" for use in food, drugs, and cosmetics under §§ 8.244, 8.4104, and 8.7201 (21 CFR 2.244, 8.4104 and 8.7201) of the color additive regulations, having been approved for use by regulations published in the FEDERAL REGISTER of April 10, 1971 (36 FR 6892), August 6, 1974 (39 FR 28278), and December 23, 1974 (39 FR 44198).

In late 1974 and early 1975, Hazleton Laboratories, Vienna, VA, under the sponsorship of Allied Chemical Corporation, Specialty Chemicals Division, began two chronic feeding studies on FD&C Red No. 40, one in the rat and one in the mouse. In February 1976, Hazleton Laboratories reported that the results of the study in the rat were unremarkable; however, they did report the occurrence of lymphomas at an early age in these test mice. At the suggestion of FDA, a second chronic feeding study in the mouse was initiated in mid-1976 to determine whether the early onset for lymphomas apparently detected in the first mouse study would be duplicated. Since April 1976, FDA has been closely monitoring the study and has been receiving monthly progress reports on the study. The progress reports have been available to the public under the Freedom of Information Act (5 U.S.C. 552).

The Food and Drug Administration issued a notice in the FEDERAL REGISTER of December 7, 1976 (41 FR 53546) announcing the formation of an interagency working group composed of scientists from FDA, the National Center for Toxicological Research of FDA (NCTR), and the National Cancer Institute (NCI) to review the results of the mouse feeding studies currently being conducted on the color additive FD&C Red No. 40. The Working Group held its first meeting, which began at 9:30 a.m. on December 16 and 17, 1976, Rm. 1409, FB-8, 200 C St. SW., Washington, DC. The morning session on December 16 (9:30 a.m. to 12 noon) was open to the public for the presentation of data, information, and views by any interested persons. The Working Group met again on January 10 1977. All available data on the mouse studies were submitted to the Working Group for its consideration.

The Working Group decided that the experimental data to date suggest, but are too preliminary to demonstrate, an association between the incidence or time of appearance of lymphomas or leukemias and exposure to FD&C Red No. 40 in CD-1 mice. The data are not yet complete, however, and the Working Group pointed out that relatively small changes in the numbers of animals found to have lymphohemopoietic tumors may have the effect of changing the statistical significance of some of the data and consequent interpretations as to the biological significance of all the data. The Working Group, therefore, concluded that a final assessment of the safety of FD&C Red No. 40 must await an evaluation of more definitive data. The monthly progress reports will be monitored by the Working Group, and, as soon as the ongoing studies yield definitive data, the group will be reconvened.

Copies of the interim report of the Working Group are on public display at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be reviewed between 9 a.m. and 4 p.m., Monday through Friday. Copies may be obtained from the Hearing Clerk upon request.

Dated: February 7, 1977.

JOSEPH P. HILO,
Associate Commissioner for Compliance.

[FR Doc.77-4194 Filed 2-7-77;10:48 am]

[Docket No. 76N-0449; DESI 6813]

TRIHEXYPHENIDYL HYDROCHLORIDE IN CONTROLLED RELEASE DOSAGE FORM

Drug Efficacy Study Implementation; Followup Notice

The Food and Drug Administration is reclassifying trihexyphenidyl hydrochloride in controlled release dosage form to effective for certain indications.

In a notice (DESI 6813) published in the FEDERAL REGISTER of August 26, 1970 (35 FR 13601), the Food and Drug Administration announced its conclusion that trihexyphenidyl hydrochloride in controlled release dosage form is probably effective as an adjunct in the therapy of all forms of parkinsonism (postencephalitic, arteriosclerotic, and idiopathic) and in the prevention or control of extrapyramidal disorders due to central nervous system drugs such as reserpine and phenothiazines.

On March 7, 1975, Lederle Laboratories submitted clinical studies which demonstrate that the product is effective as stated below.

Accordingly, the August 26, 1970 notice is amended to read as follows, insofar as it pertains to trihexyphenidyl hydrochloride:

NDA 12-947; Artane Sequels containing 5 milligrams trihexyphenidyl hydrochloride per controlled release capsule; Lederle Laboratories, Division of American Cyanamid Co., Pearl River, NY 10965.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to the drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Division of Drug Labeling Compliance (HFD-310), 5600 Fishers Lane, Rockville, MD 20857.

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications stated in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously aproved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in controlled release dosage form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal

law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For maintenance therapy after patients have been stabilized on trihexyphenidyl hydrochloride in conventional dosage forms (tablets or elixir), as an adjunct in the treatment of all forms of parkinsonism (postencephalitic, arteriosclerotic, and idiopathic). It is useful in the prevention or control of extrapyramidal disorders due to central nervous system drugs such as reserpine and phenothiazines.

c. The "Dosage and Administration" section for the drug reads as follows:

Because of the relatively high dosage in each controlled release capsule, this dosage form should not be used for initial therapy. After patients are stabilized on trihexyphenidyl in conventional dosage forms (tablet or elixir), for convenience of administration they may be switched to the controlled release capsules on a milligram per milligram basis. Most patients will be adequately maintained on the controlled release form, but some may develop an exacerbation of parkinsonism above and have to be returned to the conventional form.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before April 11, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide full updatting information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. The application shall contain full information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H. Data from appropriate bioavailability studies are required as part of the abbreviated new drug application. Such studies shall consist of either clinical trials or blood level comparisons to Lederle Laboratories' Artane Sequels performed in patients under multiple dose steady-state conditions. Protocols for these studies are required to be submitted under an Investigational New Drug Application (IND). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

Communications forwarded in response to this notice should be identified with the reference number DESI 6813, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Rm. 10B-34, Bureau of Drugs.

Original abbreviated new drug applications and bio-availability investigational new drug applications (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.52) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)).

Dated: January 28, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-3780 Filed 2-7-77;8:45 am]

Office of Education

TITLE I AUDIT APPEAL

Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568; July 12, 1976), an application for an appeal before the Board has been received from the State of Virginia and it has met the jurisdictional requirements of section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds under Title I of the Elementary and Secondary Education Act during the period July 1, 1967, through June 30, 1972. The U.S. Office of Education seeks repayment to the U.S. Treasury of $403,380 of Title I, ESEA, funds allegedly expended for special education activities instead of available State and local funds. The Audit Control Number is 30005-03.

The prehearing conference will be held at 10:30 a.m. on March 17, 1977, in Room 4173, 400 Maryland Avenue, S.W., Washington, D.C.

Section 7(c) of the Notice setting up the board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervener has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before March 3, 1977.

(20 U.S.C. 241a, 1232c.)

(Catalog of Federal Domestic Assistance Number 13.428, Educationally Deprived Children—Local Educational Agencies.)

Dated: February 2, 1977.

WILLIAM F. PIERCE,
Acting U.S. Commissioner of Education.

[FR Doc.77-3931 Filed 2-7-77;8:45 am]

Office of the Secretary

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The U.S. Office of Education has proposed collections of information and data acquisition actiivties which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to afford each educational agency or institution subject to a request under the proposed collection of information and data acquisition activities and their representative organizations an opportunity, during a 30-day period before transmittal to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collections of information and data acquisition activities.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activity are invited. Comments must be received on or before March 10, 1977, and should be addressed to Administrator, National Center for Education Statistics, Attn.: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: February 1, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Assessment of Area Vocational Education Facilities and Construction Resources Devel-

oped Under the Vocational Education Act of 1963 as amended.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Planning, Budgeting, and Evaluation.

3. AGENCY FORM NUMBER

O.E. 519.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

* * * the Secretary shall transmit to (appropriate Congressional Committees) an annual evaluation report which evaluates the effectiveness of applicable programs * * * such report shall * * * contain information on progress being made * * * describe the costs and benefits of the applicable program * * * identify which sectors of the public receive the benefits of such program * * * (20 U.S.C. 1226C.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Data and information collected in this study will be analyzed to:

(a) Assess the impact which the availability of Federal funds for vocational facilities construction has had on (1) the expansion of vocational education opportunities; (2) the increased availability of vocational education to students Statewide and nationwide (especially in areas of greatest need); (3) the increase in State and local expenditures for vocational facilities;

(b) Analyze the alternative State agency organizational structures and policies and procedures for developing and funding of vocational education and their impact on the expansion of vocational education programs;

(c) Analyze the practices of local vocational education with respect to program planning, operation, and evaluation to (1) Determine the degree to which facilities are being utilized to their fullest extent; (2) Identify the variables (geographic, institutional, policy, etc.) which contribute to efficient facility utilization;

(d) Compile a comprehensive directory of area vocational schools identifying schools by type, enrollment, programs offered, regions served, etc.

Data and information compiled in this study will also be used to:

(a) Identify areas in which additional Federal support is required for vocational education planning and facility expansion;

(b) Identify practices which promote efficient utilization of resources and which warrant expanded support at the Federal, State, and local level;

(c) Provide a basis for the development of Federal support programs for vocational facilities;

(d) Identify areas in which further program/policy research is required;

(e) Provide a comprehensive data base for use in the design of sample surveys of area vocational schools and programs.

The results of this study will be used by the planning and program evaluation offices within the Bureau of Occupational and Adult Education, and Office of Planning, Budgeting and Evaluation and will be disseminated to all State Vocational Education Agencies to be used as a resource for identifying and evaluating alternatives to their own programs and policies as such alternatives may be found in different States.

7. DATA ACQUISITION PLAN

(a) Method of Collection—Local Vocational Education Agency Survey: mailed survey with a telephone follow-up of non-respondents. State Vocational Education Agency Survey: Interviews with the State Director of Vocational Education or other personnel designated as specialists in the specific subject area of investigation.

(b) Time of Collection: Spring 1977.

(c) Frequency: Single time.

8. RESPONDENTS

(a) Type: Local Vocational Education Agencies.

(b) Number: Approximately 8,000 schools (secondary and postsecondary) which meet the Vocational Education Act definition of "area vocational school" and which include at least one program of instruction in Trade and Industry or Technical education.

(c) Estimated Average Man-Hours per Respondent: ½ hour.

(a) Type: State Vocational Education Agencies.

(b) Number: 80 (estimated).

(c) Estimated Average Man-Hours per Respondent: 1½–2 hours.

9. INFORMATION TO BE COLLECTED

Local Vocational Education Agency data and information requirements include:

(1) Institutional data—enrollment programs offered, types of regions served, capacity of facilities, etc.;

(2) Information on operating programs—hours of operation, use of off-site facilities, shared resource programs, etc.;

(3) Planning practices—data used, participants included, alternatives considered, etc.

State Vocational Education Agency data and information requirements include:

(1) Information describing the specific responsibilities—with respect to vocational facilities—of the agency being interviewed;

(2) Information on practices and procedures employed in the funding of facilities and equipment;

(3) Information on the provisions and practices for regionalization and inter-district cooperation in facility planning for vocational education;

(4) Information on agency policies and practices governing vocational facility planning.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for State Student Financial Assistance Training Program.

2. AGENCY/BUREAU/OFFICE

Office of Education, Bureau of Postsecondary Education, State Student Incentive Grant Program.

3. AGENCY FORM NUMBER

O.E. 1329.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

A State which desires to obtain a grant under this section for any fiscal year shall submit an application therefor through or by the State agency administering its programs of student grants * * *. (Section 493C(e) of P.L. 89-329, as amended) (20 U.S.C. 1070b, 1087a, 1088.)

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

Awards based upon a State formula will be made to eligible State scholarship/grant programs submitting applications for matching funds.

7. DATA ACQUISITION PLAN

(a) Method of Collection: Mail.

(b) Time of Collection: Spring.

(c) Frequency: Annually.

8. RESPONDENTS

(a) Type: State Scholarship Grant Boards, Commissions, and Agencies.

(b) Number: 50 States, D.C. and 5 outlying territories.

(c) Estimated Average Man-Hours per Respondent: 2.

9. INFORMATION TO BE COLLECTED

(a) Standard Form 424 Federal Assistance (application).

(b) Program narrative: (1) Documentation of consultation with State financial aid administrator organizations; (2) The procedures for identifying the strengths and weaknesses in State and institutional administration of Federal, State, and institutional financial aid resources; (3) The plan to design, develop, and assess a training program and materials to improve the proficiency of financial aid officers located in the State.

(c) List of assurances.

[FR Doc.77-3799 Filed 2-7-77;8:45 am]

CONSULTING GROUP ON WELFARE REFORM

Establishment and Meetings

The Secretary of Health, Education, and Welfare, announces the establishment on February 4, 1977, of the Consulting Group on Welfare Reform under the authority of 42 U.S.C. 1314. The Group shall be governed by the provisions of the Federal Advisory Committee Act, Pub. L. 92-463 setting forth standards governing the establishment and use of advisory committees.

Purpose: The Group shall provide advice to the Secretary concerning the basic facts and issues relating to current welfare programs and related income security programs, and the principal alternatives for constructive change.

The Group shall consist of from 15 to 20 members knowledgeable in the field of social welfare. The first Group meeting is scheduled for February 11, 1977, from 9 a.m. to 11 a.m. in the first floor Auditorium, South Portal Building, 200 Independence Avenue SW., Washington, D.C. The agenda will consist of a discussion of organization and procedures for ongoing functioning of the Group. This meeting will be open for public observation.

In view of the importance of this study to the nation and of the extremely tight deadlines which the President has established for receipt of the Department's report and recommendations, it is essential that the study process begin immediately. In order for the Department to involve the Consulting Group in all phases of this study from the very beginning, the first meeting of the Consulting Group is scheduled for Friday, February 11. Any delays beyond that date would seriously jeopardize the meeting of the timetable established including the early submission of recommendations to the President.

Subsequent meetings will be held on February 18, 25, March 4, 11, and 18, all from 9 a.m. to 11 a.m. at the location noted above.

Further information on the Group may be obtained from: Mr. Bob Heim, Executive Director, Office of Planning and Evaluation, Room 410 E, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201, telephone 202/245–6286.

Dated: February 4, 1977.

BOB HEIM,
Executive Director.

[FR Doc.77-4171 Filed 2-7-77;8:45 am]

Public Health Service

NATIONAL IMMUNIZATION

Policies, Issues, Public Presentation

Notice is hereby given of the intention of this Office to hold a public meeting on April 4, 5, and 6 to discuss policy recommendations developed by non-federal Work Groups of a contractor, which the contractor may consider in providing contractual advice to this Office on issues concerned with immunization, including National Immunization Policy, Patient Consent, Vaccine Production and Supply, Research and Development, Liability, Health Information and Public Awareness. There will also be a discussion of the value and safety of attenuated vs. killed poliomyelitis viruses.

Sponsor: Office of the Assistant Secretary for Health, Public Health Service, Department of Health, Education, and Welfare.
Time: 8 a.m. to 5 p.m., April 4, 1977, 9 a.m. to 5 p.m., April 5–6, 1977.
Place: Main (Masur) Auditorium, Clinical Center, Building 10, National Institutes of Health, Bethesda, Maryland 20014.

This meeting is being convened to present policy recommendations of the contractor's Work Groups to the public, and to obtain public response and comment to them, as well as to provide the public opportunity to participate in the process of developing a national policy. To facilitate this process the policy recommendations will be available after March 15, 1977, and may be obtained by writing to or calling Ms. Marie Curtis, JRB Associates, Inc., 8400 Westpark Drive, McLean, Virginia 22101, telephone: (703) 821–4666.

Those wishing to address the Conference formally should submit a synopsis of comments to the address given below. Under extenuating circumstances, a telephoned indication of a desire to address the Conference will be accepted in lieu of a written submission. Written statements may be of any length. Oral presentations will be limited to five minutes. Those who wish may submit only written comments.

The sponsor reserves the right to limit the number of oral presentations in consideration of time available. In general, every attempt will be made to accept all submissions and schedule presentations in the order received. To be considered for presentation, copy of a text should be received before March 25, 1977. All submissions will be acknowledged.

Address inquiries and submit text to: Mr. John Blamphin, Director, Office of Public Affairs, Room 731G–2, South Portal Building, 200 Independence Avenue, S.W., Washington, D.C. 20201, (202) 245–6867.

Dated: January 31, 1977.

CHARLES U. LOWE,
Special Assistant for Child Health Affairs.

[FR Doc.77-3800 Filed 2-7-77;8:45 am]

QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Cumulative List

Regulations issued under title XIII of the Public Health Service Act, "Health Maintenance Organizations" (42 CFR § 110.605(b)), require annual publication of a cumulative list of all qualified health maintenance organizations. Notice is hereby given that, through December 31, 1976, the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)).

List of Qualified Health Maintenance Organization.

Name, address, service area, and date of qualification.

I. Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a)

1. Community Group Health Plan, D.B.A. Prime Health, 605 West 47th, Suite 208, Kansas City, Missouri 64112. Service area: The zip codes included in the area are as follows:

STATE OF MISSOURI

64012, 64030, 64031, 64034, 64050, 64052, 64053, 64054, 64055, 64062, 64063, 64065, 64078, 64083, 64101, 64102, 64105, 64106, 64108, 64109, 64110, 64111, 64112, 64113, 64114, 64120, 64123, 64124, 64125, 64126, 64127, 64128, 64129, 64130, 64131, 64132, 64133, 64134, 64136, 64137, 64138, 64139, 64145, 64146, 64147, 64149, 64701, 64702.

STATE OF KANSAS

66030, 66061, 66083, 66084, 66085, 66130, 66202, 66203, 66204, 66205, 66206, 66207, 66208, 66209, 66210, 66211, 66212, 66213, 66214, 66215, 66216, 66217, 66218, 66219, 66220, 66221, 66223, 66224.

Date of qualification: November 26, 1976.

2. Florida Health Care Plan, Incorporated, 350 North Clyde Morris Boulevard, Daytona Beach, Florida 32014. Service area: Volusia County, Florida. Date of qualification: August 20, 1976.

3. Health Care Plan of New Jersey, Inc., 123 North Church Street, Moorestown, New Jersey 08057. Service area: Burlington County and adjacent municipalities within Camden County.

The zip codes included in the area are as follows:

BURLINGTON COUNTY

08010, 08011, 08015, 08016, 08019, 08022, 08036, 08041, 08042, 08046, 08048, 08052, 08053, 08054, 08055, 08057, 08060, 08064, 08065, 08068, 08073, 08075, 08077, 08088, 08215, 08224, 08505, 08511, 08515, 08518, 08534, 08562, 08620.

CAMDEN COUNTY

08002, 08003, 08004, 08007, 08009, 08021, 08026, 08033, 08034, 08035, 08043, 08045, 08049, 08078, 08083, 08084, 08091, 08106, 08107, 08108.

Date of qualification: June 1, 1976.

4. Marion Health Foundation, Incorporated, 142 South Prospect Street, Box 14, Marion, Ohio 43302. Service area: Marion County and the township of Claibourne in adjoining Union County. Date of qualification: November 30, 1976.

5. North Communities Health Plan, Inc., 1718 Sherman Avenue, Evanston, Illinois 60201. Service area: The following communities located in the State of Illinois: E. Rogers Park, Evanston, Glencoe, Glenview, Golf, Kenilworth, Lincolnwood, Morton Grove, Niles, North Brook, North Field, Park Ridge, Skokie, W. Rogers Park, Wilmette, and Winnetka. Date of qualification: November 11, 1975.

6. Penn Group Health Plan, Inc., IBM Building, Pittsburgh, Pa. 15222. Service area: Allegheny and western Westmoreland Counties. Date of qualification: November 28, 1975.

7. Portland Metro Health, Incorporated, 5201 S.W. Westgate Drive, Room 111, Portland, Oregon 97221. Service area: Multnomah, Clackamas, and Washington Counties, Oregon; and Clark County, Washington. Date of qualification: January 1, 1976.

8. Prudential Health Care Plan, Inc., P.O. Box 2884, Houston, Texas 77001. Service area: Radius of 25 air miles of the medical group's facilities within greater Houston metropolitan area. Date of qualification: June 2, 1976.

9. Rutgers Community Health Plan, 88 College Avenue, New Brunswick, New Jersey 08903. Service area: Communities within a 15 mile radius of New Brunswick, which includes all of Middlesex County and parts of Somerset, Union, Mercer, Monmouth and Morris Counties. Date of qualification: July 1, 1976.

10. Sound Health Association, 1112 South Cushman Avenue, Tacoma, Washington 98405. Service area: Pierce County, Washington. Date of qualification: January 23, 1976.

11. Westchester Community Health Plan, 145 Westchester Avenue, White Plains, New York 10601. Service area: Westchester County, New York. Date of qualification: September 30, 1976.

II. Transitionally Qualified Health Maintenance Organizations: 42 CFR § 110.603 (b)

12. ChoiceCare Health Services, Inc., 2120 South College Avenue, Fort Collins, Colorado 80521. Service area: Larimer County, Colorado. Date of qualification: August 12, 1976.

13. Colorado Health Care Services, Inc., 1633 Fillmore Street, Suite 214, Denver, Colorado 80206. Service area: The following counties: Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, all located in the State of Colorado. Date of qualification: August 20, 1976.

14. Community Health Care Center Plan, Inc., 150 Sargent Drive, New Haven, Connecticut 06511. Service area: Greater New Haven area, and includes the following cities and towns: Ansonia, Beacon Falls, Bethany, Branford, Cheshire, Derby, East Haven, Guilford, Hamden, Madison, Milford, New Haven, North Branford, North Haven, Orange, Seymour, Shelton, Wallingford, West Haven, and Woodbridge. Date of qualification: October 31, 1975.

15. Family Health Services, Inc., D.B.A. General Medical Centers Health Plan, 300 South Park, Pomona, California 91766. Service area: Eastern Los Angeles County known as the San Gabriel and Pomona Valley area

and the western part of San Bernardino County. All of this area lies within a seven mile radius of a GMCHP medical office. The zip codes encompassed by the service area are as follows:

LOS ANGELES COUNTY

90601, 90602, 90606, 90660, 91006, 91010, 91016, 91702, 91706, 91711, 91722, 91723, 91724, 91731, 91732, 91733, 91740, 91744, 91745, 91746, 91748, 91750, 91765, 91766, 19767, 91768, 91770, 91773, 91780, 91789, 91790, 91791, 91792.

SAN BERNARDINO COUNTY

91701, 91710, 91730, 91761, 91762, 91763, 91764, 91786.

Date of qualification: December 14, 1976. (NOTE: Inadvertently omitted from the December 1976 list of qualified health maintenance organizations, 42 F.R. 3901.)

16. Genesee Valley Group Health Association, 41 Chestnut Street, Rochester, New York. 14647. Service area: City of Rochester, and County of Monroe, New York. Date of qualification: January 30, 1976.

17. Georgetown University Community Health Plan, Inc., Suite 300, 5125 MacArthur Boulevard, NW., Washington, D.C. 20016. Service area: Washington, D.C.; Arlington County, Fairfax County, Prince William County, Loudoun County, Falls Church, Fairfax, Alexandria, Manassas, and Manassas Park, Virginia; Montgomery County, and Prince Georges County, Maryland. Date of qualification: May 26, 1976.

18. Health Alliance of Northern California, Inc., 377 South Daniel Way, San Jose, California 95128. Service area: Bounded by the Santa Clara County line on the north, west and east of the County. The southern boundary is contiguous with the south limits of the cities of Los Gatos and San Jose. This boundary is roughly delineated by streets in a line running from west to east along Highway 17, Main Street, Los Gatos Boulevard, Shannon-Hicks Road, McKean Road, Bailey Avenue, Monterey Highway, Metcalf Road, San Felipe Road, White Road, Alum Rock Avenue, Mt. Hamilton Road, to the east County boundary. Date of qualification: November 29, 1976.

19. HealthCare of Louisville, Inc., 1809 Standard Avenue, Louisville, Kentucky 40210. Service area: Jefferson County, Kentucky, and any portion of adjacent counties located in Kentucky and Indiana which lie within a radius of twenty-five air miles of the Family Health Center, 1809 Standard Avenue, Louisville, Kentucky. Date of qualification: April 2, 1976.

20. Health Service Plan of Pennsylvania, 917 Schaff Building, 1505 Race Street, Philadelphia, Pennsylvania 19102. Service area: Philadelphia, Delaware, Montgomery, Bucks, and Chester Counties located in the State of Pennsylvania. Date of qualification: April 26, 1976.

21. Maxi-Care, 4455 W. 117th Street, Suite 502, Hawthorne, California 90250. Service area: South Bay and Southwest portion of the Los Angeles metropolitan area. The zip codes included in the area are as follows:

90001, 90002, 90003, 90007, 90008 90011, 90016, 90018, 90037, 90043, 90044, 90045, 90047, 90056, 90058, 90059, 90061, 90062, 90066, 90220, 90221, 90222, 90230, 90245, 90247, 90248, 30249, 90250, 90254, 90260, 90266, 90274, 90277, 90278, 90291, 90301, 90302, 90303, 90304, 90305, 90501, 90502, 90503, 90504, 90505, 90710, 90717, 90731, 90732, 90744, 90745, 90746, 90747.

Date of qualification: March 25, 1976.

22. Piedmont Health Care Corporation, P.O. Box 6967, Greenville, South Carolina 29606. Service area: Greenville, South Carolina, and any portion of adjacent counties, located in South Carolina, which lie within a radius of 30 miles of the Carolina Medical Center, 2320 East North Street, Greenville, South Carolina. Date of qualification: December 29, 1975.

23. Rhode Island Group Health Association, Inc., 210 High Service Avenue, North Providence, Rhode Island 02904. Service area: State of Rhode Island. Date of qualification: October 30,1975.

24. Rocky Mountain Health Maintenance Organization, Inc., 2525 7th Street, Grand Junction, Colorado 81501. Service area: Mesa County, Colorado. Date of qualification: December 29, 1975.

25. SHARE Health Plan, 1515 Charles Avenue, St. Paul, Minnesota 55104. Service area: Hennepin (Minnesota), Ramsey (St. Paul), Anoka (north of St. Paul), Washington (east of St. Paul), and Dakota (south of St. Paul) Counties. Date of qualification: June 30, 1976.

III. Pre-operational Qualified Health Maintenance Organizations: 42 CFR 110.603(c)

26. Capital Area Community Health Plan, Inc., Box 1894, 146 State Street, Albany, New York 12201. Service area as follows:

ALBANY COUNTY

Albany City
Berne Town
Bethlehem Town
Coeymans Town
Cohoes City
Colonie Town
Green Island Town
Guilderland Town
Knox Town
New Scotland Town
Rensselaerville Town
Watervliet City
Westerlo Town

RENSSELAER COUNTY

Brunswick Town
East Greenbush Town
Grafton Town
Nassau Town
North Greenbush Town
Pittstown Town
Poestenkill Town
Rensselaer City
Sand Lake Town
Schaghticoke Town
Schodack Town
Troy City

SARATOGA COUNTY

Ballston Town
Charlton Town
Clifton Park Town
Galway Town
Halfmoon Town
Malta Town
Mechanicville City
Milton Town
Saratoga Town
Saratoga Springs City
Stillwater Town
Waterford Town

SCHENECTADY COUNTY

Duanesburg Town
Glenville Town
Niskayuna Town
Princetown Town
Rotterdam Town
Schenectady City

Date of Qualification: December 6, 1976.

27. Central Essex Health Plan, P.O. Box 371, Orange, New Jersey 07051. (NOTE: This address corrects the one listed in the January 21, 1977 edition of the FEDERAL REGISTER, 42 F.R. 3901.) Service area: Essex County communities of:

Belleville
Bloomfield
Caldwell
Cedar Grove
East Orange
Essex Fells
Fairfield
Glen Ridge
Irvington
Livingston
Maplewood
Millburn
Montclair
North Caldwell
Nutley
Orange
Roseland
South Orange
Verona
West Caldwell
West Orange

Date of qualification: December 28, 1976.

Files containing detailed information regarding the qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Office of Quality Standards, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 14A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: January 28, 1977.

WILLIAM B. MUNIER, M.D.,
Director, Office of Quality Standards.

[FR Doc.77-3841 Filed 2-7-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-3027-EM; Docket No. Nfd-403]

NEW YORK

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of New York dated January 29, 1977, is hereby amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of January 29, 1977:

The Counties of:

Genesee
Jefferson
Lewis
Orleans
Wyoming

Dated: February 1, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-3923 Filed 2-7-77;8:45 am]

[Docket No. Nfd-404; FDAA-3026-EM]

PENNSYLVANIA

Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and

delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on January 29, 1977, the President declared an emergency as follows:

I have determined that the impact of an abnormal accumulation of snow and ice resulting from a series of blizzards and snowstorms in the State of Pennsylvania is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93–288. I therefore declare that such an emergency exists in the State of Pennsylvania.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D–74–285, I hereby appoint Mr. Arthur T. Doyle, WDAA Region III, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas to have been adversely affected by this declared emergency:

The Counties of:

Cambria	Indiana
Clarion	Somerset
Erie	Tioga

Dated: January 31, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-3924 Filed 2-7-77;8:45 am]

[Docket No. Nfd-405; FDAA-3014-EM]

WISCONSIN

Amendment to Notice of Emergency Declaration

Notice of emergency for the State of Wisconsin, dated June 17, 1976, and amended on July 29, 1976, September 7, 1976, September 30, 1976, December 30, 1976, and January 14, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The Counties of:

Calument	Outagamie
Columbia	Pepin
Green	Pierce
Iowa	Richland
Jackson	Vilas
Jefferson	Walwarth
Juneau	Waukesha
Marquette	Waupaca
Monroe	Winnebago

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Dated: January 28, 1977.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.77-3925 Filed 2-7-77;8:45 am]

Office of the Secretary

[Docket No. D–77–478]

ACTING AREA DIRECTOR JACKSONVILLE AREA OFFICE REGION IV (ATLANTA)

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Area Director during the absence of, or vacancy in the position of, the Area Director, with all the powers, functions, and duties redelegated or assigned to the Area Director: Provided, That no official is authorized to serve as Acting Area Director unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. The Deputy Area Director,
2. The Director, Housing Management Division,
3. The Director, Community Planning and Development Division,
4. The Director, Housing Development Division,
5. The Director, Equal Opportunity Division,
6. The Director, Administrative Division,
7. The Area Counsel.

This designation supersedes the published designation effective May 13, 1975 (40 FR 20846, May 13, 1975) and the unpublished designation effective May 12, 1976.

(Delegation of Authority by the Secretary effective October 1, 1970 (36 FR 3389, February 23, 1971).)

This designation shall be effective as of February 13, 1977.

ROBERT W. BUSKIRK,
Area Director, Jacksonville Area Office, Region IV (Atlanta).

M. BRUCE NESTLEHUTT,
Acting Regional Administrator, Region IV (Atlanta).

[FR Doc.77-3926 Filed 2-7-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 24651]

COLORADO

Proposed Withdrawal and Reservation of Lands; Correction

JANUARY 21, 1977.

The Notice of Proposed Withdrawal and Reservation of Lands under serial number Colorado 24651, dated December 13, 1976, appearing in the December 23, 1976, issue of the FEDERAL REGISTER at pages 55943–55944, is hereby corrected to add the following paragraphs:

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, by February 24, 1977. Upon determination by the State Director that a public hearing will be held, the time and place will be announced.

For a period of two years from December 23, 1976, the lands shall be segregated from location and entry under the mining laws only, subject to existing valid rights unless the application is rejected or the withdrawal is approved prior to that time. If the withdrawal is approved, the segregation will remain in effect for a period of 20 years from the date of such approval.

The 30-day period provided for the filing or comments concerning this proposed withdrawal is extended to March 10, 1977.

ALAN D. CAMPBELL,
Acting Chief, Branch of Land Operations.

[FR Doc.77-3890 Filed 2-7-77;8:45 am]

OUTER CONTINENTAL SHELF (OCS) ENVIRONMENTAL STUDIES ADVISORY COMMITTEE

Notice and Topica' Program for Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92–643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A–63, Revised.

The Outer Continental Shelf Environmental Studies Advisory Committee will meet 9:30 a.m. to 4:00 p.m., February 22 and 9:30 a.m. to 4:00 p.m. (or completion of business) February 23, in Conference Room C, Sheraton-Biltmore Hotel, Atlanta, Georgia.

The meeting will deal with the following principal subjects:

Status of the OCS leasing program.
Environmental data needs of the OCS decision maker.
Evaluation of OCS data collection activities.
Alaska program development plan.
Design of an OCS biological effects progam.
Role of modeling in OCS environmental assessment.
Status of overall OCS environmental program.
Nearshore and coastal data needs.
Studies of recent oil spills.
Regional coastal ecosystems.

The meeting of this Committee is open to the public. Approximately 75 visitors can be accommodated on a first-come-first-served basis. Written statements concering the subjects of discussion are welcome.

Visitors who expect to attend should make this known, not later than February 14, to the Committee Chairman:

James R. Balsley, Assistant Director—Land Resources, U.S. Geological Survey, c/o Katie L. Garner, Room 7345, Interior Building, 18th & C Streets, N.W., Washington, D.C. 20240. Phone: 202/343-3888.

Dated: February 2, 1977.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.
CHRIS FARRAND,
Acting Assistance
Secretary of the Interior.

[FR Doc.77-3877 Filed 2-7-77;8:45 am]

[M 141]

SOUTH DAKOTA

Transfer of Submarginal Lands; Cheyenne River Indian Reservation

Correction

In FR Doc. 76-38245 appearing on page 56862 in the issue for Thursday, December 30, 1976, in the third column, the second line from the bottom of the page, the first entry should have read "E½NW¼NE¼SW¼".

[OR 9344 (Wash.); (Vancouver 02424)]

WASHINGTON

Order Providing for Opening of Public Land

JANUARY 28, 1977.

Pursuant to Order of the Office of Hearings and Appeals, dated January 25, 1972; Indian Trust Patent No. 130865, dated May 19, 1910, has been cancelled, and the following land has returned to the status of national resource land:

WILLAMETTE MERIDIAN

T. 5 N., R. 19 E.,
Sec. 19, NE¼.

The area described contains 160 acres in Klickitat County.

2. The subject land is located approximately 19 miles northeast of the Town of Goldendale. Elevation ranges from 2,400 to 2,600 feet above sea level, and the topography varies from generally flat to rolling. Vegetation consists primarily of scattered conifers and native grasses and brush. In the past, the land has been used for livestock grazing purposes, and it will be managed, together with adjoining national resource lands, for multiple use management.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land described in paragraph 1 hereof is hereby open to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m. March 5, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon, 97208.

HAROLD A. BERENDS,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc.77-3889 Filed 2-7-77;8:45 am]

[Wyoming 58074]

WYOMING

Application

JANUARY 29, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado, filed an application for a right-of-way to construct a 12 inch pipeline for the purpose of transporting natural gas and a two inch communication cable to be used in conjunction with the natural gas pipeline across the following described National Resource Lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 98 W.,
Sec. 14, W½E½.

The pipeline will transport natural gas from a point in sec. 23, T. 19 N., R. 98 W., to a point in sec. 11, T. 19 N., R. 98 W., Sweetwater County, Wyoming. The communication cable will provide a means of communication between the offices at the processing plant in sec. 23, T. 19 N., R. 98 W., and a village site in sec. 11, T. 19 N., R. 98 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Rock Springs, Highway 187 North, P.O. Box 1869, Rock Springs, Wyoming 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and
Mineral Operations.

[FR Doc.77-3891 Filed 2-7-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 28, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by February 18, 1977.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

ARIZONA

Apache County

Holbrook vicinity, *35th Parallel Route*, 25 mi E of Holbrook off I-40.

CALIFORNIA

Los Angeles County

Malibu, *Adamson House*, 23200 W. Pacific Coast Highway.

DELAWARE

Sussex County

Lewes, *Lewes Presbyterian Church*, 100 King's Highway.

KENTUCKY

Christian County

Oak Grove vicinity, *Cedar Grove*, E of Oak Grove off KY 115.

Clark County

Winchester vicinity, *Vinewood*, 4 mi. NE of Winchester on U.S. 60.

Scott County

Georgetown vicinity, *Flournoy-Nutter House*, E of Georgetown off KY 922.

MAINE

Cumberland County

Portland, *Greenough, Byron, Block*, Free and Middle Sts.

NEW JERSEY

Atlantic County

Smithville, *Smithville Apothecary*, off Moss Mill Rd.

Burlington County

Moorestown, *Perkins House*, Camden Ave. and King's Highway.

NEW YORK

Kings County

Brooklyn, *Litchfield Villa*; Prospect Park West at 5th St.

St. Lawrence County

Ogdensburg, *U.S. Post Office*, 431 State St.

Westchester County

Ardsley-on-Hudson, *Nuits*, Hudson Rd. at Clifton Pl.

NORTH DAKOTA

Burleigh County

Bismarck, *Foley, James W., House*, 529 6th St.

Griggs County

Cooperstown, *Griggs County Courthouse*, Rollin Ave.

Richland County

Christine, *Post Office*, Main and 3rd Sts.

Traill County

Hatton, *Hatton Eielson Museum*, Oak Ave. and 6th St.

TEXAS

Crockett County

Sheffield vicinity, *Musk Hog Canyon Archeological District*, E of Sheffield.

UTAH

Washington County

Hurricane vicinity, *Hurricane Canal*, E of Hurricane.

WASHINGTON

Jefferson County

Chimacum vicinity, *Tamanous Rock*, NW of Chimacum.

Whatcom County

Bellingham, *Fairhaven Historic District*, roughly bounded by 10th and 13th Sts., Columbia and Larrabee Aves.

[FR Doc.77-3508 Filed 2-7-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-91]

NEMACOLIN MINES CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Nemacolin Mines Corporation has filed a petition to modify the application of 30 CFR 75.1700 to its Nemacolin Mine, located in Greene County, Pennsylvania.

30 CFR 75.1700 provides:

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than 300 feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

The substance of Petitioner's statement is as follows:

1. The boreholes of two abandoned gas wells (being designated by the well operators as No. G-377 and No. G-399 and by Petitioner as No. 35 and No. 36 respectively) penetrate the Pittsburgh Coal Seam in the 154 Road Section of the Nemacolin Mine where petitioner intends to mine.

2. The barrier around the well, required by § 75.1700, interferes with Petitioner's (1) maintenance of effective roof control, and (2) improvement of mining safety and conservation by requiring a barrier of coal when more efficient and secure methods to prevent well gas leaks are available.

3. Extensive research conducted by the United States Bureau of Mines and Energy Research and Development Administration ("ERDA" has developed feasible and safe methods to plug abandoned gas wells and eliminate the need for coal barriers around such wells. This research has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

4. In lieu of leaving and maintaining the barrier pillars required by § 75.1700, Petitioner proposes to clean out, if necessary, and plug the two wells in the 154 Road Section of the Nemacolin Mine using a proven technique developed through a series of cooperative agreements between the United States Bureau of Mines, the Energy Research and Development Administration and the Mining Enforcement and Safety Administration (MESA), the Bureau of Deep Mine Safety of the Commonwealth of Pennsylvania and the coal industry.

5. The procedure essentially involved the placing of plugs in the wellbore below the base of the Pittsburgh coalbed which will prevent any natural gas from entering the mine after the well is mined through.

6. Thereafter, Petitioner proposes to mine through the barrier pillars in the normal mining cycle and in accordance with mining projections approved by the MESA District Manager and with procedures and safeguards as may be determined by the parties to be appropriate in the circumstances.

7. The proposed alternative method described herein at all times will guarantee no less than the same measure of protection afforded the miners at the Nemacolin Mine as that afforded by 30 CFR § 75.1700 and will afford:

(A) The elimination of possible gas flow path;

(B) The simplification of the mine ventilation system; and

(C) The improvement of roof control in second mining.

8. Based on current mining projections of Petitioner, it is anticipated that the barrier pillars surrounding the above-mentioned gas wells will be reached in approximately 9 weeks from the date hereof, and safe mining practices require that the normal mining cycle not be interrupted or delayed.

REQUESTS FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 10, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director,
Office of Hearings and Appeals.

JANUARY 31, 1977.

[FR Doc.77-3887 Filed 2-7-77;8:45 am]

Bureau of Reclamation

[Int-Des-77-3]

TOUCHET DIVISION WALLA WALLA PROJECT, WASHINGTON-OREGON

Availability of Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on the Touchet Division water resource development of the Walla Walla Project in southeastern Washington. Touchet Division was authorized for construction by Pub. L. 91-307, July 7, 1970. The principal features of the multipurpose project would be a dam and a 45,000-acre-foot reservoir on the Touchet River about 4.5 miles southeast of the city of Dayton. Written comment may be submitted to the Regional Director (address below) within 45 days of this notice. Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240. Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center—Denver Federal Center, Bureau of Reclamation, Department of the Interior, Denver, Colorado 80225. Telephone (303) 234-3007.

Office of Regional Director, Bureau of Reclamation, P.O. Box 043-550 West Fort Street, Boise, Idaho 83724. Telephone (208) 554-1208.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Copies will also be available for inspection in libraries in south-central Washington. Please refer to the statement number above.

Dated February 3, 1977.

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

[FR Doc.77-3888 Filed 2-7-77;8:45 am]

COLORADO RIVER BASIN SALINITY CONTROL ADVISORY COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council at 9 a.m. on March 1, 1977, at the Arizona Water Commission offices, Suite 800, Central Security Building, 222 North Central Avenue, Phoenix, Arizona.

Purpose of meeting. Council members will be briefed on the status of salinity control activities, and they will discuss fiscal year 1978 appropriations for salinity control activities.

Proposed agenda. The Bureau of Reclamation, Soil Conservation Service, and Bureau of Land Management will each

present a progress report on salinity control activities in the Colorado River Basin. The Council will discuss fiscal year 1978 appropriations for Colorado River Basin salinity control activities.

The meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting should be addressed to Mr. John W. Keys, Chief, Colorado River Water Quality Office, Bureau of Reclamation, Engineering and Research Center, P.O. Box 25007, Denver, Colorado 80225.

G. G. STAMM,
Commissioner of Reclamation.

JANUARY 31, 1977.

[FR Doc.77-3888 Filed 2-7-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[USITC SE-77-12]

GOVERNMENT IN THE SUNSHINE

Commission Meeting for February 15, 1977

Interested members of the public are invited to attend and to observe the meeting of the United States International Trade Commission to be held on Tuesday, February 15, 1977, beginning at 9:30 a.m., in the Hearing Room of the United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. Except as specified hereinafter, the Commission plans to consider the following agenda items in open session:

1. Agenda for future meetings;
2. Minutes;
3. Brookings' program for Economic Policy Fellows (see memorandum dated January 10, 1977, from the Director, Office of Economic Research);
4. Certain above-ground swimming pools (Inv. 337-TA-25) (see action jacket GC-77-7);
5. Proposed final rules for implementing the Government in the Sunshine Act;
6. Cut flowers—consideration of a petition filed pursuant to section 201 of the Trade Act of 1974 (Docket No 429);
7. Cookware—consideration of a petition filed pursuant to section 201 of the Trade Act of 1974 Docket No. 428);
8. Report on space application;
9. Any items left over from previous agenda; and
10. Reorganization.

If you have any questions concerning the agenda for the February 15, 1977, Commission meeting, please contact the Secretary to the Commission at (202) 523-0161. Access to documents to be considered by the Commission at the meeting is provided for in Subpart C of the Commission's rules (19 CFR 201.17-201.-21).

On the authority of 19 U.S.C. 1335 and in conformity with proposed 19 CFR 201.39(a), when a person's privacy interests may be directly affected by holding a portion of a Commission meeting in public, that person may request the Commission to close such portion to public observation. Such requests should be communicated to the Office of the Chairman of the Commission.

Pursuant to the specific exemptions of 5 U.S.C. 552b(c) (2) and (6), on the authority of 19 U.S.C. 1335, and in conformity with proposed 19 CFR 201.37(b) (2) and (6), Commissioners Parker, Moore, Bedell, and Ablondi voted to hold the portion of the February 15, 1977, meeting with respect to the selection of personnel under reorganization (agenda item No. 10) in closed session. Commissioners Minchew and Leonard voted against closing this portion to the public.

A majority of the entire membership of the Commission felt that this portion of the meeting should be closed to the public since: (1) The discussion would only concern internal personnel practice and procedures; and (2) the information discussed in such portion would be likely to disclose information of a personal nature which could constitute a clearly unwarranted invasion of personal privacy.

Those persons expected to be present at this closed portion, and their corresponding affiliations, are listed as follows:

Daniel Minchew, Chairman
Joseph O. Parker, Vice Chairman
Will E. Leonard, Commissioner
George M. Moore, Commissioner
Catherine Bedell, Commissioner
Italo H. Ablondi, Commissioner
Kenneth R. Mason, Secretary
E. Bernice Morris, Staff Assistant
Charles R. Ramsdale, Director, Personnel
Norma H. Warbis, Personnel Management Specialist (if Mr. Ramsdale is not available)
Bruce N. Hatton, Assistant to Commissioner Leonard

The General Counsel to the Commission certified that it is his opinion that the Commission's action in closing this portion of its meeting of February 15, 1977, was properly taken by a vote of a majority of the entire membership of the Commission pursuant to 5 U.S.C. 552b(d) (1) and in conformity with proposed 19 CFR 201.37(e): The decision to be held in closed session is within the specific exemptions of 5 U.S.C. 552b(c) (2) and (6) and proposed 19 CFR 201.38(b) (2) and (6).

Issued: February 3, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.
RUSSELL N. SHEWMAKER,
General Counsel.

[FR Doc.77-3947 Filed 2-7-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTER OF CONTROLLED SUBSTANCES

Registration

By Notice dated December 3, 1976, and published in the FEDERAL REGISTER on December 15, 1976; (41 FR 54824), Knauf & Tesch Company, Chilton, WI 53014, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class of controlled substance listed in schedule I, for the importation of seed only, to be rendered non-viable for use in feed.

No comments or objections have been received. Also, the criteria of section 1002(a) (2) (B) of the CSA has been met in that there are no registered domestic manufacturers of marihuana seed. Therefore, pursuant to section 1008, Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and in accordance with 21 CFR 1311.42, the above firm is granted registration as an importer of marihuana, as specified above.

Dated: January 28, 1977.

DONALD E. MILLER,
Acting Deputy Administrator, Drug Enforcement Administration.

[FR Doc.77-3795 Filed 2-7-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-77-2]

SCHIAVONE CONSTRUCTION CO.

Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Schiavone Construction Company, Impresit Girola Lodigiani, Inc., Thomas Crimmins Contracting Company, A Joint Venture, Barbizon Hotel, Box 5140, F.D.R. Station, New York, New York 10022, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.904 (e) concerning underground storage of explosives and blasting agents.

The address of the place of employment that will be affected by the application is as follows:

Tunnel on East 63rd Street between Lexington Avenue and Third Avenue, Borough of Manhattan, New York, New York

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.904(e) which requires that permanent underground storage magazines be at least 300 feet

from any shaft, adit, or active underground working area.

The applicant is engaged in the construction of a subway tunnel for which explosives are necessary. Rather than comply with the storage requirements of § 1926.904(e), the applicant proposes to store the explosives in three 5' by 5' chambers cut into the rock at about 100', 200' and 235' distances from the access shaft. Access to these storage chambers will be through a tunnel known as a coyote hole which will be excavated from the rock for a distance of about 247'. The first 75' of the coyote hole is a temporary section, as the area will be excavated out for the installation of a compressor plant. At the time this area is excavated the nearest chamber will be about 25' from the nearest working area.

The applicant states that the temporary and permanent portions of the tunnel will be separated by doors of ½" plate steel lined with 4" of hardwood rather than the ¼" plate steel and 2" of hardwood required by the OSHA standards. There is also a second access tunnel that forks off of the main portion of the coyote hole. This section will also be equipped with a door of ½" plate steel and 4" of hardwood. These doors will be bolted into the rock and reinforced concrete. The applicant states that these doors will withstand the energy and pressure that would be generated by an explosion within the chambers.

The caps and explosives will, according to the applicant, be placed in approved magazines which will then be stored in the chambers. The caps will be stored in the first chamber, approximately 100' along the coyote hole. The explosives will be stored in the second and third chambers, approximately 200' and 235' from the manshaft. The applicant states that it will use water-gel explosives which are insensitive and will limit the amount of water-gels stored in each chamber to 500 lbs.

The applicant further states that it will comply with the other requirements for storage of explosives, such as proper ventilation and maintaining the 50' distance between caps and explosives.

A copy of the application will be made available for inspection and copying upon request at the Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3668, Washington, D.C., 20210, and at the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street, Room 1405, New York, New York 10007.

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for a variance are invited to submit written data, views and arguments relating to the pertinent application no later than March 10, 1977. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application no later than March 10, 1977, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Variance Determination at the above address.

II. *Interim Order.* It appears from the application for a variance and interim order and from the drawing submitted by the applicant that, as required by section 6(d) of the Act, the storing of caps and explosives in rock chambers in the manner described in the application will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1926.904(e). If further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.-11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that Schiavone Construction Company, Impresit Girola Lodigiani, Thomas Crimmins Contracting Company, A Joint Venture be, and it is hereby, authorized to store explosives less than 300' from a shaft, adit, or active underground working area, provided that:

1. Ventilation in accordance with § 1926.800(c)(2) is maintained to the end of the coyote hole for the duration of the project.

2. The caps and explosives are placed in approved magazines and stored in the designated chambers cut into the rock.

3. The permanent section of the coyote hole shall be partitioned off with doors of ½" steel plate and 4" of hardwood bolted into rock and reinforced concrete.

4. The passageway shall be maintained free of loose objects.

5. Construction shall proceed according to the schedule submitted:

a. The entire length of the coyote hole and the 3 chambers shall be excavated;

b. Doors shall be installed separating the temporary and permanent portions of the coyote hole;

c. The area around the temporary portion of the tunnel shall be excavated beginning with pilot tunnels on the North and South, then the entire perimeter, and finally the center core including the temporary portion of the coyote hole.

6. Access to the magazine area shall be limited to magazine keepers, powder carriers and authorized inspection personnel. Watchmen certified by the New York City Fire Department shall be on duty at all times when the magazines are loaded.

Schiavone Construction Company, Impresit Girola Lodigiani, Inc., Thomas Crimmins Contracting Company, A Joint Venture shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

Effective date. This interim order shall be effective as of February 8, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C., this 2nd day of February, 1977.

B. M. CONCKLIN,
Acting Assistant Secretary of Labor.

[FR Doc.77-3954 Filed 2-7-77;8:45 am]

Office of the Secretary

[TA-W-1358]

AMERICAN FOUNDRY AND MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1358: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel, alloy, copper, and brass fittings, valves, couplings, flanges, etc. at the St. Louis, Missouri plant of the American Foundry and Manufacturing Company.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 868). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the American Foundry and Manufacturing Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria have been met, criterion (1) has not been met.

The St. Louis, Missouri plant of the American Foundry and Manufacturing Company produces fire hydrants, yard hydrants, utility castings, manhole covers and drainage grates.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the St. Louis, Missouri plant of the American Foundry and Manufacturing Company have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3956 Filed 2-7-77;8:45 am]

[TA-W-1,598]

BETHLEHEM STEEL CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 21, 1977 the Department of Labor received a petition dated December 21, 1977 which was filed under section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of Pottstown, Pennsylvania plant of Bethlehem Steel Corporation, Bethlehem, Pennsylvania (TA-W-1,598). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with fabricated steel produced by Bethlehem Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 21st day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3955 Filed 2-7-77;8:45 am]

[TA-W-1263]

BOONTON HANDBAG CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1263: investiation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 11, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing vinyl handbags at the Boonton, New Jersey plant of Boonton Handbag Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53084). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Boonton Handbag Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investiation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average production employment of Booton Handbag Company, Inc., decreased 2 percent in 1975 from 1974. Employment dropped to 0 in December 1976 when all employees were separated. The plant is currently closed and the duration of the closure is indefinite.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Boonton Handbag Company decreased 8 percent in the first 11 months of 1976 from the same period in 1975 and dropped to 0 in December 1976 when all employees were separated. The plant is currently closed and the duration of the closure is indefinite.

INCREASED IMPORTS

Imports of handbags into the U.S. increased in quantity in 1972 from 1971 and decreased in 1973 and 1974 from the previous year. Imports increased in 1975 to 57.9 million bags from 54.4 million bags in 1974. Imports in the first 9 months of 1976 were 68.4 million compared to 41.1 million in the same period of 1975.

Relative to domestic production, imports increased from 70.01 percent in 1974 to 76.08 in 1975 and from 75.69 in the first 9 months of 1975 to 120.85 in the first 9 months of 1976.

Imports of vinyl handbags increased in quantity in 1972 and 1973 from the previous year and decreased in 1974 and 1975. Imports in the first 9 months of 1976 increased to 40.8 million from 22.6 million in the first 9 months of 1975.

CONTRIBUTED IMPORTANTLY

Customers of Boonton Handbag Company indicated that they have decreased purchases from Boonton and have increased purchases of imported handbags.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with handbags produced at the Booton, New Jersey plant of Boonton Handbag Company, Inc., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers of the Boonton, New Jersey plant of Boonton Handbag Company, Inc., and its sales office at 10 W. 33rd St., New York City, New York who became totally or partially separated from employment on or

after April 1, 1976 are eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3957 Filed 2-7-77;8:45 am]

[TA-W-1247]

CARIBBEAN LEATHER PRODUCTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1247: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 9, 1976 in response to a worker petition received on that date which was filed on behalf of former workers producing women's sandals at Caribbean Leather Products, Inc., Mayaguez, Puerto Rico.

The notice of investigation was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52562). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Caribbean Leather Products, Inc., its customer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

Employment of production workers at Caribbean Leather Products, Inc. declined 11 percent and 24 percent from the previous quarter in the third and fourth quarters of 1975, respectively, and declined 77 percent from the previous quarter in the first quarter of 1976. All employment at Caribbean Leather Products was terminated in October 1976 when the firm closed.

SALES OF PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Caribbean Leather Products declined 70 percent in the first half of 1976 compared to the first half of 1975. Production operations were terminated in October 1976 when Caribbean Leather Products closed.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear increased from 187.6 millions pairs in 1974 to 190.7 million pairs in 1975. Imports for the first nine months of 1976 increased 19.8 percent over the like period in 1975.

The ratio of imports to domestic production increased from 102.6 percent in 1974 to 114.1 percent in 1975 and declined slightly from 108.3 percent in the first nine months of 1975 to 107.8 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Caribbean Leather Products' sole customer purchased imported sandals in place of sandals previously purchased from Caribbean. Reduced purchases by its sole customer resulted in the closure of Caribbean Leather Products in October 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's sandals produced by Caribbean Leather Products, Inc., contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Caribbean Leather Products, Inc., Mayaguez, Puerto Rico who became totally or partially separated from employment on or after October 19, 1975 and on or before October 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated after October 31, 1976 are denied eligibility.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3958 Filed 2-7-77;8:45 am]

[TA-W-1,597]

COVINGTON BROTHERS WHOLESALE GROCERIES

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 25, 1977 the Department of Labor received a petition dated December 26, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Covington Brothers Wholesale Groceries, Mayfield, Kentucky (TA-W-1,597). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the distribution of wholesale groceries provided by Covington Brothers Wholesale Groceries or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistant, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3959 Filed 2-7-77;8:45 am]

[TA-W-1254]

DADSON KNITTING MILLS, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1254: investigation regarding certification of eligibility to apply for worker

adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 10, 1976 in response to a worker petition received on November 10, 1976 which was filed by workers and former workers producing ladies' sweaters at Dadson Knitting Mills, Brooklyn, New York a subsidiary of Hewlett Knitting Mills, Incorporated, Brooklyn, New York.

The Notice of Investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53086). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dadson Knitting Mills, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof and to the decrease in sales and production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 35 percent from 1974 to 1975 and declined 51 percent in the first nine months of 1976 compared to the like period of 1975.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of sweaters declined 12 percent from 1974 to 1975 and declined 32 percent in the first nine months of 1976 compared to the like period of 1975.

Production data was not available. Production at Dadson Knitting Mills was stopped temporarily in August and September 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's sweaters declined absolutely and relative to domestic production from 1971 to 1972 and from 1972 to 1973. Imports increased absolutely and relatively from 1973 to 1974. Imports increased absolutely from 1974 to 1975 and in the first nine months of 1976 compared to the like period of 1975. The ratio of imports to domestic production declined from 104.9 percent in 1974 to 94.6 percent in 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that sales of sweaters produced at Dadson Knitting Mills were made through the parent company. This company represented 100 percent of Dadson's sales. In 1976, Dadson was the parent company's only domestic supplier of sweaters. The company reduced purchases from Dadson and increased purchases of imported sweaters from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' sweaters produced at Dadson Knitting Mills, Inc., Brooklyn, New York, a subsidiary of Hewlett Knitting Mills, Inc., Brooklyn, New York, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of ladies' sweaters at Dadson Knitting Mills, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after October 22, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-3960 Filed 2-7-77;8:45 am]

[TA-W-1355]

DE LAVAL TURBINE

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1355: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel, alloy, copper, and brass fittings, valves, couplings, flanges, etc. at the Los Angeles, California plant of De Laval Turbine, Princeton, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 874). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and De Laval Turbine.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Los Angeles, California plant of De Laval Turbine produces valves and controls.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Los Angeles, California plant of De Laval Turbine have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-3961 Filed 2-7-77;8:45 am]

[TA-W-1,607]

EVART PRODUCTS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 26, 1977 the Department of Labor received a petition dated January 17, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Lauman Road Assembly plant, Evart, Michigan of Evart Products Co., Evart, Michigan, a wholly-owned subsidiary of American Motors Corporation, Detroit, Mich. (TA-W-1,607). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in

Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with various plastic components produced by Evart Products Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3962 Filed 2-7-77;8:45 am]

[TA-W-1371]

FISHER CONTROLS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1371: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 1, 1976 in response to a worker petition received on December 1, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel, alloy, copper, and brass fittings, valves, couplings, flanges, etc. at the Coraopolis, Pennsylvania plant of Fisher Controls Company.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 879). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Fisher Controls Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Coraopolis, Pennsylvania plant of Fisher Controls Company produces automatic control valves ("butterfly" valves) of cast iron and stainless steel.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Coraopolis, Pennsylvania plant of Fisher Controls Company have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3963 Filed 2-7-11;8:45 am]

[TA-W-1009]

GENERAL SHOE CO.

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1009; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 30, 1976 in response to a worker petition received on July 30, 1976 which was filed on behalf of workers and former workers producing women's shoes at the Frankfort, Kentucky plant of General Shoe Company, a division of GENESCO, Inc., Nashville, Tennessee.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 34392) on August 13, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of GENESCO, Inc., its customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely.

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

All employment at the Frankfort, Kentucky plant of the General Shoe Company was terminated the week ending July 30, 1976.

SALES OF PRODUCTION, OF BOTH, HAVE DECREASED ABSOLUTELY

Production at the Frankfort, Kentucky plant of the General Shoe Company ceased the week ending July 30, 1976.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear increased absolutely and relatively in 1972 compared to 1971 and in 1973 compared to 1972. Imports declined absolutely and relatively in 1974 compared to 1973 and then increased absolutely, but declined relatively, in 1975 compared to 1974. The ratios of imports to domestic production and consumption fluctuated upward from 79.6 percent and 44.3 percent, respectively,

in 1971 to 101.1 percent and 50.3 percent, respectively, in 1975. Imports increased 22.3 percent in absolute terms in the first six months of 1976 compared to the first six months of 1975. The ratios of imports to domestic production and consumption declined in the first six months of 1976 compared to the first six months of 1975.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of GENESCO have reduced purchases from GENESCO and increased purchases of imported women's shoes. Price and greater sensitivity to style changes by foreign manufacturers were the factors cited most frequently as the reasons that customers switched from domestic to foreign suppliers. In response to this shift in consumer preferences to imported women's shoes, GENESCO increased its imports of women's shoes by 79.5 percent in fiscal 1975 compared to fiscal 1974.

The Frankfort plant was closed as a result of adverse impact of imported women's footwear. Sales and production of shoes at GENESCO had been declining from 1970 through fiscal year 1975, largely as a result of competition from imports. During this time GENESCO closed and liquidated eleven factories. In the period 1969–1972 GENESCO closed five women's footwear factories and part of the production previously occurring at these plants was shifted into the Frankfort plant. GENESCO's sales of women's shoes continued to decline and in an effort to compete more effectively with import competition production of men's cement shoes was shifted into the Frankfort plant in 1973. Declining sales of men's shoes in 1974 and 1975 caused the termination of production of men's shoes at the Frankfort plant. Production previously occurring at the Frankfort plant was shifted back to GENESCO's traditional men's shoe plants, which company officials considered to be more economically functional. GENESCO then shifted production of a specialty sport shoe into the Frankfort plant in 1975 and women's sliplasted shoes in early 1976. When sales of these products declined the Frankfort plant closed effective July 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's shoes produced by the Frankfort, Kentucky plant of General Shoe Company contributed importantly to the total or partial separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Frankfort, Kentucky plant of the General Shoe Company who became totally or partially separated from employment on or after May 26, 1976 and before August 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974 except that the following identified employees of General Shoe Company shall be eligible to apply for adjustment assistance even if they become totally or partially separated on or after August 1, 1976.

1. Danny Anderson, 804 Forest Hill Drive, Frankfort, Kentucky.
2. Floyd Gilbert, 110 Adair, Frankfort, Kentucky.
3. Alvin Aldridge, Route 1, Bagdad, Kentucky.
4. Howard Smith, Route 5, Frankfort, Kentucky.
5. Mac Foster, 130 Locust Street, Frankfort, Kentucky.
6. Harrison Smith, Route 5, Frankfort, Kentucky.
7. Arthur McDaniel, Route 4, Box 175, Frankfort, Kentucky.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3966 Filed 2-7-77;8:45 am]

[TA-W-1,592]

GULF & WESTERN ELCO CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 25, 1977 the Department of Labor received a petition dated January 6, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the International Brotherhood of Electrical Workers on behalf of the workers and former workers of the Huntingdon Division, Huntingdon, Pa. of Gulf & Western Elco Corporation, New York, New York (TA-W-1,592). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with electronic connectors produced by Gulf & Western Elco Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 25th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3964 Filed 2-7-77;8:45 am]

[TA-W-1240 and 1241]

H. A. SEINSHEIMER CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1240 and 1241: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 8, 1976, in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of workers and former workers producing men's tailored suits, sportcoats, trousers and men's leisure suits at the Cincinnati, Ohio and New Albany, Indiana plants of H. A. Seinsheimer Company, Cincinnati, Ohio.

The notices of investigation were published in the FEDERAL REGISTER on November 23, 1976 (40 FR 51630). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of H. A. Seinsheimer Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or

threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

On May 13, 1976 notices of negative determination regarding eligibility to apply for adjustment assistance were issued for all workers who became separated from employment related to the production of men's suits, sportcoats, trousers, and leisure suits at the Cincinnati, Ohio and New Albany, Indiana plants of H. A. Seinsheimer. (TA-W-640 and TA-W-641)

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Cincinnati plant declined 53 percent from FY 1974 to FY 1975 and declined 39 percent from FY 1975 to FY 1976. Employment declined 52 percent in the fourth quarter of FY 1976 compared to the fourth quarter of FY 1975.

Employment of production workers at the New Albany plant increased 10 percent from FY 1974 to FY 1975 and increased 23 percent from FY 1975 to FY 1976. Employment declined 15 percent in the fourth quarter of FY 1976 compared to the fourth quarter of FY 1975.

All production employment was terminated in November 1976.

Employment of non-production workers at the Cincinnati plant declined 9 percent from FY 1974 to FY 1975 and then increased 2 percent from FY 1975 to FY 1976.

Employment of non-production workers at the New Albany plant declined 4 percent from FY 1974 to FY 1975 and then increased 4 percent from FY 1975 to FY 1976.

Following the company's closure in November 1976, a skeleton staff was retained to assist in close out operations.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Data were recorded in fiscal year periods beginning in November of the previous year.

Production was integrated between the Cincinnati and New Albany plants.

Production of men's tailored suits, sportcoats and trousers and men's leisure suits at H. A. Seinsheimer increased 33 percent from FY 1974 to FY 1975 and then declined 16 percent from FY 1975 to FY 1976.

Cutting operations at the Cincinnati plant ceased in August 1976. All production at the New Albany plant ceased in November 1976.

INCREASED IMPORTS

Imports of men's and boys' tailored suits increased absolutely and relative to domestic production in each year from 1971 through 1975. Imports increased absolutely in the first nine months of 1976 compared to the like period of 1975. The ratio of imports to domestic production increased from 12.3 percent in 1974 to 17.4 percent in 1975 and then declined from 19.9 percent in the first six months of 1975 to 17.3 percent in the first six months of 1976.

Imports of men's and boys' tailored dress coats and sportcoats increased absolutely and relative to domestic production in each year from 1971 through 1973. Imports increased relatively from 1973 to 1974 and increased absolutely and relatively from 1974 to 1975. Imports increased absolutely in the first nine months of 1976 compared to the like period of 1975. The ratio of imports to domestic production increased from 21.3 percent in 1974 to 30.9 percent in 1975 and increased from 23.8 percent in the first six months of 1975 to 30.7 percent in the first six months of 1976.

Imports of men's and boys' dress and sport trousers and shorts increased absolutely and relative to domestic production from 1971 to 1972. Imports declined absolutely and relatively in 1973 and 1974. Imports then increased absolutely and relatively from 1974 to 1975 and increased absolutely in the first nine months of 1976 compared to the first nine months of 1975. The ratio of imports to domestic production increased from 18.2 percent in 1974 to 30.3 percent in 1975 and increased from 28.2 percent in the first six months of 1975 to 32.0 percent in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that H. A. Seinsheimer's customers, who were surveyed, also purchase imported men's suits, sportcoats and trousers. Seventy percent of the customers reduced purchases from Seinsheimer and increased purchases of imports from 1975 to 1976. Price was the main factor influencing customers to substitute purchases of imports for garments previously purchased from H. A. Seinsheimer.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports like or directly competitive with men's suits, sportcoats, trousers and leisure suits produced at the Cincinnati, Ohio and New Albany, Indiana plants of H. A. Seinsheimer Company, Cincinnati, Ohio contributed importantly to the total or partial separation of the workers of those plants. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's suits, sportcoats, trousers, and leisure suits at the Cincinnati, Ohio and New Albany, Indiana plants of H. A. Seinsheimer Company, Cincinnati, Ohio who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3965 Filed 2-7-77;8:45 am]

[TA-W-1483]

HAWAIIAN WESTERN STEEL LTD.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1483: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on December 20, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel, structural shapes, sizes, plates, silicon steel, pipes, tubing, pilings, round wire, stainless round wire and welded pipe at the Ewa Beach, Hawaii plant of Hawaiian Western Steel Ltd.

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2372). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hawaiian Western Steel Ltd., the U.S. Department of Labor, and the local employment security office at Ewa, Hawaii.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (1) has not been met.

The Ewa beach plant of Hawaiian Steel Ltd. produces only reinforcing steel and reinforcing bars.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employees at the Ewa Beach, Hawaii, plant of Hawaiian Western Steel

Ltd. have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3967 Filed 2-7-77;8:45 am]

[TA-W-1, 591]

INDIAN HEAD MILLWORK CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On December 6, 1976, the Department of Labor received a petition dated November 26, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the Upholsterers' International Union of North America on behalf of the workers and former workers of Indian Head Millwork Corporation, Nashua, New Hampshire (TA-W-1, 591). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with window frames, blinds exterior and interior doors and kitchen cabinets produced by Indian Head Millwork Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 24th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3968 Filed 2-7-77;8:45 am]

[TA-W-1319]

JACKSON-MARKUS SUPPLY CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1319: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 30, 1976 in response to a worker petition received on November 30, 1976 which was filed by the United Steelworkers of America on behalf of workers producing steel, alloy, copper, and brass fittings, valves, couplings, flanges, etc. at the Los Angeles, California plant of the Jackson-Markus Supply Company.

The notice of investigation was published in the FEDERAL REGISTER on December 14, 1976 (41 FR 54560). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the United Steelworkers of America and the Jackson-Markus Supply Company.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations or threat thereof; and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

Jackson-Markus Supply Company, Los Angeles, California is a distributor of valves, flanges, and fittings.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from November 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Los Angeles, California, plant of Jackson-Markus Supply Company have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3969 Filed 2-7-77;8:45 am]

[TA-W-1,604]

JOSEPH F. CORCORAN SHOE CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 17, 1977 the Department of Labor received a petition dated January 12, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Joseph F. Corcoran Shoe Co., Stoughton, Massachusetts, a wholly-owned subsidiary of Acme Boot Company, Stoughton, Mass. (TA-W-1,604). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with men's shoes and boots produced by Joseph F. Corcoran Shoe Co. or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a signficant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the sub-

ject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3970 Filed 2-7-77;8:45 am]

[TA-W-1,593]

KAISER STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 10, 1976 the Department of Labor received a petition dated October 10, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Structural Fabrication plant, Fontana, Calif. of Kaiser Steel Corp., Oakland, California (TA-W-1,593). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with bridges, offshore drilling platforms and buildings produced by Kaiser Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 10th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3971 Filed 2-7-77;8:45 am]

[TA-W-1,594]

KAISER STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On November 10, 1976 the Department of Labor received a petition dated October 10, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America on behalf of the workers and former workers of the Light Steel Products plant, Fontana, Calif. of Kaiser Steel Corp., Oakland, Calif. (TA-W-1,594). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with light steel products produced by Kaiser Steel Corporation or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of November 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3972 Filed 2-7-77;8:45 am]

[TA-W-1,599]

MISS SARAH, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 21, 1977 the Department of Labor received a petition dated January 17, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Miss Sarah, Incorporated, Brownsville, Texas (TA-W-1,599). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with catching and landing of shrimp provided by Miss Sarah, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments rearding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the

Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3973 Filed 2-7-77;8:45 am]

[TA-W-1,600]

PALM SHRIMP CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 21, 1977 the Department of Labor received a petition dated January 17, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Palm Shrimp Company, Brownsville, Texas (TA-W-1,600). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the unloading and selling of shrimp provided by Palm Shrimp Company or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 26th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3974 Filed 2-7-77;8:45 am]

[TA-W-1,601]

PENSTEEL KMW, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 10, 1977 the Department of Labor received a petition dated December 28, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of the Batavia, New York plant of Pensteel KMW, Inc., Ontario, Canada (TA-W-1,601). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with hydraulic shears produced by Pensteel KMW, Incorporated or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 31st day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3975 Filed 2-7-77;8:45 am]

[TA-W-1220]

PHOENIX CLOTHES, DIVISION OF GENESCO, INC.

Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1220: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 3, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing men's clothing at the Shippensburg, Pennsylvania plant of Phoenix Clothes, Division of Genesco, Incorporated, Nashville, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51144). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phoenix Clothes, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

With respect to men's suit pants, the investigation has revealed that all four of the above criteria have been met. With respect to men's vests criteria one (1) and two (2) have not been met.

SIGNIFICANT TOTAL OF PARTIAL SEPARATIONS

Plant employment of production workers engaged in the production of men's suit pants declined 3.2 percent in 1975 compared to 1974 and increased 4.5 percent in the first nine months of 1976 compared to the same period in 1975.

Employment of production workers engaged in the production of vests started in October 1975, and increased 75.0 percent in the first quarter of 1976 compared to the last quarter of 1975; and increased 19.0 percent and 14.0 percent in the second and third quarters of 1976, respectively, compared to the immediately preceding quarter. The investigation revealed that there have been no layoffs of workers producing men's vests.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Shippensburg plant equals sales. Plant production of men's suit pants, in units, declined 8.6 percent in 1975 compared to 1974 and increased 12.1 percent in the first nine months of 1976 compared to the same period in 1975.

Plant production of vests started in October, 1975 and increased 85.6 percent in the first quarter of 1976 compared to the last quarter of 1975; and increased 50.7 percent and 11.2 percent in the second and third quarters of 1976, respectively, compared to the immediately preceding quarter.

INCREASED IMPORTS

Imports of men's and boys' tailored suits have increased each year, from 1.27 million units in 1971, to 3.10 million units in 1975, and increased from 2.35 million units in the first nine months of 1975 to 2.52 million units in the same period in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of Phoenix Clothes' major customers in 1975 indicated that several of these customers have increased imports of men's suits, while decreasing their purchases from Phoenix Clothes.

CONCLUSIONS

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suit pants produced at the Shippensburg, Pennsylvania plant of Phoenix Clothes, contributed importantly to the total or partial separations of the workers engaged in the production of such pants at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of men's suit pants at the Shippensburg, Pennsylvania plant of Phoenix Clothes, who became totally or partially separated from employment on or after October 18, 1975 and before January 1, 1976 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became separated on or after January 1, 1976 are denied eligibility to apply for adjustment assistance.

It is further concluded that separations of employees engaged in the production of men's suit vests at the Shippensburg, Pennsylvania plant of Phoenix Clothes have not occurred as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3976 Filed 2-7-77;8:45 am]

[TA-W-1268]

R. J. WIDEN CO., INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1268: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 10, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing garment, accessory and tanned leather at the North Adams, Massachusetts plant of the R. J. Widen Company, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53095). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the R. J. Widen Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly production workers remained constant on a yearly basis from 1973 through 1975. Permanent layoffs began in the fourth quarter of 1975. Employment then declined during each quarter of 1976, as compared to the corresponding quarters of the previous year. In the January–September period of 1976 employment declined 25.0 percent, as compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The dollar value of total sales declined 10.7 percent from 1973 to 1974 and then increased 11.1 percent from 1974 to 1975. Sales increased 1.1 percent in the January–September period of 1976, as compared to the same period of 1975. Sales declined 38.3 percent in the third quarter of 1976, as compared to same quarter of the previous year.

Production, in terms of pounds of hides processed, increased 31.7 percent from 1974 to 1975 and then declined 18.5 percent in the January-September period of 1976, as compared to the same period of 1975. Production declined in the second and third quarters of of 1976 by 6.0 percent and 59.4 percent, respectively, as compared to the corresponding quarters of 1975.

INCREASED IMPORTS

Imports of tanned and finished cattlehides, as expressed in millions of square feet, increased both absolutely and relatively from 1971 to 1972 and then declined absolutely and relatively in each year from 1972 to 1975.

During the first six months of 1976 imports increased by 202.6 percent as compared to the first six months of 1975. During the same period domestic production increased 18.5 percent. The ratios of imports to domestic production and consumption increased from 7.7 percent and 8.3 percent, respectively, in the January–June period of 1975 to 19.6 percent and 19.0 percent, respectively, in the same period of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of R.J. Widen Company, Incorporated have reduced purchases from that company and increased purchases of imported garment, accessory and tanned leather.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with garment, accessory and tanned leather produced by the North Adams, Massachusetts plant of the R. J. Widen Company, Incorporated contributed importantly to the total or partial

separations of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of garment, accessory and tanned leather at the North Adams, Massachusetts plant of the R. J. Widen Company, Incorporated who became totally or partially separated from employment on or after October 10, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3977 Filed 2-7-77;8:45 am]

[TA-W-1376]

ROSE-LIN OF CALIFORNIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1376: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 7, 1976 in response to a worker petition received on November 19, 1976 which was filed by three workers on behalf of workers and former workers producing ladies coats and suits at Rose-Lin of California, Los Angeles, California. During the course of the investigation it was established that Rose-Lin only produced ladies coats.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 896). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Rose-Lin of California, its sole customer, officials of the International Ladies Garment Workers Union, AFL-CIO, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations; or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The annual average number of employees of Rose-Lin of California declined 6.1 percent from 1974 to 1975 and declined 41.9 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Rose-Lin of California increased 44 percent from 1974 to 1975. Production declined 53 percent from 1975 to 1976. All production ceased at the end of December 1976 due to lack of contract work.

INCREASED IMPORTS

U.S. imports of women's, misses' and children's coats and jackets increased from 1971 to 1973, declined from 1973 to 1974, and increased again from 1974 to 1975. The ratios of imports to production and imports to consumption decreased from 1971 to 1974 and then increased from 1974 to 1975. Imports increased 51.5 percent in quantity in the first nine months of 1976 compared to the like period in 1975.

CONTRIBUTED IMPORTANTLY

Rose-Lin of California, an independent contractor, ceased production in December 1976 for an indefinite period due to lack of contract work. The firm's only customer, an apparel manufacturer, terminated contract work for women's coats with Rose-Lin and switched to other product lines in an attempt to diversify. This diversification effort was hastened by the influence of increased imports of women's coats. Customers of the apparel manufacturer indicated that imports of women's coats from Europe and the Far East have definitely been a factor in the U.S. market.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats produced at Rose-Lin of California, Los Angeles, California contributed importantly to the total or partial separations of the workers of such firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers of Rose-Lin of California, Los Angeles, California, who became or will become totally or partially separated from employment on or after November 19, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3978 Filed 2-7-77;8:45 am]

[TA-W-1,605]

SHERIDAN AMC/JEEP

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On January 17, 1977 the Department of Labor received a petition dated January 12, 1977 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Sheridan AMC/Jeep, Kenosha, Wisconsin, a Division of American Motors Corporation, Detroit, Michigan (TA-W-1,605). Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with the selling of AMC automobiles provided by Sheridan AMC/Jeep or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

Interested persons are invited to submit written comments regarding the subject matter of this investigation to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 18, 1977.

The petition filed in this case is available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of January 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-3979 Filed 2-7-77;8:45 am]

[TA-W-1142]

STANDARD GLOVE CO. OF NEW JERSEY, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1142: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 5, 1976 in response to a worker petition received on October 5, 1976 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing textile work gloves at the Standard Glove Company of New Jersey, Inc., Newark, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1538). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Standard Glove Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales, production, or both, of the firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at Standard Glove decreased 8.1 percent from 1973 to 1974 and declined 44.1 percent from 1974 to 1975. In the first three quarters of 1976, employment rose 15.0 percent compared to the like period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of textile work gloves produced at the Newark plant rose 3.5 percent in value from 1973 to 1974, declined 47.6 percent from 1974 to 1975, and increased 6.8 percent in the first three quarters of 1976 compared to the like period in 1975. Plant production declined in volume by 15.7 percent from 1973 to 1974, by 43.7 percent from 1974 to 1975, and by 13.8 percent in the first three quarters of 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of textile and textile/leather work gloves and mittens increased from 599 thousand dozen pairs in 1971 to 2.6 million dozen pairs in 1974 and declined to 2.5 million dozen pairs in 1975. In the first half of 1976, 2.1 million dozen pairs of textile and textile/leather work gloves were imported compared to 1.2 million dozen pairs in the same period in 1975. The ratio of imports to domestic glove production increased in each year from 1971 through 1975. The ratio of imports to domestic production increased from 8.4 percent in 1974 to 11.0 percent in 1975 and rose from 10.4 percent in the first half of 1975 to 15.4 percent in the first six months of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that the textile work gloves produced by the Standard Glove Company are designed for product protection rather than for hand protection. Customers who bought textile work gloves from Standard Glove did not buy imported textile work gloves for product protection. Customers shifted purchases to other domestic sources.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the textile work gloves produced at the Standard Glove Company of New Jersey, Inc., Newark, New Jersey did not contribute importantly to the total or partial separations of the workers at that plant.

Signed at Washington, D.C. this 26th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3980 Filed 2-7-77;8:45 am]

[TA-W-1166]

TELEDYNE McKAY

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1166: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 13, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers engaged in the production of chains and of welding rods and electrodes at the York, Pennsylvania plant of Teledyne McKay, a division of Teledyne Industries, Inc., Los Angeles, California.

The notice of investigation was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47631). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Teledyne McKay, its customers, the American Chain Association, the National Electrical Manufacturers Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the York Plant decreased three percent from 1973 to 1974, 11 percent from 1974 to 1975, and declined 12 percent in January–October 1976 compared to the like period in 1975. Average weekly hours worked by production workers declined six percent from 1974 to 1975 and rose four percent in January–October 1976 compared to the same period in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production and sales of chain declined in volume by nine percent and seven percent, respectively, from 1973 to 1974 and both decreased by 45 percent from 1974 to 1975. In January–October 1976 production and sales of chain rose 27 percent and 24 percent above respective levels in the same period of 1975.

Production of welding rods and electrodes increased in volume by three percent from 1973 to 1974 and declined 10 percent from 1974 to 1975. Sales of welding products decreased four percent from 1973 to 1974 and 27 percent from 1974

to 1975. In January–October 1976 production and sales decreased six percent and one percent compared to respective levels in the same period of 1975.

INCREASED IMPORTS

Imports of chain increased from 15.6 thousand short tons in 1971 to 31.3 thousand short tons in 1973 and then declined to 25.8 thousand short tons in 1974 and to 24.1 thousand short tons in 1975. Imports increased from 18.1 thousand short tons in January–September 1975 to 20.7 thousand short tons in January–September 1976. The ratio of imported chain to domestic chain production was estimated to be 12.7 percent in 1974, 13.0 percent in 1975, and 13.8 percent in January–September 1976.

Imports of welding rods and electrodes increased annually from 1971 through 1975. Imports rose from 10.64 thousand short tons in 1974 to 29.10 thousand short tons in 1975. Imported welding products decreased from 26.99 thousand short tons in January–September 1975 to 5.72 thousand short tons in January–September 1976, a decline of 79 percent. The ratio of imported welding products to domestic welding rod shipments was estimated to be 2.04 percent in 1974, 5.74 percent in 1975, and 1.61 percent in January–September 1976.

CONTRIBUTED IMPORTANTLY

The York, Pennsylvania plant of Teledyne McKay is divided into two separate production lines, one for chains and the other for welding rods and electrodes. The Department's investigation concerning chain revealed that sales and production of chain by McKay increased in volume in January–October 1976 compared to the like period in 1975. Customers who reduced purchases of chain from McKay in the last year did not shift to imports.

With respect to welding rods and electrodes, the Department's investigation revealed that customers who bought welding products from McKay either reduced purchases of imports since 1975 or did not buy any imported welding rods or electrodes. Imports of welding rods and electrodes declined in volume both absolutely and relatively in January–September 1976 compared to the like period in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the chains and with the welding rods and electrodes produced at the York, Pennsylvania plant of Teledyne McKay did not contribute importantly to the total or partial separations of the workers at such plant.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3981 Filed 2-7-77;8:45 am]

[TA-W-1236]

TRIANGLE PIPE AND TUBE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1236: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 8, 1976 in response to a worker petition received on that date which was filed on behalf of workers formerly producing copper tubing at the New Brunswick, New Jersey plant of Triangle Pipe and Tube Company, a subsidiary of Triangle Industries, Holmdel, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Triangle Pipe and Tube Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers employed at Triangle Pipe and Tube declined 29.7 percent in the first nine months of 1976 compared to the like period in 1975. All hourly workers were laid off as of the end of September 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of copper tubing at Triangle Pipe and Tube decreased 27.0 percent in quantity from 1973 to 1974 and 35.8 percent from 1974 to 1975 before increasing 2.9 percent in the first eight months of 1976 compared to the like period in 1975. The firm ceased production in August 1976.

INCREASED IMPORTS

U.S. imports of copper tube and pipe increased 27.9 percent in quantity from 1971 to 1973, fell 56.4 percent from 1973 to 1975, and then rose 47.1 percent in the first nine months of 1976 compared to the like period in 1975. Imports represented 5 to 6 percent of domestic consumption each year from 1971 to 1975 and in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

None of the major customers of Triangle Pipe and Tube purchased any imported copper tubing from foreign or domestic sources in recent years. Those customers who reduced purchases from Triangle Pipe and Tube switched to other domestic sources that offered the same copper tubing produced to standard specifications, but at lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of copper tubing, like or directly competitive with articles produced at Triangle Pipe and Tube Company, New Brunswick, New Jersey, did not contribute importantly to the total or partial separation of the workers of such firm.

Signed at Washington, D.C. this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3982 Filed 2-7-77;8:45 am]

[TA-W-1308]

WARNER GEAR CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1308: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 29, 1976 in response to a worker petition received on November 4, 1976 which was filed by the United Automobile, Aerospace and Agricultural Implement Workers of America on behalf of workers and former workers providing secretarial services to the Local #287, UAW representing employees of Warner Gear Corporation, Muncie, Indiana.

The notice of investigation was published in the FEDERAL REGISTER on December 21, 1976 (41 FR 55610). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Warner Gear Corporation, Local #287, UAW, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any one of the above criteria is satisfied, a negative determination must be made.

Local #287, UAW does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether Warner Gear Corporation, i.e., a firm which produces an article, namely automotive transmissions, and for whom the service is provided, can be considered the "workers' firm". The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm." See Notice of Determination in Nu-Car Driveway, Incorporated (TA-W-393, 41 FR 12749).

Local #287, United Automobile, Aerospace and Agricultural Implement Workers of America represents the workers at Warner Gear Corporation, Muncie, Indiana. The petition was filed on behalf of a secretary to the union president whose job function included the performance of clerical work, typing, ledger entries and correspondence.

The secretary's job was confined to union business. The secretary was employed by Local #287, UAW and was at no time under the employ or supervision of Warner Gear. The petitioner was not responsible for performing any tasks for Warner Gear.

Salaries were paid by Local #287 and no salary benefits were received from Warner Gear. Warner Gear has no power or authority over the administrative staff employed by Local #287. The president of Local #286, UAW has the power to hire and lay off administrative staff employees of the union.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Local #287, United Automobile, Aerospace and Agricultural Implement Workers of America, Muncie, Indiana are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974, and that the Warner Gear Corporation cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 27th day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3983 Filed 2-7-77;8:45 am]

[TA-W-1204]

WINDSOR WAIST AND DRESS CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1204: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 26, 1976, in response to a worker petition received on October 26, 1976, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' shorts, skirts, dresses, and shirts at the Philadelphia, Pennsylvania plant of the Windsor Waist and Dress Company.

The notice of investigation was published in the FEDERAL REGISTER on November 19, 1976 (41 FR 51148). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Windsor Waist and Dress Company, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard as to whether any of the other criteria have been met, criterion (1) has not been met.

The Philadelphia, Pennsylvania plant of Windsor Waist and Dress Company produces ladies' sportswear—shorts, skirts, dresses, and shirts.

Evidence developed in the Department's investigation reveals that no involuntary separations occurred from October 1, 1975, one year prior to the signature date of the petition, to the present.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the 1024 Filbert Street, Philadelphia, Pennsylvania, plant of Windsor Waist and Dress Company have not become totally or partially separated as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 31st day of January 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-3984 Filed 2-7-77;8:45 am]

NATIONAL CAPITAL PLANNING COMMISSION

PRIVACY ACT OF 1974

Systems of Records

On December 9, 1976, the National Capital Planning Commission published for comment in the FEDERAL REGISTER (41 FR 53856) pursuant to 5 U.S.C. 552a (e)(4) the Privacy Act of 1974 (Pub. L. 93-579)), the systems of records currently maintained by the Commission.

The only comments received were those of the Office of Management and Budget. The systems of records, revised to reflect the OMB comments, were approved by the Commission on January 13, 1977.

The revisions are as follows:

(1) In NCPC-1 and NCPC-2, the "authority" portion of the notice is revised by adding for the benefit of the reader the name of the authorizing legislation as well as the U.S. Code citation.

(2) In NCPC-3, the routine use portion of the notice is revised to provide, in accordance with section 1211 of the Tax Reform Act of 1976 (Pub. L. 94-455), that the social security number of an employee may be provided to any taxing jurisdiction.

(3) In NCPC-1 and NCPC-3, the "retention and disposal of records" portion of the notice is revised to briefly indicate the actual policies and procedures of the NCPC for retention and disposal of records in the systems.

(4) In NCPC-1, NCPC-2, and NCPC-3, the "access and contest" portion of the notice

is revised to briefly outline the Commission's procedures for access and contest.

(5) In NCPC–2 and NCPC–3, the notice is amended to indicate the kinds of personnel authorized access to the system.

Accordingly, the systems of records are revised to read as set forth below.

Effective date. January 13, 1977.

DANIEL H. SHEAR,
Secretary.

ALPHABETICAL LISTING OF SYSTEMS NAMES

Commission Members and Alternates—NCPC.
Mailing Lists—NCPC.
Payroll Records—NCPC.

NCPC–1

System name:

Commission Members and Alternates—NCPC.

Location:

National Capital Planning Commission, 1325 G Street, NW., Washington, D.C. 20576.

Categories of individuals:

Past and present Commission Members and Alternates.

Categories of records:

Biographical information and information on the official Commission actions taken by a Commissioner or Alternate.

Authority:

National Capital Planning Act of 1952, as amended (40 U.S.C. 71a(c)).

Routine uses:

See appendix; also to assist in preparation of public relations materials and in responding to requests for biographical information from the public.

Record management policy and practice:

Storage:

File folders.

Retrievability:

Name.

Safeguards:

Stored in guarded building in locked files; released only pursuant to Freedom of Information Act or as needed in press releases.

Retention and disposal

Permanent; no disposal.

System manager:

Associate Secretary, National Capital Planning Commission, 1325 G. Street, NW., Washington, D.C. 20576.

Notification:

Same as above.

Access and contest:

Generally by submitting written request to the System Manager. A copy of the Commission's Privacy Act procedures will be sent upon request.

Sources of information:

Individuals on whom records are maintained, press.

NCPC–2

System name:

Mailing Lists—NCPC.

Location:

National Capital Planning Commission, 1325 G Street NW., Washington, D.C. 20576.

Categories of individuals:

Federal, state, and local government officials, neighborhood groups, and private citizens in the National Capital Region.

Categories of records:

Names and addresses or individuals and where applicable, the organization, group, institution represented by the individual.

Authority:

The National Capital Planning Act of 1952, as amended (40 U.S.C. 71a(c)).

Routine uses:

See appendix; also to provide information on Commission policy, procedures and meeting agendas to interested parties and persons.

Record management policy and practice:

Storage:

Paper.

Retrievability:

Name.

Safeguards:

Stored in guarded building in locked files; released only to authorized personnel such as clerical staff preparing mailings to those on the list.

Retention and disposal:

At direction of those on list.

System manager:

Associate Secretary.

Notification:

Same as above.

Access and contest:

Generally by submitting a written request to the System Manager. A copy of the Commission's Privacy Act procedures will be sent upon request.

Sources of information:

Individuals on whom records are maintained.

NCPC–3

System name:

Payroll Records—NCPC.

Location:

General Services Administration, Region 3, 7th and D Streets, S.W., Washington, D.C. 20407; copies held by Commission. (GSA holds records for the Commission under Memorandum of Agreement.)

Categories of individuals:

Commission employees.

Categories of records:

Varied payroll records including time and attendance cards, payment vouchers, comprehensive listings of employees, health benefits and Government life insurance records, requests for deductions, tax forms, W–2 forms, leave data, retirement records, notification of personnel actions.

Authority:

Title 31, U.S.C. generally.

Routine uses:

Preparation of salary checks and maintenance of leave records; records are also released to GAO for audits, to the IRS for investigations, to the Civil Service Commission (CSC) concerning pay, benefits, retirement deductions and other information necessary for the CSC to carry out its Government-wide personnel management functions. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual. Routine uses of records maintained in this system shall include providing a copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Assistant Executive Director (Administration), National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a witholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to a written request from an appropriate city official to the Assistant Executive Director (Administration).

In accordance with section 1211 of the Tax Reform Act of 1976 (P.L. 94–455), the social security number of any employee may be furnished to any taxing jurisdiction.

Also see appendix.

Record management policy and practice:

Storage:

Paper and tape.

Retrievability:

Name and Social Security Number.

Safeguards:

Stored in guarded building in locked files; released only to authorized personnel such as staff in the Commission's Administrative Office responsible for maintaining time and attendance records.

Retention and disposal:

In accordance with the GSA General Records Schedule 2 and the GAO Manual for Guidance of Federal agencies.

System manager:

Assistant Executive Director (Administration), National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576.

Notification:

Same as above.

Access and contest:

Generally by submitting a written request to the System Manager. A copy of the Commission's Privacy Act procedures will be sent upon request.

Sources of information:

Individuals on whom records maintained.

Appendix: NCPC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a "routine use," to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed as a "routine use" to a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the request of the individual about whom the record is maintained.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

PROJECT REVIEW AND NOTIFICATION SYSTEM PROCEDURES

Proposed Amendment

The National Capital Planning Commission will consider the adoption, at its meeting on March 3, 1977, of the following proposed amendment to its procedures, adopted November 11, 1976, implementing the requirement in Section 2.a. of Part I of Attachment A to Office of Management and Budget Circular No. A-95 (Revised) on Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects, dated January 2, 1976, respecting notification to the National Capital Planning Commission.

Interested organizations, agencies, and citizens are requested to submit their views in writing to the Commission prior to February 28, 1977, addressed to:

Daniel H. Shear, Secretary, National Capital Planning Commission, Washington, D.C. 20576.

Amend Paragraph 2. of Section D. by substituting for the word "consistent" the words "not inconsistent".

DANIEL H. SHEAR,
Secretary.

[FR Doc.77-3921 Filed 2-7-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

PUBLIC MEDIA ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Public Media Advisory Panel (Programming in the Arts Section) to the National Council on the Arts will be held on February 23-24, 1977, from 9:30 a.m. to 5:30 p.m., in the 12th Floor Screening Room, Columbia Plaza Building, 2401 E. St. NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-3952 Filed 2-7-77;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Visual Arts Advisory Panel (Artists Fellowships Section) to the National Council on the Arts will be held on February 23-25, 1977, from 9:00 a.m. to 6:00 p.m., in Room 1115, Columbia Plaza Building, 2401 E St. NW, Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial asistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discusion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of June 16, 1975, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)) will not be open to the public.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-3801 Filed 2-7-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR DEVELOPMENTAL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the folowing meeting:

Name: Advisory Panel for Developmental Biology.
Date and time: February 27, 1977 thru March 1, 1977—3:30 a.m.–6:30 p.m.
Place: The Conference Room, Sea Lodge Motel, 8110 Camino del Ora, La Jolla, CA 92037.
Type of meeting: Closed.
Contact person: Dr. Mary E. Clutter, Program Director, Developmental Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4314.
Purpose of Panel: To provide advice and recommendations concerning support for research in Developmental Biology.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 2, 1977.

[FR Doc.77–3896 Filed 2–7–77;8:45 am]

ADVISORY PANEL FOR MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Molecular Biology.
Date: February 28 and March 1, 1977.
Time: 9:00 a.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C.
Type of Meeting: Part open—February 28 (closed 9:00 a.m. to 4:00 p.m. open 4:00 p.m. to 6:00 p.m.). March 1 (closed 9:00 a.m. to 6:00 p.m.).
Contact Person: Dr. Martin P. Schweizer, Program Director for Biophysics, Room 329, National Science Foundation, Washington, D.C. 20550, telephone 202/632–4260.
Purpose of Panel: To provide advice and recommendations concerning support for research in molecular biology.
Agenda: Closed—February 28, 9 a.m. to 4 p.m. and March 1, 9 a.m. to 6 p.m. To review and evaluate research proposals and projects as part of the selection process for awards. Open—February 28, 4 p.m. to 6 p.m. To discuss and evaluate possible reorganization of panel and method of meeting.
Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 3, 1977.

[FR Doc.77–3888 Filed 2–7–77;8:45 am]

ADVISORY PANEL FOR SOCIAL AND DEVELOPMENTAL PSYCHOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Developmental Psychology.
Date: February 28, 1977 and March 1, 1977.
Time: February 28th—9:00 a.m.–5:00 p.m.
March 1st—3:00 p.m.–5:00 p.m.
Place: Room 511, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of Meeting: Part Open (Closed—February 28th—9:00 a.m.–5:00 p.m. Open—March 1st—1:00 p.m.–5:00 p.m.)
Contact Person: Dr. Allan I. Teger—Program Director for Social and Developmental Psychology—Room 317—632–5714, National Science Foundation—Washington, D.C.
Purpose of Panel: To provide advice and recommendations concerning support for research in Social and Developmental Psychology
Agenda: February 28th—9:00 a.m.–5:00 p.m. and March 1st—9:00 a.m.–12:00 a.m. (Closed). The Panel will be reviewing and evaluating research proposals and projects as part of the selection process for awards. March 1st—1:00–5:00 p.m. (Open)
Reason for Closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliberative process and is thus subject to exemption (5) of the Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

FEBRUARY 2, 1977.

[FR Doc.77–3897 Filed 2–7–77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Changed Meeting

Revised notice of meeting on February 10 through 12, 1977. The agenda for this meeting will be revised as noted below.

THURSDAY, FEBRUARY 10, 1977

8:45 a.m.–9:45 a.m.—Executive Session (Open): The Committee will hear nad discuss the reports of ACRS Subcommittees and consultants who may be present regarding the evaluation of selected safety issues and generic matters related to light-water reactors. Portions will be closed if necessary to discuss proprietary material or intra-agency memoranda prepared for internal use only.

9:45 a.m.–12:45 p.m. and 1:45 p.m.–5:45 p.m.—Meeting on Evaluation of Selected Safety Issues and Generic Matters related to Light-Water Reactors (Open): The Committee will hear presentations and hold discussions regarding evaluation of selected safety issues and generic matters related to light-water reactors. Portions of this session will be closed if necessary to receive reports from individual NRC employees who will present their personal opinions and recommendations only in confidence. Portions will also be closed if required to review Proprietary Information related to the matters being considered and intra-agency memoranda prepared for internal use only.

5:45 p.m.–6:30 p.m.: Executive Session (Open): The Committee will hear and discuss reports of ACRS Subcommittees regarding proposed Regulatory Guides nad regulatory activities related to the practices and policies for correction of ECCS errors for operating power plants.

FRIDAY, FEBRUARY 11, 1977

8:30 a.m.–12:30 p.m.—Meeting With Members of the NRC Staff (Open/Closed): This portion of the meeting will include sessions with the Executive Director for Operations and other members of the NRC Staff related to current reactor operating experience and licensing actions; evaluation of specific generic matters related to lightwater reactors, including performance of steam generator tubes in pressurized water reactors and evaluation of fuel handling accidents inside containment; and evaluation of safety research data and regulatory requirements of the Federal Republic of Germany. The future schedule for ACRS activities will be discussed. Reports will be made to the Committee regarding the NRC program to evaluate integrity of reactor pressure vessels designed and fabricated to the ASME Boiler and Pressure Vessel Code Sections I and VIII and the NRC program to review environmental phenomena at sites with facilities for processing and fabricating plutonium. A portion of this session will be closed to members of the public to provide for a report on and discussion of information related to reactor operations provided in confidance by a foreign government and classified under the provisions of Executive Order No. 11652.

NOTE.—Subsequent portions of the meeting on February 11, 1977, will be delayed by 45 minutes to provide for the discussion noted above.

In addition to minor alternations in the scheduling of the sessions set forth, this revised agenda contains the addition

of one item not previously noticed—a closed session at which classified information supplied in confidence by a foreign government will be discussed. This matter was not previously noticed because it did not come to the attention of the Advisory Committee on Reactor Safeguards' Office until February 4, 1977.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to close this portion of the meeting to protect material which has been classified under Executive Order No. 11652 (5 U.S.C. 552(b)(1) and that separation nonexempt from exempt material during this session is not considered practical.

Dated: February 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-4187 Filed 2-7-77;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 2, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202–395–4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical reporting service, list sampling frame survey, annually, all farmers, Will Sherman, Maria Gonzalez, 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census:
- 1977 economic censuses listing of additional establishments, NC–X2, single time, multiestablishment companies in all economic areas, Peterson, M. O., 395–5631.
- 1977 economic censuses enterprise report, NC–K1, single time, large enterprises, Peterson, M. O., 395–5631.

National Oceanic and Atmospheric Administration, methodology study, marine recreational fisheries statistics, single time, sports fishermen, Maria Gonzalez, 395–6132.

Bureau of Census, residence verification referral 2, 1977 census of Oakland, California, DH–324, single time, residents within the Oakland, Calif., city limits, Maria Gonzalez, 395–6132.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, statement for determining continuing eligibility for SSI payments, SSA–8203, single time, aged, blind or disabled recipients of SSI payments, Caywood, D. P., 395–3443.

Public Health Service:
- Contracting officer questions covering EEO programs, and project officer questions covering EEO programs, annually, PHS contractors, Lowry, R. L. 395–3772.
- A comprehensive and systematic assessment of clinical teaching skills and strategies in the health sciences, single time, health science clinical teaching faculty, Kathy Wallman, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy development research:
- Evaluation of the impact of civil rights enforcement activity, single time, real estate broker and rental agents, housing, veterans and labor division, C. Louis Kincannon, 395–3532.
- Tax factors and rental housing, single time, Real Estate Investors, Housing, Veterans, and Labor Division, Larry Haber, 395–3532.

Housing management, request for approval of advances for nonpermanently financed projects, HUD–5216, quarterly, Public Housing Authorities, Housing, Veterans and Labor Division, 395–3532.

DEPARTMENT OF COMMERCE

Bureau of Census, 1977 Census of the Construction Industries, CC–1, single time, Construction Establishments, Laverne V. Collins, 395–5867.

DEPARTMENT OF TRANSPORTATION

Coast Guard:
- State Boating Safety Program Checklist, single time, State Boating Agencies, Maria Gonzalez, 395–6132.

The Nationwide Boating Survey, single time, Households in Continental United States, Maria Gonzalez, 395–6132.

REVISIONS

TENNESSEE VALLEY AUTHORITY

Prevailing wage survey for TVA maintenance and operating work, TVA 5310, annually, Companies in Vicinity Engaged in Comparable Work, Strasser, A., 395–5867.

Prevailing wage for TVA construction work, data from local unions, 3523, annually, 350 local unions, 50 contractors or contractor association, Strasser, A., 395–5867.

NATIONAL SCIENCE FOUNDATION

Reviewer's background information, NSF 428, on occasion, scientist, Warren Topelius, Lowry, R. L., 395–5872.

Survey of graduate science student support and summary, NSF 811, 812, and 812A, annually, science masters, granting institutions, Kathy Wallman, 395–6140.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, cotton inquiries, other (see SF–83), cotton producers, Will Sherman, 395–4730.

Food and Nutrition Service, summer food service program for children, on occasion, State agencies, service institutions, Warren Topelius, 395–5872.

DEPARTMENT OF COMMERCE

Bureau of Census, 1977 economic censuses report of organization, NC–X1A, annually, multiestablishment companies in all economic areas, George Hall, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics, Survey of Students in Public and Private Noncollegiate Postsecondary Schools, NCES 2389, Single Time, Students Enrolled in Vocational Programs, Kathy Wallman, 395–6140.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Capacity Survey of Refrigerated Storages, Other (See SF–83), Operators of Refrigerated Warehouses, Will Sherman, 395–4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration, CMHC Grant Applications Package, PHS 5161–1, on Occasion, Applicants for CMHC Grants, Lowry, R. L., 395–3772.

DEPARTMENT OF THE TREASURY

Bureau of Customs, Consumption Entry (Permit) (Continuation Sheet), CF 7501–A, 7501C, on Occasion, Importers and Brokers, Warren Topelius, 395–5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-4006 Filed 2-7-77;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Generalized System of Preferences: Information on Imports During First Ten Months of 1976

This notice is for information only, and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October, 1976. These statistics are relevant to the "competitive-need" limits set forth in section 504 (c) of the Trade Act of 1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of Preferences (GSP). Those limits provide, in effect, that any GSP beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP—eligible article in excess of (1) $25 million, adjusted annually to reflect changes in the U.S. Gross National Product, or (2) 50 percent of total U.S. imports of the article, is to cease receiving duty-free treatment under the GSP for such article not later than 60 days after the close of that calendar year.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be about $29.9 million for calendar year 1976.

An Executive order will be issued on or before March 1, 1977, making the adjustments that are required by Section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1976. Such data are not currently available. It should be emphasized that the information set forth below covers only the first ten months of 1976. While this is not the complete information on which adjustments will be based, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet the requirements of section 504(c) of the Trade Act.

List I below shows how the "competitive-need" list of countries ineligible to receive GSP benefits for particular articles might look if that list were based on data covering the period January through October 1976. In fact, the "competitive-need" list that will be issued and become effective on or about March 1 will be based on data for the full twelve months of 1976, so that List I below is indicative only and is subject to changes.

List II below shows countries which, on the basis of data for the first ten months of 1976, were close to exceeding the "competitive-need" limits for particular articles, but which had not actually exceeded those limits.

The column headed "TSUS" in the Lists below sets forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

LIST I

[illegible] articles for which a beneficiary country exports--

a) 50 percent or more of U.S. imports in January-October 1976, or

b) imports valued at $25 million or more during that period.

TSUS	Country	Percent	$ Million
106.60	India	58	
107.20	Argentina	54	
107.30	Brazil	63	
107.44	Brazil	51	32
107.78	Philippine Republic	100	
111.50	Philippine Republic	58	
121.50	India	68	
121.54	India	54	
130.20	Brazil	74	
130.40	Mexico	100	
131.35	Hong Kong	78	
135.55	Mexico	64	
135.60	Mexico	63	
135.62	Mexico	100	
135.80	Nicaragua	66	
135.90	Mexico	96	
136.06	Dominican Republic	98	
136.80	Mexico	74	
136.08	Dominican Republic	100	
136.90	Republic of China	90	
137.40	Mexico	51	
137.75	Costa Rica	54	
138.05	Mexico	79	
140.09	Thailand	60	
140.10	Chile	74	
141.30	Turkey	76	
141.50	Dominican Republic	86	
141.70	Republic of China	96	
141.72	Portugal	78	
141.73	Turkey	78	
142.60	Republic of China	84	
142.68	Argentina	89	
142.72	Turkey	54	
146.44	Philippine Republic	70	
146.66	Portugal	66	
147.73	Jamaica	83	
147.76	Republic of China	86	
147.80	Haiti	100	
147.85	Brazil	64	
148.72	Chile	96	
148.77	Republic of Korea	86	
149.15	Dominican Republic	96	
149.50	Chile	67	
150.43	Dominican Republic	89	

LIST I--Continued

TSUS	Country	Percent	$ Million
152.54	Brazil	58	
152.72	Honduras	65	
153.02	Dominican Republic	100	
153.84	Mexico	56	
154.40	Republic of China	58	
155.20	Guatemala		71
	El Salvador		35
	Nicaragua		43
	Dominican Republic		180
	Peru		90
	India		53
	Philippine Republic		176
155.36	Barbados	75	
156.45	Dominican Republic	79	
161.15	Republic of China	97	
161.53	Syria	66	
161.65	Jamaica	55	
161.80	Mexico	87	
166.40	Mexico	53	
168.15	Trinidad	91	
176.15	India	68	
176.33	Malaysia	51	
184.65	Republic of China	76	
186.40	Mexico	79	
192.85	Mexico	70	
200.91	Honduras	52	
202.60	Thailand	53	
202.62	Mexico	100	
203.20	India	56	
206.47	Republic of China	66	
206.60	Mexico	72	
206.90	Republic of China	54	
220.10	Portugal	95	
220.15	Portugal	91	
220.20	Portugal	75	
220.25	Portugal	74	
220.35	Portugal	100	
220.50	Portugal	57	
222.10	Hong Kong	69	
222.34	Philippine Republic	99	
222.40	Philippine Republic	51	

LIST I--Continued

TSUS	Country	Percent	$ Million
240.03	Philippine Republic	71	
240.10	Republic of Korea	52	
240.36	Philippine Republic	95	
256.60	Republic of Korea	73	
256.82	Mexico	93	
304.04	Philippine Republic	100	
304.40	Thailand	100	
304.48	Brazil	89	
304.58	India	92	
305.20	India	71	
305.22	India	66	
305.28	India	76	
305.30	Republic of China	60	
305.40	Philippine Republic	69	
306.52	Peru	100	
308.30	Republic of Korea	81	
308.51	Republic of Korea	53	
316.50	Philippine Republic	88	
319.01	India	89	
319.03	India	96	
319.05	India	98	
319.07	India	92	
335.50	India	77	
347.30	India	84	
355.04	Mexico	70	
360.35	India	80	
360.82	Hong Kong	100	
370.17	Portugal	87	
407.12	Romania	55	
408.40	Mexico	51	
418.50	Mexico	85	
420.02	Israel	91	
420.82	Israel	96	
422.76	Mexico	99	
425.00	Republic of China	53	
425.84	Netherlands Antilles	100	
425.86	Brazil	58	
437.16	India	86	
437.64	Brazil	77	
460.35	Republic of China	56	
460.55	Guatemala	63	
460.60	India	97	

LIST I--Continued

TSUS	Country	Percent	$ Million
461.05	Israel	62	
461.15	Bermuda	66	
465.70	Argentina	100	
470.57	Argentina	50	
473.30	Yugoslavia	59	
473.46	Mexico	68	
473.48	Mexico	100	
473.52	Mexico	100	
473.56	Mexico	93	
473.62	Mexico	100	
473.66	Mexico	100	
490.44	Hong Kong	100	
493.21	Republic of China	99	
493.82	Mexico	66	
511.31	Mexico	94	
511.41	Mexico	73	
511.51	Syria	67	
512.44	Mexico	72	
514.11	Dominican Republic	90	
514.54	Mexico	88	
515.51	Mexico	53	
516.24	India	83	
516.71	India	98	
516.73	India	100	
516.74	India	75	
516.76	India	89	
516.94	India	77	
517.24	Malagasy	86	
518.41	Mexico	97	
520.35	Thailand	60	
520.51	Brazil	53	
533.86	Romania	72	
534.74	Republic of China	52	
535.31	Mexico	58	
540.21	Mexico	53	
540.47	Mexico	56	
544.11	Republic of China	57	
545.53	Mexico	60	
545.65	Mexico	91	
546.23	Republic of China	57	
547.37	Republic of China	56	
547.41	Hong Kong	57	

LIST I--Continued

TSUS	Country	Percent	$ Million
603.45	Bolivia	100	
603.50	Botswana	89	43
605.66	Singapore	55	
612.02	Mexico	81	
612.03	Chile	69	
612.06	Chile	16	67
	Zambia	35	140
612.06	Yugoslavia	11	47
612.15	Mexico	67	
612.70	Chile	67	
613.18	Israel	51	
622.55	Hong Kong	83	
628.05	Mexico	100	
628.10	Mexico	82	
628.40	Singapore	100	
640.10	Mexico	62	
646.04	Republic of China	83	
646.86	Hong Kong	69	
646.88	Republic of Korea	54	
646.98	Mexico	96	
649.71	Republic of China	100	
650.79	India	100	
650.87	Hong Kong	88	
651.03	Hong Kong	72	
651.49	Republic of Korea	63	
652.04	Mexico	62	
653.02	Republic of Korea	66	
653.03	Hong Kong	61	
653.85	Republic of China	83	
657.90	Mexico	57	
660.44	Mexico	34	43
672.10	Hong Kong	62	
674.56	Mexico	69	
676.58	Mexico	6	31
678.50	Republic of China	7	33
683.70	Hong Kong	65	
683.90	Hong Kong	91	
684.30	Hong Kong	28	32
689.24	Hong Kong	27	104
	Republic of China	9	35
689.25	Republic of China	6	58
689.90	Mexico	21	58
696.30	Republic of China	63	

LIST I--Continued

TSUS	Country	Percent	$ Million
687.30	Malaysia	53	
687.37	Republic of China	21	
688.10	Republic of China	74	
688.12	Mexico	54	
688.40	Hong Kong	31	30
692.27	Mexico	13	75
696.35	Republic of China	59	
700.54	Hong Kong	82	
702.08	Hong Kong	83	
702.15	Hong Kong	51	
702.20	Hong Kong	51	
702.45	Mexico	97	
703.65	Mexico	90	
703.75	Mexico	97	
704.34	Philippine Republic	73	
704.55	Republic of Korea	98	
706.40	Hong Kong	89	
711.30	Republic of China	62	
713.67	Israel	59	
713.15	Mexico	53	
713.19	Mexico	99	
714.35	Hong Kong	100	
725.20	Pakistan	58	
726.10	Mexico	95	
730.27	Brazil	67	
730.41	Brazil	99	
731.10	Republic of China	54	
734.10	Republic of China	89	
734.25	Hong Kong	81	
734.30	Hong Kong	81	
734.34	Hong Kong	59	
734.51	Republic of China	17	
734.54	Republic of Korea	85	
734.56	Haiti	85	
734.87	Republic of China	88	
735.11	Republic of China	88	
737.80	Hong Kong	88	
737.95	Hong Kong	45	37
740.30	Hong Kong	59	
741.20	Hong Kong	80	
745.08	Hong Kong	88	
748.12	Haiti	88	
748.40	Republic of China	18	

LIST I--Continued

TSUS	Country	Percent	$ Million
750.25	Hong Kong	48	
750.35	Republic of China	82	
751.05	Republic of China	73	
751.20	Republic of China	81	
760.65	Republic of China	76	
771.05	Republic of China	80	
771.45	Republic of China	61	
772.03	Hong Kong	87	
772.35	Republic of China	61	
772.97	Hong Kong	54	
773.10	Hong Kong	69	
773.20	Republic of Korea	67	
774.60	Hong Kong	26	26
790.39	Republic of China	76	
790.60	Republic of China	58	
790.70	Republic of Korea	90	25
791.20	Brazil	82	
791.25	Mexico	53	
791.75	Republic of Korea	19	65
	Republic of China	16	36
791.80	Republic of China	51	
792.22	India	59	
792.50	Philippine Republic	77	
792.60	Hong Kong	73	
792.75	Hong Kong	91	

LIST II

GSP beneficiary countries which supplied--

a) 47 percent or more, but less than 50 percent, of U.S. imports of a GSP eligible article in January-October 1976, or

b) imports of a GSP eligible article valued at $25 million or more, but less than $25 million, during that period.

TSUS	Country	Percent	$ Million
113.61	Thailand	37	
145.09	Dominican Republic	49.6	
153.28	Portugal	49	
155.20	Panama		27
	Colombia		25.8
156.35	Ivory Coast		25.3
206.98	Republic of China	46	
240.32	Honduras	46	
240.40	Philippine Republic	47	
256.63	Hong Kong	46	
407.32	Burundi	47	
414.42	Cayman Islands	48	
422.10	Honduras	47	
422.30	Peru	46	
422.72	Chile	49	
424.04	Peru	48	
426.45	Portugal	49	
429.08	Israel	49	
440.02	Hong Kong	48	
485.34	Republic of Korea		25.4
518.07	Yugoslavia	46	
526.67	Yugoslavia	46	
704.60	Republic of China	49	
735.40	Hong Kong	49	
740.10	Hong Kong		28
748.10	Republic of China	49	
748.20	Hong Kong	47	
772.60	Republic of Korea	50	

WILLIAM B. KELLY, JR.,
Chairman,
Trade Policy Staff Committee.

[FR Doc.77-3642 Filed 2-7-77;8:45 am]

OVERSEAS PRIVATE INVESTMENT CORPORATION

INVESTMENT INCENTIVE AGREEMENT

Public Comments

Notice is hereby given for public comment and views that pursuant to section 237 of the Foreign Assistance Act of 1961, as amended, the Overseas Private Investment Corporation proposes to utilize the following agreement text for the purpose of instituting OPIC investment incentive programs, including insurance, guaranties, and reinsurance in countries which have indicated their receptivity to such programs by signing the following OPIC Investment Incentive Agreement.

Comments and views regarding the proposed OPIC Agreement text may be filed on or before March 10, 1977 with the Corporate Secretary, Overseas Private Investment Corporation, Washington, D.C. 20527.

This Notice is automatically cancelled one month from the date of this FEDERAL REGISTER.

ELIZABETH A. BURTON,
Corporate Secretary.

FEBRUARY 2, 1977.

INVESTMENT INCENTIVE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF _____ (Country)

Excellency:

I have the honor to refer to conversations which have recently taken place between representatives of our two governments relating to investments in _____ (Country) which promote the development of the economic resources and productive capacities of _____ (Country) and to investment insurance (including reinsurance) and investment guaranties which are backed in whole or in part by the credit or public monies of the United States of America and are administered either directly by the Overseas Private Investment Corporation ("OPIC"), an independent government corporation organized under the laws of the United States of America, or pursuant to arrangements between OPIC and commercial insurance, reinsurance and other companies. I also have the honor to confirm the following understandings reached as a result of those conversations:

ARTICLE 1

As used herein, the term "Coverage" shall refer to any investment insurance or guaranty which is issued in accordance with this Agreement by OPIC, by any successor agency of the United States of America or by any other entity or group of entities, pursuant to arrangements with OPIC or any successor agency, all of whom are hereinafter deemed included in the term "Issuer" to the extent of their interest as insurer or reinsurer in any Coverage, whether as a party or successor to a contract providing Coverage or as an agent for the administration of Coverage.

ARTICLE 2

The procedure set forth in this Agreement shall apply only with respect to Coverage of investments relating to projects or activities approved by the Government of _____ (Country) In the case of construction or service contracts entered into with the Government of _____ (Country) or any agency or political subdivision thereof, the project or activity shall be deemed to have been approved by the Government of _____ (Country) for purposes of this Agreement.

ARTICLE 3

(a) If the Issuer makes payment to any investor under Coverage, the Government of _____ (Country) shall, subject to the provisions of Article 4 hereof, recognize the transfer to the Issuer of any currency, credits, assets, or investment on account of which payment under such Coverage is made as well as the succession of the Issuer to any right, title, claim, privilege, or cause of action existing, or which may arise, in connection therewith.

(b) The Issuer shall assert no greater rights than those of the transferring investor with respect to any interests transferred or succeeded to under this paragraph. Nothing in this Agreement shall limit the right of the Government of the United States of America to assert a claim under international law in its sovereign capacity, as distinct from any rights it may have as Issuer.

(c) The issuance of Coverage outside of _____ (Country) with respect to investment in a project in _____ (Country) shall not subject the Issuer to regulation under the laws of _____ (Country) applicable to insurance or financial organizations.

ARTICLE 4

To the extent that the laws of _____ (Country) partially or wholly invalidate or prohibit the acquisition from a covered investor of any interest in any property within the territory of _____ (Country) by the Issuer, the Government of _____ (Country) shall permit such investor and the Issuer to make appropriate arrangements pursuant to which such interests are transferred to an entity permitted to own such interests under the laws of _____ (Country)

ARTICLE 5

Amounts in the lawful currency of _____ (Country), including credits thereof, acquired by the Issuer by virtue of such Coverage shall be accorded treatment by the Government of _____ (Country) no less favorable as to use and conversion than the treatment to which such funds would be entitled in the hands of the covered investor. Such

amounts and credits may be transferred by the Issuer to any person or entity and upon such transfer shall be freely available for use by such person or entity in the territory of _____
(Country)

ARTICLE 6

(a) Any dispute between the Government of the United States of America and the Government of _____ regarding the interpretation of this Agreement or which, in the opinion of one of the Governments, involves a question of public international law arising out of any project or investment for which Coverage has been issued shall be resolved, insofar as possible, through negotiations between the two Governments. If at the end of three months following the request for negotiations the two Governments have not resolved the dispute by agreement, the dispute, including the question of whether such dispute presents a question of public international law, shall be submitted, at the initiative of either government, to an arbitral tribunal for resolution in accordance with Paragraph 6(b).
(Country)

(b) The arbitral tribunal for resolution of disputes pursuant to Paragraph 6(a) shall be established and function as follows:

(i) Each Government shall appoint one arbitrator; these two arbitrators shall designate a President by common agreement who shall be a citizen of a third state and be appointed by the two Governments. The arbitrators shall be appointed within two months and the President within three months of the date of receipt of either Government's request for arbitration. If the appointments are not made within the foregoing time limits, either Government may, in the absence of any other agreement, request the President of the International Court of Justice to make the necessary appointment or appointments, and both Governments agree to accept such appointment or appointments.

(ii) The arbitral tribunal shall base its decision on the applicable principles and rules of public international law. The arbitral tribunal shall decide by majority vote. Its decision shall be final and binding.

(iii) Each of the Governments shall pay the expense of its arbitrator and of its representation in the proceedings before the arbitral tribunal; the expenses of the President and the other costs shall be paid in equal parts by the two Governments. The arbitral tribunal may adopt regulations concerning the costs, consistent with the foregoing.

(iv) In all other matters, the arbitral tribunal shall regulate its own procedures.

ARTICLE 7

This Agreement shall continue in force until six months from the date of receipt of a note by which one Government informs the other of an intent no longer to be a party to the Agreement. In such event, the provisions of the Agreement with respect to Coverage issued while the Agreement was in force shall remain in force for the duration of such Coverage, but in no case longer than twenty years after the denunciation of the Agreement.

Upon receipt of a note from Your Excellency indicating that the foregoing provisions are acceptable to the Government of _____, the Government of the United
(Country)
States of America will consider that this note and your reply thereto constitute an Agreement between our two Governments on this subject, to enter into force on the date of the note by which the Government of _____ communicates to the Government
(Country)
of the United States of America that this exchange of notes has been approved pursuant to its constitutional procedures.

Accept, Excellency, the renewed assurances of my highest consideration.

/s/ _____

[FR Doc.77-3867 Filed 2-7-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 13220; SR-CBOE-76-23]

CHICAGO BOARD OPTION EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 28, 1977.

In the matter of Chicago Board Option Exchange, Inc., LaSalle at Jackson, Chicago, Illinois 60604; (SR-CBOE-76-23).

On December 6, 1976, the Chicago Board Options Exchange, Inc. ("CBOE") filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") as amended by the Securities Acts Amendments of 1975; and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change revises the Exchange's arbitration procedures applicable to controversies between members, persons associated with members and customers of members.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Release No. 34-13063 (December 13, 1976)), and by publication in the FEDERAL REGISTER (41 FR 55757 (December 22, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6, and the rules and regulations thereunder.[1]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on December 22, 1976, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-3794 Filed 2-7-77;8:45 am]

[Release No. 34-13218; File No. SR-MSTC-76-4]

MIDWEST SECURITIES TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 3, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

THIRD PARTY DEPOSITORY DELIVERY INSTRUCTION INTERFACE

Third Party Depository Delivery Instruction (Third Party DDI) is intended to be a tool to aid an exclusive or dual Midwest Securities Trust Company (MSTC) or Depository Trust Company (DTC) participant in settling trades with exclusive or dual members of the other depository. The DDI will be processed through the interface and will appear on the participant's reports as a bookkeeping movement. No physical shares will be moved. An MSTC participant can submit instructions via a Third Party DDI for book entry movement to an exclusive or dual DTC participant for next-day credit through the MSTC/MCC automatic settlement system. The book entry movement can be processed either versus payment or free.

Conversely, an exclusive member of DTC can submit an MDO (Miscellaneous Delivery Order) to DTC to effect security position movements to an exclusive or dual MSTC participant versus payment or free. All MSTC/MCC participants will be required to accept Third Party MDO's from DTC participants.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide a vehicle for delivery by an MSTC participant to a participant of DTC.

Third Party DDI is the most effective answer for the prompt and accurate settlement of transactions between MSTC and DTC participants and provides the following benefits:

1. Third Party DDI is a book entry movement which reduces clerical, bank draft, and shipping costs.

2. Next-day credit is accomplished, eliminating financing costs.

3. Complete dividend protection is provided through Record Date.

4. All Third Party DDI activity reflects on the daily Activity and Net Position Reports, providing a complete audit trail.

5. Third Party DDI can be used as an alternative to the Corresponding Delivery and Collection Service (CDCS), the Correspondent Receipt and Payment Service (CRPS), or a bank draft.

6. A substantial savings is available to participants when compared to the $5.00 CDCS charge or the $10.00 per item charge for CRPS. The Third Party DDI's cost is only $1.25 per movement.

Comments have been neither solicited nor received.

The Midwest Securities Trust Company believes that no burden has been placed on competition.

[1] The Commission staff is currently reviewing the advisability of implementing industry wide uniform arbitration procedures applicable to all self-regulatory organizations and has solicited public comment on possible approaches (See SEA Release No. 34-13176). The Commission's approval of the subject rule proposal does not preclude the adoption of such procedures in the future.

By March 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by March 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 28, 1977.

[FR Doc.77-3793 Filed 2-7-77;8:45 am]

[Release No. 34-13223; File No. SR-NESDTCO-77-1]

NEW ENGLAND SECURITIES DEPOSITORY TRUST CO.

Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 17, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Proposed Rule Change sets forth the procedures and agreements for a Transfer Agent Custodian program to be established by New England Securities Depository Trust Company under which that organization employs transfer agents for various issues of securities to act as custodian of securities transferred by such agents.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The Transfer Agent Custodian program is designed to enable New England Securities Depository Trust Company to work with transfer agents in providing more efficient and safe service in the processing of securities trades than is available through most other means. Under the program the major part of the certificates representing shares of an eligible-issue held by the Depository for its participants are retained by the transfer agent in the name of the Depository. This enables certificate movement between the Depository and transfer agent to be kept at a minimum and enables withdrawals of certificates to non-participants in the Depository system to be accomplished by instructions from the Depository to the transfer agent. This greatly speeds up the transfer process.

The proposed rule change increases the capacity of the self regulatory organization to facilitate, and relates to, the prompt and accurate settlement of securities transactions, the safeguarding of securities in the possession of the self regulatory organization and the carrying out of the purpose of Section 17A of the Securities Exchange Act of 1934, by keeping securities certificate movement to a minimum, by establishing orderly and efficient procedures between the self-regulatory organization and transfer agents for the safekeeping, transfer and delivery of securities. By reason of the fact that, under the procedures set forth in the proposed rule change, transfers out of the Depository can be handled more efficiently, dividend, fail and proxy problems can be kept to a minimum. The safeguarding of securities is enhanced by the fact that deliveries and withdrawals are reduced to a minimum and adequate insurance coverage is required on all transactions.

No comments have been received from members concerning the proposed rule change.

There should be no burden on competition. The system should enable both depositories and transfer agents to reduce their costs and give more efficient service.

By March 15, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20459. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by March 1, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

JANUARY 31, 1977

[FR Doc.77-3792 Filed 2-7-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

MISSION DIRECTOR, USAID/PAKISTAN

Redelegation of Contracting Authority No. 99.1.84

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 F.R. 12836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to the Mission Director, USAID/Pakistan, the authority to sign or approve the following instruments, up to an amount of $500,000 (or local currency equivalent) per transaction:

(1) U.S. Government contracts (including contracts with individuals for services of the individual alone);

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof;

(3) AID grant-financed host country contracts for technical assistance; and

(4) Amendments to the instruments specified above.

The authorities herein delegated may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(1) Authority up to $25,000 may be redelegated at the Mission Director's discretion;

(2) Authority over $25,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Mission Director's principal deputy).

Such redelegations shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority 99.1.9 (38 FR 27627) dated September 21, 1973, is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

Actions within the scope of this delegation and any redelegations hereunder heretofore taken by the officials designated in such delegation or redelegations are hereby ratified and confirmed.

This redeleg tion of authority shall be effective on the date of signature.

Dated: January 27, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.77-3842 Filed 2-7-77;8:45 am]

MISSION DIRECTOR, USAID/EGYPT

Redelgation of Contracting Authority No. 99.1.83

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 123836) from the Assistant Administrator for Program and Management Services, I hereby redelegate to the Mission Director, USAID/Egypt, the authority, to sign and approve:

(1) U.S. Government contracts and amendments thereto, and AID grant-financed host country contracts for technical assistance, provided that the aggregate amount of each individual contract does not exceed $100,000 or local currency equivalent;

(2) U.S. Government grants, other than grants to foreign governments or agencies thereof, provided that the aggregate amount of each individual grant does not exceed $100,000 or local currency equivalent; and

(3) Contracts with individuals for the services of the individual alone without monetary limitation.

The authority herein delegated may be redelegated in writing, in whole or in part, by said Mission Director as follows:

(1) Authority up to $25,000 may be redelegated at the Mission Director's discretion:

(2) Authority over $25,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the cases of a redelegation to the Mission Director's principal deputy).

Such redelegation shall remain in effect until revoked by the Mission Director, or upon advice from the Director, Office of Contract Management, that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority, so delegated by the Mission Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies promulgated within the Agency for International Development and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authority herein delegated to the Mission Director may be exercised by duly authorized persons who are performing the functions of the Mission Director in an acting capacity.

Redelegation of Authority 99.1.78 (41 FR 30697) dated June 28, 1976 is hereby revoked.

Any official actions taken prior to the effective date hereof by officers duly authorized pursuant to delegations revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this delegation.

This redelegation of authority shall be effective on the date of signature.

Dated: January 26, 1977.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.77-3843 Filed 2-7-77;8:45 am]

DECLASSIFICATION OF CERTAIN DOCUMENTS

Delegation of Authority No. 120

Pursuant to the authority conferred upon me by Executive Order No. 11652, I hereby delegate authority to the Assistant Administrator for Program and Management Services to declassify any and all documents which were orginally classified by or in the A.I.D. Office of Public Safety. This authority shall only be exercised pursuant to the provisions and standards of Executive Order 11652 and pertinent implementing regulations.

This delegation of authority shall be effective immediately.

Dated: January 24, 1977.

JOHN E. MURPHY,
Acting Administrator.

[FR Doc.77-3844 Filed 2-7-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Waiver Petition PB-75-1]

NORFOLK & WESTERN RAILWAY CO.

Power Brake Equipment Study

The Federal Railroad Administration (FRA) has been considering a request submitted by the Norfolk and Western Railway Company (N&W) for test authority to conduct a limited study of the safe service life reliability of specific types of power brake equipment. The request for this test authority is identified as FRA Waiver Petition PB-75-1 since it involves a temporary waiver of compliance with the testing and repair requirements of 49 CFR 232.17 (a) (1) and (b).

The proposed test program would employ a fleet of approximately 54,000 open top hopper cars belonging to N&W. Approximately, thirty-one (31) percent of this fleet is now equipped with ABD type brakes, forty-two (42) percent is equipped with AB type brakes, twenty-two (22) percent is equipped with ABD-1 type brakes and five (5) percent is equipped with ABC-1 type brakes. During the period of the test program the cleaning, oiling, testing, and stenciling attention required by FRA regulations would be given to this equipment only when a portion of that brake equipment was broken, damaged by fire or submerged in water or in the event that a car failed to pass a test procedure known as the In Date Single Car Code of Tests.

Following public notice (41 FR 23485), FRA held a public hearing in this proceeding on July 15, 1976. On the basis of the available information, the Railroad Safety Board (Board) which has been delegated authority to decide such proceeding made an initial determination to permit this test program to be conducted subject to appropriate terms and conditions. The Board then scheduled a public conference in order to permit interested parties to review and comment on the appropriateness of the terms and conditions which the Board contemplated imposing for this test program.

Following public notice (41 FR 46041), FRA held a public conference in this proceeding on November 30, 1976. The Board received considerable comment on the appropriateness of the Board's pro- terms and conditions.

After reviewing all of the available information including all of comments obtained at the public hearing and at the public conference the Board has concluded that it is fully consistent with railroad safety to utilize a test of this nature to obtain data on the safe service life reliability of these specific types of power brake equipment. The data which can be obtained from this test will assist FRA in evaluating its current regulatory provisions concerning the safe time interval for the performance of certain maintenance work on this brake equipment. The Board has determined, therefore, that granting a waiver of compliance is in the public interest. Accordingly, the Board has decided to grant N&W a waiver of compliance with the provisions of 49 CFR 232.17 (a) (1) and (b) for a period not to exceed twenty years for the purposes of this test program.

For the reasons in this report and order the Railroad Safety Board hereby grants the temporary waiver of compliance subject to the following conditions:

(1) That N&W furnish FRA a list of the open top hopper cars to be included in this test program. That list shall identify the cars by (a) the series number and reporting marks for the cars, (b) the number of cars in that series, (c) the date of construction for those cars, and (d) the type of brake equipment originally installed on each car. Revisions to this data shall be provided to FRA if subsequently acquired informa-

tion concerning these cars varies from the data initially furnished.

(2) That N&W subsequently furnish FRA a list of any open top hopper cars, that N&W desires to add to this test program or remove from this test program. This list must be furnished at least 90 days before the cars are to be placed in revenue service or removed from service and must contain the information required in condition 1 of this report and order.

(3) That N&W furnish FRA with a list of the locations where specific train brake tests are performed on the N&W railroad. That list shall include (a) the locations where N&W performs the IN-DATE-TEST of power brake equipment and (b) those major terminals or repair points where N&W will perform train brake tests on this equipment, in compliance with the power brake regulations 49 CFR Part 232, specifying the type of test normally performed at that location.

(4) That N&W review its instructional programs to ensure that the various personnel responsible for performing air brake tests are fully qualified. The efforts which N&W will take to accomplish this review and an outline of its current instructional program shall be furnished in writing to FRA.

(5) That N&W subject all of these cars to the IN-DATE-TEST procedure each time that equipment is placed on a repair track. If a car passes that IN-DATE-TEST procedure, N&W shall maintain in its computerized car history file the relevant data concerning that test procedure.

(6) That N&W subject all of the cars equipped with AB, ABD–1 and ABC–1 type brake equipment to the IN-DATE-TEST procedure at Norfolk, Virginia. This requirement shall apply to any so equipped car when that car is in service on a date that is four years beyond the last date on which it received the cleaning, oiling, testing and stenciling required by 49 CFR 232.17 (a)(1) and (b) and that car has not received an IN-DATE-TEST within the last twelve months.

(7) That N&W subject all of the cars equipped with ABD type brake equipment to the IN-DATE-TEST procedure at Norfolk, Virginia. This requirement shall apply to any so equipped car when that car is in service on a date that is more than 10 years beyond the last date on which it received the cleaning, oiling, testing and stenciling required by 49 CFR 232.17 (a)(1) and (b) and that car has not received an IN-DATE-TEST within the last twelve months.

(8) That N&W remove the valve portions of the brake equipment of any car in this test program that fails to pass the IN-DATE-TEST procedure and ship those components to Norfolk, Virginia for further testing and analysis. Such cars will then be given the normal cleaning, oiling, testing, and stenciling maintenance attention prior to being returned to service.

(9) That N&W remove the valve portions of the brake equipment of any car in this test program that has its brake equipment broken, damaged by fire or submerged in water. Such cars will then be given the normal cleaning, oiling, testing, and stenciling maintenance attention prior to being returned to service.

(10) That N&W stencil all of the cars involved in this test program so as to reflect the following information:

FRA-AAR AIR BRAKE TEST
DO NOT COT&S
ACCOUNT DATE

(11) That N&W execute at least two copies of the form marked Appendix A of this report and order each time that a car involved in this test program is subjected to an IN-DATE-TEST procedure at the locations identified in compliance with condition 3 of this report and order and does not pass that test procedure.

(12) That N&W execute at least two copies of the form marked Appendix B of this report and order each time that the valve components are tested and analyzed at Norfolk, Virginia.

(13) That N&W commence the use of these reporting forms no later than 30 days from the date of this report and order.

(14) That N&W provide, at least quarterly a written report summarizing the data obtained by compliance with conditions 5, 6, 7, 9, 11, and 12 of this report and order.

The Railroad Safety Board has authorized the Associate Administrator for Safety to terminate this test in whole or in part at any point in time if he determines that continuation of the test program is not consistent with railroad safety. The Associate Administrator for Safety also has been authorized to modify in writing the terms and conditions of this test program if he determines that such modification is necessary for the proper administration of this test program. Additionally, the Board has directed the Associate Administrator to review in detail the results of the test data periodically in order to evaluate the proper course of action to be taken in this test program.

The temporary waiver of compliance granted in this report and order is effective on August 1, 1977 provided that N&W has complied with the provisions conditions 1, 3, 4, 5, 11, 12, and 13 prior to that date.

This notice is issued under the authority of 45 USC 9, 431; 49 USC 1655(e); and 49 CFR 1.49(n).

Issued in Washington, D.C. on February 2, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

APPENDIX A

APPENDIX A.—FRA–AAR AIR BRAKE TEST FOR SAFE SERVICE LIFE RELIABILITY, NORFOLK & WESTERN RAILWAY

DATA FROM SINGLE CAR "IN-DATE TEST"

Car Initial and Number: _____
Location: _____ Date: _____
Type of Equipment: AB ABC1 ABD1 ABD

Date of Last IDT: _____ COT&S _____
Reason Shopped: _____
Were All Air Leaks Repaired? Yes ☐ No ☐
Did Car Pass Flowrator Test? Yes ☐ No ☐

IF APPLICABLE

Which Test/Tests of the Single Car "In-Date Test" was Failed: _____
Condition of the other Air Brake Equipment: _____
Comments: _____

APPENDIX B.—FRA–AAR BRAKE TEST FOR SAFE SERVICE LIFE RELIABILITY, NORFOLK & WESTERN RAILWAY

RESULTS OF TEST RACK TEST

Date _____
Car Initial and Number: _____
Location: _____ Portion: _____
Did Portion Fail any of the "Code of Tests" for that Portion? _____
If so which test or tests: _____
How much did the test or tests differ from the requirements? _____

INSPECTION AFTER DISASSEMBLY OF PORTION:

General Appearance of Valve:
Externally _____
Internally _____
Were There Any Broken Parts?
Yes ☐ No ☐
If "Yes," what were they? _____
Were Any Defects Other Than Broken Parts Noted? Yes ☐ No ☐
If "Yes," what were they _____
Comments: _____

[FR Doc.3875 Filed 2-7-77;8:45 am]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular Public Debt Series—2–77]

TREASURY NOTES—PUBLIC DEBT SERIES—NO. 2–77

Interest Rate

FEBRUARY 2, 1977.

The Secretary of the Treasury announced on February 1, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 2–77, dated January 27, 1977, will be 6½ percent per annum. Accordingly, the notes are hereby redesignated 6½ percent Treasury Notes of Series G–1980. Interest on the notes will be payable at the rate of 6½ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-3929 Filed 2-7-77;8:45 am]

Office of the Secretary

UNITED STATES SECURITIES BEARING FACSIMILE SIGNATURES OF FORMER SECRETARIES OF THE TREASURY

Issuance

Pursuant to the provisions of 5 U.S.C. 301, in the issue of United States securities under the Second Liberty Bond Act, as amended, codified in Title 31, Chapter 12, United States Code, I hereby authorize the use of all stocks on hand, or on order, bearing the signature of any former Secretary of the Treasury, where (1) such securities are issued as an additional issue or under a continuing offer, or (2) such securities are to be issued pursuant to a new offer heretofore or hereafter made, and stocks therefor bearing my signature are not available for timely delivery.

This authorization shall be effective immediately.

Dated: February 1, 1977.

W. MICHAEL BLUMENTHAL,
Secretary of the Treasury.

[FR Doc.77-3823 Filed 2-7-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of January 14 Through January 21, 1977

Notice is hereby given that during the week of January 14 through January 21, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

Dated: February 1, 1977.

DAVID G. WILSON,
Acting General Counsel.

APPENDIX.—*List of cases received by the Office of Exceptions and Appeals, Week of Jan. 14 through Jan. 21, 1977*

Date	Name and location of applicant	Case No.	Type of submission
Jan. 14, 1977	Bayou State Oil Corp., Shreveport, La. (If granted: Bayou State Oil Corp. and Ida Gasoline Co., Inc. would be treated as separate entities under the mandatory petroleum price regulations.)	FEE-3585	Price exception (part 212 subpart E).
Do	Fuller Oil Co., Inc., Fayetteville, N.C. (If granted: Fuller Oil Co., Inc. would receive an exception from the supplier purchaser provisions contained in 10 CFR 211.9 which would permit it to be assigned as the supplier of motor gasoline to defense fuel supply centers located at Fort Bragg and Pope AFB in Fayetteville, N.C., under the Small Business Administration's section 8(a) program.)	FEE-3583	Allocation exception (section 211.9).
Do	Great Southern Oil & Gas Co., Inc., Lafayette, La. (If granted: Great Southern Oil & Gas Co., Inc. would receive an extension of the relief granted in the FEA's Aug. 11, 1976 decision and order which would permit Great Southern to sell 100 percent of the crude oil produced from the Elizabeth Longman No. 1 well located in Acadia Parish, La., at upper tier ceiling prices.)	FXE-3584	Extension of relief granted in Great Southern Oil & Gas Co., Inc., 4 FEA par. 83,041 (Aug. 11, 1976).
Do	Kraft, Jane B., New York, N.Y. (If granted: The FEA's Dec. 23, 1976 decision and order would be rescinded and Pennzoil Producing Co. would be permitted to sell all of the crude oil which it produces from the Perry Sand Waterflood Unit, North Segment located in Yazoo County, Miss., at upper tier ceiling prices.)	FXA-1155	Appeal of decision and order in Pennzoil Producing Co., 4 FEA par. ..... (Dec. 23, 1976).
Do	Piedmont Natural Gas Co., Inc., Charlotte, N.C. (If granted: Piedmont Natural Gas Co., Inc. would receive a stay of the requirements of 10 CFR 211.10 (g)(8) pending a final determination of an exception request which it intends to file. The stay would provide an emergency allocation of additional propane for Piedmont's peak shaving facilities on the basis that the severe winter has increased demand and Piedmont has been unable to obtain an additional supply to maintain service to its customers.)	FES-3581	Stay request.
Do	Rock Island Refining Corp., Indianapolis, Ind. (If granted: The FEA's Dec. 15, 1976, decision and order would be rescinded and Rock Island Refining Corp. would receive an extension of the entitlement relief granted in the FEA's Sept. 10, 1976, decision and order.)	FXA-1153	Appeal of decision and order in Rock Island Refining Corp., 4 FEA par. .... (Dec. 14, 1976).
Do	Smith, Mary Margaret Huber, Casper, Wyo. (If granted: The FEA's Oct. 8, 1976, decision and order would be modified and crude oil produced from the Central Hilight Unit located in the Powder River Basin of eastern Wyoming for the benefit of the royalty interest owners would be sold at upper tier prices.)	FXA-1163	Request for modification of decision and order in Central Hilight Unit, 4 FEA par. 83,138 (Oct. 8, 1976).
Do	Thyssan, D., Corona Del Mar, Calif. (If granted: The FEA's Dec. 23, 1976, decision and order would be rescinded and Pennzoil Producing Co. would be permitted to sell all of the crude oil which it produces from the Perry San Waterflood Unit, North Segment located in Yazoo County, Miss., for the benefit of the working interest owners and the royalty interest owners at upper tier ceiling prices.)	FXA-1154	Appeal of decision and order in Pennzoil Producing Co., 4 FEA par. .... (Dec. 23, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Jan. 17, 1977	B. F. Goodrich Chemical Co., Washington, D.C. (If granted: The FEA's Dec. 16, 1976 decision and order would be rescinded and the B. F. Goodrich Chemical Co. would receive an increase in its base period use of propane.)	FXA-1161	Appeal of decision and order in B. F. Goodrich Chemical Co., 4 FEA par. ---- (Dec. 16, 1976).
Do	Fort Howard Paper Co., Washington, D.C. (If granted: The Fort Howard Paper Co. would not be identified as one of the 50 most energy-consumptive corporations within SIC Code 26, Paper and Allied Products, and the firm would be exempted from the section 375(a) requirement that it report its progress in improving energy efficiency to the FEA.)	FEA-1158	Appeal of FEA Notice at 41 F.R. 54977 (Dec. 16, 1976).
Do	Husky Oil Co., of Delaware, Washington, D.C. (If granted: The FEA's basis for granting exception relief to small refiners from the entitlements program would be modified.)	FXA-1162	Appeal of decision and order in Husky Oil Co. of Delaware, 4 FEA par. ---- (Dec. 15, 1976).
Do	Pasco Liquidating Trust (Pasco, Inc.), Englewood, Colo. (If granted: The FEA's Dec. 15, 1976, decision and order would be rescinded and Pasco would not be required to purchase entitlements valued at $2,747,000 in order to refund the excessive benefits obtained as a result of the exception relief granted to it in 1976.)	FXA-1160	Appeal of decision in Pasco, Inc., 4 FEA par. ---- (Dec. 15, 1976).
Do	Powell, Goldstein, Frazer & Murphy, Atlanta, Ga. (If granted: The FEA's Dec. 13, 1976, information request denial would be rescinded and Powell, Goldstein, Frazer & Murphy would receive access to certain portions of FEA documents relating to a pricing controversy between Mobil Oil Corp. and the Associated Developments and Enterprises, Ltd.)	FFA-1157	Appeal of information request denial dated Dec. 13, 1976.
Do	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The FEA's Jan. 6, 1977, information request denial would be rescinded and the Standard Oil Co. (Indiana) would receive access to 8 separate FEO-17 forms which were filed by the Southland Corp. in connection with 5 FEA region IV cases.)	FFA-1156	Appeal of information request denial dated Jan. 6, 1977.
Do	Warrior Asphalt Co. of Alabama, Inc., Washington, D.C. (If granted: The FEA's Dec. 15, 1976 decision and order would be modified so that the Warrior Asphalt Co. would receive an adjustment in its historical profit margin and entitlement relief would be extended beyond Nov. 1976 based on the adjusted profit margin.)	FXA-1159	Appeal of decision and order in Warrior Asphalt Co. of Alabama, Inc., 4 FEA par. ---- (Dec. 15, 1976).
Jan. 18, 1977	Columbia LNG Corp., Wilmington, Del. (If granted: Columbia LNG Corp. would be permitted to transfer a portion of its SNG feedstock allocation to the Cincinnati Gas & Electric Co. for use in C G & E's propane air plant.)	FES-3576	Stay request.
Do	Columbia LNG Corp., Wilmington, Del. (If granted: Columbia LNG Corp. would be permitted to transfer a portion of its SNG feedstock allocation to Columbia Gas Transmission Corp. for use in its propane air plant and to Consumers Power Co. for use in its SNG plant.)	FES-3578	Do.
Do	Southern Natural Gas Co., Washington, D.C. (If granted: Southern Natural Gas Co. would receive a temporary stay of the requirements of the mandatory allocation regulations which would permit Southern to purchase 540,000 gal of propane per day from Enterprise Products Co. to prevent the curtailment of its service to customers.)	FST-0030	Request for temporary stay.
Do	Standard Oil Co. (Indiana), Chicago, Ill. (If granted: The Amoco Fabrics Co. would not be identified as one of the 50 most energy-consumptive corporations within SIC Code 22, Textile Mill Products, and the firm would be exempted from the section 375(a) requirement that it report its progress in improving energy efficiency to the FEA.)	FEA-1164	Appeal of FEA notice at 41 F.R. 54977 (Dec. 16, 1976).
Do	Texas American Oil Corp., Midland, Tex. (If granted: The FEA's Dec. 16, 1976 decision and order would be rescinded and the Texas American Oil Corp. would be granted an exception to permit it to earn entitlements under the old oil entitlements program beginning with the month in which it commenced operation of the Osceola refinery, Sept. 1976.)	FXA-1115	Appeal of decision and order in United Refining Co.; Texas American Oil Corp., 4 FEA par. ---- (Dec. 16, 1976).
Jan. 19, 1977	A. Johnson & Co., Inc., New York, N.Y. (If granted: The A. Johnson & Co., Inc. would receive an extension of time in which to file a motion to quash a subpoena issued by region II in accordance with 10 CFR 205.8(h).)	FSG-0034	Request for special redress
Do	Arizona Fuels Corp., Salt Lake City, Utah. (If granted: Arizona Fuels Corp. would receive a stay of the requirements of the remedial order issued to the firm on Jan. 11, 1977, which directs Arizona Fuels to purchase entitlements valued at $76,987.85, pending a final determination of Arizona's appeal from the remedial order.)	FRS-0060	Stay request.
Do	B&D Oil Co.; Iron Range Propane Co., Inc., Hibbing, Minn. (If granted: The FEA's Dec. 28, 1976 decision and order would be modified and B&D Oil Co. and Iron Range Propane Co., Inc. would be permitted additional time in which to establish an escrow account.)	FEX-0116	Modification of decision and order in B&D Oil Co., Inc.; Iron Range Propane Co., Inc., 4 FEA par. ---- (Dec. 28, 1976).
Do	BP Oil, Inc., Cleveland, Ohio. (If granted: The FEA's Dec. 10, 1976 decision and order would be rescinded and BP Oil, Inc., which is a wholly-owned subsidiary of the Standard Oil Co. of Ohio, would be permitted to calculate retroactively as well as prospectively the selling prices which it may charge for unleaded gasoline without regard to Sohio's selling prices.)	FXA-1166	Appeal of decision and order in BP Oil, Inc., 4 FEA par. ---- (Dec. 10, 1976).
Do	Earl F. Wakefield, Inc., Wichita, Kans. (If granted: The stay approved in the FEA's Dec. 28, 1976 decision and order would be made applicable to the amended remedial order which was issued to Earl F. Wakefield, Inc. on Jan. 4, 1977.)	FEX-0115	Modification of decision and order in Earl F. Wakefield, Inc., 4 FEA par. ---- (Dec. 28, 1976).

Date	Name and location of applicant	Case No.	Type of submission
Do	Hudson Oil Co., Inc., Washington, D.C. (If granted: The FEA's Dec. 20, 1976, Jan. 12 and Jan. 13, 1977, decisions and orders would be modified and the Hudson Oil Co., Inc. would receive additional exception relief from various FEA regulations including the new item rule.)	FXA-1168	Appeal of decisions and orders in Hudson Oil Co., Inc., 4 FEA par. ..... (Dec. 20, 1976); Hudson Oil Co., Inc., 4 FEA par. ..... (Jan. 12, 1977); Hudson Oil Co., Inc., 4 FEA par. ..... (Jan. 13, 1977).
Do	Jamar Oil Co., Broken Arrow, Okla. (If granted: Jamar Oil Co. would be assigned a new, lower-priced supplier of motor gasoline.)	FEE-3588	Exception to change supplier (section 211.9).
Do	Keeton, E. E. (Keeton Shop-Exy), Russellville, Ala. (If granted: E. E. Keeton would be assigned a new, lower-priced supplier of motor gasoline to replace his base supplier, Martin Oil Co.)	FEE-3589	Do.
Do	Keim Boulevard Corp., Rossi Oil Co., Burlington, N.J. (If granted: The Keim Boulevard Corp. would be assigned Rossi Oil Co. as a new base period supplier of motor gasoline to replace its existing base period supplier, Ashland Oil Co.)	FEE-3587	Exception to change supplier (section 211.9).
Do	Marlow Corp., Lafayette, La. (If granted: Marlow Corp. would receive an extension of the exception relief previously granted by the FEA on Aug. 17, 1976, which would permit Marlow to sell the crude oil which it produces from the West Tepatate Field at upper tier prices.)	FXE-3586	Extension of exception relief in Mar-Low Corp., 4 FEA par. 83,048 (Aug. 17, 1976).
Do	Mitchell, M. J., Dallas, Tex. (If granted: The FEA's Dec. 17, 1976 decision and order would be rescinded and M. J. Mitchell would be permitted to sell a greater percentage of crude oil produced from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices.)	FXA-1167	Appeal of decision and order in M. J. Mitchell, 4 FEA par. (Dec. 17, 1976).
Do	Piedmont Natural Gas Co., Inc., Charlotte, N.C. (If granted: The Piedmont Natural Gas Co., Inc. would receive an exception from the provisions of the FEA mandatory petroleum allocation regulations which would permit the firm to receive and use an emergency allocation of propane on the basis that the severe winter has increased demand and the firm has been unable to obtain additional supplies of natural gas to maintain service to its customers.)	FEE-3581	Allocation exception (section 211.10(g)(8)).
Do	Saveway Gas & Appliance, Inc., Dexter, Mo. (If granted: The FEA's Dec. 23, 1976 decision and order would be rescinded and Saveway Gas & Appliance, Inc. would receive an extension of the exception relief which had previously been granted assigning Saveway a new, lower-priced supplier of propane to replace its base period supplier, NGL Supply, Inc.)	FXA-1165; FES-1165	Appeal of decision and order in Saveway Gas & Appliance, Inc., 4 FEA par. ..... (Dec. 23, 1976). Stay request.
Jan. 21, 1977	Fort Howard Paper Co., Washington, D.C. (If granted: The Fort Howard Paper Co. would receive a stay of the section 375(a) mandatory reporting requirement pending a final determination of its Appeal. See FEA-1158 filed Jan. 17, 1976.)	FES-1158	Stay request.

[FR Doc.77-3737 Filed 2-2-77;9:47 am]

VETERANS ADMINISTRATION

VOLUNTARY SERVICE NATIONAL ADVISORY COMMITTEE

Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Public Law 92-463) of October 6, 1972, that the Veterans Administration Voluntary Service National Advisory Committee has been renewed by the Administrator of Veterans Affairs for a two-year period beginning February 5, 1977, through February 5, 1979.

Dated: February 1, 1977.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.77-3824 Filed 2-7-77;8:45 am]

UNITED STATES RAILWAY ASSOCIATION

[Docket 211-10]

CONSOLIDATED RAIL CORP.

Application for a Loan

Subsection (h) of section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. § 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (ConRail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

On March 1, 1976, ConRail submitted a preliminary application for a loan under the provisions of section 211(h) in the amount of $230,000,000. Notice of this application was published in the FEDERAL REGISTER dated March 19, 1976. On March 29, 1976, ConRail supplemented its preliminary application by filing the certifications and exhibits required by "Procedures for Applications for Loans to Pay Obligations of Railroads in Reorganization," 49 C.F.R. section 922 (Loan Procedures), and requested an initial borrowing of $34,024,000. On April 1, 1976, ConRail and the Association entered into a loan agreement which authorized initial borrowings by ConRail of $34,024,000. On April 12, 1976, ConRail further supplemented its loan application with a request that the aggregate amount of the initial borrowings be increased to $51,157,000. On April 15, 1976, the Board of Directors of the Association approved that request.

On July 12, 1976 ConRail filed a Borrowing Application pursuant to subsection 221(h) of the Act requesting, among other things, new borrowings of $35,778,533.21 and an increase of the maximum amount reserved to $230,000,000.00. On July 29, 1976 the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $8,182,352.21.

On November 18, 1976 ConRail filed a Borrowing Application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of $143,804,396.39 and a request for amendment of section 3.01 of the Loan Agreement to increase the Maximum Borrowing to $203,143,749.60. This application included the certification and exhibits required by the Loan Procedures. On December 6, 1976 the Board of Directors of the Association approved an additional loan to ConRail in the principal amount of $11,251,396.39.

On February 1, 1977 ConRail filed a Borrowing Application pursuant to section 211(h) of the Act requesting, among other things, new borrowings of $107,761,877.76 and an increase of the maximum amount reserved to $178,352,627.36. ConRail states that it will apply the new borrowings as follows:

1. $10,560,000 to pre-conveyance obligations of the Penn Central Transportation Company of which $560,000 will be applied to agreement employee wage claims and $10,000,000 to Federal Employers' Liability Act Claims.

2. $165,850.68 to pre-conveyance obligations of the Central Railroad Company of New Jersey of which $15,305.68 will be applied to agreement employee wage claims and $150,545.00 to Federal Employers' Liability Act Claims.

3. $440,887.08 to unfunded pension payments in compliance with section 303(b)(6) of the Rail Act of which $78,334.74 will be applied to Erie Lackawanna terminated plans, $1,054.92 to Lehigh & Hudson River terminated plans, $132,669.54 to Lehigh Valley terminated plans, $239,013.36 to Central Railroad of New Jersey continuing plans, and $15,204.18 to Penn Central (Ashtabula Coal Dock Company) continuing plan.

4. $96,595,140.00 to payment of certain non-employee related obligations of the Penn Central of which $27,052,894 will be applied to suppliers, $30,208,205 to shippers, $36,691,166 to railroads, and $2,642,875 to non-employee personal injuries claims.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel United States Railway Association, Room 2222, Transpoint Building, 2100 Second Street SW., Washington, D.C. 20595, on or before February 16, 1977.

to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address, Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C., this 3rd day of February 1977.

EDWIN RECTOR,
Assistant Secretary,
U.S. Railway Association.

[FR Doc.77-3899 Filed 2-7-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 320]

ASSIGNMENT OF HEARINGS

FEBRUARY 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 121597 (Sub-No. 5), Chickasaw Motor Line, Inc., now being assigned for continued hearing on March 9, 1977 (1 day), at Nashville, Tenn., in Room A-440, U.S. Courthouse, 801 Broadway.

MC 114211 (Sub-263), Warren Transport, Inc., continued to February 28, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-12872, East Texas Motor Freight Lines, Inc. d/b/a ETMF Systems—Purchase (Portion)—Transamerican Freight Lines, Inc. and MC 41432 (Sub-148), East Texas Motor Freight Lines, Inc., now being assigned March 9, 1977 (13 days) at Dallas, Texas and continued to April 12, 1977 (9 days) at Dallas, Texas; in hearing rooms to be later designated.

MC 83539 (Sub-No. 439), C & H Transportation Co., Inc., now assigned March 14, 1977, at San Francisco, Calif., is canceled and reassigned for hearing on March 14, 1977 (2 weeks), at Seattle, Washington; location of hearing room to be later designated.

No. 36489, Charges for Switching Service In The Cincinnati Area, Conrail now being assigned February 7, 1977, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 115311 (Sub-No. 195), J & M Transportation Co., Inc., now assigned February 22, 1977, at Washington, D.C., is cancelled, application dismissed.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-3951 Filed 2-7-77;8:45 am]

federal register

TUESDAY, FEBRUARY 8, 1977

PART II

ENVIRONMENTAL PROTECTION AGENCY

Federal Water Pollution Control

■

SMALL BUSINESS CONCERNS; FINAL RULEMAKING

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER A—GENERAL

[FRL 599-1]

PART 21—SMALL BUSINESS

Final Rulemaking

Notice is hereby given that the Environmental Protection Agency intends to amend and make final Subchapter A, Chapter I, Title 40, CFR Part 21, to implement section 8 of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500). This part was published in interim final form on August 16, 1974, 39 FR page 29692. The Small Business Administration under 15 U.S.C. 636, is authorized to make loans to assist small business concerns in adding to or altering their equipment, facilities, or methods of operation to meet Federal or State water pollution control requirements established under the Federal Water Pollution Control Act. A prerequisite to receiving such a loan is a written statement issued by the Environmental Protection Agency or (if appropriate) a State, certifying that the additions, alterations, or methods of operation are "necessary and adequate" to comply with pollution control requirements established pursuant to the Act. These regulations describe the uniform rules for issuing such statements.

Small business concerns may be eligible for an SBA loan if the additions, alterations, or methods of operation necessary for pollution control result from their engaging in one or more of the following activities:

1. The business has a discharge requiring permitting under section 402 of the Act.
2. The business discharges into a publicly owned treatment works which requires pretreatment by the business.
3. The business plans to discharge into a municipal sewer system through the construction of a lateral or interceptor sewer.
4. The business is subject to the requirements of a State or areawide authority for controlling the disposal of pollutants that may affect groundwater.
5. The business requires a Corp of Engineers permit for dredged or fill material.
6. The business is subject to Coast Guard or State requirements regarding the standard of performance of marine sanitation devices controlling sewage from vessels.
7. The business is implementing a plan to control or prevent the discharge or spill of oil or other hazardous substances.

Additionally an applicant for a certification statement must meet eligibility standards set forth by the Small Business Administration. SBA small business size standards are set out in the FEDERAL REGISTER, Volume 40, No. 13, January 20, 1975, title 13, Chapter I, part 123. These standards will be amended as appropriate from time to time.

EPA's role under these regulations is to determine the necessity and adequacy of the proposed additions or alterations of equipment, facilities, or methods of operation in meeting water pollution control requirements. To receive the requisite statement from EPA, or the State agency which has assumed the program, an applying small business must demonstrate that its activities or discharges will meet the applicable requirements of the Federal Water Pollution Control Act for the particular discharge for which certification is being requested.

An applicant must show that the additions, alterations, or methods of operation for which it is applying for SBA financing are necessary and adequate for compliance with all of the requirements of one or more of such applicable requirements or is in pursuance of a known requirement of the Federal Water Pollution Control Act of 1972.

EPA, at the time of certification, may advise SBA, as well as the applicant, of compliance steps required to meet any other requirements within the specified category of eligibility for which an SBA loan is being applied.

EPA will not determine the cost-effectiveness of the proposed additions or alterations nor will it assess whether or not other more efficient or technically superior alternatives exist. However, EPA will attempt to identify those components of the proposed additions, alterations, or methods of operation which appear to be extraneous to the achievement of the degree of pollution abatement required by an applicable standard.

EPA will not issue statements to applicants for loans to be applied solely to the preparation or undertaking of plans to determine the feasibility of or the design for the anticipated construction. However, this provision does not later preclude SBA financial assistance being utilized for design, plans, and specification work which are a part of the additions, alterations, or methods of operation deemed necessary and adequate by EPA. This exclusion results from the very nature of the activity conducted, in that no determination can be made of the adequacy or necessity of designs, plans, or specifications until they have been finished. EPA will also not certify any addition, alteration, or method or operation for which an SBA loan is not intended to be sought.

The review by EPA will be a technical review, with review of the applicant's eligibility as a small business and for the amount of financial assistance requested to be conducted by SBA. As noted in § 21.13 of these regulations, the certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (1) will be constructed within the time specified by an applicable standard or (2) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

The application for EPA-issued statements will not generally be subject to public notice or hearings but will be available for public inspection during the period of review by the Regional Administrator or during the period of appeal. However, information adequately identified to the Regional Administrator as being entitled to protection as a trade secret shall be treated confidentially by the Agency. The Regional Administrator shall, when necessary, provide public notice and conduct a public hearing regarding a specific application if he believes that the proposed addition, alteration, or method of operation may adversely affect an interest of the public.

Applicants are reminded that the penalties provided under 18 U.S.C. 1001 and 18 U.S.C. 286 can be applied against individuals who modify, change, or alter any statements as issued, or who submit an application containing false information.

Section 7 of the Small Business Act makes no attempt to apportion responsibilities between the States and EPA. However, provision is made for States, upon application to EPA and approval by EPA, to conduct a program for issuing statements under these regulations. Since many applications for additions, alterations, or methods of operation are designed to meet requirements issued and enforced by the States pursuant to programs under various sections of the Act, States are encouraged to accept the responsibilities for conducting such a program, and may use funds authorized under section 106 of the Act for this purpose.

Applicants will also be subject to separate regulations promulgated by the Small Business Administration with regard to their type of business and financial eligibility and which establish procedures concerning applications to SBA for loan assistance.

This regulation does not apply to requests for loans to assist small businesses in meeting a compliance requirement under the Clean Air Act as authorized by the Small Business Act, section 7(b)(5). A separate program and procedures are established in Title 13—Business Credit and Assistance, Chapter I—Small Business Administration, Part 123—Disaster Loans, in Volume 40, No. 13 of the FEDERAL REGISTER, page 3210D, January 20, 1975, for these loans. The Small Business Administration will coordinate directly with the individual State air pollution control agencies in this regard.

In a proposed form, these regulations were reviewed by other Federal agencies and States. Comments were received from the Departments of Commerce and Interior, the Small Business Administration, and the State of Pennsylvania.

Comments were solicited from the Regions who have had nearly two years experience in the program, as well as from the SBA, the general public, and professional and trade associations. The final regulations reflect those responses.

These final regulations will become effective March 10, 1977.

Dated: January 27, 1977.

JOHN QUARLES,
Acting Administrator.

Sec.
21.1 Scope.
21.2 Definitions.
21.3 Submission of applications.
21.4 Review of applications.
21.5 Issuance of statements.
21.6 Exclusions.
21.7 [Reserved].
21.8 Resubmission of application.
21.9 Appeals.
21.10 Utilization of the statement.
21.11 Public participation.
21.12 State issued statements.
21.13 Effect of certification upon authority to enforce applicable standards.

AUTHORITY: (15 U.S.C. 636), as amended by Pub. L. 92-500.

§ 21.1 Scope.

This part establishes procedures for the issuance by EPA of the statements, referred to in section 7(g) of the Small Business Act and section 8 of the Federal Water Pollution Control Act Amendments of 1972, to the effect that additions to or alterations in the equipment, facilities (including the construction of pretreatment facilities and interceptor sewers), or methods of operations of small business concerns are necessary and adequate to comply with requirements established under the Federal Water Pollution Control Act, 33 U.S.C. 1151, et seq.

§ 21.2 Definitions.

(a) "Small business concern" means a concern defined by section 2[3] of the Small Business Act, 15 U.S.C. 632, 13 CFR Part 121, and regulations of the Small Business Administration promulgated thereunder.

(b) For purposes of paragraph 7(g)(2) of the Small Business Act, "necessary and adequate" refers to additions, alterations, or methods of operation in the absence of which a small business concern could not comply with one or more applicable standards. This can be determined with referenc to design specifications provided by manufacturers, suppliers, or consulting engineers; including, without limitation, additions, alterations, or methods of operation the design specifications of which will provide a measure of treatment or abatement of pollution in excess of that required by the applicable standard.

(c) "Applicable Standard" means any requirement, not subject to an exception under § 21.6, relating to the quality of water containing or potentially containing pollutants, if such requirement is imposed by:

(1) The Act;

(2) EPA regulations promulgated thereunder or permits issued by EPA or a State thereunder;

(3) Regulations by any other Federal Agency promulgated thereunder;

(4) Any State standard or requirement as applicable under section 510 of the Act;

(5) Any requirements necessary to comply with an areawide management plan approved pursuant to section 208 (b) of the Act;

(6) Any requirements necessary to comply with a facilities plan developed under section 201 of the Act (see 35 CFR Subpart E);

(7) Any State regulations or laws controlling the disposal of aqueous pollutants that may affect groundwater.

(d) "Regional Administrator" means the Regional Administrator of EPA for the Region including the State in which the facility or method of operation is located, or his designee.

(e) "Act" means the Federal Water Pollution Control Act, 33 U.S.C. 1151, et seq.

(f) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. For the purposes of this section, the term also means sewage from vessels within the meaning of section 312 of the Act.

(g) "Permit" means any permit issued by either EPA or a State under the authority of section 402 of the Act; or by the Corps of Engineers under section 404 of the Act.

(h) "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

Comment: As the SBA does not extend its program to the Canal Zone, the listing of the Canal Zone as a State for the purposes of meeting a requirement imposed by sections 311 or 312 of the Act is not effective in this regulation.

(i) "Statement" means a written approval by EPA, or if appropriate, a State, of the application.

(j) "Facility" means any building, structure, installation or vessel, or portion thereof.

(k) "Construction" means the erection, building, acquisition, alteration, remodeling, modification, improvement, or extension of any facility; *Provided*, That it does not mean preparation or undertaking of: Plans to determine feasibility; engineering, architectural, legal, fiscal, or economic investigations or studies; surveys, design, plans, writings, drawings, specifications or producedures.

Comment: This provision would not later preclude SBA financial assistance being utilized for any planning or design effort conducted previous to construction.

(l) The term "additions and alterations" means the act of undertaking construction of any facility.

(m) The term "methods of operation" means the installation, emplacement, or introduction of materials, including those involved in construction, to achieve a process or procedure to control: Surface water pollution from non-point sources—that is, agricultural, forest practices, mining, construction; ground or surface water pollution from well, subsurface, or surface disposal operations; activities resulting in salt water intrusion; or changes in the movement, flow, or circulation of navigable waters or groundwaters.

(n) The term "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the United States, other than a vessel owned or operated by the United States or a State or a political subdivision thereof, or a foreign nation; and is used for commercial purposes by a small business concern.

(o) "EPA" means the Environmental Protection Agency.

(p) "SBA" means the Small Business Administration.

(q) "Areawide agency" means an areawide management agency designated under section 208(c)(1) of the Act.

(r) "Lateral sewer" means a sewer which connects the collector sewer to the interceptor sewer.

(s) "Interceptor sewer" means a sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility.

§ 21.3 Submission of applications.

(a) Applications for the statement described in § 21.5 of this part shall be made to the EPA Regional Office for the Region covering tthe State in which the additions, alterations, or methods of operation covered by the application are located. A listing of EPA Regional Offices, with their mailing addresses, and setting forth the States within each Region is as follows:

Region	Address	State
I	Regional Administrator, region I, EPA, John F. Kennedy Federal Bldg., room 2303, Boston, Mass. 02203.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
II	Regional Administrator, region II, EPA, 26 Federal Plaza, room 908, New York, N.Y. 10007.	New Jersey, New York, Virgin Islands, and Puerto Rico.
III	Regional Administrator, region III, EPA, Curtis Bldg., 6th and Walnut Sts., Philadelphia, Pa. 19106.	Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, and West Virginia.
IV	Regional Administrator, region IV, EPA, 345 Courtland St. NE., Atlanta, Ga. 30308.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
V	Regional Administrator, region V, EPA, 230 South Dearborn St., Chicago, Ill. 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
VI	Regional Administrator, region VI, EPA, 1301 Elm St., 27th floor, First International Bldg., 70 Dallas, Tex. 75201.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
VII	Regional Administrator, region VII, EPA, 1735 Baltimore Ave., Kansas City, Mo. 64108.	Iowa, Kansas, Missouri, and Nebraska.
VIII	Regional Administrator, region VIII, EPA, 1860 Lincoln St., suite 900, Denver, Colo. 80203.	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
IX	Regional Administrator, region IX, EPA, 100 California St., San Francisco, Calif. 94111.	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Trust Territory of the Pacific Islands.
X	Regional Administrator, region X, EPA, 1200 6th Ave., Seattle, Wash. 98101.	Alaska, Idaho, Oregon, and Washington.

(b) An application described in paragraph (1) of § 21.3(c) may be submitted directly to the appropriate State, where a State has assumed responsibility for issuing the statement. Information on whether EPA has retained responsibility for certification or whether it has been assumed by the State may be obtained from either the appropriate Regional Administrator or the State Water Pollution Control Authority in which the facility is located.

(c) An application need be in no particular form, however, it must be in writing and must include the following:

(1) Name of applicant (including business name, if different) and mailing address. Address of the affected facility or operation, if different, should also be included.

(2) Signature of the owner, partner, or principal executive officer requesting the statement.

(3) The Standard Industrial Classification number for the business for which an application is being submitted. Such SIC number shall be obtained from the Standard Industrial Classification Manual, 1972 edition. If the applicant does not know the SIC for the business, a brief description of the type of business activity being conducted should be provided.

(4) A description of the process or activity generating the pollution to be abated by the additions, alterations, or methods of operation covered by the application, accompanied by a schematic diagram of the major equipment and process, where practicable.

(5) A specific description of the additions, alterations, or methods of operation covered by the application. Where appropriate, such description will include a summary of the facility construction to be undertaken; a listing of the major equipment to be purchased or utilized in the operation of the facility; the purchase of any land or easements necessary to the operation of the facility; and any other items that the applicant deems pertinent. Any information that the applicant considers to be a trade secret shall be identified as such.

(6) A declaration of the requirement, or requirements, for compliance with which the alterations, additions, or methods of operation are claimed to be necessary and adequate.

(i) If the requirement results from a permit issued by EPA or a State under section 402 of the Act, the permit number shall be included.

(ii) If the requirement results from a permit issued by EPA or a State for a publicly owned treatment works, the municipal permit number shall be included along with a written declaration from the authorized agent for the publicly owned treatment works that received the permit detailing the specific pretreatment requirements being placed upon the applicant.

(iii) If the requirement initiates from a plan to include the applicant's effluent in an existing municipal sewer system through the construction of lateral or interceptor sewers, a written declaration from the authorized agent from the publicly owned treatment works shall be included noting that the sewer construction is consistent with the integrity of the system; will not result in the capacity of the publicly owned treatment works being exceeded; and where applicable, is consistent with a facilities plan developed under section 201 of the Act (see 35 CFR Part 907).

(iv) If the requirement results from a State order, regulation, or other enforceable authority controlling pollution from a vessel as provided by section 312(f)(3) of the Act, a written declaration from the authorized agent of the State specifying the control measures being required of the applicant shall be included.

(v) If the requirement is a result of a permit issued by the Corps of Engineers related to permits for dredged or fill material as provided by section 404 of the Act, a copy of the permit as issued shall be included.

(vi) If the requirement results from a standard of performance for control of sewage from vessels as promulgated by the Coast Guard under section 312(b) of the Act, the vessel registration number or documentation number shall be included.

(vii) If the requirement results from a plan to control or prevent the discharge or spill of pollutants as identified in section 311 of the Act, the title and date of that plan shall be included.

(viii) If the requirement is the result of an order by a State or an areawide management agency controlling the disposal of aqueous pollutants so as to protect groundwater, a copy of the order as issued shall be included.

(7) Additionally, if the applicant has received from a State Water Pollution Control Agency a permit issued by the State within the preceding two years, and if such permit was not issued under the authorities of section 402 of the Act, and where the permit directly relates to abatement of the discharge for which a statement is sought, a copy of that permit shall also be included.

Comment: Some States under State permit programs, separate and distinct from the NPDES permit program under the Act, conduct an engineering review of the facilities or equipment that would be used to control pollution. The results of such a review would be materially helpful in determining the necessity and adequacy of any alterations or additions.

(8) Any written information from a manufacturer, supplier or consulting engineer, or similar independent source, concerning the design capabilities of the additions or alterations covered by the application, including any warranties, warranty limitations or certifications obtained from or provided by such sources which would bear upon these design and performance capabilities. The Regional Administrator may waive the requirement for this paragraph if it appears that there is no independent source for the information described herein; as, for example, when the applicant has designed and constructed the additions or alterations with in-house capability.

(9) An estimated schedule for the construction or implementation of the alterations, additions, or methods of operation.

(10) An estimated cost of the alterations, additions, or methods of operation, and where practicable, the individual costs of major elements of the construction to be undertaken.

(11) Information on previously received loan assistance under this section for the facility or method of operation, including a description and dates of the activity funded.

(d) A separate application must be submitted for every addition, alteration, or method of operation that is at a separate geographical location from the initial application.

Comment: As an example, a chain has four dry cleaning establishments scattered through a community. A separate application would have to be filed for each.

(e) No statement shall be approved for any application that has not included the information or declaration requirements imposed by paragraph (c)(6) or § 21.3.

(f) All applications are to be submitted in duplicate.

(g) All applications are subject to the provisions of 18 U.S.C. 1001 regarding prosecution for the making of false statements or the concealing of material facts.

(h) Instructional guidelines to assist in the submission of applications for EPA certification are available from EPA or a certifying State.

§ 21.4 Review of applications.

(a) The Regional Administrator or his designee will conduct a review of the application. This review will consist of a general assessment of the adequacy of the proposed alterations, additions, or methods of operation. The review will corroborate that the proposed alterations, additions, or methods of operation are required by an applicable standard. The review will identify any proposed alterations, additions, or methods of operation that are not required by an applicable standard, or that are extraneous to the achievement of an applicable standard.

(b) The assessment of adequacy will be conducted to ensure that the proposed additions, alterations, or methods of operation are sufficient to meet one or more applicable standards whether alone or in conjunction with other plans. The assessment will not generally examine whether other alternatives exist or which would be more meritorious from a cost-effective, efficiency, or technological standpoint.

(c) An application which proposes additions, alterations, or methods of operation whose design, in anticipation of a future requirement, will achieve a level of performance above the requirements imposed by a presently applicable standard shall be reviewed and approved by EPA or a State without prejudice. The amount of financial assistance for such an application will be determined by SBA.

(d) The Regional Administrator shall retain one copy of the application and a summary of the action taken on it. Upon completion of his review, the Regional Administrator shall return the original application along with any other supporting documents or information provided to the applicant along with a copy to the appropriate SBA district office for processing.

§ 21.5 Issuance of statements.

(a) Upon application by a small business concern pursuant to § 21.3 the Regional Administrator will, if he finds that the additions, alterations, or methods of operation covered by the application are adequate and necessary to comply with an applicable standard, issue a written statement to the applicant to that effect, within 45 working days following receipt of the application, or within 45 working days following receipt of all information required to be submitted pursuant to § 21.3(c), whichever is later. Such a written statement shall be classified as a full approval. If an application is deficient in any respect, with regard to the specifications for submission listed in § 21.3(c), the Regional Administrator shall promptly, but in no event later than 30 working days following receipt of the application, notify the applicant of such deficiency.

(b)(1) If an application contains proposed alterations, additions, or methods of operation that are adequate and necessary to comply with an applicable standard but also contains proposed alterations, additions, or methods of operation that are not necessary to comply with an applicable standard, the Regional Administrator shall conditionally approve the application within the time limit specified in paragraph (a) of this section; and shall also identify in the approval those alterations, additions, or methods of operation that he determines are not necessary.

(2) Conditional approvals as contained in a statement will satisfy the requirements for approval by EPA for those alterations, additions, or methods of operation determined to be necessary and adequate. Such conditional approvals may be submitted to SBA in satisfaction of the requirements of section 7(g)(2)(B) of the Small Business Act.

(3) Conditional approvals will not satisfy the requirements for approval by EPA for those alterations, additions, or methods of operation included in the application that are determined not to be necessary. Unnecessary alterations, additions, or methods of operation are those which are extraneous to the achievement of an applicable standard.

(4) Conditional approvals may be appealed to the Deputy Administrator by an applicant in accordance with the procedures identified in § 21.8.

(c) If the Regional Administrator determines that the additions, alterations, or methods of operation covered by an application are not necessary and adequate to comply with an applicable standard, he shall disapprove the application and shall so advise the applicant of such determination within the time limit specified in paragraph (a) of this section, and shall state in writing the reasons for his determination.

(d) Any application shall be disapproved if the Regional Administrator determines that the proposed addition, alteration, or method of operation would result in the violation of any other requirement of this Act, or of any other Federal or State law or regulation with respect to the protection of the environment.

(e) An application need not demonstrate that its facility or method of operation will meet all applicable requirements established under the Act. The applicant need only demonstrate that the additions, alterations, or methods of operation will assist in ensuring compliance with one or more of the applicable standards for which financial assistance is being requested.

Comment: As an example, a small business has two discharge pipes—one for process water, the other for cooling water. The application for loan assistance is to control pollution from the process water discharge. However, EPA or a State may review the applicant's situation and identify for SBA that the applicant is subject to other requirements for which the applicant has not sought assistance.

(f) An application should not include major alternative designs significantly differing in scope, concept, or capability. It is expected that the applicant at the time of submission will have selected the most appropriate or suitable design for the addition, alteration, or method of operation.

(g) EPA will not provide assistance in the form of engineering, design, planning or other technical services to any applicant in the preparation of his application.

(h) An applicant may be issued a certification for additions, alterations, or methods of operation constructed or undertaken before loan assistance was applied for by the applicant. Any such applications would be reviewed by SBA for eligibility under SBA criteria, including refinancing and loan exposure.

§ 21.6 Exclusions.

(a) Statements shall not be issued for applications in the following areas:

(1) Local requirements. Applications for statements for additions, alterations, or methods or operation that result from requirements imposed by municipalities, counties or other forms of local or Regional authorities and governments, except for areawide management agencies designated and approved under section 208 of the Act, shall not be approved; except for those requirements resulting from the application of pretreatment requirements under section 307(b) of the Act; or those resulting from an approved project for facilities plans, and developed under section 201 of the Act, (See 35 CFR Subpart 3); or under a delegation of authority under the Act.

(2) Cost recovery and user charges. Applications for statements involving a request for financial assistance in meeting revenue and service charges imposed upon a small business by a municipality conforming to regulations governing a user charge or capital cost system under section 204(b)(2) of the Act (See 35 CFR 925-11 and 925-12) shall not be approved.

(3) New facility sewer construction. Applications for statements involving projects that involve the construction of a lateral, collection, or interceptor sewer, at or for a facility that was not in existence on October 18, 1972, shall not be approved. Applications for additions, alterations, or methods of operation for new facilities that do not involve sewer construction are not affected by this preclusion. Further, if an applicant is compelled to move as a result of a relocation requirement but operated at the facility prior to October 18, 1972, the cost of construction for a lateral, collection, or interceptor sewer can be approved for the new, relocated site. For the purpose of this exclusion lateral, collection, or interceptor sewer is determined as any sewer transporting waste from a facility or site to any publicly owned sewer.

(4) Other non-water related pollution abatement additions, alterations, or methods of operation which are not integral to meeting the requirements of the Act, although they may be achieving the requirements of another Federal or State law or regulation.

Comment: An example would be where stack emission controls were required on equipment that operated the water pollution control facility. This emission control equipment as an integral part of the water pollution control system would be approvable. However, emission control equipment for a general purpose incinerator that only incidentally burned sewage sludge would not be approvable. The general purpose incinerator might also receive loan assistance but under separate procedures than those set out for water pollution control.

(5) Privately owned treatment facility service or user costs. Applications for statements involving financial assistance in meeting user cost or fee schedules related to participating in a privately owned treatment facility not under the ownership or control of the applicant shall not be approved.

(6) Operation and maintenance charges. Applications for statements containing a request for financial assistance in meeting the operations and maintenance costs of operating the applicant's additions, alterations, or methods of operation shall not be approved for any elements relating to such areas of cost.

(7) Evidence of financial responsibility. Applications for statements containing a request for financial assistance in meeting any requirements relating to evidence of financial responsibility as provided in section 311(p) of the Act shall not be approved.

§ 21.7 [Reserved]

Comment: Applications for a statement resulting from a requirement to control pollution from non-point sources as identified in section 304(e)(2)(A-F) of the Act and described in § 21.2(m) will not presently be

issued a statement under § 21.5 unless the requirement is established through a permit under Section 402. There is no requirement under the current Act that the Federal government directly control pollution from such sources, and the nature and scope of State or areawide management agency proposals or programs to control such sources cannot be determined at this time. As State and areawide plans for control of nonpoint sources being prepared under 208 of the Act, will not be completed for several years, this section is being reserved pending a future determination on the eligibility of applications relating to nonpoint sources to receive a statement under this part.

§ 21.8 Resubmission of application.

(a) A small business concern whose application is disapproved may submit an amended or corrected application to the Regional Administrator at any time. The applicant shall provide the date of any previous application.

§ 21.9 Appeals.

(a) An applicant aggrieved by a determination of a Regional Administrator under § 21.5 may appeal in writing to the Deputy Administrator of the Environmental Protection Agency, within 30 days of the date of the determination from which an appeal is taken; provided that the Deputy Administrator may, on good cause shown, accept an appeal at a later time.

(b) The applicant in requesting such an appeal shall submit to the Deputy Administrator a copy of the complete application as reviewed by the Regional Administrator.

(c) The applicant should also provide information as to why it believes the determination made by the Regional Administrator to be in error.

(d) The Deputy Administrator shall act upon such appeal within 60 days of receipt of any complete application for a review of the determination.

(e) Where a State has been delegated certification authority, the procedure for appeals shall be established in the State submission required in § 21.12.

§ 21.10 Utilization of the statement.

(a) Statements issued by the Regional Administrator will be mailed to the small business applicant and to the district office of the Small Business Administration serving the geographic area where the business is located. It is the responsibility of the applicant to also forward the statement to SBA as part of the application of a loan.

(b) Any statement or determination issued under § 21.5 shall not be altered, modified, changed, or destroyed by any applicant in the course of providing such statement to SBA. To do so can result in the revocation of any approval contained in the statement and subject the applicant to the penalties provided in 18 U.S.C. 1001.

(c) If an application for which a statement is issued under § 21.5 is substantively changed in scope, concept, design, or capability prior to the approval by SBA of the financial assistance requested, the statement as issued shall be revoked. The applicant must resubmit a revised application under § 21.3 and a new review must be conducted. Failure to meet the requirements of this subparagraph could subject the applicant to the penalties specified in 18 U.S.C. 1001 and 18 U.S.C. 286. A substantive change is one which materially affects the performance or capability of the proposed addition, alteration, or method of operation.

(d) An agency, Regional Administrator, or State issuing a statement under § 21.5 shall retain a complete copy of the application for a period of five years after the date of issuance of the statement. The application shall be made available upon request for inspection or use at any time by any agency of the Federal Government.

(e) No application for a statement or for financial assistance under this section or statement issued under this section shall constitute or be construed as suspending, modifying, revising, abrogating or otherwise changing the requirements imposed on the applicant by the terms, conditions, limitations or schedules of compliance contained in an applicable standard, permit, or other provision established or authorized under the Act or any State or local statute, ordinance or code.

(f) No statement as issued and reviewed shall be construed as a waiver to the applicant's fulfilling the requirements of any State or local law, statute, ordinance, or code (including building, health, or zoning codes).

(g) An amended application need not be submitted if the facility, property, or operation for which the statement is issued is sold, leased, rented, or transferred by the applicant to another party prior to approval by SBA of the financial assistance: *Provided*, That there is or will be no substantive change in the scope, concept, design, capability, or conduct of the facility or operation.

Comment: However, eligibility for financial assistance would be reexamined by SBA with regard to any such sales, lease, rental or transfer.

(h) The Regional Administrator may include in any statement a date of expiration, after which date the approval by the Regional Administrator contained in the statement shall no longer apply. The date of expiration shall not become effective if the applicant has submitted the statement to the SBA, prior to the date of expiration, as part of the application for financial assistance.

§ 21.11 Public participation.

(a) Applications shall not generally be subject to public notice, public comment, or public hearings. Applications during the period of review as stated in § 21.5, or during the period of appeal as provided in § 21.8, shall be available for public inspection. Approved applications as provided in § 21.10(d) shall be available for public inspection at all times during the five year period.

(b) The Regional Administrator, if he believes that the addition, alteration, or method of operation may adversely and significantly affect an interest of the public, shall provide for a public notice and/or public hearing on the application. The public notice and/or public hearing shall be conducted in accordance with the procedures specified for a permit under 40 CFR 125.32 and 40 CFR 125.34 (b).

(c) Where the applicant is able to demonstrate to the satisfaction of the Regional Administrator that disclosure of certain information or parts thereof as provided in § 21.3(c)(5) would result in the divulging of methods or processes entitled to protection as trade secrets, the Regional Administrator shall treat the information or the particular part as confidential in accordance with the purposes of section 1905 of Title 18 of the United States Code and not release it to any authorized person. *Provided, however*, That if access to such information is subsequently requested by any person, there will be compliance with the procedures specified in 40 CFR Part 2. Such information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out the Act or when relevant in any proceeding under the Act.

§ 21.12 State issued statements.

(a) Any State after the effective date of these regulations may submit to the Regional Administrator for his approval an application to conduct a program for issuing statements under this section.

(1) A State submission shall specify the organizational, legal, financial, and administrative resources and procedures that it believes will enable it to conduct the program.

(2) The State program will constitute an equivalent effort to that required by EPA under this section.

(3) The State organization responsible for conducting the program should be the State water pollution control agency, as defined in section 502 of the Act.

(4) The State submission shall propose a procedure for adjudicating applicant appeals as provided under § 21.9.

(5) The State submission shall identify any existing or potential conflicts of interest on the part of any personnel who will or may review or approve applications.

(i) A conflict of interest shall exist where the reviewing official is the spouse of or dependent (as defined in the Tax Code, 26 U.S.C. 152) of an owner, partner, or principal officer of the small business or where he has or is receiving from the small business concern applicant 10 percent of gross personal income for a calendar year, except that it shall mean 50 percent gross personal income for a calendar year if the recipient is over 60 years of age and is receiving such portion pursuant to retirement, pension, or similar arrangements.

(ii) If the State is unable to provide alternative parties to review or approve any application subject to conflict of interest, the Regional Administrator shall review and approve the application.

(b) The Regional Administrator, within 60 days after such application, shall approve any State program that conforms to the requirements of this sec-

tion. Any such approval shall be after sufficient notice has been provided to the Regional Director of SBA.

(c) If the Regional Administrator disapproves the application, he shall notify the State, in writing, of any deficiency in its application. A State may resubmit an amended application at any later time.

(d) Upon approval of a State submission, EPA will suspend all review of applications and issuance of statements for small businesses in that State, pending transferral. *Provided, however,* That in the event of a State conflict of interest as identified in § 21.12(a)(4) supra, EPA shall review the application and issue the Statement.

(e) Any applications shall, if received by an EPA Regional Office, be forwarded promptly to the appropriate State for action pursuant to section 7(g)(2) of the Small Business Act and these regulations.

(f)(1) EPA will generally not review or approve individual statements issued by a State. However, SBA, upon receipt and review of a State approved statement may request the Regional Administrator of EPA to review the statement. The Regional Administrator, upon such request can further approve or disapprove the State issued statement, in accordance with the requirements of § 21.5.

(2) The Regional Administration will periodically review State program performance. In the event of State program deficiencies the Regional Administrator will notify the State of such deficiencies.

(3) During that period that any State's program is classified as deficient, statements issued by a State shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any determination subsequently made, in accordance with § 21.5 of this part, on any such statement.

(i) If within 60 days after notice of such deficencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in § 21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§ 21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

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PART III

ENVIRONMENTAL PROTECTION AGENCY

■

SUBAGREEMENTS; GRANTS

Minimum Standards for Procurement

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE

[FRL 675-2]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

Interim regulations are hereby promulgated to amend the Environmental Protection Agency's general grant regulations to incorporate minimum standards for procurement under EPA grants.

On May 9, 1975, the Environmental Protection Agency published in the FEDERAL REGISTER a proposal to amend its general grant regulations to incorporate minimum standards for procurement under grants (proposed Part 33, 40 F.R. 20296) and to amend its State and local assistance grant regulations (proposed amendments to Part 35, 40 F.R. 20303). The Part 35 regulations were published as final in the FEDERAL REGISTER on December 17, 1975 (40 FR 58602) and further amended on December 29, 1976 (41 F.R. 56633).

These Part 33 regulations govern all procurement actions under all EPA grants (except for architectural and engineering agreements subject to 40 CFR 35.936, 35.937 and 35.939 and construction contracts subject to 40 CFR 35.936, 35.938, and 35.939), and are closely modeled upon the policies and procedures set forth in the amendments to Part 35 for the construction grant program. As a result of comments received on Part 33 and experience gained under Part 35, there were a number of changes made in an effort to improve, simplify and clarify the regulations whenever possible. In general, the changes were not significant and the regulations remain similar in structure and content to the Part 33 regulations as proposed and to the amendments to the Part 35 regulations as finally promulgated. These regulations also implement the requirements of Attachment O (Procurement Standards) of Office of Management and Budget Circular No. A-110 published in the FEDERAL REGISTER on July 30, 1976 (41 FR 32016) relating the administration of grants to institutions of higher education, hospitals, and other nonprofit organizations.

In accordance with 40 CFR 30.125, public comment on grant regulations is solicited on a continuous basis. Comments on these regulations may be submitted in writing to Director, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, S.W., Room 435 WSMW, Washington, D.C. 20460.

Effective date. These interim Part 33 subagreement regulations shall become effective on March 31, 1977, and shall govern all procurement actions under grants awarded on or after that date. In addition, procurement actions taken under grants awarded prior to March 31, 1977, shall also be subject to these amendments if the grant (1) includes a special condition requiring compliance with proposed or interim 40 CFR Part 33, or (2) is a Sec. 208 FWPCA grant subject to EPA Program Guidance Memorandum SAM-14 (published April 27, 1976, at 41 F.R. 17702).

Dated: January 28, 1977.

ALVIN L. ALM,
Acting Administrator.

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APPENDIX A—Required Provisions.

AUTHORITY: 7 U.S.C. 135 et seq.; 15 U.S.C. 2601 et seq.; 33 U.S.C. 1251 et seq.; 42 U.S.C. 241, 242b, 243, 246, 300j-1, 300j-2, 300j-3; 1857 et seq., 1891 et seq., and 6901 et seq.

§ 33.001 Applicability and scope.

(a) This part sets forth policies and minimum standards for procurement and procurement systems of grantees under EPA grants, except that procurement of: (1) Architectural or engineering services and construction contracts under Grants for Construction of Treatment Works is covered by §§ 35.936 through 35.939 of this subchapter and (2) professional services of an on-going nature which involve no significant increase in costs because of the project work under the grant (such as legal or accounting services on a retainer basis) are not covered. However, where the nature of the services is a one time event peculiar to and resulting from the project receiving assistance, these standards do apply.

§ 33.005 Definitions.

As used in this part, the term subagreement shall have the meaning set forth below. Other words and terms not defined below shall have the meaning given to them in § 30.135 (Definitions) of this subchapter.

Subagreement. A written agreement between an EPA grantee and another party (other than another public agency) and any tier of agreement thereunder for the furnishing of services, supplies, or equipment necessary to complete the project for which a grant was awarded, including contracts and subcontracts for personal and professional services, consultant agreements and purchase orders, but excluding employment agreements subject to State or local personnel systems.

Subpart A—Policy

§ 33.100 Grantee procurement systems, State or local law.

(a) Grantees may use their own procurement systems and procedures which meet institutional requirements or State, territorial, or local laws and ordinances, to the extent that such systems and procedures do not conflict with the minimum requirements set forth in this subchapter.

(b) State, territorial, or local laws, ordinances, regulations, or procedures or institutional requirements which are de-

signed to or operate to give local or in-State bidders or proposers preference over other bidders or proposers shall not be employed in evaluating bids or proposals for subagreements under a grant.

§ 33.105 Competition.

It is the policy of the Environmental Protection Agency to encourage free and open competition appropriate to the type of project work to be performed.

§ 33.110 Profits.

Only fair and reasonable profits may be earned by contractors in subagreements under EPA grants. See § 33.510–4 (Profit) for discussion of profit under negotiated subagreements. Profit included in a formally advertised, competitively bid, fixed price (lump sum or unit price) contract awarded under Subpart D of this part is presumed to be reasonable.

§ 33.115 Methods of procurement.

(a) Procurement under EPA grants shall be made by one of the following methods:

(1) Small purchase procedure;

(2) Formal advertising; or

(3) Negotiation.

(b) Small purchase procedure. (1) A small purchase is the procurement of materials, supplies, and services in which the aggregate amount involved in any one transaction is $10,000 or less. The small purchase limitation of $10,000 applies to the aggregate total of an order, including all estimated handling and freight charges, overhead, and profit to be paid under the order. The aggregate amount in any one transaction must include all items which should properly be grouped together. Reasonable competition shall be achieved.

(2) Subagreements for small purchases need not be in the form of a bilaterally executed written agreement. Where appropriate, purchase orders, sales slips, memoranda of oral price quotations, and the like may be utilized in the interest of minimizing paperwork. Retention in the purchase files of these documents and of written quotations received, or references to catalogs or printed price lists used, will suffice as the record supporting the price paid.

(c) Formal advertising. Formal advertising means procurement by competitive bids and awards as described in Subpart D and is the required method of procurement for purchases in excess of $10,000 unless negotiation under paragraph (d) of this section is necessary.

(d) Negotiation. Procurement by negotiation may be utilized if necessary to accomplish sound procurement and shall be conducted in a manner to provide to the maximum practicable extent open and free competition appropriate to the type of project work to be performed. Appropriate documentation is required in accordance with § 33.210. Negotiation of subagreements by the grantee is authorized in accordance with the applicable procedures of Subpart E if any of the following conditions are applicable:

(1) Public exigency, as determined by a responsible public official, will not permit the delay incident to formally advertised procurement (e.g., an emergency procurement).

(2) The aggregate amount involved does not exceed $10,000 (see paragraph (b) of this section for small purchases).

(3) The material or service to be procured is available from only one person or entity.

(4) The procurement is for professional services.

(5) The procurement is for services to be rendered by a university or other educational institution.

(6) No responsive, responsible bids at acceptable price levels have been received after formal advertising.

(7) The procurement is for highly perishable materials or for materials or services where the prices are established by law.

(8) The procurement is for technical items or equipment requiring standardization, and interchangeability of parts with existing equipment.

(9) The procurement is for experimental, developmental or research services.

(10) The material or services are to be procured and used outside the limits of the United States and its possessions.

§ 33.120 Types of contracts.

The cost-plus-percentage-of-cost and the percentage - of - construction - cost types of contracts shall not be used for any grantee procurement. See §§ 33.405 and 33.505 concerning types of contracts for procurement by formal advertising and by negotiation.

§ 33.123 Nonrestrictive specifications.

Invitations for bids or requests for proposals shall include a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

NOTE.—Section 204 of the Federal Water Pollution Control Act contains a more stringent requirement regarding nonrestrictive specifications which is applicable only to grants for construction of treatment works. See § 35.936–13 of this subchapter.

§ 33.125 Grantee responsibility.

The grantee is responsible for the administration and successful accomplishment of the project for which EPA grant assistance is awarded. The grantee is responsible for the settlement and satisfaction of all contractual and administrative issues arising out of subagreements entered into under the grant (except as provided in § 33.130 (EPA responsibility) below) in accordance with sound business judgment and good administrative practice. This includes (but is not limited to) issuance of invitations for bids or requests for proposals, selection of contractors, award of contracts, protests of award, claims, disputes, and other related procurement matters.

§ 33.130 EPA responsibility.

Generally, EPA is responsible only for reviewing grantee compliance with Federal requirements applicable to a grantee's procurement. However, where specifically provided in this chapter, EPA is responsible for making the determination concerning compliance with Federal requirements.

§ 33.135 Small and minority business.

Positive efforts shall be made by grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for subagreements to be performed utilizing Federal grant funds.

§ 33.140 Privity of contract.

Neither EPA nor the United States shall be a party to any subagreement, nor to any invitation for bids or request for qualifications or proposals (see § 33.605 for the required solicitation statement).

§ 33.143 Subagreement payments.

Payment shall be made promptly for contract work performed, including, when appropriate, partial payment for goods, materials, or work received or accepted. Progress payments may be made for work performed under a contract, upon the basis of costs incurred not to exceed the contract price, if permitted under State law and authorized by the grantor agency, where: (a) A fabrication period of more than six months between the beginning of work and the first delivery is anticipated; (b) a substantial amount of predelivery expenditures is anticipated; (c) the contract is for production or delivery of major equipment or items specially manufactured for the project; and (d) the financial interests of the grantee and of the United States are adequately secured. Title to property (materials, work in process, and finished goods) for which progress payments are made must be transferred to the grantee free from all encumbrances, or a priority lien must be secured in favor of the grantee pursuant to Article 9 of the Uniform Commercial Code and other applicable State laws or local ordinances by the contractor or subcontractor requesting such progress payments. The rights of the United States shall be paramount, to the extent of grant funds paid through progress payments, to all rights arising under State law in the property for which such progress payments were made.

§ 33.145 Disputes.

Only an EPA grantee may initiate and prosecute an appeal to the Administrator under the disputes provision of a grant with respect to its subagreements thereunder for its own name and benefit (see Subpart J of Part 30 of this subchapter). Neither a contractor nor a subcontractor of a grantee may prosecute an appeal

under the disputes provisions of a grant in its own name or interest.

§ 33.150 Enforcement.

An EPA Deputy Assistant Administrator or Regional Administrator may cause appropriate review of grantee procurement practices to be made. Noncompliance with the provisions of this part affecting procurement may result in total or partial termination of the grant under § 30.920 (Termination of grants) of this subchapter or other actions under § 30.430 (Noncompliance).

Subpart B—General

§ 33.200 Federal procurement regulations.

Regulations applicable to direct Federal procurement shall not be applicable to subagreements under grants except as stated in this subchapter.

§ 33.205 General requirements.

Subagreements must: (a) Be necessary for and directly related to the accomplishment of the project work; (b) Be in the form of a bilaterally executed written agreement; (c) Be for monetary or inkind consideration; and (d) Not be in the nature of a subgrant or gift.

§ 33.210 Documentation.

(a) Procurement records and files for purchases in excess of $10,000 shall include the following where applicable:

(1) Basis for contractor selection (including the number of solicitations issued and the number of bids received or, if negotiated, the number of proposers interviewed);

(2) Justification for procurement on other than a competitive basis;

(3) Basis for award cost or price, including, where applicable, a copy of cost review or cost analysis; and

(4) A copy of each subagreement.

(b) Procurement documentation required by § 30.805 (Records) of this subchapter and by this part must be retained by the grantee or contractors of the grantee for the period of time specified in § 30.805 and is subject to all the requirements of that section. A copy of each subagreement, including cost or price data upon which the awards were based, must be furnished to the Project Officer upon request.

§ 33.215 Certification of procurement systems.

(a) In those cases where a grantee believes its procurement rules, methods and systems include the same requirements or operate to provide the same protections as do these regulations, the grantee may request the Administrator to approve the grantee's procurement system for use in lieu of the procedures of this part.

(b) In those cases where a State agency believes that State laws which govern State or municipal procurement include the same requirements or operate to provide the same protections as do these regulations, the State may request the Administrator to approve the State system for use in lieu of the procedures of this part.

(c) When a State or municipality has received certification under the provisions of § 35.936–21 (Delegation to State agencies, certification of procurement systems) of this subchapter, the conditions of this part are similarly fulfilled.

§ 33.220 Force account (construction).

A grantee must secure prior written approval of the Project Officer for utilization of the force account method (i.e., use of the grantee's own employees for construction, construction-related activities, or for facility repair or improvement) as provided in § 30.645 (Force account work) of this subchapter.

§ 33.225 Limitations on subagreement award.

No subagreement shall be awarded: (a) To any person or organization which does not meet the responsibility standards set forth in § 30.340–2 (a) through (d) and (g) (Standards) of this subchapter;

(b) If any portion of the contract work not exempted by § 30.420–3(b) of this subchapter will be performed at a facility listed by the Director, EPA Office of Federal Activities, in violation of the anti-pollution requirements of the Clean Air Act and the Federal Water Pollution Control Act, as set forth in § 30.420–3 (Prohibition against violating facilities) of this subchapter and Part 15 of this chapter (Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants or Loans); or

(c) To any person or organization which is ineligible pursuant to the conflict of interest requirements of § 30.420–4 (Conflict of interest) of this subchapter.

§ 33.230 Project changes.

A contractor must notify the grantee of proposed project changes. Certain changes require notification to the Project Officer by the grantee pursuant to § 30.900 (Project changes and grant modifications) of this subchapter. A contractor may not implement project changes without the prior approval of the grantee. In granting such approvals, the grantee shall ensure compliance with the procedures for the approval and funding of project changes pursuant to §§ 30.900–1 through 30.900–4 of this subchapter.

§ 33.235 Allowable costs.

(a) Incurring costs under subagreements which are not awarded or administered in compliance with this part shall be cause for disallowance of those costs under the grant.

(b) Appropriate cost principles applicable to subagreements under EPA grants are identified in § 30.710 (Federal cost principles) of this subchapter.

(c) Reasonable costs of compliance with the procurement requirements of these regulations are allowable costs of administration under the grant. Costs of announcement, selection of a contractor and cost analysis of the contract proposal are allowable, even when the announcement is conducted prior to award of the grant. If no grant award is made, then no costs incurred will be reimbursed.

§ 33.240 Intergovernmental agreements.

Although intergovernmental (interagency) agreements are not defined as subagreements, where an intergovernmental agreement is used for procurement of services, a grantee shall comply with the requirements of § 33.510–3 (Cost and price considerations).

Subpart C—Code or Standards of Conduct

§ 33.300 Grantee responsibility.

(a) The grantee must maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in the conduct of project work, including procurement and the expending of project funds. The grantee's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. The grantee must avoid personal or organizational conflicts of interest or noncompetitive procurement practices which restrict or eliminate competition or otherwise restrain trade.

(b) To the extent permissible by State or local law or formal institutional requirements and procedures, such standards shall provide for penalties, sanctions, or other adequate disciplinary actions to be instituted for project-related violations of law or of such code or standards of conduct by either the grantee officers, employees, or agents, or by contractors or their agents.

(c) The grantee must inform the Project Officer in writing of each serious allegation of a project-related violation or known or proven project-related violation of law or code or standards of conduct, by its officers, employees, contractors, or by their agents, and of the prosecutive or disciplinary action taken by the grantee with respect to such infractions, and must cooperate with Federal officials with respect to any Federal prosecutive or disciplinary actions instituted with respect to such infractions. All procurements under grants are covered by the provisions of § 30.245 (Fraud and other unlawful or corrupt practices) of this subchapter, which also requires the Project Officer to notify the Director, EPA Security and Inspection Division, of all such notifications from the grantee.

§ 33.305 EPA cooperation.

EPA shall cooperate with the grantee with its disciplinary or prosecutive actions taken on any apparent project-related violations of law or of the grantee's code or standards of conduct.

Subpart D—Procurement by Formal Advertising

§ 33.400 Applicability.

This subpart provides minimum standards for procurement by formal advertising. Formal advertising means procurement by competitive bids and awards as described below.

§ 33.405 Types of contracts.

Each formally advertised subagreement must be a fixed price (lump sum or unit price or a combination of the two) contract (see § 33.120).

§ 33.410 Procedures.

Formal advertising shall be in accordance with §§ 33.410–1 through 33.410–11.

§ 33.410–1 Adequate public notice and solicitation of bids.

The grantee will cause adequate public notice to be given of the solicitation by publication in newspapers or journals of general circulation over a reasonable area (Statewide, generally), inviting bids and stating the method by which bidding documents may be obtained and/or examined. In addition, the grantee may solicit bids directly from bidders if it maintains a bidders list. Efforts should be made to reach minority firms by advertising in minority newspapers and efforts should be made to include minority firms on a bidders list.

§ 33.410–2 Adequate time for preparing bids.

Adequate time, generally not less than 30 days, must be allowed between the date when public notice pursuant to § 33.410–1 is first published and the date by which bids must be submitted. Bidding documents (including specifications and drawings) shall be available to prospective bidders from the date when such notice is first published.

§ 33.410–3 Adequate bidding documents.

A reasonable number of bidding documents (invitations for bid) shall be prepared by the grantee and shall be furnished upon request on a first-come, first-served basis. A complete set of bidding documents shall be maintained by the grantee and shall be available for inspection and copying by any party. Such bidding documents shall include:

(a) A complete statement of work to be performed, including drawings and specifications, where appropriate, and the required completion schedule (drawings and specifications may be made available for inspection instead of being furnished);

(b) The terms and conditions of the contract to be awarded, including, where appropriate, payment, delivery schedules, point of delivery, and acceptance criteria;

(c) A clear explanation of the method of bidding and the method of evaluation of bid prices, and the basis and method for award of the contract;

(d) Responsibility requirements or criteria which will be employed in evaluating bidders;

(e) The solicitation statement required under § 33.605;

(f) The prevailing wage determination, if applicable; and

(g) A copy of Subpart D (Procurement by Formal Advertising), Subpart F (Required Provisions) and Subpart G (Protests Against Award) of this part.

§ 33.410–4 Bid guarantee; performance bonds.

For construction contracts exceeding $100,000, each bidder must furnish, as a minimum, a bid guarantee equivalent to five percent of the bid price. In addition, the contractor awarded the contract must furnish performance and payment bonds, each of which shall be in an amount not less than 100 percent of the contract price. For all other construction contracts, the grantee shall require such bid guarantees, performance bonds and payment bonds as it normally requires in its own procurement.

§ 33.410–5 Sealed bids.

The grantee shall provide for bidding by sealed bid and for the safeguarding of bids received until public opening.

§ 33.410–6 Amendments to bidding documents.

If a grantee desires to amend any part of the bidding documents (including drawings and specifications) during the period when bids are being prepared, the amendments shall be communicated in writing to all firms which have obtained bidding documents in time to be considered prior to the bid opening time.

§ 33.410–7 Bid modifications.

A firm which has submitted a bid shall be allowed to modify or withdraw its bid prior to the time of bid opening.

§ 33.410–8 Public opening of bids.

The grantee shall provide for a public opening of bids at the place, date and time announced in the bidding documents.

§ 33.410–9 Award to the low, responsive, responsible bidder.

(a) After bids are opened, they shall be evaluated by the grantee in accordance with the methods and criteria set forth in the bidding documents.

(b) The grantee may reserve the right to reject all bids. The basis for rejection must be stated by the grantee. Unless all bids are rejected for good cause, award shall be made to the low, responsive, responsible bidder.

(c) If award is intended to be made to a firm which did not submit the lowest bid, a written statement shall be prepared prior to any award and retained by the grantee explaining why each lower bidder was deemed not responsive or not responsible.

(d) If EPA Project Officer approval is required by a special condition of the grant agreement or by regulation, the subagreement shall not be executed until approval has been obtained.

(e) Bidders shall be notified of the winner promptly after bid opening.

§ 33.410–10 Subcontracts under formally advertised construction contracts.

The procurement of subcontracts by a prime contractor under a construction contract awarded under this subpart must comply only with the following provisions:

(a) Section 33.100(b) (State or local law);

(b) Section 33.120 (Types of contracts);

(c) Section 33.135 (Small and minority business);

(d) Section 33.225(b) (Prohibition against listed violating facilities); and

(e) Section 30.245 (Fraud and other unlawful or corrupt practices).

§ 33.410–11 Negotiation of contract amendments.

(a) *Nonconstruction.* Grantees are responsible for negotiation of contract amendments or change orders and shall comply with the provisions, procedures, and principles set forth in § 33.510–5 (a) and (b) (Negotiation).

(b) *Construction.* The contract price or time may be changed only by a change order. When negotiations are required, they shall be conducted in accordance with § 33.510–5 (a) and (b) (Negotiation). The value of any work covered by a change order or of any claim for increase or decrease in the contract price shall be determined to the best advantage to the grantee on the following basis:

(1) Unit prices. (i) Original bid items. Unit prices previously approved are acceptable for pricing changes of original bid items. However, when changes in quantities exceed 15 percent of the original bid quantity and the total dollar change of that bid item is significant, the unit price shall be reviewed by the grantee to determine if a new unit price should be negotiated.

(ii) New items. Unit prices of new items shall be negotiated.

(2) A lump sum to be negotiated.

(3) Cost reimbursement—the actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work plus an amount to be agreed upon to cover the cost of general overhead and profit—to be negotiated.

(c) *Cost and price considerations.* § 33.510–3 (Cost and price considerations) and § 33.510–4 (Profit) apply to negotiated contract amendments.

(d) *Related work.* Related work shall not be split into two amendments or change orders merely to keep it under $100,000 and thereby avoid the requirements of § 33.510–3(a)(2). For change orders which include both additive and deductive items the provisions of § 33.510–3(a)(2) apply where:

(1) Any single item (additive or deductive) exceeds $100,000,

(2) No single additive or deductive item has a value of $100,000, but the total price of the change order is over $100,000, or

(3) The total of additive items of work in the change order exceeds $100,000, or the total of deductive items of work in the change order exceeds $100,000, and the net price of the change order is less than $100,000.

Subpart E—Procurement by Negotiation

§ 33.500 Applicability.

This subpart provides minimum standards for grantee negotiation of subagreements. These standards apply to all negotiated subagreements in excess of $10,000. When negotiation is the selected method of procurement in accordance with § 33.115(d) the standards in this Subpart E apply.

§ 33.505 Types of contracts.

(a) *General.* Cost reimbursement, fixed price, or per diem types of contracts or combinations thereof may be negotiated. A fixed price contract is used only when the scope and extent of work to be performed is clearly defined. In most other cases a cost reimbursement type of contract is more appropriate. A per diem contract may be used if no other type of contract is appropriate. An incentive fee may be utilized if the grantee submits an adequate independent cost estimate and price comparison under § 33.510–3.

(b) *Cost reimbursement contracts.* Each cost reimbursement contract must clearly establish a cost ceiling which the contractor may not exceed without formally amending the contract and a fixed dollar profit which may not be increased except in case of a contract amendment which increases the scope of work.

(c) *Fixed price contracts.* An acceptable fixed price contract is one which establishes a guaranteed maximum price which may not be increased except to the extent that a contract amendment increases the scope of work.

(d) *Per diem contracts.* A per diem agreement expected to exceed $10,000 may be utilized only after a determination that a fixed price or cost reimbursement type contract is not appropriate. Per diem agreements should be used only to a limited extent, such as where the first task under a grant involves establishing the scope and cost of succeeding tasks, or for incidental services. Cost and profit included in the per diem rate must be specifically negotiated and displayed separately in the contractor's proposal. The contract must clearly establish a price ceiling which may not be exceeded without formally amending the contract.

§ 33.510 Procedures.

Procurement by negotiation shall be in conformance with the following §§ 33.510–1 through 33.510–6.

§ 33.510–1 Adequate public notice—requests for qualifications or proposals.

Adequate public notice as provided in paragraphs (a)(1) or (b)(1) of this section must be given of the requirement for negotiated procurements anticipated to exceed $10,000 except where rates or prices are fixed by law or regulation or where a single source has been justified (see § 33.210(a)(2)) or where a public exigency or emergency exists as determined by a responsible public official. A grantee may request proposals initially (one-step method of solicitation) or utilize the two-step method of solicitation whereby a request for qualifications is issued with the grantee soliciting proposals only from the firms ranked as most highly qualified.

(a) *Requests for proposals (one-step solicitation)*—(1) *Public announcement.* Notice of a request for proposals should be published in professional journals, newspapers, or publications of general circulation over a reasonable area. In addition, if desired, grantees may use posted public notices or written notification directed to interested persons, firms, or professional organizations. The notice shall invite proposals and state the method by which request for proposal documents may be obtained or examined. Sources which request an opportunity to submit proposals, and which are not otherwise barred by law or regulation, shall be promptly furnished a copy of the request for proposal and shall be permitted to submit a proposal.

(2) *Prequalified list.* As an alternative to publishing public notice as in paragraph (a)(1) of this section, the grantee may secure or maintain a list of qualified candidates from which to solicit proposals. The list must:

(i) Be developed with public notice procedures as in paragraph (a)(1) of this section;

(ii) Provide for continuous updating;

(iii) Provide an opportunity for small and minority business to be placed on the list; and

(iv) Be maintained by the grantee or secured from another source meeting these standards.

(3) *Requests for proposals.* Requests for proposals must be in writing and must contain the information necessary to enable a prospective offeror to prepare a proposal properly. The request for proposals must include the solicitation statement required under § 33.605 and must inform offerors of all evaluation criteria, including all those in paragraph (b)(2) of this section, and of the relative importance attached to each criterion (a numerical weighted formula need not be used).

(4) *Submission deadline.* Requests for proposals must clearly state the deadline and place for submission of proposals and must include a copy of Subpart E (Procurement by Negotiation), Subpart F (Required Provisions) and Subpart G (Protests Against Award) of this part.

(b) *Requests for qualifications (two-step solicitation)*—(1) *Public announcement.* Public notice of the request for qualifications must be given using the procedures in paragraph (a)(1) of this section or a prequalified list as in paragraph (a)(2) of this section. The announcement must clearly state the deadline and place for submission of qualification statements.

(2) *Evaluation of qualifications.* The grantee shall review the qualifications of respondents and shall uniformly evaluate them. Qualifications shall be evaluated by an objective process such as by the appointment of a board or committee, which, to the extent practicable, should include persons with appropriate skills. Criteria to be considered in the evaluation of respondents for submission of proposals should include:

(i) Specialized experience and professional competence of the respondent and its personnel (including a joint venture or association subcontract) in connection with the type of services required and the complexity of the project;

(ii) Past record of performance on contracts with the grantee or with others, including such factors as control of costs, quality of work, and ability to meet schedules.

(iii) Special consideration for small and minority businesses;

(iv) Capacity of the respondent to perform the work (including any specialized services) within the time limitations, taking into consideration the current and planned workload of the respondent;

(v) The familiarity of the respondent with types of problems applicable to the project; and

(vi) Avoidance of personal and organizational conflicts of interest prohibited under State and local law and § 33.300.

(3) *Solicitation of professional services proposals.* (i) Requests for professional services proposals must be sent to no fewer than three candidates who either responded to the announcement or were selected from the prequalified list, unless after good faith effort to solicit qualifications in accordance with § 33.510–1(b), fewer than three qualified candidates respond, in which case all qualified candidates must be provided requests for proposals.

(ii) Requests for professional services proposals must be in writing and must contain the information necessary to enable a prospective offeror to prepare a proposal properly. The request for proposals must include the solicitation statement required under § 33.605 and must inform offerors of the evaluation criteria, including all those in paragraph (b)(2) of this section, and of the relative importance attached to each criterion (a numerical weighted formula need not be used).

(4) *Submission deadline.* Requests for proposals must clearly state the deadline and place for submission of proposals and must include a copy of Subpart E (Procurement by Negotiation), Subpart F (Required Provisions) and Subpart G (Protests Against Award) of this part.

§ 33.510–2 Evaluation of proposals.

(a) All proposals submitted in response to the request for proposals shall be uniformly evaluated by an objective process such as the appointment of a board or committee which, to the extent practicable, shall include persons with appropriate skills. Oral (including telephone) or written interviews should be conducted with the top rated proposers.

(b) Information obtained in these interviews shall be treated as confidential except when disclosure is required by State or local law or by EPA under § 33.510–3 (Cost and price considerations).

(c) At no time during the entire procurement process shall information which would provide an unfair competitive advantage be conveyed to any candidate.

(d) The grantee's evaluation of proposals shall be documented.

(e) The grantee's evaluation of proposals shall comply with § 33.135 (Small and minority business) of this part.

(f) The grantee's evaluation must be made solely on the basis of the technical and other evaluation criteria stated in the solicitation. These evaluation factors should include, as appropriate, the following factors:

(1) The quality of the work (or items) to satisfy minimum project needs;

(2) Proposed method to accomplish the work;

(3) Specialized experience and technical competence of key personnel who perform the work;

(4) Prices quoted, and consideration of other prices for the same or similar items or work (see § 33.510–3);

(5) The business reputations, capabilities, responsibilities and past performance of the respective persons or firms who submit proposals;

(6) Delivery requirements;

(7) Capacity to perform work within required time limits;

(8) The familiarity of the candidate with types of problems applicable to the project;

(9) Requirements for the avoidance of personal and organizational conflicts of interest (as set forth in § 30.420–4 of this subchapter); and

(10) Capability to explore and develop innovative or advanced techniques or designs.

§ 33.510–3 Cost and price considerations.

(a) *General.* It is the policy of EPA that the cost or price of all subagreements and amendments thereto and intergovernmental (interagency) agreements must be considered prior to award or execution. Where the EPA participation in the grant is less than 30 percent and the EPA grant amount is less than $150,000, these cost and price procedures are not applicable.

(1) *Grantee responsibility.* All grantees are responsible for conducting a cost review (see paragraph (d) of this section) of all subagreements and amendments thereto of $100,000 or less but in excess of $10,000. All grantees are responsible for conducting a cost analysis or price analysis (see paragraph (b) and (c) of this section) of all subagreements and amendments thereto expected to exceed $100,000 or for two or more subagreements which are expected to aggregate more than $100,000 awarded to the same contractor; or where renegotiation or amendment of a subagreement will result in a contract price in excess of $100,000; or where the amendment itself is in excess of $100,000.

(2) *Subagreements over $100,000.* The grantee shall prepare a written summary of cost or price analysis findings for each negotiated subagreement expected to exceed $100,000. Written approval by EPA is required prior to execution of the subagreement.

(3) *Subagreements not exceeding $100,000.* For each subagreement expected to exceed $10,000 but not to exceed $100,000, grantees shall use the procedures described in paragraph (d) of this section or an equivalent process.

(4) *EPA responsibility.* EPA is responsible for reviewing cost or price data and assuring that the proposed cost or price appears acceptable for subagreement award for all subagreements in excess of $100,000. Although the primary responsibility for cost analysis rests with the grantee, EPA may perform a pre-award cost analysis on any subagreement.

(5) *Federal cost principles.* Appropriate consideration should be given to § 30.710 of this subchapter and § 33.235 which contain general cost principles which must be used for the determination of the allowability of costs under grants. The contractor's actual costs, direct and indirect, allowable for Federal participation shall be determined in accordance with the terms and conditions of the subagreement, this subpart, and, the appropriate cost principles. Examples of costs which are not allowable under the cost principles include, but are not limited to, entertainment, interest on borrowed capital, and bad debts.

(6) *Acceptable accounting systems.* The contractor shall have an accounting system which accounts for costs in accordance with generally accepted accounting principles and practices. This system shall provide for the identification and segregation of allowable and unallowable project costs among projects. The contractor must propose and account for costs in accordance with generally accepted accounting procedures and practices consistently applied.

(7) *Defective pricing.* Subagreements awarded on the basis of review of a cost element summary and a certification of complete, current and accurate cost and pricing data shall be subject to downward renegotiation or recoupment of funds where EPA or the grantee determines that such certification was not based on complete, current and accurate cost and pricing data or not based on costs allowable under the appropriate cost principles at the time of award.

(b) *Cost analysis.* (1) In those cases where there is less than adequate price competition, such as in single source procurement or in procurements where technical merit is the principal selection factor, a detailed analysis of the selectee's cost estimate and backup cost or pricing data is required as a substitute for comparison of prices for subagreements or amendments thereto in excess of $100,000. Cost estimates shall be presented on EPA Form 5700–41 (Cost or Price Summary Format for Subagreements under U.S. EPA Grants).

(2) Cost analysis includes the appropriate verification of cost data, the evaluation of specific elements of costs, and the projection of these data to determine the effect on prices of such factors as:

(i) The necessity for certain costs;

(ii) The reasonableness of amounts estimated for the necessary costs;

(iii) Allowability and applicability of contingencies;

(iv) The basis used for allocation of overhead costs; and

(v) The appropriateness of allocations of particular overhead costs to the proposed contract.

(3) Among the evaluations that should be made where the necessary data are available are comparisons of a contractor's or offeror's current estimated costs with:

(i) Actual costs previously incurred by the contractor or offeror;

(ii) The contractor's or offeror's last prior cost estimate for the same or a similar item with a series of his prior estimates;

(iii) Current cost estimates from other possible sources; and

(iv) Prior estimates of historical costs of other contractors manufacturing the same or similar items.

(4) Forecasting future trends in costs from historical cost experience is of primary importance. An adequate cost analysis must include consideration of future trends in costs when reasonably determinable.

(5) In addition to the elements of cost, the amount of profit shall be set forth separately in the cost analysis.

(c) *Price analysis.* Price analysis is the process of evaluating a prospective price without regard to the contractor's separate cost elements and proposed profit. Price analysis is used when the goods or services required lend themselves to price comparison and may be accomplished in various ways including the following:

(1) The comparison of prior quotations and contract prices with current quotations for the same or similar end items;

(2) The comparison of prices set forth in published price lists issued on a competitive basis, published market price commodities, and similar indicia, together with discount or rebate arrangements;

(3) The comparison of proposed prices with estimates of cost independently developed by personnel within the activity; or

(4) The comparison of ratios (dollars per square foot, per hour, per drawing, and so forth) to highlight major deviations from past buys.

(d) *Cost review.* (1) A review of all proposed subagreement costs shall be made by the grantee.

(2) As a minimum, proposed subagreement costs shall be presented on EPA Form 5700–41 (Cost or Price Summary Format for Subagreements Under U.S. EPA Grants). The selected contractor shall certify on this form that proposed costs reflect complete, current and accurate cost and pricing data applicable to the date of anticipated subagreement award.

(3) In addition to the specific elements of cost, the estimated amount of profit shall be set forth separately in the

cost summary for fixed price contracts and a maximum total dollar amount of profit shall be set forth separately in the cost summary for cost reimbursement contracts.

(4) More detailed cost data than that required by the summary format may be required by the grantee to substantiate the reasonableness of proposed subagreement costs. Such detailed documentation is normally required by EPA only when the selected contractor is unable to certify that the cost and pricing data used are complete, current and accurate. EPA may, on a selected basis, perform a preaward cost analysis on any subagreement.

(5) Normally, a provisional overhead rate will be agreed upon prior to contract award.

§ 33.510–4 Profit.

The objective of negotiations shall be the exercise of sound business judgment and good administrative practice including the determination of a fair and reasonable profit based on the firm's assumption of risk and contribution to total performance and not merely the application of a predetermined percentage factor. For the purpose of subagreements under EPA grants, profit is defined as the net proceeds obtained by deducting all allowable costs (direct and indirect) from the price. (Because this definition of profit is based on Federal procurement principles, it may vary from the firm's definition of profit for other purposes.) Profit on a subagreement and each amendment to a subagreement under a grant should be sufficient to attract proposers who possess talents and skills necessary to the accomplishment of project objectives, and to stimulate efficient and expeditious completion of the project. Where cost review is performed, the estimate of profit should be reviewed by the grantee as are all other elements of price.

§ 33.510–5 Negotiation.

(a) Grantees are responsible for negotiation of their contracts. Contract procurement, including negotiation, may be performed by the grantee directly or by another non-Federal governmental body, person or firm retained for the purpose.

(b) The object of negotiations with any candidate shall be to reach agreement on the provisions of the proposed contract. The grantee and the candidate shall discuss, as a minimum:

(1) The scope and extent of work and other essential requirements;

(2) Identification of the personnel and facilities necessary to accomplish the work within the required time, including where needed, employment of additional personnel, subcontracting, joint ventures, etc.;

(3) Provision of the required services in accordance with regulations and criteria established for the project; and

(4) A fair and reasonable price for the required work, to be determined in accordance with the cost and profit considerations set forth in §§ 33.510–3 and 33.510–4 and payment provisions.

(c) At no time during the entire procurement process shall information which would provide an unfair competitive advantage be conveyed to any candidate.

(d) In the case of architect-engineering services, negotiation shall be conducted either in accordance with the principles of Pub. L. 92–582, 40 U.S.C. 541–544 (commonly known as the Brooks Bill and incorporated in Federal Procurement Regulations at 41 CFR Part 1–410) or in accordance with State or local procedures.

§ 33.510–6 Award of contract.

(a) After the close of negotiations and after review and approval by the EPA Project Officer if required under § 33.510–3, the grantee may award the contract. (§ 33.510–3 requires the grantee to obtain the written approval of the Project Officer for each subagreement and amendments thereto in excess of $100,000 and of the cost analysis thereof prior to execution of the subagreement.)

(b) Unsuccessful candidates should be notified promptly.

§ 33.515 Subcontracts under negotiated subagreements.

The award or execution of subcontracts in excess of $10,000 under a negotiated contract awarded to a contractor by a grantee, and the procurement and negotiation procedures used by the contractor in awarding such subcontracts are not required to comply with any of the provisions, selection procedures, policies or principles set forth in § 33.510, except those following:

(a) Section 33.100 (Grantee procurement systems, State and local law);

(b) Section 33.110 (Profits);

(c) Section 33.120 (Types of contracts);

(d) Section 33.135 (Small and minority business);

(e) Section 33.225(b) (Prohibition against listed violating facilities);

(f) Section 30.245 (Fraud and other unlawful or corrupt practices); and

(g) Section 33.510–3 (Cost and price considerations).

Subpart F—Required Provisions

§ 33.600 General.

The grantee shall assure that each subagreement in excess of $10,000 defines a sound and complete agreement and complies with the requirements of this subpart.

§ 33.605 Required solicitation statement.

Invitations for bids or requests for qualifications or proposals must include the following statement, as well as the proposed terms of the subagreement:

Any contract awarded under this (invitation for bids or request for qualifications/proposals) is expected to be funded in part by a grant from the United States Environmental Protection Agency. This procurement will be subject to regulations contained in 40 CFR Subchapter B, and particularly Part 33 thereof. Neither the United States nor the United States Environmental Protection Agency is nor will be a party to this (invitation for bids or request for qualifications/proposals) or to any resulting contract.

§ 33.610 Required subagreement provisions.

Each subagreement must include adequate information to comply with paragraphs (a) through (l) of this section. If any of the elements of paragraph (a) through (e) of this section cannot be defined adequately for later tasks at the time of contract execution, those tasks shall not be included in the contract initially, but may be the subject of an amendment when adequate definition is possible.

(a) The scope and extent of contract work;

(b) The time for performance and date of completion of the contract work, including, where appropriate, dates for completion of significant tasks;

(c) The contract price and method of payment;

(d) Identification of key personnel and facilities necessary to accomplish the work within the required time;

(e) The extent of subcontracting and consulting agreements;

(f) Provision for changes by the grantee within the general scope of the contract in the services or work to be performed;

(g) Provision for termination by the grantee of contract performance for default by the contractor or for the convenience of the grantee and, where appropriate, for suspension by the grantee of the contractor's performance of project work under the contract;

(h) Provision for resolution of disputed matters arising under the contract through adjudication, administrative remedies, or arbitration, at the option of the grantee;

(i) Sanctions or penalties for nonperformance by the contractor;

(j) In the case of subagreements expected to exceed $100,000, a provision which requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to sec. 306 of the Clean Air Act (42 U.S.C. 1857h–4) and sec. 508 of the Federal Water Pollution Control Act (33 U.S.C. 1368) as amended;

(k) Notice of grantor agency regulations and other Federal requirements applicable to the performance of contract work;

(l) All provisions needed to insure contractor conformance with the terms, conditions and specifications of the contract.

§ 33.615 Required standard subagreement clauses.

Appendix A to this part contains standard clauses which shall be included verbatim in all subagreements. As used in the standard clauses, the term "Grantee" means the party awarded the EPA grant, and the term "Contractor" means the party to a subagreement as defined in § 33.005. (In the subagreement,

grantees may substitute other terms for Grantee and Contractor if they so desire.)

Subpart G—Protests Against Award

§ 33.700 Summary.

A protest based upon an alleged violation of the procurement requirements of Part 33 may be filed against a grantee's procurement action by a party with an adversely affected direct financial interest. However, the protest procedures of this subpart are not available to parties executing subcontracts with prime contractors except as specifically provided in this subpart. Any such protest must be received by the grantee within the time period set forth in § 33.705(a). The grantee is responsible for resolution of the protest prior to the taking of the protested action, in accordance with § 33.715, except as otherwise provided by §§ 33.745 and 33.750. The Deputy Assistant Administrator for Resources Management (for grants awarded by Headquarters) or the Regional Administrator (for grants awarded by a region) will review grantee protest determinations in accordance with § 33.720, if a timely request for such review is filed under § 33.705(b). In the case of protests which he determines are untimely, frivolous or without merit, the Deputy Assistant Administrator or the Regional Administrator may take such actions as are described in §§ 33.740(b) and 33.750.

§ 33.705 Time limitations.

(a) A protest under § 33.715 should be made as early as possible during the procurement process (for example, immediately after issuance of a solicitation for bids) to avoid disruption of or unnecessary delay to the procurement process. A protest authorized by § 33.715 must be received by the grantee within one week after the basis for the protest is known or should have been known, whichever is earlier (generally, in the case of formally advertised procurement, within one week after bid opening, if the basis for the protest is, or should have been, then known). However, in the case of an alleged violation of the nonrestrictive specification requirements of § 33.123, or other requirements of this part, the grantee may resolve the protest prior to receipt of bids or proposals, if, by earlier written or other formal notice to any party with a direct financial interest, the grantee has stated its position concerning a procurement requirement (e.g., that a product fails to qualify as an "or equal"), and, thereafter, the protest was received by the grantee within one week from the date of receipt of its written or other formal notice. In addition, where an alleged violation of the nonrestrictive specification requirements of § 33.123, or other requirements of this part, first arrives subsequent to the receipt of bids or proposals, the grantee must decide the protest: *Provided*, That the protest was received by the grantee within one week of the time that the grantee's written or other formal notice is first received.

(b) A protest appeal authorized by § 33.720 must be received by the Deputy Assistant Administrator or Regional Administrator within one week after the complainant has received the grantee's determination.

(c) If a protest is mailed, the complaining party bears the risk of nondelivery within the required time period. It is suggested that all documents transmitted under this section be mailed by certified mail (return receipt requested) or otherwise delivered in a manner which will objectively establish the date of receipt. Initiation of protest actions under § 33.715 or § 33.720 may be made by brief telegraphic notice complying with § 33.710. Telephonic protests will not be considered.

§ 33.710 Other initial requirements.

(a) The initial protest document must briefly state the basis for the protest, and should (1) refer to the specific section(s) of this subpart which allegedly prohibit the procurement action, (2) specifically request a determination under this section, (3) identify the specific procurement document(s) or portion(s) thereof in issue, and (4) include the name, telephone number, and address of the person representing the protesting party.

(b) The party filing the protest must concurrently transmit a copy of the initial protest document and any attached documentation to all other parties with a direct financial interest which may be adversely affected by the determination of the protest (generally, all bidders or proposers who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied or sustained) and to the appropriate EPA Deputy Assistant Administrator or Regional Administrator.

§ 33.715 Grantee determination.

(a) The grantee is responsible for the initial resolution of protests based upon alleged violations of the procurement requirements of this subpart.

(b) Upon receipt of a timely written protest the grantee must:

(1) Afford the complaining party and interested parties an opportunity to present arguments in support of their views in writing or at a conference or other suitable meeting (such as a city council meeting);

(2) Inform the complainant and other interested parties of the procedures which the grantee will observe for resolution of the protest;

(3) Obtain an appropriate extension of the period for acceptance of the bid and bid bond(s) of each interested party, where applicable; failure to agree to a suitable extension of such bid and bid bond(s) by the party which initiated the protest shall be cause for summary dismissal of the protest by the grantee or the Deputy Assistant Administrator or the Regional Administrator; and

(4) Promptly deliver (preferably by certified mail, return receipt requested, or by personal delivery) its written determination of the protest to the complaining party and to each other participating party.

(c) The grantee's determination must be accompanied by a legal opinion addressing issues arising under state, territorial, or local law (if any), and, where construction is involved, by an engineering report, if appropriate.

(d) The grantee should seek to resolve any such protest as promptly as possible—generally within three weeks after receipt of a protest, unless extenuating circumstances require a longer period of time for proper resolution of the protest.

§ 33.720 EPA Review.

(a) A party with a direct financial interest adversely affected by a grantee determination made pursuant to § 33.715 with respect to a procurement requirement of this part may submit a written request to the Deputy Assistant Administrator (Attention: Assistant General Counsel, Grants) or the Regional Administrator (Attention: Regional Counsel) for his review of such determination. Any such request must be in writing, must adequately state the basis for the protest (including reference to the specific section(s) of this subpart alleged to prohibit the procurement action), and must be received by the Deputy Assistant Administrator or the Regional Administrator within one week after the complaining party has received the grantee's determination of the protest. A copy of the grantee's determination and other documentation in support of the request for review shall be transmitted with the request.

(b) The Assistant General Counsel, Grants, or the Regional Counsel will afford both the grantee and the complaining party, as well as any other party with a financial interest which may be adversely affected by determination of the protest, an opportunity to present arguments in support of their views in writing or at a conference at a time and place convenient to the parties, as determined by the Assistant General Counsel, Grants or Regional Counsel, or his designee, and he shall thereafter promptly submit in writing his report and recommendations concerning the protest to the Deputy Assistant Administrator or the Regional Administrator.

(c) Any such conference should be held within not more than ten days after receipt of the request for review, and the proposed determination or report should be transmitted to the Deputy Assistant Administrator or the Regional Administrator within ten days after the date set for receipt of the participants' written materials or for the conference. The Deputy Assistant Administrator or the Regional Administrator should transmit his determination of the protest with an adequate explanation thereof to the grantee and simultaneously to each participating party within one week after receipt of the proposed determination or report and recommendations. His determination shall constitute final agency action, from which there shall be no further administrative appeal. The Assistant General Counsel, Grants, or the Regional Counsel may extend these time limitations, where appropriate.

§ 33.725 Procedures.

(a) Where resolution of an issue properly raised with respect to a procurement requirement of this subpart requires prior or collateral resolution of a legal issue arising under State or local law, and such law is not clearly established in published legal decisions of the State or other relevant jurisdiction, the grantee or the Deputy Assistant Administrator or the Regional Administrator may rely upon:

(1) An option of the grantee's legal counsel adequately addressing the issue, or

(2) The established or consistent practice of the grantee, to the extent appropriate, or

(3) The law of other States or local jurisdictions as established in published legal decisions, or

(4) If none of the foregoing adequately resolves the issue, published decisions of the Comptroller General of the United States (U.S. General Accounting Office) or of the Federal courts addressing comparable Federal requirements.

(b) For the determination of Federal issues presented by the protest, the Deputy Assistant Administrator or the Regional Administrator may rely upon:

(1) Determinations of other protests decided under this section, unless such protests have been reversed, and

(2) Published decisions of the Comptroller General of the United States or of the Federal courts addressing comparable Federal requirements.

(c) The Assistant General Counsel, Grants, or the Regional Counsel may establish additional procedural requirements or deadlines for the submission of materials by parties or for the accomplishment of other procedures. Where time limitations are established by this subpart or by the Assistant General Counsel, Grants, or the Regional Counsel, participants must seek to accomplish the required action as promptly as possible in the interest of expediting the procurement action.

(d) A party who submits a document subsequent to initiation of a protest proceeding pursuant to §§ 33.715 or 33.720 must simultaneously furnish each other party with a copy of such document.

(e) The procedures established by this section are not intended to preclude informal resolution or voluntary withdrawal of protests. A complainant may withdraw its appeal at any time, and the protest proceeding shall thereupon be terminated.

(f) Appropriate provisions of this Subpart may be utilized in the discharge of EPA responsibility to review grantee procurement methods under § 33.150.

(g) A protest may be dismissed for failure to comply with procedural requirements of this subpart (see, particularly, §§ 33.710, 33.720(a), and 33.725 (c) and (d)).

§ 33.730 Burden of proof.

(a) In proceedings under §§ 33.715 and 33.720 if the grantee proposes to award a formally advertised, competitively bid, fixed price contract to a party who has submitted the apparent lowest price, the party initiating the protest will bear the burden of proof in the protest proceedings.

(b) In the proceedings pursuant to § 33.720,

(1) If the grantee proposes to award a formally advertised, competitively bid, fixed-price contract to a bidder other than the bidder which submitted the apparent lowest price, the grantee will bear the burden of proving that its determination concerning responsiveness is in accordance with this subchapter; and

(2) If the basis for the grantee's determination is a finding of nonresponsibility, the grantee must establish and substantiate the basis for its determination and must adequately establish that such determination has been made in good faith.

§ 33.735 Deferral of procurement action.

Upon receipt of a protest pursuant to § 33.715, the grantee must defer the protested procurement action (for example, defer contract award or issuance of notice to proceed under a contract) until ten days after delivery of its determination to the participating parties. Where the Deputy Assistant Administrator or the Regional Administrator has received a written protest appeal he must notify the grantee promptly to defer its protested procurement action until notified of the formal or informal resolution of the protest. If a determination is made by either the grantee or the Deputy Assistant Administrator or the Regional Administrator which is favorable to the complainant, the grantee's procurement action (for example, contract award) must be taken in accordance with such determination.

§ 33.740 Enforcement.

(a) Noncompliance with the procurement provisions of this part by the grantee shall be cause for enforcement action in accordance with one or more of the provisions of § 33.150.

(b) If the Deputy Assistant Administrator or the Regional Administrator determines that a protest prosecuted pursuant to this subpart is frivolous, he may determine the party which prosecuted such protest to be not responsible and ineligible for future contract award (see also § 33.150).

§ 33.745 Limitation.

A protest may not be filed pursuant to this subpart with respect to the following:

(a) Issues not arising under the procurement provisions of this subchapter; or

(b) Issues relating to the selection of a consultant, *Provided*, That a protest may be filed only with respect to the mandatory procedural requirements of this part;

(c) Issues primarily determined by State or local law or ordinances and as to which the Deputy Assistant Administrator or Regional Administrator, upon review, determines that there is no contravening Federal requirement;

(d) Provisions of Federal regulations applicable to direct Federal contracts, unless such provisions are explicitly referred to or incorporated in this part;

(e) Basic project design determinations;

(f) Award of subcontracts or issuance of purchase orders under a formally advertised, competitively bid, lump-sum construction contract: *Provided*, That protest may be made with respect to alleged violation of the following:

(1) Nonrestrictive specifications (see § 33.123); or

(2) Provisions of this part applicable to the procurement procedures, negotiation or award of subcontracts or issuance of purchase orders under § 33.410–10 (Subcontracts under formally advertised subagreements).

§ 33.750 Summary disposition.

The Deputy Assistant Administrator or Regional Administrator may summarily dismiss a protest, without proceedings under § 33.715 or 33.720, if he determines that the protest is untimely, frivolous or without merit. Any such determination shall refer briefly to the facts substantiating the basis for the determination.

APPENDIX A—REQUIRED PROVISIONS

(The grantee may substitute its own provisions for Clauses 2–6, 9, and 12, if such provisions meet the requirements of Subpart F to 40 CFR Part 33.)

1. GENERAL

(a) The Grantee and the Contractor agree that the following provisions shall apply to the work to be performed under this contract and that such provisions shall supersede any conflicting provisions of this contract.

(b) This contract is funded in part by a grant from the U.S. Environmental Protection Agency. Neither the United States nor any of its departments, agencies or employees is a party to this contract. This contract is subject to regulations contained in 40 CFR Part 33 in effect on the date of execution of this contract.

(c) The rights and remedies of the Grantee provided for in these clauses are in addition to any other rights and remedies provided by law or under this contract.

2. CHANGES

(a) The Grantee may, at any time, without notice to any surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the contract, including but not limited to changes:

1. In the specifications (including drawings and designs);

(2) In the method or manner of performance of the work;

(3) In the Grantee-furnished facilities, equipment, materials, services, or site; or

(4) Directing acceleration in the performance of the work.

(b) Any other written order or an oral order (which terms as used in this paragraph (b) shall include direction, instruction, interpretation or determination) from the Grantee, which causes any such change, shall be treated as a change order under this clause: *Provided*, That the Contractor gives the Grantee written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a change order.

(c) Except as herein provided, no order, statement, or conduct of the Grantee shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment hereunder.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any order, an equitable adjustment shall be made and the contract modified in writing accordingly: *Provided, however,* That except for claims based on defective specifications, no claim for any change under (b) above shall be allowed for any costs incurred more than 20 days before the Contractor gives written notice as therein required: *And provided further,* That in the case of defective specifications for which the Grantee is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with such defective specifications.

(e) If the Contractor intends to assert a claim for an equitable adjustment under this clause, he must, within 30 days after receipt of a written change order under (a) above or the furnishing of a written notice under (b) above, submit to the Grantee a written statement setting forth the general nature and monetary extent of such claim, unless this period is extended by the Grantee. The statement of claim hereunder may be included in the notice under (b) above.

(f) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

3. DIFFERING SITE CONDITIONS

(This clause is applicable only to construction contracts.)

(a) The Contractor shall promptly, and before such conditions are disturbed, notify the Grantee in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this contract. The Grantee shall promptly investigate the conditions, and if he finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the contract modified in writing accordingly.

(b) No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in (a) above: *Provided, however,* The time prescribed therefor may be extended by the Grantee.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this contract.

4. SUSPENSION OF WORK

(This clause is applicable only to construction contracts.)

(a) The Grantee may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Grantee.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted by an act of the Grantee in administration of this contract, or by his failure to act within the time specified in this contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (1) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or (2) for which an equitable adjustment is provided for or excluded under any other provision of this contract.

(c) No claim under this clause shall be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Grantee in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but not later than the date of final payment under the contract.

5. TERMINATION

(a) This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party: *Provided,* That no such termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(b) This agreement may be terminated in whole or in part in writing by the Grantee for its convenience: *Provided,* That the Contractor is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(c) If termination for default is effected by the Grantee, an equitable adjustment in the price provided for in this agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the Contractor at the time of termination may be adjusted to the extent of any additional costs occasioned to the Grantee by reason of the Contractor's default. If termination for default is effected by the Contractor, or if termination for convenience is effected by the Grantee, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by the Contractor relating to commitments which had become firm prior to the termination.

(d) Upon receipt of a termination action pursuant to paragraphs (a) or (b) above, the Contractor shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) deliver or otherwise make available to the Grantee all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this agreement, whether completed or in process.

(e) Upon termination pursuant to paragraphs (a) or (b) above, the Grantee may take over the work and prosecute the same to completion by agreement with another party or otherwise.

(f) If, after termination for failure of the Contractor to fulfill contractual obligations, it is determined that the Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Grantee. In such event, adjustment of the price provided for in this agreement shall be made as provided in paragraph (c) of this clause.

6. REMEDIES

Except as may be otherwise provided in this agreement, all claims, counter-claims, disputes and other matters in question between the Grantee and the Contractor arising out of or relating to this agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which the Grantee is located.

7. AUDIT; ACCESS TO RECORDS

(a) The Contractor shall maintain books, records, documents and other evidence directly pertinent to performance on EPA grant work under this contract in accordance with generally accepted accounting principles and practices consistently applied and 40 CFR 30.505, and 30.805. The Contractor shall also maintain the financial information and data used by the Contractor in the preparation or support of the cost submission required under 40 CFR 33.510-3 in effect on the date of execution of this contract and a copy of the cost summary submitted to the Grantee. The United States Environmental Protection Agency, the Comptroller General of the United States, the United States Department of Labor, the Grantee (and the State, where applicable) or any of their duly authorized representatives shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Contractor will provide proper facilities for such access and inspection.

(b) The Contractor agrees to include paragraphs (a) and (b) of this clause in all his contracts and all tier subcontracts directly related to project performance which are in excess of $10,000.

8. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

(This clause is applicable if the amount of this agreement exceeds $100,000.)

(a) If EPA or the Grantee determines that any price, including profit, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Contractor, or any subcontractor furnished incomplete or inaccurate cost or pricing data or data not current as certified in his certification of current cost or pricing data (EPA Form 5700-41), then such price or cost or profit shall be reduced accordingly and the agreement shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be subject the "Remedies" clause of this agreement.

NOTE.—Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Contractor. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.)

9. SUBCONTRACTS

(a) Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by this agreement will be limited to such individuals or firms as were specifically identified and agreed to during negotiations, or as are specifically authorized by the grantee during the performance of this agreement. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior approval of the grantee.

(b) The Contractor may not subcontract services in excess of thirty percent (or ____ percent, if the grantee and the Contractor hereby agree) of the contract price to subcontractors or consultants without prior written approval of the Grantee.

10. LABOR STANDARDS

To the extent that this agreement involves "construction" (as defined by the Secretary of Labor), the Contractor agrees that such construction work shall be subject to the following labor standards provisions, to the extent applicable:

(a) Davis-Bacon Act (40 U.S.C. 276a–276a–7);

(b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333);

(c) Copeland Anti-Kickback Act (18 U.S.C. 874); and

(d) Executive Order 11246 (Equal Employment Opportunity);

and implementing rules, regulations, and relevant orders of the Secretary of Labor or EPA; and the Contractor further agrees that this agreement shall include and be subject to the "Labor Standards Provisions for Federally Assisted Construction Contracts" (EPA Form 5720–4) in effect at the time of execution of this agreement.

11. EQUAL EMPLOYMENT OPPORTUNITY

In accordance with EPA policy as expressed in 40 CFR 30.420–5, the Contractor agrees that he will not discriminate against any employee or applicant for employment because of race, religion, color, sex, age or national origin.

12. UTILIZATION OF SMALL AND MINORITY BUSINESS

In accordance with EPA policy as expressed in 40 CFR 33.130, the Contractor agrees that qualified small business and minority business enterprises shall have the maximum practicable opportunity to participate in the performance of EPA grant-assisted contracts and subcontracts.

13. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty the Grantee shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

14. GRATUITIES

(a) If it is found, after notice and hearing, by the Grantee that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any official, employee or agent of the Grantee or of EPA with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of this contract, the Grantee may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract and/or may pursue such other rights and remedies provided by law or under this agreement: *Provided*, That the existence of the facts upon which the Grantee makes such findings shall be in issue and may be reviewed in proceedings pursuant to the Remedies clause of this contract.

(b) In the event this contract is terminated as provided in paragraph (1) hereof, the Grantee shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Grantee) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

15. PATENTS

If this contract involves research, developmental, experimental, or demonstration work and any discovery or invention arises or is developed in the course of or under this agreement, such invention or discovery shall be subject to the reporting and rights provisions of Subpart D of 40 CFR Part 30, in effect on the date of execution of this contract including Appendix B of said Part 30. In such case, the Contractor shall report the discovery or invention to EPA directly or through the Grantee, and shall otherwise comply with the Grantee's responsibilities in accordance with Subpart D of 40 CFR Part 30. The Contractor hereby agrees that the disposition of rights to inventions made under this contract shall be in accordance with the terms and conditions of aforementioned Appendix B. The Contractor shall include provisions appropriate to effectuate the purposes of this condition in all subcontracts involving research, developmental, experimental, or demonstration work.

16. COPYRIGHTS AND RIGHTS IN DATA

The Contractor agrees that any plans, drawings, specifications, computer programs (which are substantially paid for with EPA grant funds), technical reports, operating manuals, and other work submitted or which are specified to be delivered under this contract or which are developed or produced and paid for under this contract (referred to in this clause as "Subject Data") are subject to the rights in the United States, as set forth in Subpart D of 40 CFR Part 30 and in Appendix C to 40 CFR Part 30, in effect on the date of execution of this agreement, including the right to use, duplicate and disclose such Subject Data, in whole or in part, in any manner for any purpose whatsoever, and have others do so. For purposes of this article, "grantee" as used in said Appendix C shall refer to the Contractor. If the material is copyrightable, the Contractor may copyright such, as permitted by said Appendix C, and subject to the rights in the Government as set forth in Appendix C, but the Grantee and the Federal Government reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish and use such materials, in whole or in part, and to authorize others to do so. The Contractor shall include provisions appropriate to effectuate the purpose of this condition in all subcontracts expected to produce copyrightable Subject Data.

17. PROHIBITION AGAINST LISTED VIOLATING FACILITIES

(*Applicable only to a contract in excess of $100,000 and when otherwise applicable pursuant to 40 CFR Part 15.*)

(a) The Contractor agrees as follows:

(1) To comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857, et seq., as amended by Pub. L. 92–604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, as amended by Pub. L. 92–500), respectively relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in section 114 and section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency list of violating facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

(3) To use his best efforts to comply with clean air and clean water standards at the facilities in which the contract is being performed.

(4) To insert the substance of the provisions of this clause, including this subparagraph (4), in any nonexempt subcontract.

(b) The terms used in this clause have the following meanings:

(1) The term "Air Act" means the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub. L. 92–604).

(2) The term "Water Act" means the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub. L. 92–500).

(3) The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 1857c–5(d)), an approved implementation procedure or plan under section 111(c) or section 111(d), or an approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 1857c–7(d)).

(4) The term "Clean Water Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342), or by a local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

(5) The term "Compliance" means compliance with Clean Air or Water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

(6) The term "Facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, to be utilized in the performance of a contract or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location or site shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are located in one geographical area.

[FR Doc.77-3868 Filed 2-7-77;8:43 am]

federal register

TUESDAY, FEBRUARY 8, 1977

PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Status of Participating Communities

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-2669]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	* *	* *		*
Kansas	Marion	Hillsboro, city of	Jan. 17, 1977, emergency	Sept. 26, 1975	200305
Maine	Hancock	Tremont, town of	do	Jan 31, 1975	230208A
				Sept. 17, 1976	
Minnesota	St. Louis	Cook, city of	Dec. 3, 1971, emergency; Mar. 1, 1977, regular	Mar. 29, 1974	270430A
Missouri	Jasper	Carterville, city of	Jan. 17, 1977, emergency	Dec. 28, 1973	290180A
				Feb. 6, 1976	
Oklahoma	Lincoln	Meeker, city of	do	Aug. 13, 1976	400404
Virginia	Accomack	Chincoteague, town of	Mar. 4, 1974, emergency; Mar. 1, 1977, regular	May 31, 1974	510002B
*	*	* *	* *		*
Michigan	Kalamazoo	Comstock, township of	Jan. 18, 1977, emergency	Oct. 10, 1975	260427
Oklahoma	Roger Mills	Cheyenne, town of	do	June 28, 1974	400183A
				Aug. 13, 1976	
Do	McClain	Goldsby, town of	do	Nov. 19, 1976	400402
Texas	Collin	Fairview, town of	do	Jan. 10, 1975	481069
*	*	* *	* *		*
Illinois	Mason	Unincorporated areas	Jan. 19, 1977, emergency	Mar. 26, 1976	170463
Michigan	Ingham	Stockbridge, village of	do	Oct. 3, 1975	260573
Missouri	McDonald	Noel, city of	do	May 24, 1974	290218A
				Nov. 14, 1975	
Pennsylvania	Greene	Morgan, township of	do	Nov. 1, 1974	421674
*	*	* *	* *		*
Minnesota	Itasca	Keewatin, city of	Jan. 21, 1977, emergency	May 3, 1974	270205A
New York	Cattaraugus	Farmersville, town of	do	June 28, 1974	360172A
				June 11, 1976	
Do	Clinton	Schuyler Falls, town of	do	Sept. 13, 1974	360172A
				Sept. 17, 1976	
Do	Washington	Whitehall, town of	do		361239
Do	Cortland	Willet, town of	do	Dec. 20, 1974	361331A
				June 11, 1976	
Pennsylvania	Huntingdon	Cass, township of	do	Dec. 27, 1974	421686
*	*	* *	* *		*
New Jersey	Hunterdon	Clinton, town of	Nov. 10, 1972, emergency; Feb. 2, 1977, regular	Oct. 18, 1974	340233A
Do	Essex	East Orange, city of	July 14, 1972, emergency; Feb. 2, 1977, regular	Feb. 13, 1976	340181A
Ohio	Medina and Wayne	Rittman, city of	Oct. 20, 1972, emergency; Dec. 31, 1976, regular	Oct. 26, 1973	390578B
				Mar. 28, 1975	
Texas	Atascosa and Bexar	Lytle, city of	Jan. 17, 1974, emergency; Feb. 2, 1977, regular	Aug. 2, 1974	480692B
				July 18, 1975	

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969 as amended 39 FR 2787, Jan. 24, 1974.)

Issued: January 13, 1977.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.77-3603 Filed 2-7-77;8:45 am]

[Docket No. FI 2679]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Hous-

ing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) of the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	*	*	*	*
Florida	Lake	Minneola, town of	Jan. 24, 1977, emergency	July 23, 1976	120412
Iowa	Howard	Lime Springs, town of	do	Sept. 19, 1975	190417
Nebraska	Cedar	Randolph, city of	do	Apr. 25, 1975	310097
Texas	Cherokee	Alto, city of	do	Aug. 29, 1975	480540
*	*	*	*	*	*
Georgia	Fayette	Unincorporated areas	Jan. 25, 1977, emergency	Feb. 20, 1976	130032
Kansas	Washington	Hanover, city of	do	July 18, 1975	200500
Louisiana	St. Tammany	Pearl River, town of	do	May 24, 1974	225050
				July 9, 1976	
Missouri	Worth	Denver, village of	do	Nov. 22, 1974	290413
Do	Jackson	Sugar Creek, city of	do		290178
New York	Allegany	Belfast, town of	do	Oct. 18, 1974	361000
				July 16, 1976	
Do	Washington	Dresden, town of	do	Feb. 14, 1975	36141
Pennsylvania	Butler	Slippery Rock, township	do	Oct. 8, 1976	420
West Virginia	Lewis	Unincorporated areas	do	Feb. 21, 1975	540
*	*	*	*	*	*
Florida	Nassau	Fernandina Beach, city of	Aug. 16, 1974, emergency; Jan. 14, 1977, regular.	Aug. 16, 1974	1201
				Feb. 27, 1976	
New York	Otsego	Worcester, town of	Jan. 26, 1977, emergency	Nov. 1, 1974	361397
				Aug. 13, 1976	
Pennsylvania	Clearfield	Houtzdale, borough of	do	May 17, 1974	420307
Utah	Sevier	Aurora, town of	do	Jan. 31, 1975	4901
Arkansas	Miller	Texarkana, city of	Jan. 14, 1977, suspension withdrawn.	May 24, 1974	050137
				Oct. 10, 1975	
Florida	Nassau	Fernandina Beach, city of	do	Aug. 16, 1974	120178
				Feb. 27, 1976	
Delaware	New Castle	Elsmere, town of	do	Jan. 31, 1975	100
Pennsylvania	Bucks	Chalfont, borough of	do	Mar. 16, 1973	420217
Do	Dauphin	Middletown, borough of	do	Feb. 20, 1973	420
Do	Northampton	Palmer, township of	do	Apr. 20, 1973	420
Do	Lycoming	Porter, township of	do	May 3, 1974	420656
				July 9, 1976	
Do	Luzerne	Shickshinny, borough of	do	Mar. 30, 1973	420659
				May 14, 1976	
Virginia	Independent city	Chesapeake, city of	do	June 18, 1970	510081
				Jan. 23, 1976	
*	*	*	*	*	*
California	Monterey	Greenfield, city of	Jan. 27, 1977, emergency	Aug. 6, 1976	060141
Michigan	Ingham	Williamstown, township of	do	Aug. 27, 1976	260093
Minnesota	Ottertail	Bluffton, city of	do	Aug. 9, 1974	270333 A
				June 25, 1976	
Pennsylvania	Crawford	Beaver, township of	do	Feb. 28, 1975	42238
Do	Indiana	Indiana, borough of	do		420401
Do	Cambria	Washington, township of	do	Nov. 22, 1974	42144

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: January 24, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-3660 Filed 2-7-77;8:45 am]

[Docket No. FI-2670]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at § 1912.5, 24 CFR Part 1912).

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified for at least one year by the Secretary of Housing and Urban Development. The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except as authorized by section 202(b) or the Act, as amended, unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.6 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effecive date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.6 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
*	*	* *	*	*	*
Iowa	Pottawattamie	Crescent, city of	Feb. 1, 1977, emergency	Sept. 26, 1975	190722
New York	Cayuga	Genoa, town of	do	June 28, 1974	360111A
				June 18, 1976	
Pennsylvania	Clearfield	Brady, township of	do	Nov. 15, 1974	421517
Texas	Anderson	Frankston, city of	do	Aug. 16, 1974	480003A
				Jan. 9, 1976	
*	*	* *	*	*	*
Florida	Martin	Jupiter Island, town of	Sept. 17, 1971, emergency; Feb. 2, 1977, regular	May 24, 1974	120162A
Do	Broward	Sea Ranch Lakes, village of	Oct. 20, 1972, emergency; Feb. 16, 1977, regular	June 21, 1974	120056B
Do	Hillsborough	Temple Terrace, city of	July 16, 1971, emergency; Mar. 15, 1977, regular	July 19, 1974	120115B
				Feb. 27, 1976	
Illinois	Peoria	Chillicothe, city of	June 9, 1972, emergency; Feb. 2, 1977, regular	Aug. 9, 1974	170535A
Louisiana	Jefferson	Westwego, city of	Apr. 27, 1973, emergency; Dec. 28, 1976, regular	July 16, 1976	220094A
Maryland	Dorchester and Caroline	Federalsburg, town of	Nov. 5, 1971, emergency; Mar. 15, 1977, regular	Jan. 30, 1976	240013A
Missouri	Clay and Ray	Excelsior Springs, city of	Nov. 12, 1971, emergency; Mar. 15, 1977 regular	Apr. 5, 1974	290069B
				May 28, 1976	
Do	Newton	Seneca, city of	Aug. 30, 1974, emergency; Mar. 15, 1977, regular	Mar. 22, 1974	290369B
Do	St. Charles	St. Charles, city of	June 27, 1973, emergency; Mar. 15, 1977, regular	do	290318A
New Jersey	Mercer	Hightstown, borough of	June 9, 1972, emergency; Mar. 15, 1977, regular	Jan. 9, 1974	340247B
Do	Union	Mountainside, borough of	June 9, 1972, emergency; Feb. 16, 1977, regular	Feb. 16, 1977	340468
Do	Monmouth	Neptune, township of	Jan. 14, 1972, emergency; Feb. 16, 1977, regular	July 13, 1973	340357B
				Sept. 3, 1976	
Do	do	Oceanport, borough of	July 14, 1972, emergency; Feb. 16, 1977, regular	May 11, 1973	340320A
Do	Passaic	Paterson, city of	Nov. 12, 1971, emergency; Feb. 16, 1977, regular	June 1, 1973	340404
*	*	* *	*	*	*
Do	Bergen	Ridgefield, borough of	Jan. 14, 1972, emergency; Mar. 15, 1977, regular	June 15, 1973	340065A
Do	Union	Summit, city of	Nov. 24, 1972, emergency; Feb. 2, 1977, regular	Mar. 16, 1973	340476A
Do	Monmouth	Wall, township of	Dec. 17, 1971, emergency; Feb. 16, 1977, regular	June 1, 1973	340333A
North Carolina	Haywood	Canton, town of	July 2, 1973, emergency; Feb. 20, 1976, regular	Oct. 12, 1973	370121B
				Feb. 20, 1976	
Do	Carteret	Morehead City, town of	Apr. 13, 1973, emergency; Feb. 16, 1977, regular	Feb. 22, 1974	370048A
Pennsylvania	Mercer	Mercer, borough of	May 12, 1972, emergency; Mar. 15, 1977, regular	June 15, 1973	420676A
Do	Wayne	Paupack, township of	Dec. 10, 1973, emergency; Mar. 1, 1977, regular	Dec. 13, 1974	421023B
				July 16, 1976	
Do	Delaware	Rose Valley, borough of	May 12, 1973, emergency; Feb. 2, 1977, regular	May 25, 1973	420431B
Do	Monroe	Stroudsburg, borough of	Aug. 25, 1972, emergency; Dec. 31, 1976, regular	June 21, 1974	420694A
				June 11, 1976	
West Virginia	Mingo	Delbarton, town of	Oct. 15, 1972, emergency; Mar. 15, 1977, regular	Mar. 2, 1973	540134B
				Apr. 9, 1976	
Wisconsin	Waupaca and Outagamie.	New London, city of	Mar. 10, 1972, emergency; Mar. 15, 1977, regular	Nov. 9, 1973	550378A
Missouri	Stoddard	Puxico, city of	Feb. 3, 1977, emergency	Mar. 8, 1974	290428A
				July 2, 1976	
Montana	Richland	Fairview, city of	do	Aug. 16, 1974	300064A
				May 14, 1976	
Oklahoma	LeFlore	Arkoma, town of	do	Aug. 13, 1976	400343
Pennsylvania	Fulton	Licking Creek, township of	do	Dec. 20, 1974	421666A
				Apr. 30, 1976	
Washington	Snohomish	Mukilteo, city of	do	July 11, 1975	530235

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969 as amended 39 FR 2787, Jan. 24, 1974.)

Issued: January 27, 1977.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.77-3661 Filed 2-7-77;8:45 am]

[Docket No. FI 2601]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by Federally regulated, insured, supervised or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Secretary, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Secretary, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

The effective date of identification shall be 30 days after the date of publication in the FEDERAL REGISTER (March 10, 1977). This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER (March 10, 1977) or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER (March 10, 1977) or the effective date of the Flood Hazard Boundary Map, whichever is later.

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

§ 11915.3 List of communities with special hazard areas (FHBMs in effect).

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Marengo	Sweetwater, town of	H 010160A 01	Mayor, Sweetwater, Ala. 36782	July 18, 1975
Arkansas	Scott	Waldron, city of	H 050193A 01 through H 050193A 02.	Mayor, City Hall, Waldron, Ariz. 72958	Dec. 10, 1976 Apr. 5, 1974 Dec. 10, 1976
California	Los Angeles	La Mirada, city of	H 060131A 01 through H 060131A 03.	Administrative Assistant to City Manager, 13700 La Mirada, Calif. 90638.	June 28, 1974 Oct. 10, 1975 Dec. 10, 1976
Connecticut	Hartford	Canton, town of	H 090135A 01 through H 090135A 09.	Clerk—Planning Commission, 4 Market St., Collinsville, Conn. 06022.	Aug. 2, 1974 Dec. 10, 1976
Do	Middlesex	Cromwell, town of	H 090123A 01 through H 090123A 06.	Clerk, 5 West St., Cromwell, Conn. 06416	Mar. 22, 1974 Dec. 10, 1976
Do	Hartford	Hartland, town of	H 090146A 01 through H 090146A 11.	Selectman, South Rd., East Hartland, Conn. No ZIP code.	June 28, 1974 Dec. 10, 1976
Do	New London	Old Lyme, town of	H 090103A 01 through H 090103A 12.	Clerk, Memorial Town Hall, Lyme St., P.O. Box 338, Old Lyme, Conn. 06371.	Feb. 4, 1977
Do	New Haven	Orange, town of	H 090087A 01 through H 090087A 11.	Selectman, 617 Orange Center Rd., Orange, Conn. 06477	Sept. 13, 1973 Dec. 10, 1976
Do	Fairfield	Redding, town of	H 090141A 01 through H 090141A 10.	Selectman, Town Hall, Redding Center, Conn 06875	Aug. 23, 1974 Dec. 10, 1976
Do	do	Ridgefield, town of	H 090013A 01 through H 090013A 16.	Flood and Erosion Control Board, Town Hall, Ridgefield, Conn. 06877.	Sept. 13, 1974 Dec. 10, 1976
Florida	De Soto	Unincorporated areas	H 120072A 01 through H 120072A 36.	Chairman, County Commissioners, box 1399, Arcadia, Fla. 33821.	Feb. 4, 1977
Do	Polk	Lake Hamilton, town of	H 120414A 01 through H 120414A 04.	Mayor, P.O. Box 126, Lake Hamilton, Fla. 33851	Do.
Do	Martin	Stuart, city of	H 120165B 01 through H 120165B 04.	Engineer, P.O. Drawer 509, Stuart, Fla. 33494	Feb. 13, 1976 May 24, 1974 Dec. 10, 1976
Do	Broward	Sunrise, city of	H 120328A 01 through H 120328A 07.	Mayor, 1277 Northwest 61st Ave., Sunrise, Fla. 33313	Feb. 22, 1974 Dec. 10, 1976
Idaho	Clearwater	Orofino, city of	H 160047B 01 through H 160047B 04.	Mayor, City Hall, Orofino, Idaho 83544	Nov. 23, 1973 May 28, 1976 Dec. 10, 1976
Illinois	Lake	Vernon Hills, village of	H 170394B 01 through H 170394B 02.	Village President, 291 Oakwood Rd., Vernon Hills, Ill. No ZIP code.	Feb. 4, 1977
Iowa	Linn	Marion, city of	H 190191A 01 through H 190191A 07.	Mayor, City Hall, Marion, Iowa 52302	Mar. 1, 1974 Dec. 10, 1976
Do	Polk	Pleasant Hill, city of	H 190489A 01 through H 190489A 03.	Mayor, City Hall, Pleasant Hill, Iowa 50317	Feb. 4, 1977
Kentucky	Warren	Bowling Green, city of	H 210219A 01 through H 210219A 09.	Mayor, P.O. Box 130, Bowling Green, Ky. 42107	May 31, 1974 Dec. 10, 1976
Maine	Franklin	Carrabasset Valley, town of	H 230056A 01 through H 230056A 20.	Selectman, Town Hall, Carrabasset Valley, Maine 04947	Feb. 4, 1977
Do	Somerset	New Portland, town of	H 230365A 01 through H 230365A 12.	Secretary, New Portland Planning Board, P.O. Box 361, North New Portland, Maine 04961.	Dec. 27, 1974 Dec. 10, 1976
Do	Sagadahoc	Woolwich, town of	H 230210A 01 through H 230210A 16.	Selectman, Town Hall, Woolwich, Maine 04579	Feb. 4, 1977
Maryland	Caroline	Marydel, town of	H 240115A 01	President, Town Hall, Marydel, Md. 21649	Do.
Massachusetts	Bristol	Attleboro, city of	H 250049A 01 through H 250049A 12.	Selectman, 29 Park St., Attleboro, Mass. 02703	Aug. 16, 1974 Dec. 10, 1976
Do	Worcester	Auburn, town of	H 250292A 01 through H 250292A 06.	Selectman, Town Hall, 104 Central St., Auburn, Mass. 01501.	Aug. 16, 1974 Dec. 10, 1976
Do	Hampshire	Belchertown, town of	H 250157A 01 through H 250157A 02.	Selectman, Main St., Belchertown, Mass. 01007	June 21, 1974 Dec. 10, 1976
Do	Middlesex	Belmont, town of	H 250182A 01 through H 250182A 03.	Selectman, Town Hall, P.O. Box 56, Belmont, Mass. 02178	July 26, 1974 Dec. 10, 1976
Do	Essex	Beverly, city of	H 250077A 01 through H 250077A 09.	Mayor, City Hall, 191 Cabot St., Beverly, Mass. 01915	Aug. 16, 1974 Dec. 10, 1976
Do	Worcester	Brookfield, town of	H 250298A 01 through H 250298A 08.	Selectman, Town Hall, Central St., Brookfield, Mass. 01506.	May 3, 1974 Dec. 10, 1976
Do	Middlesex	Carlisle, town of	H 250187A 01 through H 250187A 08.	Selectman, Town Hall, Carlisle, Mass. 01741	Aug. 16, 1974 Dec. 10, 1976
Do	Berkshire	Lanesborough, town of	H 250027A 01 through H 250027A 11.	Selectman, P.O. Box D, Lanesborough, Mass. 01237	Mar. 29, 1974 Dec. 10, 1976
Do	Franklin	Leverett, town of	H 250120A 01 through H 250120A 08.	Selectman, Town Hall, Leverett Center, Leverett, Mass. 01054.	June 28, 1974 Dec. 10, 1976
Do	Middlesex	Lexington, town of	H 250198A 01 through H 250198A 11.	Planning Director, Town Hall, 1625 Massachusetts Ave., Lexington, Mass. 02173.	June 28, 1974 Dec. 10, 1976
Do	Worcester	Lunenburg, town of	H 250315A 01 through H 250315A 02.	Selectman, Town Hall, 17 Main St., Lunenburg, Mass. 01462.	Sept. 6, 1974 Dec. 10, 1976
Do	Middlesex	Maynard, town of	H 250204A 01 through H 250204A 02.	Board of Selectman, Office of Board of Selectman, Maynard, Mass. 01754.	July 26, 1974 Dec. 10, 1976
Do	Hampshire	Middlefield, town of	H 250166A 01 through H 250166A 10.	Selectman, Town Hall, Middlefield, Mass. 01243	Dec. 20, 1974 Dec. 10, 1976
Do	do	Pelham, town of	H 250168A 01 through H 250168A 11.	Selectman, Town Hall, R.F.D. No. 2, Pelham, Mass. 01002.	June 28, 1974 Dec. 10, 1976
Do	Essex	Saugus, town of	H 250104A 01 through H 250104A 06.	Selectman, Central St., Saugus, Mass. 01906	Sept. 13, 1974 Dec. 10, 1976
Do	Berkshire	Sheffield, town of	H 250041A 01 through H 250041A 15.	Chairman, Planning Board, Town Hall, Sheffield, Mass. 01257.	June 28, 1974 Dec. 10, 1976
Do	Middlesex	Sudbury, town of	H 250217A 01 through H 250217A 16.	Town Engineer, town of Sudbury, Sudbury, Mass. 01776	Aug. 23, 1974 Dec. 10, 1976
Michigan	Houghton	Chassell, township of	H 260411A 01 through H 260411A 15.	Township Supervisor, box 297, Chassell, Mich. 49916	Feb. 4, 1977
Do	Eaton	Eaton Rapids, city of	H 260067B 01	Mayor, 101 West Hamlin, East Rapids, Mich. 48827	Sept. 5, 1975 May 24, 1974 Dec. 10, 1976
Do	Bay	Merritt, township of	H 260024A 01 through H 260024A 09.	Township Supervisor, P.O. Box 62, 48 East Munger Rd., Munger, Mich. 48747.	June 7, 1974 Dec. 10, 1976
New Hampshire	Hillsborough	Amherst, town of	H 330081A 01 through H 330081A 14.	Selectman, Town Hall, Amherst, N.H. 03035	Mar. 22, 1974 Dec. 10, 1976
Do	Rockingham	Brentwood, town of	H 330125A 01 through H 330125A 06.	Selectman, Town Hall, Exeter, N.H. 03833	June 28, 1974 Dec. 10, 1976
Do	Carroll	Chatham, town of	H 330181A 01 through H 330181A 16.	Selectman, town of Chatham, North Fryburg, N.H. 04058.	Jan. 3, 1975 Dec. 10, 1976
Do	Rockingham	Hampton, town of	H 330132A 01 through H 330132A 06.	Selectman, Town Hall, Hampton, N.H. 03840	July 19, 1974 Dec. 10, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Grafton	Holderness, town of	H 330059A 01 through H 330059A 10.	Selectman, Town Hall, Holderness, N.H. 03245	Mar. 22, 1974 Dec. 10, 1976
Do.	do	Littleton, town of	H 330064A 01 through H 330064A 17.	Chairman, Board of Selectman, 1 Union St., Littleton, N.H. 03561.	May 31, 1974 Dec. 10, 1976
Do.	Strafford	New Durham, town of	H 330227A 01 through H 330227A 16.	Selectman, Town Hall, New Durham, N.H. 03855	Feb. 7, 1975 Dec. 10, 1976
Do.	Rockingham	Newmarket, town of	H 330136A 01 through H 330136A 06.	Selectman, Town Hall, Newmarket, N.H. 03857	June 28, 1974 Dec. 10, 1976
Do.	Sullivan	Newport, town of	H 330161A 01 through H 330161A 13.	Selectman, Town Hall, Newport, N.H. 03773	June 14, 1974 Dec. 10, 1976
Do.	Grafton	Sugar Hill, town of	H 330074A 01 through H 330074A 06.	Selectman, Town Hall, Sugar Hill, N.H. 03585	Aug. 23, 1974 Dec. 10, 1976
New Jersey	Burlington	Pemberton, borough of	H 340111A 01	Engineer, 200 High St., Mount Holly, N.J. 08060	Aug. 20, 1976 Dec. 10, 1976
Do.	Salem	Pennsville, township of	H 340512A 01 through H 340512A 08.	Mayor, 90 North Broadway, Pennsville, N.J. 08070	Sept. 13, 1974 Dec. 10, 1976
New Mexico	Chaves	Roswell, city of	H 350006A 01 through H 350006A 05.	City Planner, P.O. Box 1838, Roswell, N. Mex. 88201	June 14, 1974 Dec. 10, 1976
New York	Onondaga	Geddes, town of	H 360579B 01 through H 360579B 05.	Town Supervisor, 2357 Milton Ave., Solvay, N.Y. 13209	Oct. 13, 1975 May 17, 1974 Dec. 10, 1976
Do.	Yates	Jerusalem, town of	H 360359B 01 through H 360359B 16.	Supervisor, Town Hall, Branchport, N.Y. 14418	Jan. 23, 1976 May 31, 1974 Dec. 10, 1976
Do.	Sullivan	Lumberland, town of	H 360825A 01 through H 360825A 07.	Supervisor, Glen Stey, N.Y. 12737	Sept. 13, 1974 Dec. 10, 1976
Do.	Jefferson	Rodman, town of	H 360349A 01 through H 360349A 04.	Supervisor, Town Hall, Rodman, N.Y. 13682	June 21, 1974 Dec. 10, 1976
Do.	do	Watertown, city of	H 360354B 01 through H 360354B 04.	Mayor, City Hall, Watertown, N.Y. 13601	Nov. 21, 1975 Apr. 5, 1974 Dec. 10, 1976
North Carolina	Wilson	Wilson, city of	H 370270A 01 through H 370270A 09.	Mayor, P.O. Box 10, Wilson, N.C. 27893	Nov. 29, 1974 Dec. 10, 1976
Ohio	Portage	Unincorporated areas	H 390453A 01 through H 390453A 35.	Company Auditor, Courthouse, Ravenna, Ohio 44266	Dec. 27, 1974 Dec. 10, 1976
Oklahoma	Garfield	Waukomis, town of	H 400328A 01 through H 400328A 13.	President, Main St., P.O. Box 421, Waukomis, Okla. 73773	Feb. 4, 1977
Do.	Ottawa	Wyandotte, town of	H 400161B 01	Mayor, Town Hall, Wyandotte, Okla. 74370	June 28, 1974 Dec. 12, 1975 Dec. 10, 1976
Pennsylvania	Adams	Fairfield, borough of	H 422295A 01	Mayor, Borough Bldg., Fairfield, Pa. 17320	Feb. 21, 1975 Dec. 10, 1976
Do.	York	Franklin, township of	H 422220B 01 through H 422220B 08.	Secretary Treasurer, P.O. Box 25, Dillsburg, Pa. 17019	May 14, 1976 Nov. 8, 1974
Do.	Beaver	Freedom, borough of	H 420111B 01 through H 420111B 02.	Borough Solicitor, 1002 3d St., Beaver, Pa. 15009	Apr. 30, 1976 Feb. 1, 1974 Dec. 10, 1976
Do.	Lawrence	New Castle, city of	H 420568B 01 through H 420568B 17.	Assistant City Engineer, City Bldg., New Castle, Pa. 16101.	Dec. 26, 1975 June 21, 1974 Dec. 10, 1976
Do.	Perry	Penn, township of	H 420755A 01 through H 420755A 09.	Chairman, rural delivery 1, box 124A, Duncannon, Pa. 17020.	Feb. 8, 1974 Dec. 10, 1976
Rhode Island	Washington	Richmond, town of	H 440031A 01 through H 440031A 16.	President of Town Council, Town Hall, rural free delivery, Wyoming, R.I. 02898.	May 31, 1974 Dec. 10, 1976
South Carolina	Greenville	City View, town of	H 450000B 01	Assistant Planner, P.O. Box 1947, Courthouse Annex, Greenville, S.C. 29602	Apr. 30, 1976 June 14, 1974 Dec. 10, 1976
Do.	Lexington	Lexington, town of	H 450131A 01	Mayor, P.O. Box 397, Lexington, S.C. 29072	June 7, 1974 Dec. 10, 1976
Do.	Marion	Marion, city of	H 450142A 01 through H 450142A 02.	Mayor, P.O. Box 996, Marion, S.C. 29571	June 21, 1974 Dec. 10, 1976
South Dakota	Butte	Nisland, town of	H 460245A 01	Town President, Town Hall, Nisland, S. Dak. 57762	Feb. 4, 1977
Texas	Stephens	Breckenridge, city of	H 480578A 01 through H 480578A 04.	Mayor, Town Hall, 120 West Elm St., Breckenridge, Tex. 76024.	June 14, 1974 Dec. 10, 1976
Do.	Ellis	Ennis, city of	H 480267A 01 through H 480267A 07.	Mayor, 119 West Brown St., Ennis, Tex. 75119	June 28, 1974 Dec. 10, 1976
Do.	Webb	Laredo, city of	H 480651A 01 through H 480651A 10.	Mayor, City Hall, 500 Flores Ave., Laredo, Tex. 78040	Feb. 4, 1977
Do.	Hidalgo	McAllen, city of	H 480343A 01 through H 480343A 14.	City Planner, P.O. Box 220, McAllen, Tex. 78501	Aug. 30, 1974 Dec. 10, 1976
Utah	Piute	Kingston, town of	H 490097A 01 through H 490097A 03.	Town President, Town Hall, Kingston, Utah 84743	Feb. 4, 1977
Do.	Kane	Orderville, town of	H 490086A 01 through H 490086A 03.	Town President, Town Hall, Orderville, Utah 84758	Do.
Vermont	Bennington	Arlington, town of	H 500012A 01 through H 500012A 12.	Selectman, Town Hall, Arlington, Vt. 05250	Aug. 2, 1974 Dec. 10, 1976
Do.	Chittenden	Essex, town of	H 500034A 01 through H 500034A 16.	Town Manager, Town Hall, Essex Junction, Vt. 05452	Sept. 20, 1974 Dec. 10, 1976
Do.	Windham	Guilford, town of	H 500130A 01 through H 500130A 12.	Town Clerk, RFD No. 3, Brattleboro, Vt. 05301	July 19, 1974 Dec. 10, 1976
Do.	Washington	Marshfield, town of	H 500323A 01 through H 500323A 12.	Selectman, Town Hall, Marshfield, Vt. 05658	Sept. 20, 1974 Dec. 10, 1976
Do.	Orange	Newbury, town of	H 500237A 01 through H 500237A 23.	Selectman, Town Hall, Newbury, Vt. 05051	Oct. 25, 1974 Dec. 10, 1976
Do.	Windsor	Sharon, town of	H 500300A 01 through H 500300A 15.	Selectman, Town Hall, Sharon, Vt. 05065	Feb. 4, 1977
Do.	Rutland	Shrewsbury, town of	H 500102A 01 through H 500102A 20.	Selectman, Town Hall, Shrewsbury, Vt.	June 28, 1974 Dec. 10, 1976
Do.	Windham	Townshend, town of	H 500136A 01 through H 500136A 14.	Selectman, Town Hall, Townshend, Vt. 05353	Aug. 2, 1974 Dec. 10, 1976
Do.	Windsor	Woodstock, village of	H 500161A 01	Selectman, Village Hall, Woodstock, Vt. 05091	Sept. 13, 1974 Dec. 10, 1976
Virginia	Charlotte	Charlotte Court House, town of	H 510318A 01 through H 510318A 02.	Mayor, Town Hall, Charlotte Court House, Va. 23923	Feb. 4, 1977
Do.	Southampton	Newsoms, town of	H 510258A 01	Mayor, Town Hall, Newsoms, Va. 23874	Do.
Do.	Accomack	Painter, town of	H 510285A 01	Mayor, Town Hall, Painter, Va. 23420	Do.
Do.	Page	Stanley, town of	H 510255A 01	Mayor, P.O. Box 218, Stanley, Va. 22851	Do.
Do.	Lunenburg	Victoria, town of	H 510278A 01	Mayor, Box V, Victoria, Va. 23974	Do.
Do.	Rappahannock	Washington, town of	H 510288A 01	Mayor, Town Hall, Washington, Va. 22747	Do.
Washington	Cowlitz	Longview, city of	H 530034A 01 through H 530034A 07.	Mayor, City Hall, 1575 Broadway, Longview, Wash. 98632	June 28, 1974 Dec. 10, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
Alabama	Walker	Jasper, city of	H 010206B 01 through H 010206B 11.	City Manager, box 1589, Jasper, Ala. 35501	Jan. 23, 1974 May 21, 1976
Do	Colbert	Leighton, city of	H 010046B 01 through H 010046B 02.	Mayor, P.O. Drawer 308, Leighton, Ala. 35646	June 14, 1974 Apr. 30, 1976
Do	Crenshaw	Luverne, city of	H 010058B 01 through H 010058B 04.	Mayor, P.O. Box 249, Luverne, Ala. 35049	June 28, 1974 June 4, 1976
Do	Mobile	Mount Vernon, town of	H 010169B 01 through H 010169B 05.	Mayor, P.O. Box 308, Mount Vernon, Ala 36560	Dec. 17, 1973 June 11, 1976
Do	Geneva	Slocomb, town of	H 010089B 01 through H 010089B 04.	Mayor, P.O. Box 320, Slocomb, Ala. 36375	May 24, 1974 June 11, 1976
Do	Morgan	Somerville, city of	H 010363A 01	Mayor, Route 1, Somerville, Ala. 35670	June 4, 1976
Colorado	Larimer	Loveland, city of	H 080103A 01 through H 080103A 05.	Mayor, City Hall, 410 East 5th St., Loveland, Colo. 80537	Mar. 1, 1974 Dec. 17, 1976
Connecticut	Litchfield	Litchfield, town of	H 090047A 01 through H 090047A 20.	1st Selectman, Town Office, Litchfield, Conn. 06759	June 21, 1974 Dec. 17, 1976
Do	New Haven	Oxford, town of	H 090150A 01 through H 090150A 13.	Clerk, Town Hall, 429 Oxford, Conn. 06483	June 28, 1974 Dec. 17, 1976
Do	Litchfield	Thomaston, town of	H 090055A 01 through H 090055A 06.	Chairman, Planning Commission, 106 Main St., Thomaston, Conn. 06787	May 31, 1974 Dec. 17, 1976
Illinois	Kane	St. Charles, city of	H 170330B 01 through H 170330B 04.	Clerk, 2 East Main St., St. Charles, Ill. 60174	June 4, 1976 Mar. 15, 1974 Dec. 17, 1976
Louisiana	Rapides Parish	McNary, village of	H 220209A 01	Mayor, P.O. Box 1176, McNary, La. 71433	Apr. 23, 1976 Dec. 17, 1976
Maine	York	Arundel, town of	H 230192A 01 through H 230192A 09.	Selectman, Office of Selectman, Arundel, Maine No ZIP code.	Apr. 4, 1975 Dec. 17, 1976
Do	Washington	East Machias, town of	H 230313 01 through H 230313 12.	Selectman, Town Hall, East Machias, Maine 04630	Feb. 11, 1977
Do	Kennebec	Rome, town of	H 230246A 01 through H 230246A 12.	Chairman, Planning Board, Route 2, P.O. Box 134, Oakland, Maine.	Dec. 27, 1974 Dec. 17, 1976
Do	do	Winthrop, town of	H 230072A 01 through H 230072A 12.	Codes Officer, Town Hall, Winthrop, Maine 04364	Aug. 2, 1974 Dec. 17, 1976
Massachusetts	Middlesex	Boxborough, town of	H 250184A 01 through H 250184A 05.	Selectman, Town Hall, Middle Rd., Boxborough, Mass. 01719.	Sept. 20, 1974 Dec. 17, 1976
Do	Norfolk	Braintree, town of	H 250233A 01 through H 250233A 05.	Selectman, Town Hall, Braintree, Mass. 02184	Aug. 2, 1974 Dec. 17, 1976
Do	Hampshire	Huntington, town of	H 250165A 01 through H 250165A 11.	Selectman, Park St., Huntington, Mass. 01050	Sept. 6, 1974 Dec. 17, 1976
Do	Worcester	Milford, town of	H 250317A 01 through H 250317A 06.	Town Planner, Town Hall, 52 Maine St., Milford, Mass. 01757.	July 26, 1974 Dec. 17, 1976
Do	do	Princeton, town of	H 250329A 01 through H 250329A 14.	Building Commissioner, P.O. Box 101, Princeton, Mass. 01541.	Aug. 30, 1974 Dec. 17, 1976
Do	Hampden	Southwick, town of	H 250149A 01 through H 250149A 12.	Chairman, Planning Board, Depot St., Southwick, Mass. 01077.	Nov. 8, 1974 Dec. 17, 1976
Do	Worcester	Sterling, town of	H 250336A 01 through H 250336A 05.	Selectman, Town Hall, Sterling, Mass. 01564	July 19, 1974 Dec. 17, 1976
Do	Hampshire	Ware, town of	H 250172A 01 through H 250172A 15.	Selectman, Town Hall, Ware, Mass. 01082	June 28, 1974 Dec. 17, 1976
New Hampshire	Carroll	Moultonborough, town of	H 330015A 01 through H 330015A 24.	Selectman, Town Office, Moultonborough, N.H. 03254	Feb. 11, 1977
Do	do	Ossipee, town of	H 330016A 01 through H 330016A 27.	Selectman, Town Hall, Center Ossipee, N.H. 03814	June 21, 1974 Dec. 17, 1976
New Jersey	Burlington	Riverside, township of	H 340113 01	Township Administrator, P.O. Box 188, Riverside, N.J. 08075.	Feb. 11, 1977
New York	Yates	Benton, town of	H 360955C 01 through H 360955C 13.	Town Supervisor, rural delivery No. 4, Penn Yan, N.Y. 14527.	July 23, 1976 Jan. 2, 1976 June 7, 1974 Dec. 17, 1976
Do	Herkimer	Cold Brook, village of	H 360298 01	Mayor, Village Hall, Cold Brook, N.Y. 13324	Feb. 11, 1977
Do	Orleans	Ridgeway, town of	H 361257B 01 through H 361257B 14.	Supervisor, 406 West Ave., Medina, N.Y. 14103	Jan. 16, 1976 Feb. 7, 1975 Dec. 17, 1976
Do	Jefferson	Watertown, town of	H 360355B 01 through H 360355B 05.	Town Supervisor, 898 South Massey Street Rd., Watertown, N.Y. 13601.	Feb. 20, 1976 Apr. 5, 1974 Dec. 17, 1976
Oklahoma	Stephens	Velma, city of	H 400447 01 through H 400447 02.	President, P.O. Box, 464, Velma, Okla. 73091	Feb. 11, 1977
Oregon	Yamhill	Dundee, city of	H 410253A 01 through H 410253A 02.	Mayor, City Hall, Dundee, Oreg. 97115	June 28, 1974 Dec. 17, 1976
Pennsylvania	Delaware	Glenolden, borough of	H 420416 01	Mayor, 36 East Boon Ave., Glenolden, Pa. 19036	Feb. 11, 1977
Do	Tioga	Jackson, township of	H 420820A 01 through H 420820A 12.	Chairman, rural delivery No. 2, Millerton, Pa. 16926	Dec. 28, 1973 Dec. 17, 1976
Do	Lycoming	Nippenose, township of	H 420651A 01 through H 420651A 06.	Chairman, box 201, Antes Fort, Pa. 17720	Oct. 12, 1973 Dec. 17, 1976
Do	Berks	Ontelaunee, township of	H 420966B 01 through H 420966B 05.	Chairman, Township Supervisor, rural delivery No. 1, box 215, Shoemakersville, Pa. 19555	June 11, 1976 June 28, 1974 Dec. 17, 1976
Do	Dauphin	Upper Paxton, township of	H 420399A 01 through H 420399A 11.	Chairman, Upper Paxton Township, Millersburg, Pa. 17061.	Feb. 1, 1974 Dec. 17, 1976
South Dakota	Roberts	Claire City, town of	H 460070 01	Town President, Town Hall, Claire City, S. Dak. 57224	Feb. 11, 1977
Texas	Howard	Big Spring, city of	H 480360A 01 through H 480360A 09.	Mayor, City Hall, 4th and Nolan, Big Spring, Tex. 79720	June 28, 1974 Dec. 17, 1976
Do	Tarrant	Euless, city of	H 480593A 01 through H 480593A 06.	Mayor, City Hall, Euless, Tex. 76039	Mar. 22, 1974 Dec. 17, 1976
Do	Harris	Hunters Creek Village, city of	H 480298A 01 through H 480298A 02.	Mayor, 8433 Katy Freeway, suite 203, Houston, Tex. 77024	May 10, 1974 Dec. 17, 1976
Do	Lampasas	Lampasas, city of	H 480420A 01 through H 480420A 02.	City Administrator, 302 East 3d St., Lampasas, Tex. 76550	Aug. 30, 1974 Dec. 17, 1976
Utah	Piute	Marysvale, town of	H 490008 01 through H 490008 06.	Town President, Town Hall, Marysvale, Utah 84750	Feb. 11, 1977
Vermont	Windsor	Andover, town of	H 500291A 01 through H 500291A 10.	Chairman, Board of Selectman, care of Andover Town Clerk, R.F.D. No. 1, Chester, Vt. 05143.	Dec. 20, 1974 Dec. 17, 1976
Do	Lamoille	Cambridge, town of	H 500061A 01 through H 500061A 05.	Selectman, Town Hall, Cambridge, Vt. 05444	June 28, 1974 Dec. 17, 1976
Do	Essex	Concord, village of	H 500208 01	Selectman, Village Hall, Concord, Vt. 05824	Feb. 11, 1977
Do	Orange	Fairlee, town of	H 500072A 01 through H 500072A 05.	Fairlee Town Clerk, Fairlee Town Office, Fairlee, Vt. 05045.	Feb. 16, 1974 Dec. 17, 1976
Do	Orleans	Newport, town of	H 500256A 01 through H 500256A 19.	Mayor, Town Hall, Newport, Vt. 05855	Nov. 1, 1974 Dec. 17, 1976
Do	Windsor	Pomfret, town of	H 500297A 01 through H 500297A 15.	Chairman, Board of Selectman, Town of Pomfret, North Pomfret, Vt. 05053.	Nov. 1, 1974 Dec. 17, 1976
Do	Lamoille	Wolcott, town of	H 500068A 01 through H 500068A 13.	Selectman, Town Hall, Wolcott, Vt. 05680	June 28, 1974 Dec. 17, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
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Virginia	Accomack	Bloxom, town of	H 510256 01	Mayor, Town Hall, Bloxom, Va. 23308	Feb. 11, 1977
Do.	Mecklenburg	Boydton, town of	H 510269 01	Mayor, Town Hall, Boydton, Va. 23917	Do.
Do.	Nottoway	Crewe, town of	H 510264 01 through H 510264 03.	Mayor, 125 East Carolina Ave., Crewe, Va. 23930	Do.
Do.	Prince William	Unincorporated areas	H 510119A 01 through H 510119A 34.	Assistant Director, 9258 Lee Ave., Manassas, Va. 22110	Jan. 10, 1975 Dec. 17, 1976
Do.	Greene	Standardsville, town of	H 510251 01	Mayor, Town Hall, Standardsville, Va. 22973	Feb. 11, 1977
West Virginia	Greenbrier	Rainelle, town of	H 540228 01	Mayor, Town Hall, Rainelle, W. Va. 25962	Do.
Wyoming	Lincoln	Kemmerer, town of	H 560035A 01 through H 560035A 02.	Mayor, P.O. Box 287, 700 Cedar Ave., Kemmerer, Wyo. 83101.	Mar. 29, 1974 Dec. 17, 1976
*	*	*	*	*	*
Alabama	Etowah	Rainbow City, city of	H 010351A 01 through H 010351A 10.	Mayor, 131 West Grand Ave., Gadsden, Ala. 35901	Feb. 18, 1977
Do.	Choctaw	Toxey, town of	H 010037A 01	Mayor, Town Hall, Toxey, Ala. 36921	Do.
Arizona	Maricopa	Gila Bend, town of	H 040043A 01 through H 040043A 02.	Mayor, P.O. Box 1, Gila Bend, Ariz. 85331	Jan. 23, 1974
Arkansas	Jefferson	Pine Bluff, city of	H 050109 01 through H 050109 08.	Mayor, City Hall, Pine Bluff, Ark. 71601	Feb. 18, 1977
Do.	Nevada	Rosston, town of	H 050475 01 through H 050475 03.	Mayor, Town Hall, Rosston, Ark. 71858	Do.
California	Los Angeles	Palmdale, city of	H 060144A 01 through H 060144A 26.	City Administrator, City Hall, Palmdale, Calif. 93550	Oct. 18, 1974 Dec. 24, 1976
Colorado	Pitkin	Aspen, city of	H 080143A 01 through H 080143A 02.	Mayor, 130 South Galena, P.O. Box 5, Aspen, Colo. 81611	Feb. 15, 1974 Dec. 24, 1976
Do.	Costilla	San Luis, town of	H 080039B 01	Mayor, Town Hall, 356 Main St., P.O. Box 56, San Luis, Colo. 81152.	May 24, 1974 Mar. 5, 1976 Dec. 24, 1976
Connecticut	New London	East Lyme, town of	H 090096A 01 through H 090096A 14.	1st Selectman, Town Hall, 21 Lake Ave., East Lyme, Conn. 06357.	Sept. 13, 1974 Dec. 24, 1976
Do.	Litchfield	New Milford, town of	H 090049A 01 through H 090049A 22.	Clerk, Town Hall, Church St., New Milford, Conn. 06776	Nov. 29, 1974 Dec. 24, 1976
Do.	Middlesex	Portland, town of	H 090130A 01 through H 090130A 10.	Clerk, 265 Main St., P.O. Box 71, Portland, Conn. 06480	Mar. 15, 1974 Dec. 24, 1976
Do.	Windham	Windham, town of	H 090119B 01 through H 090119B 19.	Selectman, P.O. Box 94, Willimantic, Conn. 06226	Apr. 12, 1974 Nov. 19, 1976 Dec. 24, 1976
Florida	Clay	Unincorporated areas	H 120064A 01 through H 120064A 43.	Acting City Engineer, P.O. Box 668, Green Cove Spring, Fla. 32043.	Jan. 17, 1975 Dec. 24, 1976
Illinois	Cook and Lake	Wheeling, village of	H 170173A 01 through H 170173A 04.	Assistant Village Manager, 255 West Dundee Rd., Wheeling, Ill. 60090.	Aug. 27, 1976 Dec. 24, 1976
Iowa	Crawford	Denison, city of	H 190096B 01 through H 190096B 03.	Building Inspector, Denison, Iowa 51442	May 10, 1974 Feb. 6, 1976 Dec. 24, 1976
Do.	Cass	Lewis, city of	H 190347A 01	Mayor, P.O. Box 66, Lewis, Iowa 51544	Aug. 22, 1975
Do.	Woodbury	Moville, city of	H 190203A 01 through H 190203A 02.	Mayor, City Hall, Moville, Iowa 51039	Feb. 18, 1977
Do.	Mahaska	University Park, city of	H 190671A 01 through H 190671A 02.	Attorney, Attorneys at Law, 115 North Market, Oskaloosa, Iowa 52577.	Mar. 19, 1976
Kansas	Thomas	Brewster, city of	H 200392A 01	Mayor, P.O. Box 271, Brewster, Kans. 67732	July 16, 1976 Dec. 24, 1976
Do.	Saline	Brookville, city of	H 230094A 01	Clerk, P.O. Box 14, Brookville, Kans. 67425	Sept. 19, 1975 Dec. 24, 1976
Louisiana	Tensas Parish	Newellton, town of	H 220216B 01 through H 220216B 03.	Mayor, Town Hall, Newellton, La. 71357	June 14, 1974 Nov. 7, 1975 Dec. 24, 1976
Maine	Hancock	Brooksville, town of	H 230276A 01 through H 230276A 15.	Planning Board, Town of Brooksville, Maine 04617	Feb. 21, 1975 Dec. 24, 1976
Do.	Aroostook	Grand Isle, town of	H 230167A 01 through H 230167A 13.	Selectman, Town Hall, Grand Isle, Maine 04746	Aug. 2, 1974 Dec. 24, 1976
Do.	Cumberland	Gray, town of	H 230048 01 through H 230048 12.	Councilman, Town Hall, Gray, Maine 04039	Feb. 18, 1977
Do.	York	Ogunquit, village of	H 230632 01 through H 230632 04.	Corporation Manager, South Judson Dunaway Community Center, School St., Ogunquit, Maine 03907.	Do.
Do.	Lincoln	Waldoboro, town of	H 230086A 01 through H 230086A 28.	Selectman, Town Hall, Waldoboro, Maine 04572	Nov. 1, 1974 Dec. 24, 1976
Maryland	Washington	Clear Spring, town of	H 240072A 01 through H 240072A 02.	Mayor, P.O. Box 104, Clear Spring, Md. 21722	Feb. 18, 1977
Massachusetts	Middlesex	Billerica, town of	H 250183A 01 through H 250183A 10.	Selectman, Town Hall, Concord Rd., Billerica, Mass. 01821.	Sept. 20, 1974 Dec. 24, 1976
Do.	Franklin	Conway, town of	H 250114A 01 through H 250114A 13.	Selectman, Main St., Conway, Mass. 01341	Aug. 2, 1974 Dec. 24, 1976
Do.	Worcester	Hubbardston, town of	H 250311A 01 through H 250311A 12.	Selectman, Town Hall, Hubbardston, Mass. 01452	Sept. 6, 1974 Dec. 24, 1976
Do.	Berkshire	Sandisfield, town of	H 250039A 01 through H 250039A 17.	Selectman, Silver Brook Rd., Sandisfield, Mass. 01255	June 28, 1974 Dec. 24, 1976
Do.	Middlesex	Wayland, town of	H 250224A 01 through H 250224A 07.	Town Surveyor, Town Office Bldg., 38 Cochituate Rd., Wayland, Mass. 01778.	July 26, 1974 Dec. 24, 1976
Missouri	Clay	Prathersville, village of	H 290101 01 through H 290101 02.	Mayor, Village Office, Excelsior Spring, Mo. 64024	Feb. 18, 1977
Nebraska	Platte	Duncan, village of	H 310272 01	Chairman, Village Hall, Duncan, Nebr. 68634	Do.
New Hampshire	Merrimack	Boscawen, town of	H 330105A 01 through H 330105A 10.	Selectman, Town Hall, Boscawen, N.H. 03301	Mar. 15, 1974 Dec. 24, 1976
Do.	Grafton	Bridgewater, town of	H 330046A 01 through H 330046A 11.	Selectman, Star Route, Bristol, N.H. 03222	Aug. 16, 1974 Dec. 24, 1976
Do.	Merrimack	Chichester, town of	H 330109A 01 through H 330109A 11.	Selectman, Town Hall, Chichester, N.H. 03258	Apr. 5, 1974 Dec. 24, 1976
Do.	Hillsborough	Hillsborough, town of	H 330090A 01 through H 330090A 18.	Chairman, Board of Selectman, Town Office, Hillsborough, N.H. 03244.	May 10, 1974 Dec. 24, 1976
New Jersey	Somerset	Manville, borough of	H 340437A 01 through H 340437A 02.	Mayor, 101 South Main St., Manville, N.J. 08835	Apr. 13, 1973 Dec. 24, 1976
New York	Cayuga	Auburn, city of	H 360102B 01 through H 360102B 04.	City Engineer, Memorial City Hall, Auburn, N.Y. 13021	Mar. 26, 1976 Nov. 28, 1973 Dec. 24, 1976
Do.	Allegany	Canaadea, town of	H 360028A 01 through H 360028A 16.	Supervisor, box 546, Canaadea, N.Y. 14717	May 31, 1974 Dec. 24, 1976
Do.	Orange	Monroe, village of	H 360622A 01 through H 360622A 05.	Mayor, 103 Maple Ave., Monroe, N.Y. No ZIP code	Aug. 2, 1974 Dec. 24, 1976
Do.	Delaware	Stamford, town of	H 360212A 01 through H 360212A 05.	Township Supervisor, rural delivery, Bloomville, N.Y. 13739.	Feb. 18, 1977

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
North Carolina	Wake	Wake Forest, town of	H 370244B 01	Mayor, P.O. Box 352, Wake Forest, N.C. 27587	Aug. 27, 1976
					Mar. 15, 1974
Do	Wayne	Goldsboro, city of	H 370255A 01 through H 370255A 11.	Mayor, P.O. Box A, Goldsboro, N.C. 27530	Dec. 24, 1976
					June 7, 1974
North Dakota	Ramsey	Devil's Lake, city of	H 380221A 01 through H 380221A 07.	City Engineer, Devil's Lake, N. Dak. 58301	Dec. 24, 1976
					Feb. 21, 1975
Ohio	Vinton	Hamden, village of	H 390554B 01	Mayor, Village Hall, Hamden, Ohio 45634	Feb. 1, 1974
					May 7, 1976
Do	Hamilton	Harrison, village of	H 390220B 01 through H 390220B 02.	Mayor, 200 Harrison Ave., Harrison, Ohio 45030	Feb. 15, 1974
					May 21, 1976
Do	Highland	Hillsboro, city of	H 390269B 01 through H 390269B 04.	Mayor, 108 Governor Trindle, Hillsboro, Ohio 45133	May 17, 1974
					May 21, 1976
Do	Lawrence	Ironton, city of	H 390327B 01 through H 390327B 02.	Mayor, Box 704, Ironton, Ohio 45638	Feb. 15, 1974
					June 4, 1976
Do	Jackson	Jackson, city of	H 390292B 01	Mayor, Municipal Bldg., Jackson, Ohio 45640	May 17, 1974
					May 21, 1976
Do	Putnam	Kalida, village of	H 390471B 01	Mayor, 525 North Erie St., Kalida, Ohio 43624	Mar. 1, 1974
					June 4, 1976
Do	Columbiana	Wellsville, city of	H 390088B 01 through H 390088B 02.	Mayor, 1200 Main St., Wellsville, Ohio 43968	Jan. 16, 1974
Do	Logan	West Liberty, village of	H 390343B 01	Mayor, 201 North Detroit St., West Liberyt, Ohio 43357	Apr. 12, 1974
					July 30, 1976
Do	do	West Mansfield, village of	H 390344B 01	Mayor, Village Hall, West Mansfield, Ohio 43358	May 31, 1974
					June 18, 1976
Do	Miami	West Milton, village of	H 390403B 01 through H 390403B 02.	Mayor, Village Hall, West Milton, Ohio 45383	June 7, 1974
					June 4, 1976
Do	Hamilton	Woodlawn, village of	H 390239B 01 through H 390239B 02.	Mayor, 10141 Woodlawn Blvd., Woodlawn, Ohio 45212	Feb. 1, 1974
Oklahoma	Sequoyah	Gore, town of	H 400195A 01	Chairman, Town Council, Town Hall, Gore, Okla. 74435	Sept. 6, 1974
Do	Kay	Ponca City, city of	H 400080A 01 through H 400080A 10.	Mayor, City Hall, 516 East Grand Ave., Ponca City, Okla. 74601.	Feb. 1, 1974
					Dec. 24, 1976
Oregon	Marion and Linn	Mill City, city of	H 410143 01	Mayor, City Hall, Mill City, Oreg. 97360	Dec. 17, 1973
					Dec. 24, 1976
Pennsylvania	Columbia	Briar Creek, borough of	H 420340A 01	Mayor, 2613 West Front St., Berwick, Pa. 18603	Jan. 23, 1974
Do	Clinton	Colebrook, township of	H 420324A 01 through H 420324A 08.	Chairman, Township Bldg., Farrandsville, Pa. 17734	Mar. 22, 1974
					Dec. 24, 1976
Do	Tioga	Lawrence, township of	H 421006A 01 through H 421006A 12.	Chairman, Box 616, Lawrenceville, Pa. 16929	Mar. 8, 1974
					Dec. 24, 1976
Do	Pike	Porter, township of	H 422500A 01 through H 422500A 18.	Chairman, Star Route, Dingmans Ferry, Pa. 18328	Feb. 18, 1977
Do	Luzerne	Rice, township of	H 420996A 01 through H 420996A 05.	Chairman, rural delivery No. 8, Mountaintop, Pa. 18707	Mar. 29, 1974
					Dec. 24, 1976
Do	Lebanon	South Annville, township of	H 420580A 01 through H 420580A 07.	Chairman, Route 4, Lebanon, Pa. 17042	Nov. 9, 1973
					Dec. 24, 1976
Do	Somerset	Stonycreek, township of	H 422524A 01 through H 422524A 19.	Township Secretary, rural delivery No. 2, Friedens, Pa. 15541.	Jan. 3, 1975
					Dec. 24, 1976
Do	Perry	Watts, township of	H 420756A 01 through H 420756A 04.	Chairman, rural delivery No. 2, Duncannon, Pa. 17020	Oct. 26, 1973
					Dec. 24, 1976
Do	Clinton	Wayne, township of	H 420336A 01 through H 420336A 12.	Chairman, P.O. Box 224, McElhatten, Pa. 17748	Oct. 26, 1973
					Dec. 24, 1976
Rhode Island	Newport	Little Compton, town of	H 440035A 01 through H 440035A 08.	Councilman, Town Hall, Little Compton, R.I. 03837	July 19, 1974
					Dec. 24, 1976
South Carolina	Union	Union, city of	H 450186B 01 through H 450186B 04.	Mayor, P.O. Box K, Union, S.C. 29379	May 14, 1976
					June 28, 1974
Tennessee	Meigs	Waynesboro, city of	H 470134A 01 through H 470134A 04.	Mayor, P.O. Box 471, Waynesboro, Tenn. 38485	Dec. 24, 1976
					June 14, 1974
Texas	Dallas	Lancaster, city of	H 480182A 01 through H 480182A 11.	Mayor, City Hall, 211 North Henry, Lancaster, Tex. 75146	Dec. 24, 1976
					June 7, 1974
Utah	Summit	Oakley, town of	H 490138A 01 through H 490138A 02.	Mayor, Box 260, Oakley, Utah 74055	Dec. 24, 1976
					Jan. 31, 1975
Vermont	Caledonia	Hardwick, village of	H 500187A 01	Village Manager, Town Hall, Hardwick, Vt. 05843	Dec. 24, 1976
					Dec. 20, 1974
Do	Windham	Marlboro, town of	H 500283A 01 through H 500283A 12.	Road Commissioner, Marlboro, Vt. 05344	Dec. 24, 1976
					Dec. 27, 1974
Do	Orleans	Westfield, town of	H 500257A 01 through H 500257A 12.	Selectman, Town Hall, Westfield, Vt. 05874	Dec. 24, 1976
					Sept. 6, 1974
Virginia	Carroll	Hillsville, town of	H 510305A 01 through H 510305A 02.	Mayor, Box 545, Hillsville, Va. 24343	Dec. 24, 1976
					Feb. 18, 1977
Do	Charlotte	Keysville, town of	H 510270A 01	Mayor, Box 42, Keysville, Va. 23947	Do.
Washington	Clark	Ridgefield, town of	H 530298A 01	City Clerk, Town of Ridgefield, Clark County, Ridgefield, Wash. 98642.	Jan. 24, 1975
					Dec. 24, 1976
West Virginia	Braxton	Flatwoods, town of	H 540235A 01	Mayor, Town Hall, Flatwoods, W. Va. 26621	Feb. 18, 1977
Wisconsin	Winnebago	Unincorporated areas	H 550537A 01 through H 550537A 35.	County Executive, P.O. Box 2808, Oshkosh, Wis. 54901	Do.
Alabama	Pickens	Ethelsville, town of	H 010281A	Mayor, Town Hall, Ethelsville, Ala. 35461	Feb. 25, 1977
Do	St. Clair	Moody, town of	H 010187B 01 through H 010187B 02.	Mayor, Route 3, Box 697, Leeds, Ala. 35094	May 31, 1974
					June 25, 1976
Do	Crenshaw	Petrey, town of	H 010245A 01	Mayor, Town Hall, Petrey, Ala. 36062	Feb. 25, 1977
Do	Jackson	Scottsboro, city of	H 010112A 01 through H 010112A 53.	Mayor, 916 Broad St., Scottsboro, Ala. 35768	Do.
California	Marin	Unincorporated areas	H 060173 01 through H 060173 46.	Flood Plain Management, Department of Public Works, Marin County, Calif., P.O. Box 4186, Civic Center, San Rafael, Calif. 94903.	Do.
Do	San Bernardino	Needles, city of	H 060277A 01 through H 060277A 02.	City Manager, City Hall, Needles, Calif. 92363	June 14, 1974
					Dec. 31, 1976
Do	Santa Clara	Palo Alto, city of	H 060348B 01 through H 060348B 13.	Director of Public Works, City Hall, Palo Alto, Calif. 94301.	June 28, 1974
					Dec. 5, 1975
					Dec. 31, 1976
Connecticut	Litchfield	Canaan, town of	H 090044A 01 through H 090044 12.	Selectmen, Town Hall, Falls Village, Conn. 06031	Aug. 16, 1974
					Dec. 31, 1976
Do	Hartford	Manchester, town of	H 090031A 01 through H 090031A 13.	Town Manager, Town Hall, 41 Center St., Manchester, Conn. 06040.	May 24, 1974
					Dec. 31, 1976
Do	Litchfield	Roxbury, town of	H 090051A 01 through H 090051A 08.	Selectman, South St., Roxbury, Conn. 06783	June 7, 1974
					Dec. 31, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
Florida	Seminole	Longwood, city of	H 120292A 01 through H 120292A 03.	Mayor, 175 West Warren Ave., Longwood, Fla. 32750	Jan. 23, 1974 Dec. 31, 1976
Georgia	Liberty	Hinesville, city of	H 130125A 01 through H 130125A 05.	Mayor, 115 East South St., Hinesville, Ga. 31313	Feb. 25, 1977
Illinois	Cook and Du Page.	Chicago, city of	H 170074A 01 through H 170074A 75.	Mayor, 702 East Benton, Clinton, Ill. 61727	Aug. 23, 1974 Dec. 31, 1976
Do	De Witt	Clinton, city of	H 170193B 01	do	Apr. 2, 1976 May 24, 1974 Dec. 31, 1976
Do	Franklin	Zeigler, city of	H 170240A 01	Mayor, 304 Church St., Zeigler, Ill. 62999	Feb. 25, 1977
Indiana	Gibson	Princeton, city of	H 180073B 01	Mayor, Box 15, Princeton, Ind. 47570	Mar. 5, 1976 May 31, 1974 Dec. 31, 1976
Kentucky	Marshall	Calvert City, city of	H 210164B 01 through H 210164B 06.	Mayor, City Hall, Calvert City, Ky. 42029	Feb. 1, 1974 Feb. 14, 1975 Dec. 31, 1976
Do	Carroll	Unincorporated areas	H 210045A 01 through H 210045A 15.	County Judge, Carroll County Courthouse, Carrollton, Ky. 41008.	Feb. 25, 1977
Maine	Somerset	Ripley, town of	H 230368A 01 through H 230368A 08.	Chairman, Planning Board, R.F.D. No. 3, Box 104, Ripley, Maine 04930.	Jan. 3, 1975 Dec. 31, 1976
Michigan	St. Clair	Cottrellville, township of	H 260196A 01 through H 260196A 06.	Supervisor, 7008 Marsh Rd., Marine, Mich. 48039	Apr. 12, 1974 Dec. 31, 1976
Do	Bay	Essexville, city of	H 260021A 01 through H 260021A 02.	Mayor, 1407 Woodside Ave., Essexville, Mich 48732	June 7, 1974 Dec. 31, 1976
Minnesota	Lake	Beaver Bay, city of	H 270244B 01	Mayor, City Hall, Beaver Bay, Minn. 55601	Aug. 30, 1974
Do	Pipestone	Ihlen, city of	H 270357B 01	Mayor, City Hall, Ihlen, Minn. 56140	Aug. 2, 1974 July 2, 1976
Do	Lincoln	Ivanhoe, city of	H 270253B 01	Mayor, City Hall, Ivanhoe, Minn. 56142	Mar. 29, 1974
Do	Jackson	Jackson, city of	H 270213B 01 through H 270213B 03.	City Engineer, City Hall, 504 2nd St., Jackson, Minn. 56143.	Oct. 26, 1973 May 28, 1976
Do	Scott	Jordan, city of	H 270430B 01 through H 270430B 02.	Mayor, City Hall, 116 East 2d St., Jordan, Minn. 55352	Mar. 8, 1974 Apr. 16, 1976
Do	Benton	Sauk Rapids, city of	H 270023B 01 through H 270023B 02.	City Administrator, City Hall, Sauk Rapids, Minn. 56379.	Oct. 12, 1973 Dec. 31, 1976
Missouri	Cass	Lake Winnebago, village of	H 290538 01 through H 290538 02.	Chairman, 75 Peduach Lane, Greenwood, Mo. 64034	Feb. 25, 1977
New Hampshire	Hillsborough	Pelham, town of	H 330100A 01 through H 330100 10.	Chairman, Planning Board, Town Hall, Pelham, N.H. 03076.	Feb. 22, 1974 Dec. 31, 1976
Do	Strafford	Strafford, town of	H 330196A 01 through H 330196A 15.	Selectman, Office of the Selectman, Center Strafford, N.H. 03815.	Feb. 28, 1975 Dec. 31, 1976
New Jersey	Sussex	Andover, borough of	H 340542A 01 through H 340542A 03.	Mayor, Main St., Andover, N.J.	Feb. 25, 1977
Do	Camden	Magnolia, borough of	H 340138A 01	Mayor, 438 West Evesham Ave., Magnolia, N.J. 08049	Do.
Do	Bergen	Ramsey, borough of	H 340064A 01 through H 340064A 04.	Mayor, 33 North Central Ave., Ramsey, N.J. 07446	Jan. 9, 1974 Dec. 31, 1976
Do	do	Rockleigh, borough of	H 340071A 01	Mayor, Rockleigh Rd., Rockleigh, N.J. 07647	Feb. 25, 1977
Do	Monmouth	Tinton Falls, borough of	H 340318B 01 through H 340318B.	Borough Administrator, 556 Tinton Ave., Tinton Falls, N.J. 07724.	Apr. 23, 1974 Apr. 12, 1976 Dec. 31, 1976
New York	Albany	Albany, city of	H 360001B 01 through H 3 0001B 10.	Mayor, City Hall, Albany, N.Y. 12207	May 3, 1974 June 4, 1976
Do	Tioga	Candor, town of	H 360833A 01 through H 360833A 06.	Supervisor, rural delivery No. 2, Candor, N.Y. 13743	Aug. 2, 1974 Dec. 31, 1976
Do	Onondaga	Cicero, town of	H 360572B 01 through H 360572B 15.	Supervisor, 8236 South Main St., Cicero, N.Y. 13039	Nov. 1, 1974 July 16, 1976
Do	Sullivan	Lumberland, town of	H 360825A 01 through H 360825A 07.	Supervisor, Town Hall, Town of Lumberland, Glen Stey, N.Y. 12737.	Sept. 13, 1974 Dec. 31, 1976
Do	Westchester	Ossining, town of	H 361241A 01 through H 361241A 06.	Town Supervisor, Municipal Bldg., Town of Ossining, Ossining, N.Y. 10563.	Feb. 25, 1977
Do	Chautauqua	Villenova, town of	H 361082B 01 through H 361082B 03.	Town Supervisors, rural delivery No. 2, Town of Villenova, South Dayton, N.Y. 14138.	Do.
North Carolina	Orange	Chapel Hill, town of	H 370180B 01 through H. 370180B 05.	Mayor, Municipal Bldg., 306 North Columbia St., Chapel Hill, N.C. 27514.	June 21, 1974 June 18, 1976
Ohio	Clinton	Blanchester, village of	H 390074A 01 through H 390074A 02.	Mayor, 101 East Main St., Blanchester, Ohio 45107	Apr. 5, 1974
Do	Hamilton	Lincoln Heights, village of	H 390222A 01	Mayor, 1201 Steffers Ave., Lincoln Heights, Ohio 45215	Feb. 1, 1974
Oklahoma	Tulsa and Rogers.	Collinsville, city of	H 400360 01 through H 400360 17.	Mayor, 12th and Main Sts., P.O. Box A, Collinsville, Okla. 74021.	Feb. 25, 1977
Do	Rogers	Oologah, town of	H 500189 01 through H 500189 02.	President, Alta and East Boundary, general delivery, Oologah, Okla. 74053.	Do.
Pennsylvania	Somerset	Benson, borough of	H 420793B 01	Borough Secretary, P.O. Box 304, borough of Benson, Hollsopple, Pa. 15935.	Oct. 18, 1974 Dec. 31, 1976
Do	Montgomery	Bridgeport, borough of	H 420948A 01 through H 420948A 02.	Mayor, P.O. Box 148, Bridgeport, Pa. 19405	Jan. 16, 1974
Do	Lycoming	Clinton, township of	H 420637A 01 through H 420637A 11.	Chairman, rural delivery No. 1, township of Clinton, Montgomery, Pa. 17752.	Sept. 14, 1973 Dec. 31, 1976
Do	Armstrong	Cowanshannock, township of	H 421230A 01 through H 421230A 16.	Chairman, rural delivery No. 1, box 168, 1, township of Cowanshannock, Dayton, Pa. 16222.	Sept. 13, 1974 Dec. 31, 1976
Do	Luzerne	Dallas, borough of	H 421825A 01 through H 421825A 02.	Mayor, 25 Main St., Dallas, Pa. 18612	Feb. 25, 1977
Do	Tioga	Lawrenceville, borough of	H 420821B 01	President of Council, Borough Hall, Lawrenceville, Pa. 16929.	Sept. 14, 1973 Dec. 31, 1976
Do	Mercer	Liberty, township of	H 421870A 01 through H 421870A 06.	Chairman, Township Supervisors, township of Liberty, Grove City, Pa. 16127.	Feb. 25, 1977
Do	Lackawanna	Moosic, borough of	H 420533A 01 through H 420533A 03.	Mayor, 715 Main St., Moosic, Pa. 18507	Aug. 31, 1973 Dec. 31, 1976
Do	Cumberland	Lower Frankford, township of	H 421018A 01 through H 421018A 06.	Chairman, rural delivery No. 9, box 529, township of Lower Frankford, Carlisle, Pa. 17013.	May 3, 1974 Dec. 31, 1976
Do	Lebanon	North Cornwall, township of	H 420576A 01 through H 420576A 04.	Chairman, rural delivery No. 5, box 380, township of North Cornwall, Lebanon, Pa. 17042.	Dec. 7, 1973 Dec. 31, 1976
Do	Adams	Reading, township of	H 420004A 01 through H 420004A 11.	Chairman, rural delivery No. 2, township of Reading, East Berlin, Pa. 17376.	Jan. 23, 1974 Dec. 31, 1976
Do	Cumberland	Upper Frankford, township of	H 421588A 01 through H 421588A 07.	Chairman, township of Upper Frankfort, Township Supervisors, Newville, Pa. 17241.	Feb. 25, 1977
Do	Westmoreland	West Leechburg, borough of	H 420005A 01	Mayor, 104 Jay St., rural delivery No. 4, Leechburg, Pa. 15656.	June 21, 1974 Dec. 31, 1976
South Carolina	Williamsburg	Lane, town of	H 450191A 01 through H 450191A 02.	Mayor, P.O. Box 39, Lane, S.C. 29564	May 17, 1974 Dec. 31, 1976

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
Tennessee	Franklin	Huntland, town of	H 470055A 01 through H 470055A 03.	Mayor, P.O. Drawer A, Huntland, Tenn. 37345	Feb. 25, 1977
Do.	Hamilton	Ridgeside, city of	H 470319A 01	Chairman, 1725 McCallie Ave., city of Ridgeside, Chattanooga, Tenn. 37404.	Do.
Do.	Carroll	Trezevant, town of	H 470243A 01	Mayor, P.O. Box 100, Trezevant, Tenn. 38258	Do.
Do.	Obion	Troy, city of	H 470252A 01 through H 470252A 02.	Mayor, P.O. Box 246, Troy, Tenn. 38260	Do.
Texas	Austin	Unincorporated areas	H 490704 01 through H 490704 48.	County Attorney, Austin County, P.O. Box 83, Bellville, Tex. 77418.	Do.
Vermont	Bennington	Shaftsbury, town of	H 500019A 01 through H 500019A 12.	Selectman, Town Hall, Shaftsbury, Vt. 05262	June 28, 1974 Dec. 31, 1976
Virginia	Brunswick	Alberta, town of	H 510260A 01	Mayor, P.O. Box 157, Alberta, Va. 23821	Feb. 25, 1977
Do.	Orange	Gordonville, town of	H 510268A 01	Mayor, P.O. Box 276, Gordonville, Va. 22942	Do.
Do.	Loudoun	Unincorporated areas	H 510090A 01 through H 510090A 34.	County Administrator, Loudoun County, 18 East Market St., Loudoun, Va.	Apr. 25, 1975 Dec. 31, 1976
		Commonwealth of Virgin Islands	H 780000A 01 through H 780000A 18.	Governor, Government House, St. Thomas, V.I. 00801	Feb. 25, 1977
West Virginia	Monongalia	Morgantown, city of	H 540141A 01 through H 540141A 11.	City Manager, City Hall, 389 Spruce St., Morgantown, W. Va. 26505.	Aug. 2, 1974 Dec. 31, 1976
Do.	Ritchie	Pullman, town of	H 540263A 01	Mayor, Box 666, Pullman, W. Va. 26421	Feb. 25, 1977
Alabama	Talladega	Bon Air, town of	H 010296A 01	Mayor, P.O. Box 13, Bon Air, Ala. 35032	Mar. 4, 1977
Alaska	Unorganized borough.	Shaktoolik, city of	H 020083 01	Mayor, general delivery, Shaktoolik, Alaska 99771	Do.
California	San Joaquin	Stockton, city of	H 060302A 01 through H 060302A 17.	Director of Communities Development, City Hall, Stockton, Calif. 95202.	Feb. 22, 1974 Jan. 7, 1977
Connecticut	New Haven	Seymour, town of	H 090088A 01 through H 090088A 16.	Administrative Assistant, Town Hall, 1 1st St., Seymour, Conn. 06483.	July 26, 1974 Jan. 7, 1977
Florida	Polk	Davenport, town of	H 120410A 01 through H 120410A 04.	Mayor, P.O. Box 125, Davenport, Fla. 33837	Mar. 4, 1977
Do.	Hardee	Unincorporated areas	H 120163A 01 through H 120102A 36.	County Engineer, P.O. Box 1334, Wauchula, Fla. 33873	Do.
Do.	Madison	do	H 120149A 01 through H 120149A 49.	Chairman, County Courthouse, Route 2, box 165, Greenville, Fla. 32331.	Jan. 31, 1975 Jan. 7, 1977
Georgia	Cobb	Marietta, city of	H 130226A 01 through H 120226A 09.	Mayor, 36 Atlanta St., Marietta, Ga. 30061	June 21, 1974 Jan. 7, 1977
Illinois	Jefferson	Unincorporated areas	H 170305A 01 through H 170305A 40.	County Clerk, Courthouse, Mount Vernon, Ill. 62864	Mar. 4, 1977
Do.	Clinton	Keyesport, village of	H 170860A 01	Village President, P.O. Box 41, Keyesport, Ill. 62253	Mar. 21, 1975 Jan. 7, 1977
Indiana	Union	Unincorporated areas	H 180219 0001A through H 180219 0002A.	Executive Director of Planning, Courthouse, Liberty, Ind. 47353.	Mar. 4, 1977
Kentucky	Lincoln	Crab Orchard, town of	H 210143A 01 through H 210143A 02.	Mayor, City Hall, Crab Orchard, Ky. 40419	June 14, 1974 Jan. 7, 1977
Maine	Kennebec	Vienna, town of	H 230249A 01 through H 230249A 11.	Selectman, box 3, Vienna, Maine 04360	Feb. 28, 1975 Jan. 7, 1977
Massachusetts	Essex	Danvers, town of	H 250079A 01 through H 250079A 08.	Selectman, Town Hall, Danvers, Mass. 01923	July 26, 1974 Jan. 7, 1977
Do.	Berkshire	Pittsfield, city of	H 250037A 01 through H 250037A 16.	City Junior Planner, Allen St., Pittsfield, Mass. 01021	May 10, 1974 Jan. 7, 1977
Do.	Hampshire	Southampton, town of	H 250171 01 through H 250171 12.	Selectman, Town Hall, East St., Southampton, Mass. 01073.	Mar. 4, 1977
Michigan	St. Clair	Casco, township of	H 260506 0001A through H 260506 0004A.	Township Supervisor, 3733 Meldrum Rd., Richmond, Mich. 48062.	Do.
Do.	Cheboygan	Forest, township of	H 260373 0001A through H 260373 0002A.	Supervisor, route 2, Onaway, Mich. 49765	Do.
Do.	Tuscola	Indianfields, township of	H 260526 0001A through H 260526 0002A.	Supervisor, 111 Joy St., Carol, Mich. 48723	Do.
Do.	Isabella	Rolland, township of	H 260422 0001A through H 260422 0004A.	Township Supervisor, Township Bldg., Blanchard, Mich. 48310.	Do.
Do.	Arenac	Turner, village of	H 260550 0001A	President, Village Council, Turner, Mich. 48765	Do.
Do.	Tuscola	Tuscola, township of	H 260527 0001A through H 260527 0002A.	Township Supervisor, 8916 Van Clive Rd., Vassar, Mich. 48768.	Do.
Minnesota	Dakota	Eagan, city of	H 270103A 01 through H 270103A 12.	Mayor, City Hall, 3795 Pilot Knob Rd., Eagan Minn. 55122.	Nov. 30, 1973 Jan. 7, 1977
Do.	Benton and Stearns.	Sartell, city of	H 270460B 01 through H 270460B 02.	City Administrator, 115 Riverside Ave., Sartell, Minn. 56377.	Mar. 19, 1976 Nov. 2, 1973 Jan. 7, 1977
Mississippi	Jasper	Heidelberg, town of	H 280088A 01 through H 280088A 02.	Mayor, Town Hall, Box 372, Heidelberg, Miss. 39439	June 28, 1974 Jan. 7, 1977
Nevada	City/county of Carson City.	Unincorporated areas	H 320001A 01 through H 320001A 78.	Planning Director, 1711 North Roop St., Carson City, Nev., 89701.	May 24, 1974 Jan. 7, 1977
New Hampshire	Cheshire	Alstead, town of	H 330020A 01 through H 330020A 12.	Selectman, box 146, Alstead, N.H. 03602	July 26, 1974 Jan. 7, 1977
Do.	Coos	Pittsburg, town of	H 330186A 01 through H 330186A 82.	Selectman, Main St., Pittsburg, N.H. 03592	Jan. 31, 1975 Jan. 7, 1977
New Jersey	Camden	Collingswood, borough of	H 340131A 01	Mayor, 678 Haddon Ave., Collingswood, N.J. 08108	Nov. 23, 1973 Jan. 7, 1977
Do.	Middlesex	Monroe, township of	H 340269A 01 through H 340269A 13.	Mayor, Administrative Bldg., Route 522, Jamesburg, N.J. 08831.	Mar. 8, 1974 Jan. 7, 1977
New York	Montgomery	Amsterdam, city of	H 360440B 01 through H 360440B 03.	Mayor, 61 Church St., City Hall, Amsterdam, N.Y. 12010	Mar. 1, 1974 July 2, 1976
Do.	Livingston	Avon, town of	H 360380B 01 through H 360380B 12.	Supervisor, Park Place, Avon, N.Y. 14414	May 24, 1974 June 4, 1976
Do.	do	Avon, village of	H 360379B 01 through H 360379B 06.	Mayor, Village Hall, 102 Genesee St., Avon, N.Y. 14414.	May 10, 1974 May 28, 1976
Do.	Westchester	Briarcliff Manor, village of	H 360004B 01 through H 360004B 03.	Manager, 1111 Pleasantville Rd., Briarcliff Manor, N.Y. 10570.	June 28, 1974 Apr. 9, 1976
Do.	Delaware	Delhi, town of	H 360193A 01 through H 360193A 06.	Supervisor, 5 Elm St., Delhi, N.Y. 13753	July 26, 1974 Jan. 7, 1977
Do.	Westchester	Dobbs Ferry, village of	H 360408B 01	Mayor, 112 Main St., Dobbs Ferry, N.Y. 10522	May 17, 1974 June 11, 1976
Do.	Lewis	Harrisville, village of	H 361451 01	Mayor, Village Hall, Harrisville, N.Y. 13648	Nov. 15, 1974 May 28, 1976
Do.	Oneida	Remsen, village of	H 360541A 01	Mayor, Village Hall, Remsen, N.Y. 13438	Mar. 4, 1977
North Carolina	Mecklenburg	Pineville, town of	H 370160A 01	Mayor, P.O. Box 249, Pineville, N.C. 28134	June 21, 1974 Jan. 7, 1977

State	County	Location	Map No.	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*
Pennsylvania	Washington	Amwell, township of	H 422615A 01 through H 422615A 18.	Chairman, rural delivery No. 4, Washington, Pa. 15301	Mar. 4, 1977
Do.	Adams	Carroll Valley, borough of	H 422635A 01 through H 422635A 03.	Acting President, Borough Council, P.O. Box 127, Fairfield, Pa. 17320.	Do.
Do.	Schuylkill	Deer Lake, borough of	H 422640A 01	President, rural delivery No. 1, Orwigsburg, Pa. 17961	Do.
Do.	York	Felton, borough of	H 420922A 01	Mayor, Borough Hall, Felton, Pa. 17322	Do.
Do.	Luzerne	Lehman, township of	H 420615A 01 through H 420615A 06.	Chairman, rural delivery No. 4, Dallas, Pa. 18612	Mar. 8, 1974 Jan. 7, 1977
Do.	do	Salem, township of	H 420625A 01 through H 420625A 11.	Chairman of Supervisors, 625 10th St., Berwick, Pa. 18603	Nov. 30, 1973 Jan. 7, 1977
Do.	Columbia	Scott, township of	H 421004A 01 through H 421004A 04.	Chairman, Market St., Espy, Pa. 18715	Apr. 12, 1974 Jan. 7, 1977
Do.	Tioga	Tioga, township of	H 420828A 01 through H 420828A 12.	Chairman, rural delivery No. 1, Tioga, Pa. 16946	Feb. 8, 1974 Jan. 7, 1977
Tennessee	Greene	Greeneville, town of	H 470060A 01 through H 470060A 13.	Mayor, 200 North College St., Greeneville, Tenn. 37745	Mar. 1, 1974 Jan. 7, 1977
Utah	Savier	Aurora, town of	H 490123A 01	Town President, Town Hall, Aurora, Utah 84620	Jan. 31, 1975 Jan. 7, 1977
Virginia	Dickenson	Clintwood, town of	H 510045A 01	Mayor, box 456, Clintwood, Va. 24228	Mar. 4, 1977

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969, 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: January 3, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-3524 Filed 2-7-77;8:45 am]

federal register

TUESDAY, FEBRUARY 8, 1977

PART V



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

HUMANELY SLAUGHTERED LIVESTOCK

Identification of Carcasses; List of Establishments

Pursuant to section 4 of the Act of August 27, 1958 (7 U.S.C. 1904), and the statement of policy thereunder in 9 CFR 391.1, the following table lists the establishments operating under Federal inspection pursuant to the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), which have been officially reported as using humane methods of slaughter and incidental handling of the species of livestock respectively designated for such establishments in the table. Additions to and deletions from this list will be made from time to time as the facts may warrant, by notices published in the FEDERAL REGISTER. The establishment number given with the name of the establishment is branded on each carcass of livestock inspected and passed at that establishment. The table should not be understood to indicate that all species of livestock slaughtered at a listed establishment are slaughtered and handled by humane methods unless all such species are listed for that establishment in the table. Nor should the table be understood to indicate the the affiliates of any listed establishment use only humane methods.

Done at Washington, D.C., on: February 1, 1977.

HARRY C. MUSSMAN,
Acting Administrator, Animal and Plant Health Inspection Service.

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 1 OF 23 PAGES

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
ARMOUR & COMPANY	2 C	(*)					
ARMOUR & COMPANY	2 H					(*)	
ARMOUR & COMPANY	2 W					(*)	
ARMOUR & COMPANY	2AT					(*)	
ARMOUR & COMPANY	2CC	(*)					
ARMOUR & COMPANY	2SA			(*)			
ARMOUR & COMPANY	2SD					(*)	
ARMOUR & COMPANY	2WN	(*)					
SWIFT & COMPANY	3 C					(*)	
SWIFT FRESH MEATS	3 D	(*)					
SWIFT & COMPANY	3 G	(*)					
SWIFT & COMPANY	3 H	(*)				(*)	
SWIFT & COMPANY	3 L					(*)	
SWIFT & COMPANY	3 N	(*)				(*)	
SWIFT & COMPANY	3 R	(*)				(*)	
SWIFT & COMPANY	3 S					(*)	
SWIFT & COMPANY	3 Y	(*)					
SWIFT & COMPANY	3 Z	(*)	(*)				
SWIFT & COMPANY	3AE					(*)	
SWIFT & COMPANY	3BW		(*)	(*)	(*)		
SWIFT & COMPANY	3CN			(*)			
SWIFT & COMPANY	3GI	(*)					
SWIFT & COMPANY	3GW					(*)	
SWIFT & COMPANY	3TA	(*)					
LYKES BROTHERS, INC.	8	(*)					
PAULY PACKING COMPANY, INC.	10	(*)	(*)				
FRENCH CITY MEATS, INC.	11	(*)					
HYGRADE FOOD PRODUCTS CORPORATION	12 A					(*)	
HYGRADE FOOD PRODUCTS CORPORATION	12 P	(*)					
HYGRADE FOOD PRODUCTS CORPORATION	12FW	(*)	(*)				
JOHN MORRELL & COMPANY	17 A	(*)				(*)	
JOHN MORRELL & COMPANY	17 D	(*)		(*)		(*)	
JOHN MORRELL & COMPANY	17 E					(*)	
JOHN MORRELL & COMPANY	17 U	(*)					
C. FINKBEINER, INC.	18	(*)				(*)	
WILSON & COMPANY, INC.	20 H					(*)	
WILSON & COMPANY, INC.	20 I	(*)				(*)	
WILSON & COMPANY, INC.	20 L					(*)	
WILSON & COMPANY, INC.	20 Q	(*)				(*)	
WILSON & COMPANY, INC.	20MO					(*)	
SWIFT & COMPANY	23	(*)		(*)			
PATRICK CUDAHY, INC.	28					(*)	
KREINBERG & KRASNY, INC.	30	(*)					
SUPERIOR'S BRAND MEATS, INC.	31	(*)				(*)	
THE ROEGELEIN COMPANY	32					(*)	
THE ROEGELEIN COMPANY	32 A	(*)	(*)				
KENTON PACKING COMPANY	36	(*)	(*)			(*)	
SUNNYLAND FOODS, INC.	43					(*)	
IDAHO MEAT PACKERS	46	(*)					
MIDWESTERN BEEF COMPANY, INC.	53	(*)					
SUNNYLAND PACKING COMPANY OF ALABAMA	56	(*)					
SUNNYLAND PACKING COMPANY OF ALABAMA	56 A					(*)	
GLOVER PACKING COMPANY OF AMARILLO	60	(*)	(*)				
GLOVER PACKING COMPANY	60 A	(*)				(*)	
GOOCH PACKING COMPANY, INC.	61	(*)	(*)			(*)	
SUNFLOWER BEEF PACKERS, INC.	62	(*)					
SANDUSKY DRESSED BEEF COMPANY	63	(*)					
AUBURN UNIVERSITY MEATS LABORATORY	71	(*)	(*)			(*)	
BROWN THOMPSON & SON	73					(*)	
DINNER BELL FOODS, INC.	79 A					(*)	
DINNER BELL FOODS, INC.	79 B	(*)				(*)	
EDGAR PACKING COMPANY	84		(*)				
MBPXL CORPORATION	86	(*)					
MBPXL CORPORATION	86 A	(*)					
MBPXL CORPORATION	86 D	(*)					
MBPXL CORPORATION	86 E	(*)					
MBPXL CORPORATION	86 H	(*)					
UTICA VEAL COMPANY, INC.	88	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 2 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
THE E. KAHN'S SONS COMPANY	89		-(*)	--(*)			-(*)	
PEET PACKING COMPANY	90						-(*)	
LAREDO PACKING COMPANY	91		-(*)	--(*)				
SUGARCALE FOODS, INC.	92		-(*)				-(*)	
SHENYO PACKING COMPANY	93		-(*)	--(*)	--(*)	--(*)	--(*)	
THE VAL DECKER PACKING COMPANY	95		-(*)				-(*)	
CENTRAL PACKING COMPANY, INC.	96		-(*)	--(*)				
A. KOCH'S SONS	98		-(*)	--(*)				
ARMOUR & COMPANY	100		-(*)	--(*)	--(*)			
LIBERTY PACKING COMPANY	101		-(*)	--(*)				
WILSON & COMPANY	111		-(*)		-(*)		-(*)	
M & R PACKING COMPANY	113	E						-(*)
THE M & R PACKING COMPANY OF WALTERBORO	113	E W						-(*)
FARMLAND FOODS, INC.	114		-(*)					
THE MERCHANTS COMPANY	116		-(*)				-(*)	
TROPHY MEAT PACKING COMPANY, INC.	117		-(*)	--(*)	--(*)		-(*)	
MARHOEFER PACKING COMPANY, INC.	121						-(*)	
JOHN MORRELL & COMPANY	126		-(*)				-(*)	
CASH BROTHERS PACKING COMPANY, INC.	127		-(*)	--(*)			-(*)	
JOHN ROTH & SON, INC.	130		-(*)					
FERRARA MEAT COMPANY, INC.	134		-(*)	--(*)				
NEBRASKA BEEF PACKERS, INC.	135		-(*)	--(*)				
KLUENER PACKING COMPANY	142		-(*)	--(*)				
R. B. RICE SAUSAGE COMPANY, INC.	144						-(*)	
SILVER FALLS PACKING COMPANY, INC.	153		-(*)	--(*)				
DALLAS CITY PACKING, INC.	156		-(*)	--(*)				
CORNLAND DRESSED BEEF, INC.	157		-(*)					
BEEFLAND INTERNATIONAL, INC.	158		-(*)					
MISSOURI FARMERS ASSN. PACKING DIVISION	159		-(*)				-(*)	
BROWN PACKING COMPANY	167			-(*)				
E. W. KNEIP, INC.	169		-(*)					
BUB DAVIS PACKING COMPANY	171		-(*)	-(*)	--(*)	--(*)		
AMERICAN MEAT PACKING CORPORATION	180						-(*)	
THE RATH PACKING COMPANY	186	F					-(*)	
CARL'S SAUSAGE COMPANY	188						-(*)	
SEATTLE PACKING COMPANY	191						-(*)	
KREY PACKING COMPANY	192						-(*)	
HYNES PACKING COMPANY	197		-(*)	--(*)				
UNITED PACKING COMPANY	198		-(*)	-(*)	--(*)			
GEORGE A. HORMEL & COMPANY	199		-(*)				-(*)	
GEORGE A. HORMEL & COMPANY	199	A	-(*)					
GEORGE A. HORMEL & COMPANY	199	D					-(*)	
GEORGE A. HORMEL & COMPANY	199	H	-(*)					
GEORGE A. HORMEL & COMPANY	199	I					-(*)	
GEORGE A. HORMEL & COMPANY	199	N	-(*)				-(*)	
GEORGE A. HORMEL & COMPANY	199	O					-(*)	
CAVINESS PACKING COMPANY, INC.	200		-(*)					
PLATTE VALLEY PACKING COMPANY	203		-(*)					
EMGE PACKING COMPANY, INC.	205		-(*)				-(*)	
NATIONAL BEEF PACKING COMPANY	208	A	-(*)					
PENN PACKING COMPANY	212						-(*)	
E. W. KNEIP, INC	213		-(*)					
MARSHALL MEAT PRODUCTS, INC.	215		-(*)					
LINCOLN MEAT COMPANY	217		-(*)					
YORK PACKING COMPANY, INC.	220						-(*)	
ITT GWALTNEY, INC.	221	A					-(*)	
DE JONG PACKING COMPANY	223		-(*)	--(*)				
HYGRADE FOOD PRODUCTS CORPORATION	224		-(*)				-(*)	
HYGRADE FOOD PRODUCTS CORPORATION	224	B	-(*)	--(*)				
INDEPENDENCE MEAT COMPANY	226		-(*)	--(*)			-(*)	
JOHN MORRELL & COMPANY	234		-(*)					
WALTI SCHILLING & COMPANY, INC.	235		-(*)					
TEXAS TECHNOLOGICAL CELL. - ANIMAL HUSBANDRY	236		-(*)	-(*)	--(*)	--(*)		
RASKIN PACKING COMPANY	237		-(*)					
SHREVEPORT PACKING COMPANY INC. OF KANSAS	239		-(*)					
P. D. & J. MEATS	240		-(*)	--(*)				
GREENWOOD PACKING PLANT	242		-(*)				-(*)	
IOWA BEEF PROCESSORS, INC.	244		-(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
IOWA BEEF PROCESSORS, INC.	245	(*)					
IOWA BEEF PROCESSORS, INC.	245 A	(*)					
IOWA BEEF PROCESSORS, INC.	245 B	(*)					
IOWA BEEF PROCESSORS, INC.	245 C	(*)					
IOWA BEEF PROCESSORS, INC.	245 D	(*)					
IOWA BEEF PROCESSORS, INC.	245 E	(*)					
JOHN MORRELL & COMPANY	246	(*)				(*)	
FEDERAL PACKING COMPANY, INC.	249	(*)	(*)				
METRO MEAT PACKING, INC.	253	(*)				(*)	
MAGIC VALLEY PACKING COMPANY	258	(*)					
HYPLAINS DRESSED BEEF, INC.	262	(*)					
THE JONES DAIRY FARM	263					(*)	
FARM PAC KITCHENS, INC.	266	(*)					
PACIFIC MEAT COMPANY, INC.	267	(*)	(*)				
GOLDEN VALLEY PACKING COMPANY	271	(*)					
TOG PACKING COMPANY, INC.	273	(*)					
ALPHA BETA ACME MARKETS, INC.	279	(*)	(*)				
PARNETT PACKING CORPORATION	283	(*)					
SOLANO MEAT COMPANY	285	(*)	(*)	(*)			
FLAVORLAND INDUSTRIES, INC.	288	(*)					
ARBOGAST AND BASTIAN COMPANY	289					(*)	
SAN JOSE MEAT COMPANY, INC.	291	(*)					
ARMOUR & COMPANY	292					(*)	
IOWA BEEF PROCESSORS, INC.	292 A	(*)					
GUS JUENGLING & SON, INC.	298	(*)					
UNION PACKING COMPANY	305	(*)					
STAR PACKING COMPANY	306	(*)					
A. GEMMEN & SONS, INC.	308	(*)					
KAUFMAN MEATS	310	(*)	(*)				
RUDY'S FARM COMPANY	315					(*)	
ESTES PACKING COMPANY	319	(*)	(*)				
STADLER PACKING COMPANY, INC.	320	(*)				(*)	
STEVING MEAT COMPANY	322	(*)		(*)		(*)	
RUCNICK PACKING COMPANY, INC.	325	(*)		(*)			
FRISCO PACKING COMPANY	327	(*)					
C & M MEAT PACKING CORPORATION	329	(*)	(*)				
ROYAL PACKING COMPANY	331 A	(*)					
SHAPIRO PACKING COMPANY, INC.	332	(*)	(*)				
GREAT WESTERN PACKING COMPANY, INC.	334	(*)					
NOBLE'S MEAT COMPANY	335	(*)	(*)	(*)			
CHINO VALLEY MEAT PACKING COMPANY, INC.	336	(*)	(*)				
SAM KANE BEEF PROCESSORS, INC.	337	(*)	(*)				
GREEN & OLIVER SAUSAGE COMPANY	338					(*)	
MIDLAND EMPIRE PACKING COMPANY, INC.	339	(*)					
BOCKEY PACKING COMPANY	340	(*)					
PUCKETT PACKING COMPANY	343	(*)					
GOLD-PAC MEAT COMPANY, INC.	344	(*)					
ANZA PACKING COMPANY	345	(*)					
UNION PACKING COMPANY	351	(*)					
FRESNO MEAT PACKING COMPANY	354	(*)					
MC CANDLESS PACKING COMPANY, INC.	355	(*)	(*)				
SUNSTAR FOODS, INC. - BEEF DIVISION	357	(*)					
CLOUGHERTY PACKING COMPANY	360					(*)	
MEYERS PACKING COMPANY	363	(*)					
JAMES ALLAN & SONS	365	(*)	(*)	(*)		(*)	
KERSEY MEAT PROCESSING COMPANY	366	(*)		(*)		(*)	
THE PIONEER PACKING COMPANY	372					(*)	
CROSS BROTHERS MEAT PACKERS, INC.	376	(*)	(*)	(*)			
SALINAS MEAT COMPANY	378	(*)	(*)	(*)		(*)	
EMGE PACKING COMPANY, INC.	380	(*)				(*)	
SMITHFIELD PACKING COMPANY, INC.	382					(*)	
ACME MARKETS, INC.	384	(*)					
FREEDMAN BROTHERS PACKING COMPANY	387	(*)	(*)				
DUGDALE PACKING COMPANY	390	(*)					
OLDHAM'S FARM SAUSAGE COMPANY, INC.	392					(*)	
HUISKEN MEAT CENTER	394	(*)		(*)		(*)	
DUBUQUE PACKING COMPANY	396	(*)	(*)	(*)		(*)	
DUBUQUE PACKING COMPANY	396 C	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 4 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
DUBUQUE PACKING COMPANY-	396 D	*	*				
DUBUQUE PACKING COMPANY-	*396 E	*	*				
WATSONVILLE DRESSED BEEF, INC.	398	*					
OAKRIDGE SPOKEHOUSE-	401	*	*	*	*	*	
OWENS COUNTRY SAUSAGE, INC.-	403					*	
WILLISTON PACKING COMPANY, INC.-	405	*					
NEUHOFF BROTHERS PACKERS	406	*	*				
GREEN BAY DRESSED BEEF, INC.	410	*					
THE LUNDY PACKING COMPANY-	413					*	
THE LUNDY PACKING COMPANY-	413 A					*	
FROSTY MORN MEATS-	414	*	*			*	
MINDEN BEEF COMPANY-	417	*					
S. BONACCURSO & SONS, INC.	418	*	*				
MURRAY PACKING COMPANY, INC.	421	*					
E. W. KNEIP INC. OF IOWA	422	*					
THE COLLINS PACKING COMPANY-	423					*	
KENOSHA PACKING COMPANY-	425	*					
FINEBERG PACKING COMPANY	428	*	*			*	
SCHNEIDER PACKING COMPANY-	439	*					
OMAHA DRESSED BEEF COMPANY, INC.	441	*					
DEL CURTO MEAT COMPANY	445	*	*	*	*	*	
THE DICILLO CORPORATION-	448	*					
ECONOMY PACKING HOUSE-	451	*	*			*	
DEWITT PACKING CORPORATION	456	*	*				
MORRIS RIFKIN & SONS, INC.	460	*					
PIONEER BONELESS BEEF, INC.-	461	*					
LANCASTER PACKING COMPANY-	462	*					
LITVAK PACKING COMPANY	465	*					
BECHAR PACKING COMPANY	467	*	*			*	
MID-STATES INDUSTRIES, INC.-	476	*					
ARMOUR & COMPANY	477	*					
GOTHAM PROVISION COMPANY, INC.	481	*	*				
SAINT CROIX ABATTOIR	482	*	*	*	*	*	
ROBEL BEEF PACKERS, INC.	485	*					
EAST TENNESSEE PACKING COMPANY	487	*				*	
MEMPHIS BUTCHERS ASSOCIATION, INC.	488	*				*	
E. W. KNEIP, INC.-	489	*					
WARD FOODS, INC.	490	*	*	*			
FAIRBANK FARMS, INC.	492	*	*				
MID-STATE MEAT PACKERS, INC.	494	*	*				
BARTEL'S MEAT COMPANY-	497	*	*	*			
PELLA PACKING COMPANY, INC.-	498	*					
HEIM BROTHERS PACKING COMPANY, INC.-	499	*				*	
THE HULL & DILLON PACKING COMPANY-	510	*				*	
SNIDER BROTHERS, INC.-	512	*	*				
CHARLES MILLER & COMPANY	517					*	
PORK PACKERS INTERNATIONAL INC.-	520					*	
OKLAHOMA STATE UNIVERSITY - MEAT LABORATORY-	526	*	*	*	*	*	
SINGLETON INVESTMENT CORPORATION	527	*	*				
ARMOUR & COMPANY	528	*	*				
SMALLWOOD PACKING COMPANY, INC.-	529	*					
MARYSVILLE MEAT PACKING COMPANY, INC.-	533	*	*				
PEPPER PACKING COMPANY	536	*					
OSCAR MAYER & COMPANY, INC.-	537 A	*	*	*		*	
OSCAR MAYER & COMPANY, INC.-	537 B					*	
OSCAR MAYER & COMPANY, INC.-	537 E					*	
MIDWEST PACKING COMPANY-	538	*					
GROWERS MEAT COMPANY, INC.	548					*	
PRIDE PACKING COMPANY, INC.-	549	*	*				
BLACK HILLS PACKING COMPANY-	554	*					
MID-SOUTH PACKERS, INC.-	557	*				*	
D & H PACKING COMPANY-	560	*	*			*	
UNITED DRESSED BEEF COMPANY, INC.-	561	*	*				
PACKERLAND PACKING COMPANY	562 A	*					
PACKERLAND PACKING COMPANY OF TEXAS-	562 C	*					
PECK MEAT PACKING CORPORATION-	567	*					
ELMER BEARDER & SON, INC.	569		*	*			
PERRETTA PACKING COMPANY, INC.	571	*					

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 5 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
COIL INC.	575		(*)	(*)				
FROSTY MORN MEATS, INC.	576						(*)	
ARMOUR & COMPANY	579		(*)				(*)	
MONARCH PACKING COMPANY	581		(*)					
COFFEYVILLE PACKING COMPANY, INC.	583		(*)					
FREDERICK & HERRUD, INC.	586						(*)	
DAWSON-BAKER PACKING COMPANY, INC.	588		(*)					
CCMC MEAT PACKING, INC.	593		(*)	(*)				
ELK GROVE MEAT COMPANY	601		(*)					
SAN ANTONIO PACKING COMPANY	602		(*)	(*)	(*)	(*)		
SAN ANTONIO PACKING COMPANY	602	A	(*)	(*)	(*)	(*)	(*)	
WRIGHT PACKING COMPANY, INC.	603		(*)	(*)				
JOHN MORRELL & COMPANY	604		(*)	(*)				
WILSON & COMPANY, INC.	606						(*)	
EASTERN OREGON MEAT COMPANY, INC.	611		(*)		(*)		(*)	
DONNER PACKING COMPANY	614		(*)					
KUMMER MEAT COMPANY, INC.	617		(*)	(*)	(*)			
DOSKOCIL SAUSAGE, INC.	623						(*)	
LUMBERJACK MEATS, INC.	626						(*)	
BIG FOOT PACKING COMPANY, INC.	627		(*)					
E. A. MILLER & SONS PACKING COMPANY, INC.	628		(*)	(*)				
H. H. KEIM COMPANY	630		(*)					
EBNER BROTHERS PACKERS	633		(*)	(*)				
CARTERET ABATTOIR, INC.	639		(*)	(*)	(*)	(*)	(*)	
FLANERY MEAT, INC.	643		(*)					
TRANSCONTINENT PACKING COMPANY	646	E						(*)
BIRD PROVISION COMPANY	647						(*)	
SPENCER FOODS, INC.	648		(*)					
SCHLUDERBERG-KURDLE COMPANY, INC.	649						(*)	
JOHN MORRELL & COMPANY	650						(*)	
WILSON & COMPANY, INC.	655				(*)			
BAUM'S BOLOGNA, INC.	657		(*)	(*)	(*)			
MC COOK PACKING CORPORATION	660		(*)					
QUALITY MEAT PACKING COMPANY	661		(*)					
COLORADO WEST PACKERS, INC.	662		(*)	(*)	(*)		(*)	
WEBBER FARMS, INC.	665						(*)	
CROWN PACKING COMPANY	666						(*)	
SCOTTSBLUFF PACKING COMPANY	667		(*)					
UNION PACKING COMPANY, INC.	673		(*)					
S & S PACKING COMPANY, INC.	674		(*)				(*)	
CAVINESS PACKING COMPANY, INC.	675		(*)					
JACOB BAUER'S SONS, INC.	678		(*)	(*)				
HIGH COUNTRY PORK PRODUCTS, INC.	680						(*)	
CALDWELL PACKING COMPANY, INC.	683		(*)					
CALLAWAY PACKING COMPANY, INC.	688		(*)					
PIERCE PACKING COMPANY	691						(*)	
BRYAN MEAT COMPANY	693		(*)	(*)				
KANSAS STATE UNIV. - ANIMAL SCIENCE & INDUSTRY	694		(*)		(*)		(*)	
KRAMER BEEF COMPANY	695		(*)					
GULF PACKING COMPANY	696		(*)					
TRICLE BROTHERS	706						(*)	
CENTRAL NEBRASKA PACKING COMPANY	713	E						(*)
CAVENPORT PACKING COMPANY, INC.	716		(*)					
FARMLAND FOODS, INC.	717						(*)	
FARMLAND FOODS, INC.	717	A					(*)	
FARMLAND FOODS, INC.	717	CR					(*)	
A. DARLINGTON STRODE	718						(*)	
SWIFT & COMPANY	726		(*)	(*)			(*)	
ROGDE PACKING COMPANY, INC.	729		(*)					
FROSTY MORN MEATS, INC.	731		(*)	(*)				
EILER & SON, INC.	732		(*)	(*)	(*)		(*)	
WESTERN PACKERS	733		(*)					
OHIO PACKING COMPANY	736		(*)	(*)			(*)	
PARNELL'S PACKING COMPANY	738		(*)	(*)	(*)		(*)	
THE JACOB SCHLACHTER'S SONS COMPANY	739		(*)	(*)				
MID-STATE MEAT COMPANY	741		(*)	(*)				
THE OK PACKING COMPANY	749		(*)	(*)				
JACK'S MEAT PACKING PLANT	754		(*)	(*)	(*)	(*)	(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
SEITZ FOODS, INC.	756 A	(*)					
THE AMERICAN MEAT PACKING CORPORATION	760					(*)	
KARLER PACKING COMPANY	767	(*)					
SHERIDAN MEAT COMPANY, INC.	768	(*)	(*)	(*)		(*)	
EARL C. GIBBS, INC.	770	(*)					
HANFORD MEAT PACKING COMPANY	773	(*)					
ATLAS PACKING COMPANY	775	(*)					
CENTRAL PACKING COMPANY	777	(*)					
THE CUDAHY PACKING COMPANY	779	(*)				(*)	
BRYAN PACKING COMPANY, INC.	780	(*)				(*)	
DIAMOND MEAT COMPANY, INC.	783	(*)					
GRANITE STATE PACKING COMPANY	785	(*)	(*)				
AURORA PACKING COMPANY, INC.	788	(*)					
HATFIELD PACKING COMPANY	791					(*)	
BAUM'S MEAT PACKING COMPANY	792	(*)	(*)				
HURON DRESSED BEEF, INC.	798	(*)					
AMERICAN BEEF PACKERS, INC.	807	(*)					
THE G. ERHARDT SONS, INC.	810	(*)	(*)				
S & R BEEF COMPANY	811	(*)	(*)				
UNITED PACKING OF IOWA, INC.	812					(*)	
ROCHESTER INDEPENDENT PACKER, INC.	817	(*)					
J. H. ROUTH PACKING COMPANY	818					(*)	
STERLING COLORADO BEEF COMPANY	823	(*)					
FOREMOST PACKING COMPANY	824	(*)				(*)	
SUPERIOR PACKING COMPANY, INC.	825			(*)			
LOOKOUT MOUNTAIN PACKERS, INC.	826	(*)	(*)				
BERCHEM'S MEAT COMPANY	830	(*)					
LEE-JOHNSON, INC.	835	(*)		(*)	(*)	(*)	
FREDERICK COUNTY PRODUCTS, INC.	838	(*)					
VALLEYDALE PACKERS, INC.	840	(*)				(*)	
G. BARTLSCH PACKING COMPANY	843	(*)					
THE ALLEN PACKING COMPANY	845	(*)	(*)	(*)			
ARENA DRESSED BEEF COMPANY	853	(*)	(*)				
SIOUX CITY DRESSED BEEF, INC.	857	(*)					
COLORADO BEEF PROCESSORS, INC.	857 D	(*)					
FLAVORLAND INDUSTRIES, INC.	857 F	(*)					
FLAVORLAND INDUSTRIES, INC.	857 O	(*)					
JORDAN MEAT AND LIVESTOCK COMPANY, INC.	858	(*)	(*)	(*)	(*)	(*)	
O'NEILL MEAT COMPANY	862	(*)					
TENNESSEE DRESSED BEEF	865	(*)					
HARDY AND COMPANY, INC.	869	(*)	(*)				
SANTA ANA PACKING COMPANY	874	(*)					
SWANSON PACKING, INC.	883	(*)					
ALCO PACKING COMPANY, INC.	885	(*)	(*)	(*)	(*)	(*)	
WALDEN PACKING COMPANY, INC.	886	(*)					
HAMILTON PACKING COMPANY	891	(*)	(*)	(*)	(*)	(*)	
SAMBOL PACKING COMPANY	892	(*)					
TOBIN PACKING COMPANY, INC.	893					(*)	
VERNON CALHOUN PACKING COMPANY	897	(*)					
PARTY PACKING CORPORATION	902	(*)					
B. CONSTANTINE & SONS COMPANY	918	(*)					
ALICE PACKING COMPANY	921	(*)					
VALLEYDALE PACKERS, INC.	922	(*)	(*)			(*)	
WISCONSIN PACKING COMPANY	924	(*)					
PEOPLES PACKING COMPANY	925	(*)	(*)				
PARSONS BEEF COMPANY, INC.	932	(*)					
VOLTZ PACKING COMPANY	938	(*)					
GENTNER PACKING COMPANY, INC.	941	(*)					
HEILMAN FOOD INDUSTRIES, INC.	946 B	(*)					
M. BRIZER & COMPANY	948	(*)					
JOE DOCTORMAN & SON PACKING COMPANY, INC.	949	(*)	(*)	(*)		(*)	
KENNEDY'S SAUSAGE COMPANY	950					(*)	
808 EVANS FARMS, MICHIGAN, INC.	952					(*)	
GREATER OMAHA PACKING COMPANY, INC.	960	(*)					
POTTER SAUSAGE PRODUCT, INC.	961					(*)	
VIRGINIA PACKING COMPANY, INC.	963	(*)	(*)	(*)			
T. L. LAY PACKING COMPANY	967	(*)				(*)	
MONFORT PACKING COMPANY	969	(*)		(*)			

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 7 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HAWAII MEAT COMPANY, LTD.	970		*					
LONGHORN MEAT PACKERS, INC.	976		*					
BANNER BEEF COMPANY	985		*					
SHAMROCK BEEF COMPANY	987		*					
EVERETT C. HORLEIN & SON, INC.	988		*					
KLARER OF KENTUCKY, INC.	995						*	
THE HOME PRIDE PROVISIONS, INC.	1029		*	*	*	*		
LANDY PACKING COMPANY	1171		*					
PORKLAND DIVISION OF CONSOLIDATED FOODS	1175						*	
A. F. MEYER & SON	1311		*					
MC CABE PACKING PLANT	1312		*	*				
SWIFT & COMPANY	1315		*				*	
BEEF NEBRASKA, INC.	1318		*					
LA BRIER MEAT PROCESSING COMPANY	1463		*	*	*		*	
ASSOCIATED MEAT PACKERS, INC.	1472		*		*		*	
STEVENS MEAT COMPANY, INC.	1485		*	*				
OMAHA PORK PACKERS, INC.	1526						*	
JAMES SAUSAGE COMPANY	1718						*	
DE KALB COUNRTY PACKING, INC.	1737				*		*	
NORTHSIDE PACKING COMPANY	1750		*					
LITTLE RIVER PACKING	1771		*	*			*	
GOLDEN WEST MEAT COMPANY, INC.	1796	E						*
ROCH DELL MEATS PROCESSING	1894		*	*	*			
C & C PACKING COMPANY	2033		*	*				
MISTER BEEF PACKING	2061		*	*			*	
TEXAS AGRIBUSINESS COMPANY	2083		*	*	*	*	*	
ODOM SAUSAGE COMPANY OF KENTUCKY, INC.	2094						*	
ALEWELS, INC.	2101		*	*	*	*	*	
JESSE JONES DIVISION OF GOODMARK, INC.	2103						*	
HONEY BEEF HOUSE	2104		*	*				
BALLARD'S FARM SAUSAGE, INC.	2108						*	
P & H PACKING COMPANY, INC.	2211		*	*				
HANDY PACKING COMPANY, INC.	2215		*	*				
YOAKUM PACKING COMPANY, LTD.	2216		*	*				
BURLISON PACKING COMPANY	2224		*	*				
PACE PACKING COMPANY	2228		*	*			*	
RIDLEY PACKING COMPANY	2229		*	*				
SOUTH TEXAS PACKERS, INC.	2230		*					
GEORGE BRAUN PACKING COMPANY, INC.	2239		*					
BRYAN SAUSAGE COMPANY, INC.	2249						*	
LOVELAND PACKING COMPANY, INC.	2259						*	
G & C PACKING COMPANY	2262		*	*				
RIDLEY PACKING COMPANY	2265		*	*			*	
L. A. FREY & SONS, INC.	2266	A	*				*	
WRIGHT PACKING COMPANY	2269		*	*			*	
CENTENO MEAT COMMISSARY	2271		*					
LAMESA MEAT COMPANY	2272		*		*		*	
AMARILLO PACKING COMPANY	2273		*					
HUSBAND BROTHERS PACKING COMPANY	2284		*					
BEN GRANTHAM MEAT PACKERS	2290		*	*			*	
DANKWORTH PACKING COMPANY	2296		*				*	
CORNETT PACKING COMPANY	2333		*				*	
AMANA SOCIETY	2357		*					
THEIS PACKING COMPANY, INC.	2367		*					
GROTE MEAT COMPANY	2369		*					
CLAYTON PACKING COMPANY	2373			*				
SMIT & SON, INC.	2376		*				*	
SPENCER FOODS, INC.	2379		*					
MARTIN SAUSAGE COMPANY	2385						*	
MARSHALL PACKING COMPANY, INC.	2386		*					
CLINTON PACKING COMPANY	2387						*	
MOTT PACKING COMPANY	2394		*				*	
UNITED MEAT COMPANY, INC.	2396		*					
PONY EXPRESS RANCH	2398		*	*			*	
HILLSHIRE FARM COMPANY	2435						*	
B & S MEAT COMPANY, INC.	2439		*	*	*		*	
JOHN R. DAILY, INC.	2450		*	*			*	
CIPPL PACKING COMPANY	2460		*					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 8 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
LINK BROTHERS, INC.	2472		(*)	(*)				
WENNING PACKING COMPANY, INC	2533	*	(*)					
WOLVERINE PACKING COMPANY	2574			(*)	(*)	(*)		
WEYHAUPT BROTHERS PACKING COMPANY	2594		(*)				(*)	
BARTLOW BROTHERS, INC.	2595		(*)				(*)	
THE TEETERS PACKING COMPANY	2598						(*)	
DU CUCIN PACKING COMPANY	2599		(*)				(*)	
MCDONALD MEATS	2603		(*)				(*)	
J. J. FOUTCH & SON	2604		(*)				(*)	
J. W. TRUITH & SONS, INC.	2612		(*)					
MANASSAS FROZEN FOODS	2621	A	(*)	(*)	(*)	(*)	(*)	
LOOMIS PACKING COMPANY, INC.	2636		(*)	(*)			(*)	
H. P. BEALE & SONS, INC.	2682						(*)	
YODERS LOCKER PLANT	2699		(*)	(*)			(*)	
WAGNER PROVISION COMPANY, INC.	2770		(*)	(*)			(*)	
STOEVEN BROTHERS	2800		(*)		(*)			
BLUE MOUNTAIN MEATS	2825		(*)	(*)	(*)	(*)	(*)	
LEWIS & MC DERMOTT	2847		(*)					
VISTA MEAT PACKING COMPANY, INC.	2854		(*)	(*)				
GRANITE MEAT & LIVESTOCK COMPANY	2856		(*)	(*)				
ZWEIGART PACKING CORPORATION	2863		(*)	(*)	(*)		(*)	
ARMBRUST MEATS	2912		(*)	(*)			(*)	
MADISON FOOD, INC.	2923						(*)	
MARYVILLE PACKING COMPANY	2927		(*)	(*)	(*)	(*)	(*)	
PETTIS COUNTY LOCKER SYSTEM	2929		(*)	(*)	(*)	(*)	(*)	
RUNYON FROZEN FOOD SERVICE, INC.	2932		(*)	(*)	(*)	(*)	(*)	
WINTER'S MEAT PROCESSING	2936		(*)	(*)	(*)		(*)	
WOODS LOCKER & ABATTOIR	2938		(*)	(*)	(*)	(*)	(*)	
YONTZ PACKING COMPANY	2939		(*)	(*)				
WEST SLAUGHTER HOUSE	2945		(*)	(*)			(*)	
SUTTERER'S SLAUGHTER HOUSE	2946		(*)	(*)	(*)	(*)	(*)	
PENISCOT PACKING COMPANY, INC.	2948						(*)	
DAVIS SLAUGHTER PLANT	2950		(*)	(*)	(*)	(*)	(*)	
CROUCH'S LOCKER & PROCESSING	2951		(*)	(*)	(*)	(*)	(*)	
NADLER BUTCHERY	2956		(*)	(*)	(*)		(*)	
MAXWELL BROTHERS, INC.	2959		(*)	(*)			(*)	
MAC DYE PACKING COMPANY	2962		(*)		(*)		(*)	
MATTHEW'S LOCKER	2963						(*)	
BOLIVAR LOCKER PLANT	2964		(*)	(*)	(*)	(*)	(*)	
FRANCIS PACKING COMPANY	2965		(*)					
SWISS PROCESSING PLANT	2969		(*)	(*)	(*)	(*)	(*)	
SLAGLE MEAT MARKET, INC.	2970		(*)	(*)	(*)	(*)	(*)	
MURPHY SLAUGHTERHOUSE	2972		(*)	(*)			(*)	
SINGER LOCKER SERVICE	2975		(*)				(*)	
DELALOYE & SONS MEAT PACKING, INC.	2977		(*)					
RINEHART'S MEAT PROCESSING, INC.	2978		(*)	(*)	(*)	(*)	(*)	
MIRABILE MEAT PROCESSING	2982		(*)					
DAVIS MEAT PROCESSING	2984		(*)	(*)	(*)	(*)	(*)	
DIGGS PACKING COMPANY	2985		(*)	(*)				
OZARK LAKE	2986	A	(*)	(*)	(*)	(*)	(*)	
HIGHLANDVILLE PACKING COMPANY	2987		(*)	(*)	(*)	(*)	(*)	
GLEN'S CUSTOM BUTCHERING	2989		(*)	(*)	(*)	(*)	(*)	
PERRY FROZEN FOODS	2990		(*)	(*)	(*)	(*)	(*)	
HOLDEN LOCKER PLANT	2993		(*)	(*)	(*)		(*)	
COUNTRY BUTCHER SHOP	2995		(*)	(*)	(*)		(*)	
COUNTRY BUTCHER SHOP	2995	A	(*)	(*)	(*)	(*)	(*)	
MISSOURI STATE PENITENTIARY FOR MEN	2998		(*)				(*)	
GEHMAN'S QUALITY MEATS	4014		(*)	(*)	(*)	(*)	(*)	
LACARTE FARMS BEEF	4018		(*)					
DIETRICH'S COUNTRY MEATS	4022		(*)	(*)	(*)		(*)	
HOFFER'S LICKNIER VALLEY PACKING	4025		(*)	(*)	(*)	(*)	(*)	
MARTINI PACKING COMPANY, INC.	4026		(*)	(*)	(*)			
TEXTER FARMS	4034		(*)	(*)	(*)		(*)	
WAYNE H. HOFFMAN & SON	4040		(*)	(*)			(*)	
CLARENCE W. CRAMER	4043		(*)	(*)	(*)		(*)	
SPRING RUN ASSOCIATION	4049		(*)	(*)	(*)		(*)	
LEE PACKING COMPANY	4055		(*)				(*)	
THE DEVEREUX FOUNDATION FARM	4065		(*)				(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 9 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JOHN A. BECK	4095	(*)	(*)				
TALONE PACKING COMPANY	4152	(*)	(*)				
UPLAND PACKING COMPANY	4165	(*)					
THE COLDWATER MEAT SERVICE, INC.	4202	(*)				(*)	
TINY'S MEATS	4206	(*)	(*)	(*)		(*)	
VALLEY MEATS, INC.	4213	(*)					
HAWARDEN CF IOWA BEEF PACKERS, INC.	4216	(*)					
SPRINGFIELD QUALITY BEEF, INC.	4220	(*)	(*)				
PULVERMACHER, INC.	4244	(*)	(*)	(*)		(*)	
JOE PAGLILSO & BROTHERS, INC.	4253	(*)	(*)				
SCHREIBER SON'S MARKET, INC.	4254	(*)					
POOK'S WHOLESALE MEATS, INC.	4263	(*)	(*)			(*)	
STATE UNIV. OF NEW YORK, AGRI. & TECH. COLLEGE	4266	(*)	(*)	(*)	(*)	(*)	
JIP SIMON'S MEATS	4285	(*)	(*)				
ALPHONSO CUOMO	4342	(*)					
S & J SLAUGHTERHOUSE	4346	(*)	(*)			(*)	
F K & SON, INC.	4353	(*)					
KLINCK BROTHERS, INC.	4354	(*)					
DONALD H. CLOY	4355	(*)	(*)				
BERNACKI BROTHERS	4358	(*)					
CARLSON BROTHERS MEATS, INC.	4372	(*)					
J. M. BOSTWICK & SONS, INC.	4373	(*)					
NESSLE BROTHERS MEATS	4389	(*)	(*)				
WALLKILL CORRECTIONAL FACILITY	4416	(*)					
KARL'S SLAUGHTERHOUSE	4418	(*)	(*)			(*)	
FIORENTINO BROTHERS MEAT PROCESSORS	4419	(*)					
L & C MEATS COMPANY, INC.	4421	(*)					
LEWIS A. IVES	4422	(*)	(*)				
LOFFT'S MARKET	4423	(*)				(*)	
HERBERT M. ZIFF, INC.	4424	(*)					
SHAPPEE & SHEIVE MEAT PLANT	4426	(*)					
P. BRENNAN, INC.	4429	(*)	(*)	(*)		(*)	
WILLIAM G. MEAT PACKING COMPANY	4431	(*)					
GREEN HAVEN CORRECTIONAL FACILITY	4463	(*)					
NOWER CUSTOM SLAUGHTERING	4468	(*)	(*)	(*)	(*)		
KAMERY'S WHOLESALE MEATS	4470	(*)	(*)			(*)	
FREDERICK BOND	4471	(*)					
PACKER'S WHOLESALE MEATS	4473	(*)					
GREENVILLE PACKING CORPORATION	4474	(*)					
LUTZ PACKERS, INC.	4475	(*)				(*)	
BRICCETTI'S BEDFORD MARKET	4476	(*)	(*)				
JOSEF MEILLER'S SLAUGHTERHOUSE, INC.	4477					(*)	
CROGHAN MEAT MARKET, INC.	4480	(*)					
F. J. LEWIS	4482	(*)	(*)	(*)	(*)		
MOKAN'S SLAUGHTERHOUSE	4483	(*)	(*)	(*)			
STEINER PACKING COMPANY, INC.	4486	(*)	(*)	(*)	(*)	(*)	
VICTORIA POLYNIAK	4488	(*)				(*)	
STEIGER'S SLAUGHTER HOUSE	4489	(*)					
PAT ROBLSTON, INC.	4491	(*)					
DILLION'S SLAUGHTER HOUSE	4492	(*)	(*)				
E. D. BEAGLES SLAUGHTER HOUSE	4493	(*)					
ROTTERDAM PACKING COMPANY, INC.	4526	(*)				(*)	
CUDLIN'S MARKET	4528	(*)				(*)	
CLIFFORD F. SCHRADER	4529	(*)					
JOHN BRITT	4530	(*)					
OWASCO MEAT COMPANY	4532	(*)	(*)			(*)	
MAPLE GROVE FARMS	4533	(*)	(*)				
GORHAM PACKING CORPORATION	4534	(*)	(*)	(*)		(*)	
TEAR'S MARKET	4535	(*)	(*)	(*)		(*)	
SOUTH DAYTON MEAT MARKET	4540	(*)	(*)	(*)		(*)	
MANWARING'S CUSTOM PROCESSING	4541	(*)	(*)	(*)		(*)	
LAZY FARMS, INC.	4542	(*)	(*)	(*)			
BERTCH'S SLAUGHTERHOUSE	4623	(*)	(*)				
FORD BROTHERS WHOLESALE MEATS, INC.	4625	(*)	(*)				
CHARLES AHL MEATS	4638	(*)					
RITE WAY MEAT PROCESSING, INC.	4662	(*)				(*)	
STRANDBERG'S WHOLESALE MEATS	4666	(*)	(*)	(*)		(*)	
SUFFOLK COUNTY FARM COOP	4675	(*)	(*)			(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 10 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
KENNEDY MEAT MARKET	4677		*	*				
HOBART'S REFRIGERATED SERVICE	4679		*	*				
POTTER PACKING COMPANY, INC.	4689		*	*	*	*	*	
LILLIES WHOLESALE MEATS	4697		*					
FRANK DEMARTINO & SONS	4707		*					
SOUTHINGTON PACKING COMPANY	4708		*	*	*	*	*	
DAN-BROOK PACKING COMPANY	4709		*	*	*	*	*	
MAURICE'S COUNTRY MEAT MARKET	4714		*	*	*	*	*	
LECCE PACKING COMPANY	4715		*	*	*	*		
E & J FARMS	4716		*	*	*	*		
UNIVERSITY OF CONNECTICUT - MEAT LABORATORY	4717		*	*	*	*	*	
DON J. LYNCH PACKING HOUSE	4727		*					
MATTICE'S SLAUGHTERHOUSE	4728		*					
TROUP PACKING COMPANY	4800		*					
CURRY COUNTY MEAT PACKERS, INC.	4802		*					
TAMA MEAT PACKING CORPORATION	4803		*					
MOUNTAIN PROCESSORS, INC.	4804		*				*	
BIG CREEK TRADING POST	4805		*	*	*	*	*	
HIGH PLAIN PACKING COMPANY, INC.	4806		*	*	*	*	*	
CENTRAL MEAT PACKERS	4809		*	*			*	
Q SUPPLY COMPANY	4810		*					
CAJUN PACKING COMPANY	4814		*				*	
GREAT WESTERN MEAT COMPANY	4816	E						*
BROADWAY MEATS	4818		*					
CATTLEMAN'S WHOLESALE BEEF & PORK OUTLET	4819		*	*			*	
CAL POLY MEATS	4869		*		*		*	
KLAPP'S PACKING HOUSE MARKET	4903		*		*		*	
RICKERT MEAT COMPANY	4982		*	*	*	*	*	
FORT PLAIN PACKING COMPANY, INC.	5074		*	*				
SELECTED MEAT PACKERS, INC.	5109		*					
DOUBLE A MEAT PACKING, INC.	5162		*	*	*	*	*	
ANTHONY PARILLO, INC.	5193		*	*	*	*	*	
RALPH PACKING COMPANY, INC.	5228		*	*				
JOHNSTON DRESSED BEEF & VEAL COMPANY, INC.	5300		*	*	*	*		
HAYES PACKING CORPORATION	5301		*	*	*			
MORRIS MENDEL & COMPANY	5309		*	*	*	*		
GEORGE WALDENMAIER & SONS	5327		*	*				
S. MARESCA & SONS, INC.	5416		*	*				
SALEM PACKING COMPANY	5425		*	*			*	
BRINGHURST BROTHERS, INC.	5426		*	*	*	*	*	
NEWFIELD MEAT PACKERS, INC.	5429		*	*	*	*	*	
VINELAND DRESSED BEEF, INC.	5430		*					
WHIPPANY MEAT PACKING, INC.	5437		*	*	*	*		
KLEEMEYER & MERKEL, INC.	5439		*					
MUENCH MEATS	5442			*				
SIEGEL BROTHERS, INC.	5457		*	*	*		*	
MARLBORO PSYCHIATRIC HOSPITAL	5464						*	
PERSON'S PROCESSING	5469		*	*	*		*	
WINCHESTER PACKING COMPANY, INC.	5500		*				*	
MORELAND & MAY PROCESSING PLANT	5507		*				*	
AMEND PACKING COMPANY	5509		*					
GIBBON PACKING, INC.	5511		*					
HERB'S LOCKER & SLAUGHTER, INC.	5514		*	*	*	*	*	
CENTRAL FOODS, INC.	5519		*					
HEWLETT WHOLESALE MEATS	5524		*					
MACON BEEF PACKERS, INC.	5531		*					
SIOUX-PREME PACKING COMPANY	5537						*	
JACK FOLEY BEEF COMPANY, INC.	5548		*					
IOLA MEAT PROCESSORS, INC.	5555		*	*				
THE FANCSTIL PACKING COMPANY, INC.	5562		*				*	
WAKEFIELD CATTLE COMPANY	5568		*	*				
TAMA MEAT PACKING CORPORATION	5569		*					
STANKO PACKING COMPANY	5572		*					
BUTCHERS INC.	5575		*		*		*	
WIMMER'S MEAT PRODUCTS, INC.	5601		*	*	*	*	*	
HERMAN THE GERMAN SLAUGHTERHOUSE	5604		*	*	*	*	*	
ELLIOTT FOOD PRODUCTS, INC.	5608		*		*		*	
CRC COLD STORAGE	5610		*	*			*	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT.	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
JOHNSON'S FROZEN FOODS	5612	*	*	*	*	*	
THE JIMMY DEAN MEAT COMPANY, INC.	5614					*	
DE LUCA PACKING COMPANY	5621	*	*	*		*	
ALBION LOCKERS, INC.	5622	*				*	
ALEXANDRIA PACKING COMPANY	5623	*			*	*	
HOLTZEN'S CERTIFIED MEAT PROCESSING AND CURING	5630	*	*	*		*	
CARLSON'S MEAT & LOCKERS	5632	*	*	*	*	*	
OSAKIS MEAT & PROCESSING	5633	*	*	*	*	*	
DOTY PACKING COMPANY, INC.	5634	*	*			*	
GRUNKEMEYER MEATS	5635	*	*			*	
OTTE PACKING	5638	*	*	*	*	*	
E & E MEATS PROCESSING	5639	*			*	*	
JOHNSON STEAK MASTER	5641	*	*			*	
PETERSON'S LOCKERS INC.	5647	*	*	*		*	
TATUM'S PROCESSING PLANT	5649	*			*	*	
CUSTOM PACK, INC.	5650	*	*	*		*	
LUTHER'S LOCKER & PACKING COMPANY, INC.	5651	*				*	
CITY MEAT MARKET	5652	*				*	
VERLING LOCKER	5653	*					
BELINDE'S LOCKER PLANT	5654	*			*	*	
EPLER MERCANTILE COMPANY	5655	*		*		*	
KIMBALL LOCKER PLANT	5656	*			*	*	
TRAUTMAN'S MEAT CENTER	5657	*					
UNIV. OF NEBRASKA - LOEFFEL MEAT LABORATORY	5658	*			*	*	
BUTLER'S BEEF ACRES	5660	*					
ROMAN PACKING COMPANY	5662	*					
NORTH PLATTE PACKING COMPANY, INC.	5663	*				*	
PETERSBURG LOCKER	5668	*				*	
DITTMAN'S MARKET	5671	*	*	*		*	
YOST PACK INC.	5672	*	*	*	*	*	
HOLLSTEIN PACKING COMPANY	5673	*	*	*	*	*	
KREIMER'S STORE	5681	*			*	*	
TECUMSEH LOCKER	5682	*	*	*	*	*	
VALENTINE LOCKERS	5683	*	*	*	*	*	
WAUSA LOCKERS	5686	*	*	*		*	
MORRIS SNOW & COMPANY	5715	*					
HAVLIK'S LOCKER PLANT	5729	*	*			*	
SHERMAN CUSTOM SLAUGHTERING	5764	*				*	
ALEWEL'S, INC.	5766	*	*	*		*	
V-B MEAT COMPANY	5769	*	*	*	*	*	
PERRYVILLE PACKING COMPANY, INC.	5770	*	*	*	*	*	
HASTY PACKING COMPANY	5772	*	*	*	*	*	
PIERCE CITY LOCKER	5775	*	*	*	*	*	
FRIGID FOOD SERVICE	5776	*	*	*		*	
UNIVERSITY OF MISSOURI - F S & N DEPT.	5777	*	*	*		*	
GREENHILL SLAUGHTER HOUSE	5779	*			*	*	
THE DEEP-FREEZE INC.	5782	*		*	*	*	
LUPLEY LOCKER	5788	*	*	*	*	*	
SEATON MEAT COMPANY	5791	*	*			*	
PARIS LOCKER & ABATTOIR	5795	*	*	*	*		
DALE'S PACKING COMPANY	5797	*	*				
NORV'S PORK PRODUCTS	5798	*	*	*	*	*	
MCGEE PACKING COMPANY	5801	*	*	*	*	*	
WARSAW MEAT PROCESSING COMPANY, INC.	5812	*	*	*		*	
R MEATS, INC.	5819	*				*	
NORBORNE LOCKER SERVICE	5820	*				*	
MOTT'S FOOD LOCKERS - ABATTOIR	5821	*				*	
SIKESTON SLAUGHTERHOUSE	5824	*	*				
HUGHESVILLE SLAUGHTER PLANT	5826	*	*	*	*	*	
FOOS BROTHERS, INC. SLAUGHTER HOUSE	5827	*				*	
ANDERMAN & COMPANY	5830	*					
CROWLEY PACKING COMPANY	5832	*	*			*	
KREISEL SLAUGHTER HOUSE	5834	*	*	*		*	
LEET'S LOCKER PLANT	5835	*				*	
GIBSON PACKING COMPANY	5843	*	*	*	*	*	
MILLER'S MEAT PROCESSING	5846	*					
ANESI PACKING COMPANY	5847	*	*				
J & J QUICK MEATS, INC.	5848	*	*			*	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 12 OF 23 PAGE(S)

NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
NIBLOCK PORK PRODUCTS		5900					(*)	
SUSSEX PACKING COMPANY		*5901	(*)	(*)	(*)		(*)	
BORDEN PACKING		5909	(*)					
JOSEPH CHIU		5910	(*)	(*)	(*)		(*)	
DE VRIES MEAT PACKING		5911	(*)	(*)	(*)	(*)	(*)	
JOHN MARCACCI		5913	(*)	(*)	(*)	(*)	(*)	
BRISTOL BEEF		5958	(*)	(*)	(*)	(*)	(*)	
J. GAGLIARDI INC.		5999			(*)			
O. K. MEAT PACKING COMPANY, INC.		6001	(*)	(*)				
WILLIAM C. FARKE & SONS COMPANY		6003	(*)	(*)				
UNIVERSITY OF NEVADA - ANIMAL SCIENCE DIVISION		6004	(*)		(*)			
HOHENER MEAT COMPANY, INC.		6011	(*)	(*)			(*)	
JOHNSON MEAT COMPANY		6016	(*)	(*)	(*)	(*)	(*)	
RIISE & OGLEY MEAT PACKING COMPANY		6017	(*)	(*)			(*)	
MOUNT VERNON MEAT COMPANY, INC.		6039	(*)	(*)				
PASCO MEAT PACKERS, INC.		6040	(*)	(*)			(*)	
WEBER, INC.		6041	(*)	(*)	(*)	(*)		
MC RAE PACK, INC.		6042	(*)	(*)	(*)		(*)	
FLORENCE PACKING COMPANY, INC.	E	6043						(*)
DAVIS MEAT COMPANY		6044	(*)				(*)	
AVILA MEAT COMPANY		6046	(*)	(*)				
SATICOY MEAT PACKING COMPANY		6055	(*)	(*)	(*)		(*)	
SCHENK PACKING COMPANY		6056	(*)	(*)	(*)			
TULARE MEAT COMPANY		6063	(*)	(*)				
REDWOOD MEAT COMPANY		6066	(*)	(*)	(*)		(*)	
GRANDVIEW PACKING COMPANY		6083	(*)	(*)	(*)		(*)	
ARROYOLE MEAT COMPANY		6084	(*)	(*)				
STILSON MEATS		6094	(*)	(*)	(*)	(*)	(*)	
HANSENS MEATS		6099	(*)	(*)				
KRATZIG MEAT COMPANY		6110	(*)	(*)			(*)	
MID-CAVE MEAT PACKING COMPANY		6114	(*)	(*)	(*)		(*)	
CUYAMACA MEAT COMPANY		6126	(*)	(*)				
MARY B MEATS		6156	(*)	(*)	(*)	(*)	(*)	
T. P. PACKING COMPANY, INC.		6173	(*)	(*)				
LEWIS MEATS		6175	(*)	(*)	(*)		(*)	
R & R LOCKER PLANT		6228	(*)		(*)		(*)	
TRI MILLER PACK		6230	(*)				(*)	
EVANS MEAT COMPANY		6243	(*)					
A & Z MEAT PROCESSING COMPANY, INC.		6257	(*)					
VALLEY MEAT COMPANY		6269	(*)	(*)	(*)	(*)	(*)	
MC CARY MEATS		6270	(*)	(*)	(*)	(*)	(*)	
STILLWATER PACKING COMPANY		6271	(*)		(*)		(*)	
BIG SKY MARKET		6277	(*)		(*)		(*)	
CAN'L ECCNE PACKING		6307	(*)		(*)		(*)	
J. T. TRELEGAN COMPANY		6343		(*)	(*)	(*)		
MAMESIT ABATTOIR		6344	(*)	(*)		(*)	(*)	
E. L. BLOCC & SON		6354	(*)	(*)	(*)	(*)	(*)	
BRITO'S MEATS & PROVISIONS		6359	(*)	(*)	(*)	(*)	(*)	
ISRAEL SHEINHIT PACKING COMPANY		6369	(*)	(*)				
JOHN SZALA		6376	(*)				(*)	
GOLDENDALE RANCH MEAT COMPANY		6411	(*)	(*)				
RICE MEAT PACKING COMPANY		6413	(*)	(*)	(*)	(*)	(*)	
GALBREATH PACKING COMPANY		6420	(*)	(*)	(*)	(*)	(*)	
WHOLESALE MEATS		6421	(*)	(*)	(*)	(*)	(*)	
MC KLEALEY MEAT PACKING COMPANY		6423	(*)	(*)	(*)		(*)	
CHAMBERS PACKING COMPANY	E	6429						(*)
FOSS BROTHERS		6434	(*)	(*)	(*)		(*)	
REED PACKING COMPANY		6442	(*)	(*)				
WILDER PACKING PLANT		6445	(*)	(*)	(*)	(*)	(*)	
BIG COUNTRY MEAT		6446	(*)	(*)	(*)	(*)	(*)	
CREAGHE PACKING COMPANY		6450	(*)		(*)	(*)	(*)	
WINDSOR PACKING COMPANY		6452	(*)		(*)		(*)	
RIFLE PACKING PLANT		6453	(*)	(*)	(*)		(*)	
ELIZABETH LOCKER PLANT, INC.		6454	(*)	(*)	(*)		(*)	
NORTHSIDE PACKING COMPANY		6462	(*)	(*)	(*)	(*)	(*)	
BRACCO & COMPANY		6471	(*)					
YORK'S MEAT		6482	(*)	(*)	(*)	(*)	(*)	
MORI WHOLESALE MEATS		6485	(*)	(*)	(*)	(*)	(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 13 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
K-PACK MEAT COMPANY	6487	(*)	(*)	(*)	(*)	(*)	
CARSON VALLEY MEAT COMPANY	6491	(*)	(*)			(*)	
HOTCHKISS ICE & COLD STORAGE COMPANY	6493	(*)	(*)	(*)	(*)	(*)	
QUALITY PACKING, INC.	6494	(*)	(*)	(*)	(*)	(*)	
ART'S PROCESSING	6498	(*)					
GREEN HILL, INC.	6513	(*)				(*)	
ELM HILL MEATS, INC.	6515	(*)				(*)	
GEORGE H. MEYER SONS, INC.	6521	(*)	(*)	(*)		(*)	
GUARD HILL MEATS, INC.	6526	(*)	(*)	(*)	(*)	(*)	
MORRISTOWN PROVISION COMPANY	6535	(*)				(*)	
GUNNOE SAUSAGE COMPANY, INC.	6541					(*)	
ODOM SAUSAGE COMPANY, INC.	6544					(*)	
C. RICE PACKING COMPANY, INC.	6545	(*)					
MARTIN'S ABATTOIR & WHOLESALE MEATS	6547	(*)	(*)			(*)	
DAVIS COUNTRY SAUSAGE	6549	(*)	(*)				
NORMAN'S PACKING PLANT	6552	(*)	(*)			(*)	
THE WELLS COMPANY, INC.	6554	(*)	(*)			(*)	
FAYETTE PACKING COMPANY	6555	(*)	(*)			(*)	
SILBERTS SLAUGHTER HOUSE	6556	(*)	(*)	(*)	(*)	(*)	
PENN HAVEN MEATS, INC.	6559	(*)				(*)	
HAYES PROCESSING PLANT	6560	(*)	(*)	(*)	(*)	(*)	
LINDSEY'S SLAUGHTER HOUSE	6561					(*)	(*)
F. G. ALSTIN & SON	6562	(*)	(*)	(*)	(*)	(*)	
BOLIVAR PACKING COMPANY	6563	(*)	(*)	(*)	(*)	(*)	
BROWN'S MEAT PLANT	6570	(*)				(*)	
BALTZ BROTHERS FARM, INC.	6573	(*)	(*)			(*)	
EDWARDS SALSAGE COMPANY, INC.	6579					(*)	
GLASGOW MARKET	6580					(*)	
M & G SLAUGHTER HOUSE	6582	(*)				(*)	
RANDOLPH PACKING COMPANY, INC.	6590	(*)	(*)	(*)	(*)	(*)	
WHITE PACKING COMPANY	6595	(*)	(*)			(*)	
GREENBACK FOOD SPECIALTY	6601	(*)	(*)			(*)	
MRS. KINSERS HOME STYLE FOODS, INC.	6610					(*)	
MEEKS SLAUGHTER HOUSE	6612	(*)				(*)	
PARKS, HARRIS & COMPANY	6618	(*)	(*)	(*)	(*)	(*)	
DEAN SALSAGE COMPANY, INC.	6621					(*)	
LA ANDALUZA, INC.	6628	(*)	(*)	(*)	(*)		
BOONEVILLE PACKING COMPANY	6635	(*)	(*)			(*)	
TUCKER'S SALSAGE	6643					(*)	
GOODMAN'S SLAUGHTER HOUSE	6646	(*)				(*)	
BRASELTON PACKING	6652	(*)	(*)				
MACELO MUNICIPAL	6675	(*)	(*)		(*)	(*)	
HUMACAO CITY HALL SLAUGHTER PLANT	6676	(*)	(*)			(*)	
MAYAGUEZ MUNICIPAL ABATTOIR	6677	(*)	(*)	(*)	(*)	(*)	
YAUCO MUNICIPAL GOVERNMENT	6678	(*)		(*)	(*)	(*)	
MANATI SLAUGHTER HOUSE	6679	(*)	(*)				
MUNICIPAL SLAUGHTER HOUSE	6680	(*)	(*)			(*)	
MUNICIPALITY OF VIEQUES	6681	(*)	(*)				
MUNICIPALITY OF ARECIBO	6682	(*)	(*)			(*)	
MUNICIPAL ABATTOIR	6684	(*)				(*)	
RENAN DEL ROSARIO	6686	(*)	(*)			(*)	
SAN SEBASTIAN ABATTOIR	6687	(*)	(*)			(*)	
MUNICIPIO DE AGUADILLA	6688	(*)	(*)	(*)	(*)	(*)	
MACELO MUNICIPAL DE PONCE	6689	(*)				(*)	
MACELO DE COROZAL	6690	(*)	(*)			(*)	
LARES SLAUGHTERHOUSE	6656	(*)	(*)			(*)	
M & J SLAUGHTER HOUSE, INC.	6750	(*)				(*)	
PRIMEAT PACKING COMPANY	6758	(*)					
STAR MEAT COMPANY	6760					(*)	
WALTER PACKING COMPANY	6766	(*)				(*)	
STANDARD BEEF, INC.	6770	(*)					
CALIHAN & COMPANY	6775	(*)	(*)				
HELMS SLAUGHTERHOUSE	6777	(*)	(*)	(*)		(*)	
THE ROSS ABATTOIR COMPANY	6780	(*)	(*)	(*)			
BOB EVANS FARMS, INC.	6785					(*)	
BERGMAN MEAT PACKING COMPANY, INC.	6788	(*)				(*)	
ILLINI BEEF PACKERS, INC.	6792	(*)					
BOB EVANS FARMS, INC.	6807					(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT		EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
UTICA PACKING COMPANY		6832						*
COLUMBIA PACKING COMPANY, INC.		6853	*					
MARBURGER PACKING COMPANY		6863	*					
NEMETZ PACKING HOUSE		6866	*					
HITCH PACKING COMPANY		6887	*					
MILLER PROCESSING COMPANY, INC.		6889	*	*	*	*	*	
COUNTRY PRIDE, INC.	E	6893						*
ROCKVILLE PACKING COMPANY, INC.		6901	*	*			*	
SEYMOUR PACKING COMPANY, INC	E	6920						*
THE CUYAHOGA COMPANY		6963	*	*	*	*	*	
ABE MAY PACKING COMPANY		6965	*					
SELECTED MEATS		6979	*	*				
VAN ALSTINE PACKING COMPANY		6982	*	*				
JUDSON PACK, INC.		6989	*	*	*		*	
PURDUE UNIVERSITY - MEAT SCIENCE LABORATORY		6992	*		*		*	
SCHWARTZMAN PACKING COMPANY		7003	*	*				
DEMING PACKING COMPANY, INC.		7005	*				*	
SURRATT PACKING COMPANY, INC.		7009	*				*	
JIMMY DEAN MEAT COMPANY		7012					*	
MUSKOGEE PACKING COMPANY, INC.		7015	*	*	*	*		
HATCH PACKING COMPANY, INC.		7021	*	*	*	*	*	
SIXTY-SIX PACKING COMPANY		7023	*	*	*	*	*	
WESTERN MEAT PACKERS, INC.		7028	*				*	
KACHINA PACKING COMPANY		7040		*				
CIT LAB, INC.	E	7041						*
CROW'S MEAT COMPANY		7048	*	*	*	*	*	
MAVERICK BEEF PACKERS COMPANY		7050	*					
ROCKING V BEEF, INC.		7054	*		*	*	*	
BROWN'S MEAT LOCKER		7055	*		*	*	*	
DONCHO BONELESS BEEF COMPANY		7056	*	*				
TEAPAK, INC.	E	7060						*
BROWN PACKING COMPANY		7064	*				*	
P & S PACKING COMPANY		7074	*	*			*	
COMMUNITY ABATTOIR, INC.		7075	A *	*	*	*	*	
CULBERTSON PROCESSING PLANT		7082	*		*	*	*	
HUGHSON MEAT COMPANY, INC.		7086	*		*	*	*	
HOUSTON FROSTED FOODS, INC.		7090	*	*	*		*	
SOUTHERN MEAT OF TEXAS		7094	*					
TURVEY, INC.		7097	*	*				
E-TEX PACKING COMPANY		7122	*	*				
ROSEVILLE PACKING COMPANY, INC.		7127					*	
FELICIANA MEAT SUPPLY		7128	*	*	*	*	*	
VALLEY MEAT SUPPLY & SERVICE		7138	*		*		*	
WICKHAM PACKING COMPANY, INC.		7139	*	*			*	
B & B PACKING COMPANY		7146	*	*	*	*	*	
OSBURN PACKING COMPANY		7150	*					
DON MC DOWELL MEAT PACKING COMPANY		7155	*				*	
SOUTHERN MEAT PACKERS, INC.		7157					*	
GREER'S, INC.		7159					*	
BOOKER CUSTOM PACKING COMPANY		7162	*					
BAUER & SON PACKING COMPANY		7178	*					
ALL-STATE PACKING COMPANY		7193	*	*	*	*	*	
SHALLCUP PACKING COMPANY, INC.		7201	*	*	*		*	
SINGLE TREE FARMS, INC.		7203	*				*	
MESA PACKING COMPANY		7206	*	*	*	*	*	
PRIVETT PACKING, INC.		7214	*					
TEXAS MEAT PACKERS		7235	*					
COLUMBIA PACKING		7237	*	*				
AMERICAN PACKING INC.		7248	*	*	*	*	*	
CHAMPION MEAT COMPANY		7255	*	*	*	*	*	
H & H MEAT PRODUCTS COMPANY, INC.		7259	*	*			*	
FORREST MEAT PROCESSING		7270	*	*	*	*	*	
HOBSONS MEAT SLAUGHTER & PROCESSING		7274	*	*	*	*	*	
PALACE MEAT PACKING		7275					*	
PALO DURO MEAT PROCESSING, INC.		7282	*					
BEEVILLE PACKING COMPANY		7283	*	*				
MONTGOMERY PACKING COMPANY		7286	*	*				
STILWELL PACKING COMPANY		7291	*					

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
HARPER PACKING COMPANY	7298	(*)	(*)	(*)	(*)	(*)	
KENTUCKY SAUSAGE COMPANY, INC.	7300					(*)	
DUFFY BONELESS BEEF COMPANY	7305	(*)					
METZGER PACKING COMPANY, INC.	7306	(*)				(*)	
ENTERPRISE MEAT COMPANY, INC	7319	(*)					
SAMPLE MEAT COMPANY	7321					(*)	
BLOCH WHOLESALE MEAT	7326	(*)				(*)	
MC BAR ACRES	7339					(*)	
GOLD KIST, INC.	7342					(*)	
DYER-WHITSON SLAUGHTER HOUSE	7345	(*)				(*)	
THE MEAT COMPANY	7351	(*)	(*)				
SAN GERMAN SLAUGHTERHOUSE	7386	(*)	(*)	(*)	(*)	(*)	
CABO ROJO MUNICIPAL SLAUGHTERHOUSE	7387	(*)	(*)	(*)	(*)	(*)	
MUNICIPAL GOVERNMENT OF QUEBRADILLAS	7388	(*)	(*)		(*)	(*)	
MUNICIPALITY OF AIBONITO	7390	(*)	(*)			(*)	
COLEMAN SALSAGE COMPANY	7401					(*)	
HENRY W. STAPH	7402			(*)	(*)		
CAROLINA ABATTOIR, INC.	7404	(*)	(*)			(*)	
BILL FINKE SLAUGHTER & PROCESSING PLANT	7415	(*)	(*)	(*)		(*)	
HARRISONBURG WHOLESALE MEAT COMPANY, INC.	7420	(*)	(*)	(*)	(*)	(*)	
SHARON FROZEN FOOD LOCKER	7430	(*)					
DINNER BELL MEAT PRODUCTS, INC.	7440	(*)	(*)	(*)		(*)	
BLUE RIDGE BEEF PLANT, INC.	7445	(*)					
BLUE RIDGE BEEF	7445 A	(*)					
WILLIAMS SAUSAGE COMPANY	7455					(*)	
F. B. PURNELL SAUSAGE COMPANY, INC.	7464	(*)				(*)	
DIAMOND MEAT COMPANY, INC.	7465					(*)	
HOLMES MEAT MARKET	7466	(*)				(*)	
FIELD PACKING COMPANY, INC.	7467	(*)					
H & R CUSTOM SLAUGHTERING	7472	(*)				(*)	
BRUNDIGE SALSAGE COMPANY	7475					(*)	
TENNESSEE PACKERS & PROCESSORS	7482	(*)				(*)	
DANVILLE MEAT PRODUCTS	7486	(*)				(*)	
DUGGARD'S MEAT PROCESSING, INC.	7493	(*)	(*)	(*)	(*)	(*)	
HOERTER & SON	7497		(*)				
T. M. LANDIS, INC.	7517	(*)	(*)	(*)			
SEALAMAN ENTERPRISES, INC.	7562					(*)	
GARTNER-HARF COMPANY	7576	(*)	(*)	(*)			
MERWIN PACKING, INC.	7600	(*)		(*)		(*)	
ABERCROMBIE MEAT PROCESSING COMPANY	7601	(*)	(*)	(*)		(*)	
MILLNER & SHANICK	7602	(*)	(*)				
MISSOURI VALLEY MEAT	7604	(*)	(*)	(*)			
CEDAR RIDGE MEAT SERVICE	7607	(*)		(*)		(*)	
HOPE LOCKER PLANT	7609	(*)	(*)	(*)		(*)	
CASSELTON COLD STORAGE	7611	(*)	(*)	(*)		(*)	
GREAT BEND LOCKERS	7612	(*)	(*)	(*)		(*)	
FAIRMOUNT LOCKERS	7615	(*)	(*)	(*)		(*)	
SKYBERG'S	7616	(*)		(*)		(*)	
MONTEITH MEATS	7617	(*)		(*)		(*)	
PARK RIVER LOCKER PLANT	7618	(*)		(*)		(*)	
NIAGARA LOCKERS	7619	(*)		(*)		(*)	
BOWDON LOCKER PLANT	7620	(*)				(*)	
LANGDEN LOCKERS	7622	(*)		(*)		(*)	
AAFEDT'S LOCKER PLANT	7623	(*)		(*)		(*)	
ROCKLAKE LOCKER PLANT	7624	(*)		(*)		(*)	
ANETA MEATS	7625	(*)		(*)		(*)	
NORTH DAKOTA STATE UNIVERSITY - ANIMAL SCIENCE	7627	(*)					
LUNDE PROCESSING	7634	(*)				(*)	
BICKLER'S JACK & JILL	7635	(*)				(*)	
NORTH DAKOTA STATE HOSPITAL	7639	(*)					
MYERS MEAT PROCESSING	7641	(*)		(*)		(*)	
CITY MEAT & LOCKER	7644	(*)		(*)		(*)	
WETSCH JACK & JILL	7646	(*)		(*)		(*)	
FRED BORN	7648	(*)		(*)		(*)	
K & E PROCESSING AND SALES	7655	(*)		(*)		(*)	
JOHN BORN	7656	(*)				(*)	
ELNORA LOCKERS	7661	(*)				(*)	
MORGAN COLORADO BEEF COMPANY	7671	(*)					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 16 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
CITY MEAT COMPANY-	7677	(*)		(*)		(*)	
RAHR MEAT SERVICE-	7678	(*)		(*)			
MILES CITY PACKING COMPANY	7679	(*)	(*)	(*)			
HARDIN MEAT MARKET	7684	(*)					
SEITZ-BOWERS PROCESSING PLANT-	7685	(*)		(*)		(*)	
TIMBERLAND PACKING CORPORATION	7687	(*)					
ROCKY MOUNTAIN PACKING COMPANY, INC.	7690	(*)	(*)	(*)		(*)	
TRIANGLE PACKING COMPANY	7691	(*)					
MARIA'S PACKING COMPANY-	7692	(*)	(*)	(*)		(*)	
STANFORD MEAT MARKET	7694	(*)		(*)			
C & W MEAT COMPANY	7695	(*)		(*)		(*)	
RANCHESTER PACKING COMPANY, INC.	7696	(*)					
MONTANA STATE PRISON	7707	(*)				(*)	
ROBERTS PACKING COMPANY-	7708	(*)	(*)			(*)	
C & P PACKING PLANT, INC.-	7710	(*)		(*)		(*)	
HIGHLINE PACKING COMPANY	7711	(*)		(*)			
FAN MOUNTAIN MEATS	7712	(*)				(*)	
GALLATIN VALLEY PACKING-	7713	(*)					
VANCERVANTER MEATS	7718	(*)	(*)				
RASMUSSEN MEATS-	7719	(*)	(*)	(*)		(*)	
TOLMAN MEAT PROCESSING	7724	(*)	(*)	(*)	(*)	(*)	
MICKEY'S PACKING PLANT	7732	(*)	(*)	(*)		(*)	
LIVINGSTON MEAT COMPANY, INC.-	7738	(*)					
THE MODERN LOCKER COMPANY-	7745	(*)	(*)	(*)		(*)	
COLORADO STATE UNIV. DEPT. OF ANIMAL SCIENCES	7747	(*)		(*)		(*)	
CEDAREDGE LOCKER PLANT	7748	(*)	(*)	(*)	(*)	(*)	
ROYAL GORGE PACKING COMPANY, INC.-	7749	(*)	(*)				
JET PAK, INC.- E	7755						(*)
UNIVERSITY OF MINNESOTA - MEAT SCIENCE LAB.-	7759	(*)		(*)		(*)	
BOB EVANS FARM, INC.	7763					(*)	
ADAMS LOCKER	7774	(*)		(*)		(*)	
DALE'S MEAT PROCESSING PLANT	7781	(*)		(*)		(*)	
LINDENFELSER MEATS	7782	(*)				(*)	
HUETTL'S LOCKER & DRESSING PLANT	7785	(*)	(*)	(*)		(*)	
WILSON'S MEAT MARKET	7790	(*)	(*)			(*)	
CARLOS LOCKERS	7796	(*)	(*)	(*)		(*)	
PINKE'S GARFIELD LOCKER-	7797	(*)	(*)	(*)		(*)	
CLARISSA MEATS	7799	(*)	(*)	(*)	(*)	(*)	
BRUNO'S PACKING COMPANY-	7804	(*)	(*)	(*)	(*)		
BANGOR BEEF COMPANY-	7806	(*)	(*)	(*)	(*)	(*)	
CONTI PACKING COMPANY, INC.-	7814	(*)					
KENNETH BAKER FARMS-	7845	(*)	(*)	(*)	(*)	(*)	
READFIELD ABATTOIR	7874	(*)	(*)	(*)		(*)	
BOVALINA PACKING COMPANY	7875	(*)	(*)	(*)			
PETER D. VILLARI, INC.	7887	(*)	(*)	(*)	(*)	(*)	
BRADLEY PROCESSING COMPANY	7900					(*)	
BURNETT MEAT COMPANY	7908	(*)				(*)	
PARTIN'S COUNTRY SAUSAGE	7923					(*)	
RED LION FOODS	7930	(*)				(*)	
MEHERRIN PACKING COMPANY	7931					(*)	
ELM HILL MEATS, INC.	7936	(*)					
KOCH BEEF COMPANY-	7937	(*)	(*)				
HIXSON PACKING COMPANY	7938	(*)	(*)	(*)	(*)	(*)	
PEARCE MEAT PACKING COMPANY-	7944	(*)	(*)	(*)	(*)	(*)	
SOUTHERN PACKING CORPORATION	7945	(*)	(*)	(*)		(*)	
CHARLES J. SCHMIDT & COMPANY	7948	(*)	(*)				
WEST TENNESSEE PACKING COMPANY	7955	(*)					
DREHER PACKING COMPANY, INC.	7957					(*)	
LOUISVILLE BEEF CORPORATION-	7969	(*)	(*)				
KLING'S MEAT MARKET-	7983	(*)	(*)	(*)		(*)	
METZGER BROTHERS	8000	(*)					
HOMER & DENNIS JEANES MEAT PROCESSING PLANT-	8006	(*)	(*)	(*)	(*)	(*)	
UNIVERSITY OF KENTUCKY - MEAT LABORATORY	8013	(*)	(*)	(*)		(*)	
COUNTRY CORNER MEAT CENTER	8024	(*)	(*)	(*)	(*)	(*)	
TURPEN'S SAUSAGE, INC.	8025	(*)	(*)			(*)	
BOURBON PACKING COMPANY-	8027	(*)	(*)	(*)		(*)	
WALTON LOCKER & SLAUGHTER PLANT-	8031	(*)					
BILL WHEELER SLAUGHTER HOUSE	8034					(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY PAGE 17 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
FARMERS SLAUGHTER HOUSE	8035	(*)				(*)	
HENRY ROSS PACKING COMPANY	*8045	(*)				(*)	
GARRETT'S PROCESSING COMPANY	8049	(*)				(*)	
SLADE'S MEAT PACKERS, INC.	8054	(*)					
HUGHES MARKET	8055					(*)	
GRISCH'S PROCESSED MEAT	8056	(*)	(*)	(*)		(*)	
JUENGLING COMMODITIES CORPORATION	8058	(*)					
GRIBBLE'S PROCESSING	8066	(*)	(*)	(*)		(*)	
BILL'S MEAT BLOCK PROCESSING PLANT	8068	(*)	(*)	(*)		(*)	
BOONE'S ABATTOIR, INC.	8078	(*)	(*)				
KIRBY AND ICE SLAUGHTER HOUSE	8082	(*)				(*)	
GREGORY SLAUGHTER HOUSE, INC.	8083	(*)				(*)	
DOUGLASS SLAUGHTER HOUSE	8087	(*)	(*)			(*)	
ELMORE & PAYNE PACKING COMPANY, INC.	8088	(*)	(*)	(*)	(*)	(*)	
LEWIS MEATS, INC.	8095	(*)			(*)	(*)	
TRIPLEX PACKING COMPANY	8119	(*)	(*)	(*)		(*)	
IGNACIO FOOD STORE, INC.	8123	(*)		(*)	(*)	(*)	
C K FROZEN FOOD LOCKER	8124	(*)		(*)		(*)	
JENSEN'S BLUE RIBBON PROCESSING, INC.	8131	(*)		(*)	(*)	(*)	
VALLEY PACKING	8132	(*)				(*)	
BROWNSDALE MEAT SERVICE INC.	8189	(*)	(*)	(*)		(*)	
SOL'S PACKING	8195	(*)	(*)	(*)	(*)	(*)	
C. V. PANIZERA	8271	(*)	(*)	(*)	(*)	(*)	
SUNSHINE MEAT COMPANY	8286	(*)		(*)			
H. MOLLER & SONS	8288	(*)	(*)	(*)	(*)	(*)	
FALCON WHOLESALE MEAT	8309	(*)				(*)	
FULLER SLAUGHTER PLANT	8312	(*)	(*)			(*)	
FORTENBERRY SAUSAGE COMPANY	8313	(*)	(*)			(*)	
SWAGGERTY SAUSAGE COMPANY, INC.	8314	(*)	(*)			(*)	
WADE AUSMUS	8315	(*)					
HERRON PACKING COMPANY	8316	(*)	(*)	(*)		(*)	
PHIL CARRIER MEAT PROCESSING	8318	(*)	(*)		(*)	(*)	
ESTEPP SLAUGHTER	8320	(*)				(*)	
SELL MEAT COMPANY, INC.	8321	(*)	(*)	(*)		(*)	
WADE BULLA SLAUGHTER HOUSE	8323	(*)	(*)			(*)	
MADISON PACKING COMPANY	8325	(*)	(*)	(*)	(*)	(*)	
VALLEY SLAUGHTER & PROCESSING	8326	(*)				(*)	
B & W PACKING COMPANY	8327	(*)	(*)			(*)	
PHOENIX INTERNATIONAL, LTD	E 8337						(*)
CUSTOM PACKING COMPANY	8338	(*)	(*)				
RICE PROCESSING PLANT	8342	(*)	(*)	(*)		(*)	
TURNER FARM MEAT PROCESSING	8401	(*)	(*)			(*)	
BULLOCK'S MEATS, INC.	8461	(*)	(*)	(*)			
MEXIEL MEAT PACKING COMPANY	8496	(*)	(*)	(*)		(*)	
COPACO	8502	(*)	(*)	(*)	(*)	(*)	
BURTON BLOCK	E 8523						(*)
CORBIN MEAT PACKING COMPANY	8537	(*)	(*)	(*)	(*)		
CHAMPLAIN BEEF COMPANY	8547	(*)	(*)	(*)		(*)	
BLOUGH PACKING	8551	(*)	(*)	(*)		(*)	
LEALI BROTHERS MEATS	8555	(*)	(*)			(*)	
NEW HOLLAND MEAT MARKET	8556	(*)				(*)	
SKOBER'S & SONS, INC.	8557	(*)	(*)	(*)			
FRANK YAKUBIK	8558	(*)	(*)	(*)	(*)	(*)	
S. WRIGHT MEAT PACKING	8559	(*)		(*)	(*)	(*)	
JUNIATA PACKING COMPANY	8560	(*)	(*)	(*)		(*)	
GODFREY BROTHERS	8562	(*)	(*)	(*)		(*)	
R. L. SIPES LOCKER PLANT	8565	(*)	(*)	(*)		(*)	
WELTER'S CUSTOM SLAUGHTERING	8569	(*)	(*)			(*)	
H. H. SNAVELY	8570	(*)	(*)	(*)	(*)	(*)	
KNUPP BROTHERS	8572	(*)	(*)	(*)		(*)	
JAMES EBERLY	8573	(*)	(*)	(*)	(*)	(*)	
CHARLES ILYES	8576	(*)				(*)	
PETERS BROTHERS MEAT MARKET, INC.	8581	(*)	(*)	(*)		(*)	
RICHARD E. SERENA	8582	(*)	(*)			(*)	
RUSSIC SHADE PACKING	8583	(*)	(*)	(*)		(*)	
FRITZ'S MEATS	8585	(*)				(*)	
BILSKI'S SLAUGHTERHOUSE	8586	(*)	(*)	(*)		(*)	
MOWRY'S MEAT PROCESSING PLANT	8587	(*)	(*)			(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.		CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
LLOYD & EARL YOUNGT	8588		(*)				(*)	
CUNNINGHAM PACKING COMPANY	8590		(*)	(*)			(*)	
CARL GOOD, INC.	8591		(*)	(*)			(*)	
JOHN F. PELLSO & SONS	8592		(*)				(*)	
ROSE'S SLAUGHTER HOUSE	8595		(*)	(*)	(*)		(*)	
SECHRIST BROTHERS, INC.	8596		(*)	(*)	(*)			
RILEY'S MEAT PROCESSING	8604		(*)	(*)	(*)		(*)	
RICHARD L. BECK & SONS, INC.	8607		(*)				(*)	
CHARLES WINICK	8608		(*)	(*)	(*)		(*)	
NEW WILMINGTON SLAUGHTER HOUSE	8609		(*)	(*)	(*)		(*)	
JAMES R. MC DEAVITT	8610		(*)	(*)	(*)		(*)	
WITMAN'S MEATS	8611		(*)	(*)	(*)		(*)	
KOVACEVIC BROTHERS PACKING COMPANY	8612		(*)	(*)	(*)	(*)	(*)	
KARL K. KLING	8613		(*)	(*)				
HI WAY MEAT MARKET	8615		(*)					
ROBIE MEAT PACKERS, INC.	8616		(*)	(*)	(*)	(*)	(*)	
DYSINGER MEATS, INC.	8622		(*)	(*)	(*)		(*)	
PAUL E. ADAMS	8623		(*)	(*)	(*)		(*)	
C. M. READ'S SONS	8624				(*)			
A. J. PEACEY & SONS	8628		(*)	(*)			(*)	
RAY T. BENNER & SON	8630		(*)	(*)			(*)	
HARRY HARPER WAGNER	8631		(*)					
HONSAKER BROTHERS MEAT MARKET	8632		(*)	(*)			(*)	
TED'S MEAT MARKET	8633		(*)	(*)			(*)	
ESPENSHADE QUALITY MEATS	8635		(*)	(*)				
HIRCH'S MEATS	8636		(*)	(*)	(*)		(*)	
ECONOMY LOCKER STORAGE COMPANY, INC.	8642		(*)	(*)	(*)		(*)	
CECIL F. FRAKER	8643		(*)	(*)	(*)		(*)	
REBUCK FARMS	8644		(*)					
ROTHERMEL MEATS	8645		(*)	(*)	(*)		(*)	
R. J. MCGUIRE BUTCHER SHOP	8648		(*)	(*)			(*)	
GIUNTA	8649			(*)	(*)	(*)	(*)	
DAN'S COUNTRY MEATS, INC.	8681		(*)	(*)	(*)	(*)	(*)	
CLOUD PACKING COMPANY	8682		(*)	(*)	(*)	(*)	(*)	
LE DUC PACKING COMPANY	8687		(*)	(*)	(*)	(*)	(*)	
CANTON LOCKER SLAUGHTER HOUSE	8689	A	(*)	(*)	(*)	(*)	(*)	
POLO LOCKER SYSTEM, INC.	8695		(*)				(*)	
NEW FRANKLIN LOCKER SERVICE	8696		(*)	(*)	(*)	(*)	(*)	
UHRIG'S SLAUGHTER HOUSE	8697		(*)					
WRIGHT CITY MEAT COMPANY	8699		(*)				(*)	
WEBER MEAT SERVICE	8702		(*)	(*)	(*)	(*)	(*)	
WARNER LOCKER	8703		(*)				(*)	
PRINCETON FOOD SERVICE	8705		(*)		(*)	(*)	(*)	
OYLER'S LOCKER SERVICE	8706		(*)					
NOVINGER FOOD LOCKER	8707		(*)	(*)	(*)	(*)	(*)	
HALE LOCKER PLANT	8710		(*)				(*)	
ELMER'S PLACE	8714		(*)	(*)	(*)	(*)	(*)	
BUY RITE MEAT COMPANY	8715		(*)	(*)				
BOUCKAERT PACKING	8716		(*)					
KELLER PROCESSING SERVICE	8717		(*)		(*)	(*)	(*)	
ZERO LOCKER SERVICE, INC.	8718		(*)					
GROVES PACKING COMPANY	8724		(*)		(*)		(*)	
GOLDEN CITY MEAT COMPANY	8725		(*)	(*)			(*)	
ALMA COOPERATIVE LOCKER ASSOCIATION	8728		(*)	(*)	(*)	(*)		
LEWISTOWN LOCKER SERVICE	8730		(*)	(*)	(*)	(*)	(*)	
UPTOWN SLAUGHTER HOUSE	8731		(*)	(*)	(*)	(*)	(*)	
PLEASANT HILL MEAT COMPANY	8734		(*)	(*)	(*)		(*)	
POULOS FROZEN FOOD CORPORATION	8735		(*)	(*)				
ADRIAN MEATS, INC.	8737		(*)				(*)	
STONYHILL MEAT	8738		(*)	(*)	(*)	(*)	(*)	
BAKER PACKING COMPANY	8743		(*)	(*)	(*)	(*)	(*)	
COPES SLAUGHTER COMPANY	8745		(*)	(*)	(*)	(*)	(*)	
GLASGOW LOCKER	8747		(*)		(*)	(*)	(*)	
HAMILTON LOCKER	8748		(*)				(*)	
THERIAULT'S ABATTOIR, INC.	8772		(*)	(*)	(*)		(*)	
CLARK PACKING COMPANY	8799						(*)	
IRELL PORK COMPANY, INC.	8850		(*)	(*)				
AFFRAN PACKING COMPANY, INC.	8861	E						(*)

ESTABLISHMENTS SLAUGHTERING HUMANELY

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NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
OXFORD ABATTOIR	8866	*	*	*	*		
JOHN F. MARTIN & SONS, INC.	8888	*	*	*		*	
WEST DOVER BUTCHER SHOP	8892	*	*			*	
GREGGWOOD FARM	8901					*	
ERDMAN SUPERMARKETS, INC.	8905	*	*				
MC DONALD'S FOOD MARKET	8915	*				*	
ST. JOSEPH MEAT MARKET, INC.	8916	*	*	*		*	
FROZ-N-FOODS COMPANY	8917	*	*	*		*	
GORDHAMER FOOD MARKET	8920	*				*	
RUCK'S MEAT PROCESSING CENTER, INC.	8921	*	*			*	
SCHULLER'S PROCESSING SERVICE	8922	*		*		*	
MELROSE LOCKER	8927	*		*		*	
RAPIDS LOCKER	8928	*	*	*		*	
PLANTENBERG MARKET, INC.	8931	*	*	*	*	*	
SANDSTROM SLAUGHTERHOUSE	8935	*	*	*		*	
KETTER'S MEATS	8937	*	*	*		*	
SALE'S ABATTOIR	8943	*	*	*		*	
CARLSON MEAT PROCESSING, INC.	8948	*	*	*			
DAVE AND TED'S LOCKERS	8950	*	*	*		*	
FERGUS LOCKER PLANT	8952	*	*	*			
LAKELAND MEATS, INC.	8953	*	*			*	
SPIKES LOCKERS	8954	*	*	*	*	*	
HERGES MEAT MARKET, INC.	8959	*	*	*		*	
CITY MEAT MARKET	8960	*	*			*	
NEW MUNICH LOCKER PLANT	8961	*				*	
PETERS, INC.	8963	*	*	*	*	*	
FORSTER PACKING COMPANY, INC.	8966	*	*	*		*	
PARROT PACKING COMPANY, INC.	8968	*				*	
DREWES FROZEN FOOD CENTER	8971	*	*	*		*	
FOSSTON CO-OP ASSOCIATION LOCKER DEPARTMENT	8974	*				*	
CITY MEAT MARKET	8975	*	*	*		*	
LYNCH'S FOODS	8976	*	*	*		*	
GENEVA MEATS & PROCESSING SERVICE	8979	*	*	*			
GREENWALD LOCKER PLANT	8982	*					
JOPPRU, INC.	8988	*		*		*	
SLAYTON Z-R-O PAC	8989	*		*		*	
COUNTRYSIDE MEATS	9003	*		*	*	*	
MOXON'S GOLD STAR MEAT	9024	*	*	*	*	*	
MERIDIAN MEAT COMPANY	9033	*	*	*	*	*	
THOMAS G. EVART MEAT COMPANY	9049	*	*	*	*	*	
MODOC MEAT PACKERS	9053	*	*	*	*	*	
HAMPLER WHOLESALE MEATS, INC.	9065	*				*	
J & J BRAND MEATS	9073	*		*		*	
SNOW HILL PROCESSING PLANT	9075	*	*			*	
GOLD KIST, INC.	9084	*	*			*	
SNAPPS FERRY PROCESSING COMPANY	9085	*	*	*		*	
DELCVIER SALSAGE COMPANY	9086	*	*			*	
CELINA PACKING COMPANY	9091	*					
LAUDERDALE FARMS COMPANY	9095	*				*	
BLAIR MEAT PACKING COMPANY	9107	*	*			*	
VOLUNTEER MEAT PROCESSORS, INC.	9129	*	*				
JACKSON PACKING COMPANY	9130	*				*	
THE BUTCHER SHOP	9131					*	
JUSTICE PACKING COMPANY	9136	*	*				
SOUTHERN ABATTOIR MEAT SUPPLY COMPANY	9143	*	*				
SCOTT MEAT PACKERS, INC.	9160	*	*			*	
SHULL SAUSAGE COMPANY, INC.	9161					*	
TENNESSEE FRONTIER MEATS	9173	*	*	*	*	*	
PARIS MEAT PROCESSING, INC.	9187	*	*	*	*	*	
HAMILTON PACKING COMPANY, INC.	9191	*				*	
UNIVERSITY OF TENNESSEE - MEATS LABORATORY	9193	*	*	*		*	
SOUTHEASTERN MEAT PROCESSING	9196	*	*			*	
TWIN STATE COLD STORAGE	9199	*	*	*	*	*	
HILL MEAT COMPANY, INC	9201	*	*	*		*	
DELTA MEAT, INC.	9209	*	*	*	*	*	
SANTIAM MEAT PACKERS	9220	*	*	*	*	*	
OREGON STATE UNIVERSITY - MEAT SCIENCE LAB.	9223	*	*	*		*	
CARLTON PACKING COMPANY	9228	*	*	*		*	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
SHERIDAN PACKING COMPANY	9229	(*)	(*)	(*)	(*)	(*)	
MILLERS WHOLESALE MEATS	*9230	(*)		(*)		(*)	
HABERMANS MEAT SERVICE	9232	(*)	(*)	(*)	(*)	(*)	
MARR & STAFFORD MEAT COMPANY	9233	(*)	(*)	(*)	(*)	(*)	
JACOBMUHLENS MEATS	9234	(*)	(*)	(*)	(*)	(*)	
ALPINE FOOD SERVICE	9238	(*)	(*)	(*)	(*)	(*)	
A & B MEAT PACKING	9239	(*)	(*)	(*)	(*)	(*)	
POPE'S MERRILL MEAT COMPANY	9240	(*)	(*)	(*)		(*)	
PONDEROSA PACKING & PURVEYORS	9242	(*)	(*)	(*)	(*)	(*)	
FARMER PACKING COMPANY	9243	(*)	(*)	(*)	(*)	(*)	
BOYER MEAT COMPANY	9246	(*)	(*)	(*)	(*)	(*)	
LOA VALLEY FARMS	9248	(*)					
ERDMAN PACKING COMPANY	9249	(*)	(*)	(*)	(*)	(*)	
GREENE MEAT COMPANY	9251	(*)	(*)	(*)	(*)	(*)	
MOHAWK PACKING COMPANY	9252	(*)	(*)	(*)	(*)	(*)	
SPRINGFIELD SLAUGHTER PLANT	9256	(*)	(*)	(*)	(*)	(*)	
HICKMAN'S MEATS	9257	(*)	(*)	(*)	(*)	(*)	
BOB'S MCLALLA MEATS	9263	(*)	(*)	(*)	(*)	(*)	
MYERS PACKING COMPANY	9264	(*)	(*)	(*)	(*)	(*)	
MARK'S MEAT COMPANY	9265	(*)	(*)	(*)	(*)		
CROSSROADS MEATS	9268	(*)					
MOUNT ANGEL MEAT COMPANY	9270	(*)	(*)	(*)	(*)	(*)	
OREGON STATE PENITENTIARY - ANNEX FARM	9272	(*)				(*)	
GRAHAM MEAT COMPANY	9273	(*)	(*)	(*)	(*)	(*)	
MC KILLIP BROTHERS MEAT	9274	(*)				(*)	
BOSTON'S BEEF HOUSE	9275	(*)	(*)	(*)			
HOPKINS WHOLESALE MEATS	9277	(*)		(*)		(*)	
JOHN DAY VALLEY PACKING COMPANY	9286	(*)	(*)	(*)	(*)	(*)	
D & L MEAT COMPANY	9287	(*)	(*)	(*)		(*)	
VAN WERT'S LOCKERS & SLAUGHTERHOUSE	9289	(*)	(*)	(*)	(*)	(*)	
CROOKED RIVER MEAT COMPANY	9291	(*)	(*)	(*)	(*)	(*)	
WESTERN MEATS	9296	(*)	(*)	(*)			
WALT'S CUSTOM SLAUGHTERING	9300	(*)	(*)	(*)	(*)		
TERRY BROTHERS, INC.	9315	(*)	(*)				
VERNS MOSES	9318	(*)	(*)			(*)	
CURCIO'S MEAT COMPANY	9319	(*)	(*)				
WASHINGTON STATE UNIV. - MEAT SCIENCE LAB.	9322	(*)	(*)	(*)		(*)	
LAMPAERT MEATS	9325	(*)	(*)	(*)	(*)	(*)	
COLVILLE MEAT PROCESSOR'S	9334	(*)	(*)	(*)	(*)	(*)	
MC INRAY MEAT COMPANY	9335	(*)	(*)				
MIDWAY MEATS	9347	(*)	(*)	(*)		(*)	
DWIGHT GORDON	9351	(*)	(*)	(*)		(*)	
FAIR VIEW FARM	9353	(*)	(*)	(*)		(*)	
RUDOLPH MAMULA	9357	(*)	(*)	(*)		(*)	
HARVEY E. DELP	9359	(*)	(*)			(*)	
BALTHASER'S MEAT MARKET	9360	(*)	(*)			(*)	
MERVIN F. MOYER	9363	(*)	(*)	(*)			
GREITLER MEAT PACKERS	9366	(*)	(*)	(*)	(*)	(*)	
ALLEN'S MILLS FRESH MEATS	9367	(*)	(*)	(*)		(*)	
MIKE ZRILE	9368			(*)			
ALEX FROEHLICH PACKING COMPANY	9369	(*)	(*)	(*)		(*)	
J. T. BARTON	9371	(*)	(*)	(*)		(*)	
MUTZABAUGH SLAUGHTER HOUSE	9372	(*)	(*)	(*)		(*)	
H. L. PEACHEY, JR.	9373	(*)	(*)				
TROY MEAT PACKING COMPANY	9374	(*)	(*)	(*)	(*)	(*)	
PAUL L. STOCKDALE	9375	(*)	(*)	(*)		(*)	
WILLIAM'S WHOLESALE MEATS, INC.	9376					(*)	
HENNINGER'S MEAT MARKET	9377	(*)	(*)	(*)		(*)	
BIERLY MEAT MARKET	9380	(*)	(*)	(*)		(*)	
ELMO MANTEI	9381	(*)	(*)	(*)	(*)	(*)	
MIKE'S PACKING COMPANY	9382	(*)	(*)	(*)			
WARRINGTON MEAT PACKING COMPANY, INC.	9384					(*)	
GREEN VALLEY PACKING COMPANY	9385	(*)	(*)	(*)		(*)	
JEROME C. DAVIS	9387	(*)	(*)	(*)		(*)	
ADAM BUTZ, JR.	9389	(*)				(*)	
SHAW BROTHERS, INC.	9390	(*)	(*)	(*)		(*)	
STANLEY F. SKEDEL	9395	(*)	(*)	(*)		(*)	
DIXON'S MEATS	9398	(*)	(*)	(*)		(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
BRISTOL BEEF COMPANY, INC.	9399	*	*	*	*	*	
J. V. TAYLOR, INC.	9400	*					
BATTLES MEAT PROCESSING PLANT	9401	*	*	*	*	*	
JOE DEFLICE & SONS	9402	*	*	*		*	
GILLO BROTHERS	9403	*				*	
T. P. CUNNINGHAM	9410	*	*	*		*	
SHUPES HOME DRESSED MEATS	9413	*				*	
GINA GUILIANA	9414	*	*	*		*	
EDWARD GALVANEK	9415	*	*	*		*	
FRANCONIA MEATS, INC.	9417	*	*	*	*	*	
LOVEWELL'S COUNTRY MARKET	9419	*	*	*	*	*	
RICE'S MEAT MARKET	9420	*	*	*		*	
CHARLES KYRGAS	9422	*	*	*	*	*	
MC COY & STEELY MEATS	9423	*	*	*	*	*	
BEN'S MEAT MARKET	9425	*	*	*	*	*	
ZECHMAN BUTCHER SHOP	9430	*	*	*		*	
EDWARDS BROTHERS PACKING COMPANY	9431	*					
YAMBROVICH MEATS	9435	*	*				
RUPERT'S BUTCHER SHOP	9437	*	*	*	*	*	
THREE SONS MEAT MARKET	9438	*	*	*		*	
BURKHOLDER MEAT MARKET	9440	*	*	*	*		
GROFF'S MEATS	9442	*	*	*	*	*	
KREISL COMPANY, INC.	9444	*					
SMITH'S SUPER MARKET, INC.	9445	*	*	*		*	
GRILL'S BUTCHER SHOP	9448	*					
P. G. MORRISON	9449	*				*	
GEORGE N. EYERLY	9450	*				*	
SHAMOKIN PACKING COMPANY	9451	*	*			*	
GIORDANO SAUSAGE	9456		*	*			
REPUBLIC PACKING COMPANY	9457					*	
ARTHUR B. WENGER	9459	*	*	*		*	
R. E. HERSHEY, INC.	9464	*	*	*			
HERFURTH BROTHERS MEAT COMPANY	9465	*	*	*		*	
MYERS BROTHERS	9469	*	*	*		*	
RANCK'S MEAT MARKET	9473	*		*			
E. B. HOSTOFFER & SONS	9480	*	*	*	*	*	
ESPEY'S MEAT MARKET	9482	*	*	*	*	*	
R. V. WANTZ & SONS	9483					*	
WALTER Z. DILLON	9484	*	*	*		*	
WALTER J. MILLER	9487	*	*	*			
WERRY PROVISION	9489	*	*	*	*	*	
MARK R. EUCHER	9492	*	*			*	
CHRISTMAN & FOX	9494	*	*			*	
NACE'S QUALITY MEATS	9496	*					
THORNTON MEATS	9497	*	*	*	*	*	
INDIANA SLAUGHTERING COMPANY	9498	*	*	*	*	*	
SPRECHER BROTHERS MEATS	9499	*	*				
WINDSOR MEAT MARKET	9500	*	*	*		*	
JOHN HENRY BRUBAKER	9509	*	*	*		*	
FRED E. SHIVELY	9511	*	*	*		*	
R. P. HOWRY	9513	*	*	*		*	
LEIDY'S, INC.	9520					*	
WEISS PACKING COMPANY, INC.	9528	*	*	*	*	*	
EAST CARSON PACKING	9529	*	*	*			
KEN WEAVER MEATS	9538	*	*	*		*	
CLYDE R. ALBERTSON	9540	*	*	*		*	
ANDERSON QUALITY MEAT MARKET	9541	*	*	*		*	
EMERSON KNIGHT	9544	*					
EZRA W. MARTIN COMPANY	9547					*	
WAYNE & CHARLES NELL SLAUGHTERHOUSE	9548	*	*	*	*	*	
JOHN J. KOHLER	9549	*				*	
BEACH MEAT MARKET	9550	*	*	*		*	
GREAT VALLEY MEAT MARKET	9557	*	*	*			
STERNER'S SLAUGHTERHOUSE, INC.	9558	*					
C. P. ARCADES & SON, INC.	9559	*	*	*			
HERMAN S. KISTLER	9561	*					
GERALD ANDERSON	9562	*	*	*		*	
CHARLES T. HEARD & COMPANY	9563	*					

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 22 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
PUTNAM PACKING COMPANY	9564	(*)	(*)	(*)		(*)	
MYERS MEAT	9565	(*)				(*)	
PERRY PACKING	9566	(*)	(*)	(*)	(*)	(*)	
PIERCE CUSTOM SLAUGHTER	9567	(*)	(*)	(*)	(*)	(*)	
CLOVERBLOOM MARKET	9570	(*)	(*)			(*)	
STEVE FICHERA WHOLESALE MEATS	9576	(*)	(*)	(*)	(*)	(*)	
GOULDEY & SONS, INC.	9577	(*)	(*)	(*)	(*)	(*)	
FALK BROTHERS	9578	(*)	(*)				
C. J. HYNES	9579	(*)	(*)	(*)		(*)	
GOURLEY PACKING COMPANY, INC.	9580	(*)	(*)			(*)	
LIVINGSTON PACKING COMPANY	9581	(*)	(*)			(*)	
JONES ABATTOIR	9584	(*)	(*)	(*)	(*)	(*)	
LOUIS KLINE, INC.	9589	(*)	(*)	(*)		(*)	
R. GEORGE	9590	(*)	(*)			(*)	
PRIM PACKING COMPANY	9592	(*)	(*)	(*)			
CONGERS ACULANTE	9603	(*)	(*)	(*)			
HAROLD A. COMB	9605	(*)	(*)			(*)	
DOWNINGTOWN WHOLESALE MEATS	9606	(*)	(*)	(*)		(*)	
FRANK ESPOSITO & SONS	9607	(*)	(*)				
GOODHART MEATS	9609	(*)	(*)	(*)		(*)	
LUKON MEATS	9616	(*)	(*)	(*)	(*)		
MOCCIO PACKING	9618	(*)					
GEORGE'S MEAT MARKET, INC.	9620	(*)				(*)	
CHARLES J. FUDLINER	9622	(*)	(*)	(*)		(*)	
RHODES' MEAT MARKET	9623	(*)	(*)	(*)		(*)	
STOLZFUS LOCKER & IGA FOOD MARKET	9625	(*)					
EBLING'S MEAT MARKET	9630	(*)	(*)	(*)		(*)	
PIFFERETTI PACKING COMPANY	9631	(*)	(*)	(*)		(*)	
BURKHOLDER MEAT PRODUCTS	9632	(*)	(*)	(*)	(*)	(*)	
JONATHAN L. KING	9633	(*)					
TURNER FARMS, INC.	9634	(*)				(*)	
R. D. KELLY MEAT PACKING	9635	(*)	(*)				
M. LEPIDI & SONS, INC.	9636	(*)	(*)	(*)		(*)	
KROLL'S MEAT MARKET	9638	(*)	(*)	(*)	(*)	(*)	
F & S MEATS	9639	(*)		(*)		(*)	
GLEN J. ROSENBERRY	9640	(*)	(*)	(*)		(*)	
ALBA'S MEAT MARKET	9643	(*)	(*)	(*)			
MRS. EDITH CINDILLA	9644	(*)	(*)	(*)		(*)	
SHAFFER'S ABATTOIR, INC.	9645	(*)	(*)	(*)			
YOST QUALITY MEATS	9646	(*)	(*)	(*)		(*)	
CLAIR H. BRAUAW	9658	(*)	(*)	(*)		(*)	
JOSEPH VENEZIA DRESSED BEEF	9666	(*)	(*)				
BALDERSTON BROTHERS	9670	(*)	(*)	(*)	(*)		
CATELLI INC.	9671		(*)	(*)			
PRINCE'S HOME DRESSED MEATS	9673	(*)		(*)			
NEAL FIERCE MARKET	9674	(*)	(*)	(*)			
CRISSMAN, INC.	9679	(*)	(*)	(*)		(*)	
COMICK BROTHERS MEAT PACKERS, INC.	9682	(*)	(*)	(*)		(*)	
PAINTER'S MEAT PRODUCTS	9683	(*)	(*)	(*)		(*)	
KEEK'S MEAT PLANT	9684	(*)	(*)	(*)		(*)	
FETTEROLF'S MEAT MARKET	9685	(*)	(*)	(*)		(*)	
MARK BOWMAN	9686	(*)	(*)	(*)	(*)	(*)	
LEE BIXLER	9687	(*)				(*)	
KENNETH L. BOYER	9688	(*)	(*)	(*)		(*)	
KOLB'S MEAT MARKET	9689	(*)	(*)	(*)		(*)	
PLEASANT UNITY PACKING COMPANY, INC.	9692	(*)				(*)	
CARL VENEZIA	9693	(*)	(*)	(*)			
PAUL H. SCHNECK	9695	(*)				(*)	
ROBERT L. BINGMAN	9696	(*)	(*)	(*)		(*)	
SMITH MEATS	9697	(*)	(*)				
HOLLAND BROTHERS MEAT	9701	(*)	(*)	(*)		(*)	
ALFREY'S SAUSAGE COMPANY, INC.	9702	(*)	(*)	(*)	(*)	(*)	
SPRINGFIELD MEAT COMPANY	9704	(*)		(*)			
WILMER BARINGER	9706	(*)	(*)			(*)	
HAGERS MEAT MARKET	9707	(*)					
HERBERT HANSON MEATS	9711	(*)	(*)			(*)	
COFFARO'S CUSTOM BUTCHERING	9712	(*)	(*)	(*)	(*)	(*)	
COLUMBUS PACKING COMPANY	9713	(*)	(*)	(*)	(*)	(*)	

ESTABLISHMENTS SLAUGHTERING HUMANELY — PAGE 23 OF 23 PAGE(S)

NAME OF ESTABLISHMENT	EST. NO.	CATTLE	CALVES	SHEEP	GOATS	SWINE	EQUINE
THOMA'S MARKET	9714	(*)	(*)	(*)		(*)	
DAVE FINE MEAT PACKER	9715	(*)	(*)	(*)		(*)	
LOUTSICK PACKING COMPANY	9716	(*)	(*)	(*)	(*)	(*)	
LEE GASHEL & SONS, INC.	9717	(*)	(*)	(*)		(*)	
AMERICAN FOODS, INC.	9718	(*)	(*)	(*)		(*)	
STEALE & PACKING COMPANY	9719	(*)	(*)				
SMITH FROZEN FOOD BANK	9720	(*)	(*)	(*)	(*)	(*)	
HEINNICKEL FARMS, INC.	9725	(*)	(*)	(*)		(*)	
WALTER'S MEATS	9726	(*)	(*)	(*)	(*)	(*)	
FRANK MARRICALE	9753	(*)	(*)	(*)		(*)	
LEMHENEY BUTCHER SHOP, INC.	9755	(*)	(*)	(*)		(*)	
ROYAL SWAN FOODS, INC.	9758	(*)					
REHRIG MEATS, INC.	9759	(*)				(*)	
FRANK O. GILBERT & SON	9762	(*)					
HEINTZELMAN'S MEAT MARKET	9763	(*)					
DELBERT E. HAYDT	9765	(*)				(*)	
WILLIAM KULTISCH	9766					(*)	
JOHN ELNITSKI	9767	(*)				(*)	
WALTER JURCZAK	9770	(*)		(*)	(*)	(*)	
ALBERT CARLTH	9776	(*)					
HOWARD h. CARLING	9777	(*)	(*)	(*)	(*)	(*)	
LEONA MEATS	9784	(*)	(*)	(*)	(*)	(*)	
J & B MEAT PLANT	9785	(*)	(*)	(*)	(*)	(*)	
WILLIAM STEPNIAK	9786	(*)	(*)	(*)	(*)	(*)	
MUSSERS, INC.	9788	(*)		(*)		(*)	
YOUNDT BROTHERS	9789	(*)				(*)	
C. H. THOMAS SONS, INC.	9790	(*)				(*)	
STOLTZFUS MEAT MARKET	9792	(*)				(*)	
LOCUSTDALE PACKING COMPANY	9799	(*)	(*)	(*)	(*)		
ALLEN I. EMBERGER	9800		(*)	(*)			
PEZZNER BROTHERS, INC.	9808	(*)	(*)	(*)			
ROBZEN'S, INC.	9809	(*)					
HOCH'S FARMS & MARKETS, INC.	9810	(*)					
TWIN PINE FARM	9814	(*)	(*)	(*)		(*)	
WINTER GARDENS	9815	(*)	(*)	(*)		(*)	
J. A. HARGLEROAD & SONS	9816	(*)	(*)	(*)	(*)	(*)	
R. L. POTTEIGER	9817	(*)	(*)	(*)			
THE COUNTRY BUTCHER SHOP	9819	(*)	(*)	(*)		(*)	
HERVITZ PACKING COMPANY	9821	(*)	(*)	(*)			
LAUDERMILCH MEATS	9823	(*)				(*)	
PHARES Z. LONGENECKNER & SONS, INC.	9827	(*)					
W.J. FISHER MEAT, INC.	9828	(*)	(*)				
A.S. & C.H. TROUTMAN	9832	(*)	(*)			(*)	
MIKE LEVCHIK	9834	(*)	(*)	(*)		(*)	
GLENN J. BEASTON	9835	(*)	(*)			(*)	
NORMAN ZIMMERMAN & SON	9836	(*)					
ECENROAD MEATS	9837	(*)				(*)	
GEORGE E. GARNER	9838	(*)	(*)	(*)		(*)	
GLENN H. HENRY	9841	(*)	(*)	(*)		(*)	
FRANCIS BONANNO PACKING COMPANY	9842	(*)	(*)	(*)		(*)	
HUGHEY (BOBBY) WEYANDT III	9843	(*)	(*)	(*)		(*)	
PENNSYLVANIA STATE UNIV. - MEATS LABORATORY	9844	(*)	(*)	(*)		(*)	
CHARLES YOUNDT & SONS	9846	(*)				(*)	
FENTONS MEATS	9847	(*)	(*)			(*)	
OLIZNYR BROTHERS MEAT PACKING COMPANY	9848	(*)	(*)	(*)		(*)	
KERN COUNTY SHERIFF	9892	(*)				(*)	
CAVALIER EXPORT COMPANY E	9910						(*)
COMMITTEE ON MASONIC HOMES	9913	(*)	(*)			(*)	
MC GUIRE MEATS	9915	(*)	(*)			(*)	
DONALD M. SEIDLE	9921	(*)	(*)			(*)	
NEWPORT PACKING COMPANY	9926	(*)	(*)	(*)	(*)		
METZGER MEAT	9927	(*)	(*)			(*)	
A. WENTZELL'S MEAT MARKET	9941	(*)				(*)	
SUGAR TREE MEAT PROCESSING, INC.	9943	(*)				(*)	
SCHALLER'S SLAUGHTERHOUSE	9956	(*)	(*)	(*)	(*)		
NASER PACKING COMPANY	9958	(*)	(*)	(*)		(*)	

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