AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol.42—No.65
4–5–77
PAGES
18053–18268

federal register

TUESDAY, APRIL 5, 1977



highlights

PART I:

SUNSHINE ACT MEETINGS..... 18183

NATURAL GAS EMERGENCY
Presidential proclamation terminating the emergency..... 18053

NATURAL GAS ACT OF 1977
FPC issues emergency order..... 18127

MOTOR CARRIER SAFETY
DOT/FHA proposal on inspection, repair and maintenance requirements of commercial motor vehicles; comments by 7–29–77..... 18103

REHABILITATION SHORT-TERM TRAINING
HEW/OHD announces closing date of 5–6–77 for receipt of applications..... 18131

PRIVACY ACT OF 1974
State Department rules on denial of access; effective 4–1–77 18063
State Department rules on exemptions of systems of records; effective 3–21–77..... 18064

SOURCE PLASMA
HEW/FDA publishes notice that only manufacturers licensed by 5–11–77 may ship in interstate commerce..... 18129

ENDANGERED SPECIES LIST
Interior/FWS determines Golden Coqui and Pine Barrens tree frog to be threatened and proposes critical habitat (2 documents); comments by 6–3 and 6–6–77..... 18106, 18109

INDIAN OIL AND GAS OPERATIONS
Interior/GS procedures for reporting and accounting for royalties 18135

RADIOLOGICAL HEALTH
HEW/FDA rules on submission of data and labels; effective 5–5–77..... 18061

ANTIBIOTIC DRUGS
HEW/FDA amends pH limit for sterile neomycin sulfate-polymyxin B sulfate solution and cefazolin sodium regulations (2 documents); effective 5–5–77..... 18058, 18059

CONTINUED INSIDE

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There are no items eligible for inclusion in the list of RULES GOING INTO EFFECT.

List of Public Laws

This is a continuing numerical listing of public bills which have become law, together with the law number, the title, the date of approval, and the U.S. Statutes citation. The list is kept current in the FEDERAL REGISTER and copies of the laws may be obtained from the U.S. Government Printing Office.

H.J. Res. 351.....Pub. L. 95–16
Making further continuing appropriations for the fiscal year 1977, and for other purposes. (Apr. 1, 1977; 91 Stat. 28) Price: $.35.

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
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.

federal register
Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing **202–523–5240.**

FEDERAL REGISTER, Daily Issue:

Subscriptions and distribution	202–783–3238
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	202–523–5022
Scheduling of documents for publication.	523–5220
Copies of documents appearing in the Federal Register.	523–5240
Corrections	523–5286
Public Inspection Desk	523–5215
Finding Aids	523–5227
Public Briefings: "How To Use the Federal Register."	523–5282
Code of Federal Regulations (CFR)	523–5266
Finding Aids	523–5227

PRESIDENTIAL PAPERS:

Executive Orders and Proclamations.	523–5233
Weekly Compilation of Presidential Documents.	523–5235
Public Papers of the Presidents	523–5235
Index	523–5235

PUBLIC LAWS:

Public Law dates and numbers	523–5237
Slip Laws	523–5237
U.S. Statutes at Large	523–5237
Index	523–5237
U.S. Government Manual	523–5230
Automation	523–5240
Special Projects	523–5240

HIGHLIGHTS—Continued

NEW ANIMAL DRUGS
HEW/FDA approves as safe and effective use of a tylosin premix in feed for swine; effective 4–5–77 18060

NATIONAL REGISTER OF HISTORIC PLACES
Interior/NPS publishes additions, deletions and corrections (2 documents) 18144, 18152

RHODESIAN SANCTIONS REGULATIONS
Treasury prohibits importation of strategic materials and requires certification of all imports of ferrochromium and chrome steel mill products; effective 3–18–77 18073

GOVERNMENT IN THE SUNSHINE
NCUA regulates unpublished, confidential and privileged information; effective 4–5–77 18057

EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY
RRB permits a claimants' social security application to serve as his or her railroad retirement application in limited cases 18058

COSMETIC LABELING
HEW/FDA requirement that labels bear declaration of ingredients; effective 4–15–77 18061

COTTON
USDA/ASCS announces price support payment factor and rate for 1977 crop; effective 4–5–77 18055

MOTOR CARRIERS
DOT/FHA prescribes rules and requests comments by 5–1–77 for safety settlement and hearing procedures 18076

CAREY ACT GRANTS
Interior/BLM proposes segregating and patenting public lands; comments by 5–31–77 18100

MINING ON INDIAN LANDS
Interior/BIA proposal on mineral development contracts; comments by 6–6–77 18083

MEETINGS—
Commerce/NOAA: Pacific Fishery Management Council, Anchovy Advisory Panel, 4–26–77 18120
South Atlantic Fishery Management Council and Scientific and Statistical Committee, 4–26 thru 4–28–77 18120
FCC: Personal Use Radio Advisory Committee, 4–20 and 4–21–77 18125
FEA: Environmental Advisory Committee, 4–22–77 18126
HEW: Board of Advisory to the Fund for the Improvement of Postsecondary Education, 4–17 and 4–18–77 18133
HRA: National Advisory Council on Nurse Training, 5–23 thru 5–25–77 18130
OE: Accreditation and Institutional Eligibility Advisory Committee, 4–28 and 4–29–77 18130
OMB: Labor Advisory Committee on Statistics, 5–10–77 18166
State/Aid: Voluntary Foreign Aid Advisory Committee, 4–25–77 18172

CANCELLED MEETING—
USDA/FS: Spearfish District Grazing Advisory Board, 4–15–77 18112

HEARING—
Commerce/NOAA: Atlantic Herring, 4–19 and 4–20–77 18119

PART II:

NATIONAL FLOOD INSURANCE
HUD/FIA proposes elevation determinations (20 documents) 18232–18240

PART III:

ADVISORY OPINION
FEC publishes notice of request 18241

PART IV:

COMMODITY FUTURES
CFTC proposal on option transactions; comments by 6–6–77 18245

PART V:

FISHERY CONSERVATION AND MANAGEMENT
State Department publishes applications for permits to fish off U.S. coasts 18265

contents

THE PRESIDENT

Proclamations

Natural gas emergency; terminations 18053

EXECUTIVE AGENCIES

ACTUARIES, JOINT BOARD FOR THE ENROLLMENT

Notices

Advisory committee annual review; request for public comment 18153

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notices

Meetings:
Voluntary Foreign Aid Advisory Committee 18172

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Ariz. and Calif.. 18055

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules

Cotton; marketing quotas and acreage allotments 18055

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Commodity Credit Corporation; Farmers Home Administration; Forest Service.

ARMY DEPARTMENT

Notices

Meetings:
DOD Chemical Propulsion Advisory Committee, Combustion Working Group 18125

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
American Airlines, Inc., et al.. 18112
Eastern Air Line, Inc 18112
International Air Transport Association (2 documents) ... 18113, 18116
Polski Linie Lotnicze 18117
United Air Lines, Inc 18117

CIVIL SERVICE COMMISSION

Rules

Excepted service: Health, Education, and Welfare Department.. 18082

Notices

Noncareer executive assignments: Health, Education, and Welfare Department (2 documents) 18119

COMMERCE DEPARTMENT

See also Domestic and International Business Administration; Economic Development Administration; National Oceanic and Atmospheric Administration.

Notices

U.S. Technology Policy; draft study; inquiry 18121

COMMODITY CREDIT CORPORATION

Rules

Loan and purchase programs:
Rice 18055

COMMODITY FUTURES TRADING COMMISSION

Proposed Rules

Commodity option transactions.. 18245

CONSUMER PRODUCT SAFETY COMMISSION

Notices

Corning Glass Works, Inc.; provisional acceptance of settlement agreement 18124

CUSTOMS SERVICE

Notices

Antidumping:
Wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan 18172

DEFENSE DEPARTMENT

See Army Department.

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Notices

Scientific articles; duty free entry:
National Radio Astronomy Observatory Associated Universities, Inc 18119

DRUG ENFORCEMENT ADMINISTRATION

Notices

Registration applications, etc.; controlled substances:
Mallinckrodt Inc 18155
Merck & Co., Inc 18154

ECONOMIC DEVELOPMENT ADMINISTRATION

Notices

Import determination petitions:
Robin Footwear Corp 18119
Vogue Industries, Inc 18119

ENVIRONMENTAL QUALITY COUNCIL

Proposed Rules

Preparation of environmental impact statements; guidelines.... 18111

EDUCATION OFFICE

Notices

Meetings:
Accreditation and Institutional Eligibility Advisory Committee 18130

FARMERS HOME ADMINISTRATION

Notices

Disaster and emergency areas:
Colorado 18112

FEDERAL COMMUNICATIONS COMMISSION

Proposed Rules

Amateur radio service:
Licensing and operation of complex systems of stations and modification of repeater subbands; extension of time..... 18103
Cable television:
Compliance certificate applications and Federal-State/local regulatory relationships; extension of time 18103

Notices

Meetings:
Personal Use Radio Advisory Committee 18125

FEDERAL ELECTION COMMISSION

Notices

Advisory opinion requests 18241

FEDERAL ENERGY ADMINISTRATION

Notices

Electric Utilities Advisory Committee; charter amendment.... 18125

Meetings:
Environmental Advisory Committee 18126

FEDERAL HIGHWAY ADMINISTRATION

Rules

Motor carrier safety regulations:
Settlement and hearing procedures ... 18076

Proposed Rules

Motor carrier safety regulations:
Inspection, repair and maintenance of commercial vehicles ... 18103

FEDERAL INSURANCE ADMINISTRATION

Proposed Rules

Flood Insurance Program, National:
Flood elevation determinations, etc. (20 documents) ... 18232-18240

FEDERAL POWER COMMISSION

Notices

Emergency Natural Gas Act of 1977:
Emergency order ... 18127
Hearings, etc.:
Connecticut Light & Power Co. ... 18126
El Ran Inc., (Operator), et al ... 18126
Jacobs, C. D ... 18127
Kentucky Power Co ... 18127
Mueller, Joseph P ... 18127
Pacific States Gas & Oil ... 18128
Reliable Energy, Inc ... 18128
Sun Oil Co ... 18128

FEDERAL RESERVE SYSTEM

Rules

Truth-in-lending:
Official staff interpretations ... 18056

Notices

Applications, etc.:
Baldwin, D. H., Co ... 18128
Summit Home Insurance Co ... 18129

FEDERAL TRADE COMMISSION

Rules

Fair Packaging and Labeling Act; "Cents-off" representations, CFR correction ... 18057
Prohibited trade practices:
Cezar, Ltd., et al ... 18057

FISH AND WILDLIFE SERVICE

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
Golden Coqui ... 18106
Pine Barrens treefrog ... 18109

FOOD AND DRUG ADMINISTRATION

Rules

Animal drugs, feeds, and related products:
Bambermycins, sponsor name change ... 18059
Tylosin ... 18060
Zinc bacitracin; sponsor name change ... 18060
Cosmetics:
Labeling; ingredient designation; termination of judicial stay ... 18061
Human drugs:
Cefazolin sodium, sterile ... 18058
Neomycin sulfate, sterile, and polymyxin B sulfate solution ... 18059
Tests of antibiotics; streptococcus faecium, name change ... 18058
Radiological health:
Electronic product reporting guidelines; data, reports, certification labels, etc ... 18061

Notices

Biological products:
Plasma, source (human); shipment without license ... 18129

FOREIGN ASSETS CONTROL OFFICE

Rules

Rhodesian sanctions:
Import prohibitions; strategic and critical materials; ferrochromium and chromium steel products from any country ... 18073

FOREST SERVICE

Notices

Meetings:
Spearfish District Grazing Advisory Board; cancellation ... 18112

GENERAL ACCOUNTING OFFICE

Notices

Regulatory reports review; receipt of report proposal ... 18129

GEOLOGICAL SURVEY

Rules

Coal-mining operating regulations:
New Mexico; surface reclamation standards ... 18065
North Dakota; surface reclamation standards ... 18071
Utah; surface reclamation standards ... 18068

Notices

Oil and gas operations:
Royalty accounting reports; Indian leases ... 18135

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Education Office; Food and Drug Administration; Health Resources Administration; Human Development Office.

Notices

Committees; establishment, renewals, etc.:
Pharmaceutical Reimbursement Advisory Committee; nomination of members ... 18133
Meeting:
Fund for Improvement of Postsecondary Education, Board of Advisors ... 18133
Organization, functions, and authority delegations:
Personnel and Training Office ... 18133
Regional Director Office, Region IV ... 18133

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:
Advisory committees; May ... 18130

HEARINGS AND APPEALS OFFICE, INTERIOR DEPARTMENT

Notices

Applications, etc.:
A B D & G Coal Co. Inc ... 18139
Allied Coals, Inc ... 18140
Cannelton Industries, Inc ... 18140
Clinchfield Coal Co ... 18141
E & S Coal Co ... 18141
Faith Coal Sales, Inc ... 18142
Kaiser Steel Corp. (2 documents) ... 18142
Kyanco Coals, Inc ... 18143
Phyllis Coal Co ... 18143
Prospect Coal Co ... 18144
Rochester & Pittsburgh Coal Co. ... 18144

HISTORIC PRESERVATION, ADVISORY COUNCIL

Notices

Historic and cultural properties preservation; memorandums of agreement ... 18112

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Federal Insurance Administration.

Rules

Low-income housing:
Annual contributions for operating subsidy; performance funding system; correction ... 18064

HUMAN DEVELOPMENT OFFICE

Notices

Vocational rehabilitation training, applications:
Short-term ... 18131

INDIAN AFFAIRS BUREAU

Proposed Rules

Mining:
Mineral development contracts ... 18083

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Hearings and Appeals Office; Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Environmental statements; availability, etc.:
East Gillette Mine, Campbell County, Wyo ... 18153
Salary adjustment; Administrator, Southwestern Power Administration ... 18153
Water Research and Technology Office; procurement, legal review requirement ... 18153

INTERSTATE COMMERCE COMMISSION

Rules

Railroad car service orders; various companies:
Chicago, Milwaukee, St. Paul & Pacific Railroad Co ... 18081

Notices

Car service rules, mandatory (4 documents) ... 18173, 18174
Hearing assignments ... 18173

Motor carriers:
Temporary authority applications (2 documents) ... 18174, 18178
Rerouting of traffic:
Consolidated Rail Corp ... 18173

JUSTICE DEPARTMENT
See Drug Enforcement Administration.

LABOR DEPARTMENT
See also Wage and Hour Division.
Notices
Adjustment assistance:
Adams Electronics et al ... 18155
Airway Manufacturing Co ... 18155
Amerace Corp. et al ... 18156
Berman Manufacturing Co., Inc ... 18157
Bonnie Fashions Co.; correction ... 18158
Bronco Bill II et al ... 18158
Electralloy Corp ... 18158
Electro Motive Corp ... 18159
Ladish Co ... 18160
National Supply Co ... 18161
Powell, William, Manufacturing Co ... 18164
Richard, Jeff, Inc ... 18160
Royal Typewriter Co ... 18161
Rubber Corp. of Arkansas ... 18162
United Automobile, Aerospace & Agricultural Implement Workers of America ... 18163
United States Metals Refining Co ... 18163
Worcester Controls Corp ... 18165

LAND MANAGEMENT BUREAU
Proposed Rules
Land disposition:
Grants; Carey Act ... 18100
Notices
Applications, etc.:
New Mexico (2 documents) ... 18135
Opening of public lands:
Oregon ... 18135
Withdrawal and reservation of lands, proposed, etc.:
California ... 18135

MANAGEMENT AND BUDGET OFFICE
Notices
Clearance of reports; list of requests ... 18165
Meetings:
Labor Advisory Committee on Statistics ... 18166

NATIONAL CREDIT UNION ADMINISTRATION
Rules
Freedom of information ... 18057

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Meetings:
Atlantic Herring ... 18119
Pacific Fishery Management Council, Anchovy Advisory Panel ... 18120
South Atlantic Fishery Management Council, Scientific and Statistical Committee ... 18120

NATIONAL PARK SERVICE
Notices
Historic Places National Register; additions, deletions, etc. (2 documents) ... 18144, 18152

POSTAL RATE COMMISSION
Rules
Practice rules:
Rate case filing requirements ... 18075
Notices
Rules of practice; Rule 22 waiver and deferral of rulemaking proceeding ... 18166

RAILROAD RETIREMENT BOARD
Rules
Annuity claims; social security application ... 18058

SECURITIES AND EXCHANGE COMMISSION
Notices
Hearings, etc.:
Allegheny Power System, Inc., et al ... 18168
Columbia Gas System, Inc., et al ... 18168
Maryland National Bank ... 18170

STATE DEPARTMENT
See also Agency for International Development.
Rules
Privacy Act; implementation, exemptions and denial of access (2 documents) ... 18063, 18064
Notices
Radioactivity Objective for Great Lakes Water Quality Agreement, Canada-U.S. Working Group report; availability ... 18171

TRANSPORTATION DEPARTMENT
See Federal Highway Administration.

TREASURY DEPARTMENT
See Customs Service; Foreign Assets Control Office.

WAGE AND HOUR DIVISION
Rules
Puerto Rico; wage orders; certain industries:
Furniture, fixtures, and lumber and wood products industry ... 18064
Stone, clay and glass products and nonmetallic mining industry ... 18065

list of cfr parts affected in this issue

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

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

3 CFR

PROCLAMATIONS:

4495 18053

5 CFR

213 18082

7 CFR

722 18055
910 18055
1421 18055

12 CFR

226 18056
720 18057

16 CFR

13 18057
502 18057

17 CFR

PROPOSED RULES:

1 18246
32 18246

20 CFR

210 18058

21 CFR

436 18058
442 18058
444 18059
510 (3 documents) 18059, 18060
558 (3 documents) 18059, 18060
701 18061
1002 18061
1010 18061

22 CFR

6a (2 documents) 18063,, 18064

24 CFR

890 18064

PROPOSED RULES:

1917 (20 documents) 18232–18240

25 CFR

PROPOSED RULES:

171 18083
177 18083
182 18083
183 18083

29 CFR

675 18064
678 18065

30 CFR

211 (3 documents) 18065, 18068, 18071

31 CFR

530 18073

39 CFR

3001 18075

40 CFR

PROPOSED RULES:

1500 18111

43 CFR

PROPOSED RULES:

2610 18100

47 CFR

PROPOSED RULES:

76 18103
97 18103

49 CFR

301 18081
386 18077
391 18081
1033 18081

PROPOSED RULES:

396 18103

50 CFR

PROPOSED RULES:

17 (2 documents) 18106, 18109

CUMULATIVE LIST OF PARTS AFFECTED DURING APRIL

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

1 CFR
Ch. I 17413

3 CFR
PROCLAMATIONS:
4485 (See Proc. 4495) 18053
4495 18053

5 CFR
213 ..... 17411, 17414, 18082

7 CFR
722 ..... 17414, 18055
723 17414
728 17419
729 17419
775 17420
794 17421
910 ..... 17420, 18055
928 17422
1063 17423
1070 17423
1078 17423
1079 17423
1421 18055
PROPOSED RULES:
728 17456
730 17457
908 ..... 17457, 17879
967 17458
989 17463

8 CFR
100 17434

9 CFR
78 17434

10 CFR
PROPOSED RULES:
213 17470
440 17470

12 CFR
226 ..... 17865, 18056
720 18057
PROPOSED RULES:
545 17483
561 17483

14 CFR
39 17865–17868
71 ..... 17868, 17869
300 17436
1206 17869
PROPOSED RULES:
39 ..... 17879, 17880
302 17484

16 CFR
13 18057
502 18057

17 CFR
PROPOSED RULES:
1 18246
32 18246

18 CFR
3 17448
3c 17448

20 CFR
210 18058
416 17440
PROPOSED RULES:
404 ..... 17484, 17881
405 17485
602 17486

21 CFR
436 18058
442 18058
444 18059
510 ..... 18059, 18060
558 ..... 18059, 18060
701 18061
1002 18061
1010 18061
PROPOSED RULES:
109 17487
342 17642
1020 17494
1040 17495

22 CFR
6a 18063, 18064
51 17869

24 CFR
203 17452
207 17452
220 17452
890 18064
PROPOSED RULES:
1917 ..... 17684–17697, 18238–18240

25 CFR
PROPOSED RULES:
171 18083
177 18083
182 18083
183 18083

26 CFR
7 17870
31 17873
33 17873
404 17452

29 CFR
675 18064
678 18065

30 CFR
211 ..... 18065, 18068, 18071

31 CFR
530 18073

32 CFR
199 17972
581 17441

33 CFR
110 17874
PROPOSED RULES:
164 17889

35 CFR
7 17874

36 CFR
221 17875

39 CFR
199 17972
232 17443
3001 18075

40 CFR
52 17876
180 17443
415 17443
421 17444
PROPOSED RULES:
52 17496–17498
180 17499
1500 18111

42 CFR
PROPOSED RULES:
35 17500
101 17501

43 CFR
PROPOSED RULES:
2610 18100

45 CFR
103 17444
235 17877
614 17747
1050 ..... 17747, 18034
PROPOSED RULES:
160f 17700
173 17889

46 CFR
PROPOSED RULES:
148 17889

47 CFR
PROPOSED RULES:
76 ..... 17502, 18103
97 18103

49 CFR
301 18081
386 18077
391 18081
1033 ..... 17447, 17448, 18081
PROPOSED RULES:
172 17891
175 17891
395 17891
396 18103

50 CFR
17 ..... 18106, 18109

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	*Date*
17413–17864	Apr. 1
17865–18052	4
18053–18268	5

presidential documents

Title 3—The President

Proclamation 4495 • **April 1, 1977**

Termination of Natural Gas Emergency

By the President of the United States of America

A Proclamation

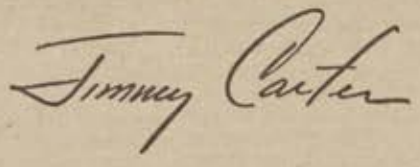
On February 2, 1977, Proclamation No. 4485 was issued which proclaimed and declared the existence of a natural gas emergency within the meaning of Section 3 of the Emergency Natural Gas Act of 1977. Such action was necessary because of the imminent shortage of natural gas for high-priority uses and the inadequacy of remedial measures other than the extraordinary measures authorized by Section 4 of that Act. Section 3 of the Emergency Natural Gas Act of 1977, however, requires termination of such emergency when the President finds that such shortages no longer exist and are no longer imminent.

I now find that the severe natural gas shortages which necessitated the declaration of a natural gas emergency within the meaning of Section 3 of said Act no longer exist and are no longer imminent.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by virtue of the authority vested in me by the Constitution and statutes of the United States, including the Emergency Natural Gas Act of 1977, do hereby proclaim and declare that the natural gas emergency declared to exist by Proclamation No. 4485 of February 2, 1977 is terminated.

The fact that this winter's natural gas emergency is over in no way signals an end to our energy crisis. On the contrary, it is a reminder that our natural gas supply is far short of potential demand. Unless we take remedial action to develop a natural gas policy as part of a comprehensive energy policy, our economy, and even our homes, will be in increasing danger with each passing year. On April 20, 1977, I shall propose a policy to provide a long-term solution to our energy problems.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of April, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and first.



[FR Doc.77-10219 Filed 4-1-77;4:59 pm]

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 7—Agriculture

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 722—COTTON

Extra Long Staple Cotton Program; 1977 Crop Price Support Payment Factor and Price Support Payment Rate

On July 30, 1976, notice of proposed rule making regarding determinations with respect to the 1977 crop of extra long staple cotton was published in the FEDERAL REGISTER (41 FR 31850). Interested persons were invited to submit written data, views, and recommendations regarding the determinations within 30 days after publication of the notice. No comments were received in response to the factor and payment rate.

This amendment to the regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years is issued pursuant to section 101(f) of the Agricultural Act of 1949, as amended. The purposes of this amendment are to announce the 1977 price support payment factor and the 1977 price support payment rate.

The regulations governing the Extra Long Staple Cotton Program for 1968 and Succeeding Years, 33 FR 19159, as amended, are hereby further amended as follows:

1. Section 722.704 is amended by adding a new paragraph (h) to read as follows:

§ 722.704 **Price support payment factor.**

* * * * *

(h) For 1977, the price support payment factor is 0.6783.

2. Section 722.709 is amended by adding a new sentence at the end of paragraph (a).

§ 722.709 **Price support payment.**

(a) * * * For 1977, the price support payment rate shall be 0 cents per pound.

* * * * *

(Sec. 101(f), as amended, 82 Stat. 702 (7 U.S.C. 1441(f)).)

Effective date: This amendment shall become effective April 5, 1977.

Signed at Washington, D.C., on March 30, 1977.

VICTOR A. SENECHAL,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-9977 Filed 4-4-77;8:45 am]

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

[Lemon Reg. 85, Amdt 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period March 27–April 2, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period March 27–April 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; (202) 447–3545.

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

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 10,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

(b) *Order, as amended.* Paragraph (b)(1) of § 910.385 Lemon Regulation 85 (42 FR 16129) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period March 27, 1977, through April 2, 1977, is established at 245,000 cartons."

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

Dated: March 31, 1977.

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

[FR Doc.77-10107 Filed 4-4-77;8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1976 Crop Rice Loan and Purchase Program, Amdt. 2]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Rice Loan and Purchase Program

1976 CROP RICE LOAN AND PURCHASE PROGRAM; MATURITY OF LOANS

The regulations issued by Commodity Credit Corporation (CCC), and published at 41 FR 23930, June 14, 1976, 41 FR 29809, July 20, 1976, and 41 FR 38156, September 9, 1976, which set forth specific requirements with respect to loans and purchases for the 1976 crop of rice are hereby amended to change the loan maturity date. It is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this amendment because the current maturity date is April 30, 1977. It is essential that producers be advised of this change as soon as possible in order for such producers to plan their marketing of 1976 rice. Therefore, Section 1421.327 is amended to provide for the extension of the maturity dates of loans to producers who enter into agreements with CCC to extend the maturity date. The revised section reads as follows:

§ 1421.327 **Maturity of loans.**

Unless demand is made earlier, loans on rice will mature on April 30, 1977,

except that by written agreement between CCC and a producer, the loan maturity date may be extended to June 30, 1977.

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b, c); secs. 101, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).)

Effective date. This amendment shall be effective for all loans made on the 1976 crop of rice.

Signed at Washington, D.C., on March 30, 1977.

VICTOR A. SENECHAL,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-10106 Filed 4-4-77;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; FC-0054 and FC-0055]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

In accordance with 12 CFR 226.1(d), the Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

Official staff interpretations may be reconsidered by the Board upon request of interested parties and in accordance with 12 CFR 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

These interpretations shall be effective as of April 4, 1977.

[FC-0054]

§ 226.4(a)—Charges listed in 4(a) which are absorbed by creditor and not passed directly or indirectly on to customers are not finance charges.

§ 226.6(a)—"Meaningful sequence" does not require any particular arithmetical progression, but related terms must be presented so that customers can understand their relationship. (See also 780, 1047).

§ 226.8(b)—Right of acceleration is not an 8(b)(4) default charge, but if rebate upon prepayment after acceleration is different from rebate upon voluntary prepayment disclosed under 8(b)(7), the difference is an 8(b)(4) charge. (Clarifies 851).

§ 226.8(b)—Attorney's fees and foreclosure costs assessed automatically are 8(b)(4) charges; if not automatically imposed, need not be disclosed as such.

MARCH 21, 1977.

This is in reply to your letter of * * *, requesting official staff interpretations of the requirements of Regulation Z with regard to computation of finance charge, disclosure of late payment charges, disclosure of loan proceeds, and the meaning of the term "meaningful sequence." This letter is an official staff interpretation of these four matters.

Staff considers the three other questions raised in your letter as inappropriate for official staff interpretations at this time. An official interpretation concerning disclosure of a dealer's reserve is deemed inappropriate because the Board has proposed for comment an amendment and an interpretation of Regulation Z on this same subject. Similarly, an official interpretation concerning whether loan proceeds must be disclosed is deemed inappropriate because this question has been raised in *Pollock* v. *General Finance Corporation*, a case currently pending in the United States Court of Appeals for the Fifth Circuit in which the Board filed a brief amicus curiae. An official interpretation of your question regarding disclosure of notary fees under § 226.8(d)(3) would be inappropriate since staff's position is not one upon which a creditor may wish to rely in a civil action. A response to that issue will, therefore, be provided in a separate unofficial staff letter to you.

To answer your remaining four questions:

(1) You ask whether a creditor's right of acceleration upon default by the obligor must be disclosed as a default, delinquency, or late payment charge within the context of § 226.8(b)(4). It is staff's opinion that the phrase "default, delinquency, or similar charges in the event of late payments," found in § 128(a)(9) and § 129(a)(7) of the Truth in Lending Act and § 226.8(b)(4) of Regulation Z, refers to specific sums assessed against a borrower solely because of failure to make payments when due. It is staff's opinion that the mere right to accelerate contained in a contractual provision which sets out the creditor's right to accelerate the entire obligation upon a certain event (generally the obligor's failure to make a payment when due) is not a charge payable in the event of late payment. Therefore, it need not be disclosed under § 226.8(b)(4).

You refer to a prior Public Information Letter, No. 851, which discusses the right of acceleration. Staff believes that letter addresses a different issue than the one posed in your letter. Staff understands that letter to say that early payment of the balance of a precomputed finance charge obligation by a customer upon acceleration by the creditor is essentially the same as a prepayment of the obligation. Therefore, if the creditor does not rebate unearned finance charges in accordance with the rebate provisions disclosed under § 226.8(b)(7) when the customer pays the balance of the obligation upon acceleration, any amounts retained beyond those which would have been rebated under the disclosed rebate provisions do represent the type of charge that must be disclosed under § 226.8(b)(4).

(2) You ask a further question regarding what charges must be disclosed as default, delinquency, or late payment charges within the context of § 226.8(b)(4). Specifically, you ask whether attorney's fees and foreclosure costs assessed on a non-automatic basis at the sole discretion of the creditor need to be disclosed pursuant to that section. It is staff's opinion that, if the imposition of these charges is automatic (for example, if the charge becomes immediately due and collectible by virtue of default), the charges must be disclosed under § 226.8(b)(4). If, however, the imposition of the charge is not automatic but is conditioned upon employment of the services of an attorney to effect collection or expenditure of amounts in conjunction with foreclosure proceedings, such charge need not be disclosed under § 226.8(b)(4).

(3) You request an official staff interpretation regarding the requirement in § 226.6(a) that disclosures be made "in meaningful sequence." Specifically, you ask whether any particular arithmetical progression must be used in making the disclosures. You refer to the case of *Allen* v. *Beneficial Finance Co.*, 531 F. 2d 797 (7th Cir., 1976), which has been interpreted by some to mean that the various disclosure elements must be arranged in a "summation column," as opposed to a subtractional order, to comply with the "meaningful sequence" requirement.

Section 226.6(a) does not set forth any particular arithmetical progression which must be used in making disclosures. It is staff's opinion that the regulation does not require all presentations to be made within the rigid confines of a particular series of additions or subtractions. In fact, it is inappropriate to speak of a "summation" or "subtractional" method as if these were separate and mutually exclusive methods of disclosure. In order to comply with the requirements of § 226.8(d), for example, most disclosure statements would necessarily contain both additions and subtractions. A disclosure might begin with a total of payments figure and subtract the amount financed to show the finance charge. The same disclosure would probably involve an addition process in disclosing the amount financed, if it includes other charges, and in disclosing the finance charge, if it contains more than one component. By contrast, a disclosure might begin with the amount of credit paid to or on behalf of the customer (a sum) and require a series of subtractions, if the transaction involves a prepaid finance charge and/or a required deposit balance, to reach the amount financed. The invalidity of attempting to characterize disclosure methods by these labels may be further illustrated by the provisions of § 226.8(c), a series of disclosure items involving a mixture of subtractions and additions which, therefore, cannot be described with a single arithmetical label.

In staff's view, the term "meaningful sequence" cannot and should not be defined by reference to some rigid concept of arithmetical progression. We believe that § 226.6(a) requires related terms to be presented in an order which will assist the customer in understanding their relationship. Given the wide variety in credit transactions, "meaningful sequence" must be determined by reference to the particular set of disclosures under consideration. An arrangement of elements suitable for one type of transaction may not necessarily be adequate for another type of transaction.

(4) You ask whether finders' fees, appraisal fees, credit report fees, and other charges of the type mentioned in § 226.4(a) which are absorbed by the creditor and which are not passed on to the obligor either directly or indirectly (e.g., by increasing the amount financed or the rate of interest charged) must be itemized and disclosed as components of the finance charge under § 226.8(c)(8)(i) and § 226.8(d)(3). It is staff's opinion that such amounts which are absorbed by the creditor as a cost of doing business and are not directly or indirectly imposed upon the obligor do not constitute finance charges within the general definition of § 226.4(a). Since they are not part of the finance charge, they need not be itemized and disclosed under § 226.8(c) or § 226.8(d).

This letter is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation, and limited in its application to the facts and issues presented herein. I trust it will be of assistance to you.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

[FC-0055]

§ 226.7(k)—Open end creditor may provide transaction date and date of crediting to the account for each transaction where both dates are identified.

§ 226.7(b)(1)(ii)—Open end creditor may provide transaction data and date of crediting to the account for each transaction where both dates are identified.

MARCH 22, 1977.

This is in reply to your letter of * * *, in which you asked for a clarification of official staff interpretation FC-0024, dated November 22, 1976. In particular, you ask whether certain language in that interpretation was intended by staff to mean that a creditor of an open end credit plan may not disclose on a periodic statement both the date of the transaction and the date of crediting the transaction to the account to aid in identifying transactions. Specifically, you are concerned with the following statement in that letter: "The requirement of posting dates would unnecessarily complicate the disclosure and necessitate the printing of two separate dates (i.e., the transaction date and the posting date) which could result in confusion on the part of the customer."

It was not staff's intention to imply by this language that a creditor may not disclose the transaction date and the crediting date in connection with each transaction on an account. That language was mainly intended as an explanation of the reason why the regulation does not require both dates to be disclosed for all transactions. In staff's opinion, it would be permissible, as you suggest, to disclose both such dates for each transaction on an open end credit account where the dates are identified as to type either by columnar heading or other appropriate means.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues presented herein. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, March 30, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-10034 Filed 4-4-77;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

Freedom of Information Act; Unpublished, Confidential and Privileged Information

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The revision of § 720.4(a)(3) sets forth the requirements to be followed in determining whether agency materials are exempt from public disclosure by statute. This revision is necessary to bring the rule in conformance with the language of exemption (b)(3) of the Freedom of Information Act, which was recently amended by section 5(b) of the Government in the Sunshine Act.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward J. Dobranski, Office of General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456 (202-254-9810).

SUPPLEMENTARY INFORMATION: The notice, public participation, and deferred effective date requirements of 5 U.S.C. 553 were not followed in connection with the revision of § 720.4(a)(3). Such procedures were found to be unnecessary because the revision merely conforms § 720.4(a)(3) to the language of exemption (b)(3) of the Freedom of Information Act, as amended by section 5(b) of the Government in the Sunshine Act.

Accordingly, 12 CFR 720 is amended, effective immediately, as follows:

1. By revising Part 720.4(a)(3) as follows:

§ 720.4 Unpublished confidential and privileged information.

(a) * * *

(3) Specifically extempted from disclosure by statute (other than section 552 (b) of Title 5 of the United States Code), 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;

* * * * *

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1014 (12 U.S.C. 1789).)

C. AUSTIN MONTGOMERY,
Administrator.

MARCH 24, 1977.

[FR Doc.77-10018 Filed 4-4-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2873]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Cezar, Ltd. et al.

AGENCY: Federal Trade Commission.

ACTION: Issuance of order to cease and desist.

SUMMARY: On Thursday, January 6, 1977, there was published in the FEDERAL REGISTER (42 FR 1304) a proposed consent agreement with analysis In the Matter of Cezar, Ltd. et al. for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.[1]

SUPPLEMENTARY INFORMATION: The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.30 Composition of goods; 13.30-75 Textile Fiber Products Identification Act; § 13.45 Content; § 13.73 Formal regulatory and statutory requirements; 13.73-90 Textile Fiber Products Identification Act; § 13.205 Scientific or other relevant facts; § 13.270 Trademark registration or use. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-37 Formal regulatory and/or statutory requirements; 13.553-45 Maintain records. Subpart—Failing to Maintain Records; § 13.1051 Failing to maintain records; 13.1051-30 Formal regulatory and/or statutory requirements. Subpart—Misbranding or Mislabeling: § 13.1170 Advertising and promotion; § 13.1185 Composition; 13.1185-80 Textile Fiber Products Identification Act; § 13.1200 Content; § 13.1212 Formal regulatory and statutory requirements; 13.1212-80 Textile Fiber Products Identification Act; § 13.1320 Scientific or other relevant facts. Subpart—Misrepresenting Oneself and Goods—Goods: § 13.1590 Composition; 13.1590-70 Textile Fiber Products Identification Act; § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623-80 Textile Fiber Products Identification Act; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, Unfairly or deceptively, to Make Material Disclosure: § 13.1845 Composition; 13.1845-70 Textile Fiber Products Identification Act; § 13.1895 Scientific or other relevant facts.

(6 Stat. 721 (15 U.S.C. 46). Interpret or apply Sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; (15 U.S.C. 45, 70).)

Issue Date: March 14, 1977.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-10056 Filed 4-4-77;8:45 am]

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

CFR Correction

In the text of § 502.100, appearing on pages 449 and 450 of 16 CFR Parts 150 to 999, the following changes should be made:

(1) the following line should appear between the sixth and seventh line in the second column on page 450:

§ 502.100 "Cents-off" representations.

* * * * *

(c) * * * construed to authorize or condone the * * *

(2) The source note on page 450 is corrected to read as follows:

[36 FR 23057, Dec. 3, 1971]

[1] Copies of the Complaint and Decision and Order filed with the original document.

Title 20—Employees' Benefits

CHAPTER II—RAILROAD RETIREMENT BOARD

PART 210—EXECUTION AND FILING OF AN APPLICATION FOR AN ANNUITY

Use of Social Security Application as Railroad Retirement Application

This document provides a revision of the Board's regulations to permit a claimant's social security application to serve as his or her railroad retirement application in certain limited cases if the claimant had met all eligibility requirements under the Railroad Retirement Act as of the date of the application filed with the Social Security Administration except for the filing of an application with the Railroad Retirement Board.

Pursuant to the general authority contained in section 7 of the act of October 16, 1974 (88 Stat. 1338; 45 U.S.C. 231f), § 210.2 of Part 210 (20 CFR 210.2) of the regulations under such act are amended by Board Order 77-18, dated February 23, 1977, as follows:

§ 210.2 Application to be filed.

(a) No individual, irrespective of his qualifications, shall receive an annuity unless, on or before the date of his death, his duly executed application upon such form as the Board may from time prescribe is filed with the Board: *Provided, however,* that a claim or application filed with the Social Security Administration, whether before or after the adoption of this section, for monthly insurance benefits under title II of the Social Security Act (except an application for a disability insurance benefit where such benefit was terminated before the 120th month of railroad service was performed), based in whole or in part on service of an employee for an employer under the Railroad Retirement Act, shall be considered an application for an annuity duly filed with the Board: And *Provided Further,* that a claim or application filed with the Social Security Administration on or before December 31, 1974, for monthly insurance benefits under title II of the Social Security Act, regardless of whether such claim or application is based in whole or in part on service of an employee for an employer under the Railroad Retirement Act, shall be considered an application for an annuity duly filed with the Board if: (1) the individual filing such claim or application would have been entitled to an annuity under the Railroad Retirement Act as of the date of such filing if he had then filed an application with the Board, and (2) such individual elects to have such claim or application considered as an application for an annuity under the Railroad Retirement Act.

By Authority of the Board.

Dated: March 28, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc.77-10021 Filed 4-4-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0028]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Test Organism Name Change

AGENCY: Food and Drug Administration, HEW.

ACTION: Rule.

SUMMARY: This rule is amending the microbiological assay methods regulations by changing the name of a test organism.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5220).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, to maintain current regulations, is changing the name of "Test organism K" listed in § 436.103(a) (21 CFR § 436.103(a)) as "*Streptococcus faecalis* (ATCC 10541)"[2] to "*Streptococcus faecium* (ATCC 10541)"[2] to correspond with a similar change by the American Type Culture Collection.

A new taxonomic criterion has been applied to the differentiation between *S. faecalis* and *S. faecium*. As a result, American Type Culture Collection has reclassified the organism currently listed as *S. faecalis* in the antibiotic regulations. By the new criterion, it has been renamed *S. faecium*.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR § 5.1).)

Part 436 is amended in the table in § 436.103(a) by revising the entry for Test organism K to read as follows:

§ 436.103 Test organisms.

(a) * * *

Test organism	Method used	Medium used for the—		Incubation period of Roux bottles	Suggested dilution factor	Suggested storage period of suspensions under refrigeration (hours)
		Slants	Roux bottles			
* * *	*	*	*	*	*	*
Test organism K-*streptococcus faecium* (ATCC 10541)[2]	5					24
* * *	*	*	*	*	*	*

* * * * *

Since the amendment merely corrects obsolete nomenclature and since the matter is noncontroversial, the Commissioner finds that notice and public procedure and delayed effective date are unnecessary for this promulgation.

Effective date: This amendment becomes effective April 5, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: March 16, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-9879 Filed 4-4-77;8:45 am]

[Docket No. 76N-0221]

PART 442—CEPHA ANTIBIOTIC DRUGS

Sterile Cefazolin Sodium; Revision of pH Values and Increase in Samples Submitted for Certification

AGENCY: Food and Drug Administration, HEW.

ACTION: Rule.

SUMMARY: This rule is amending the antibiotic drug regulations by (1) establishing pH limits for sterile cefazolin sodium reconstituted with lidocaine hydrochloride injection 0.5 percent U.S.P. (United States Pharmacopeia), (2) raising the lower pH limit for sterile cefazolin sodium in the regulation providing for the bulk drug product, and (3) increasing the number of samples to be submitted for certification testing of sterile cefazolin sodium.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-5220).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed in the FEDERAL REGISTER of July 23, 1976 (41 FR 30349), that §§ 442.11a and 442.211 (21 CFR §§ 442.11a and 442.211) be amended regarding the use of lidocaine hydrochloride injection 0.5 percent U.S.P. as a diluent to be packaged in combination with sterile cefazolin sodium. Lidocaine hydrochloride is a local anesthetic that can be used in combination with other injectable drugs to reduce the discomfort of the injection.

The Commissioner concluded that the data supplied by the manufacturer concerning this combination package are adequate to establish its safety and efficacy. He therefore proposed that the regulations be amended to provide for its certification. Because the pH values ob-

tained with the lidocaine diluent are higher than those obtained when the drug is reconstituted with the previously approved diluents, this action necessitates requiring an additional pH test to be performed on sterile cefazolin sodium reconstituted with lidocaine hydrochloride injection 0.5 percent U.S.P. and providing specifications for the pH limits therefor.

In addition, based on a review of certification data for the past several years, the Commissioner proposed to raise the lower pH limit from 4.0 to 4.5 for sterile cefazolin sodium after reconstituton with water.

Finally, the Commissioner proposed to amend the requirements concerning the number and size of samples of sterile cefazolin sodium to be submitted with a request for certification. The regulations currently require that if the batch is packaged for dispensing, the person requesting certification must submit 20 vials of sterile cefazolin sodium for sterility testing; and for all other tests, 12 vials or if the vials contain less than 500 milligrams each, 16 vials. The Commissioner found that this number of vials for tests other than sterility is inadequate to perform the necessary tests and assays. He proposed, therefore, to increase the requirement for tests other than sterility to 15 vials, or if the vials contain less than 1 gram each, 24 vials. Sixty days were allowed for public comment on the proposal. No comments were received. The Commissioner, therefore, finds that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 442 is amended as follows:

1. In § 442.11a by revising paragraphs (a)(1)(vi) and (a)(3)(ii)(*b*)(*1*) to read as follows:

§ 442.11a **Sterile cefazolin sodium.**

(a) * * *

(1) * * *

(vi) Its pH in an aqueous solution containing 100 milligrams of cefazolin per milliliter is not less than 4.5 and not more than 6.0.

* * * * *

(3) * * *

(ii) * * *

(*b*) * * *

(*1*) For all tests except sterility: A minimum of 15 immediate containers, except if each contains less than 1.0 gram, a minimum of 24 immediate containers.

* * * * *

2. By revising § 442.211 to read as follows:

§ 442.211 **Sterile cefazolin sodium.**

The requirements for certification and the tests and methods of assay for sterile cefazolin sodium packaged for dispensing are described in § 442.11a, except for the following additional requirements if it is packaged with lidocaine hydrochloride injection 0.5 percent U.S.P.:

(a) The pH, when reconstituted and diluted to 100 milligrams per milliliter with lidocaine hydrochloride injection 0.5 percent U.S.P., is not less than 5.5 and not more than 7.0.

(b) In addition to the information required by § 442.11a (a)(3)(i), the following shall be submitted:

(1) The pH on the batch reconstituted with lidocaine hydrochloride injection 0.5 percent U.S.P.; and

(2) Results of tests and assays on the lidocaine hydrochloride injection 0.5 percent to show conformance with U.S.P. requirements.

Effective date. This amendment shall become effective May 5, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: March 16, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-9876 Filed 4-4-77;8:45 am]

[Docket No. 76N-0164]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Sterile Neomycin Sulfate and Polymyxin B Sulfate Solution; Revised pH Limit

AGENCY: Food and Drug Administration, HEW.

ACTION: Rule.

SUMMARY: This rule is amending the antibiotic drug regulations by revising the lower pH limit from 5.0 to 4.5 for sterile neomycin sulfate and polymyxin B sulfate solution.

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert J. Rice, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5220).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs proposed in the FEDERAL REGISTER of July 15, 1976 (41 FR 29151), that § 444.942b (21 CFR § 444.942b) be amended by revising the lower pH limit from 5.0 to 4.5 for sterile neomycin sulfate and polymyxin B sulfate solution. Sixty days were allowed for public comment on the proposal. No comments were received. Therefore, the Commissioner finds that the amendment should be adopted as proposed.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 5.1).)

Part 444 is amended in § 444.942b (a)(1) by revising the fourth sentence therein to read as follows:

§ 444.942b **Sterile neomycin sulfate and polymyxin B sulfate solution.**

* * * * *

(a) * * *

(1) * * * Its pH is not less than 4.5 and not more than 6.0, except that for issuance of a certificate it is not less than 5.0. * * *

* * * * *

Effective date. This amendment shall become effective May 5, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: March 16, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-9877 Filed 4-4-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Bambermycins Alone or in Combination; Change of Sponsor Firm Name

AGENCY: Food and Drug Administration (FDA).

ACTION: Final rule.

SUMMARY: The Food and Drug Administration provides for a sponsor name change—Hoechst-Roussel Pharmaceuticals to American Hoechst Corp.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

David P. Ducharme, Bureau of Veterinary Medicine (HFV-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-2280).

SUPPLEMENTARY INFORMATION: The following supplemental new animal drug applications (NADA's) filed by American Hoechst Corp., Agricultural Division, Route 202-206 North, Somerville, N.J. 08876 are approved by FDA:

44-759V	Bambermycins.
95-543V	Bambermycins, amprolium, and ethopabate (Hi E).
95-547V	Bambermycins, amprolium, ethopabate (Hi E), and roxarsone.
95-548V	Bambermycins, amprolium, and roxarsone.
95-549V	Bambermycins, amprolium, ethopabate, and roxarsone.
98-340V	Bambermycins and monensin.
98-341V	Bambermycins, monensin and roxarsone.

They provide for a change of sponsor name from Hoechst-Roussel Pharmaceuticals, Inc., a Subsidiary of American Hoechst Corp., to its parent company, American Hoechst Corp. Hoechst-Roussel Pharmaceuticals, Inc., has similarly requested the sponsor change. The firms advise FDA that personnel, contract manufacturing and quality control, and quality assurance will remain unchanged. These approvals are effective April 5, 1977.

This action, to approve the intracorporate transfer of NADA's, has not required a reevaluation of the parent NADA's and does not constitute a re-

affirmation of the drugs' safety and effectiveness.

The Commissioner of Food and Drugs is amending Parts 510 and 558 (21 CFR Parts 510 and 558) to reflect these approvals.

(Sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1))) and under authority delegated to the Commissioner (21 CFR § 5.1)

Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600(c)(1) is amended to delete the entry for Hoechst-Roussel Pharmaceuticals, Inc., and to add a new entry alphabetically; and in paragraph (c)(2) to delete the firm name and address in entry No. 000039 and to add a new firm name and address, to read as follows:

§ 510.600 **Names, addresses, and code numbers of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing*
* * * * *	
American Hoechst Corp., Agricultural Division, Route 202-206 North Somerville, N.J. 08876	000039
* * * * *	

(2) * * *

Drug listing No.:	*Firm name and address*
* * * * *	
000039	American Hoechst Corp., Agricultural Division, Route 202-206 North, Somerville, NJ 08876.
* * * * *	

§ 558.15 [Amended]

2. In Part 558, § 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* is amended in paragraph (g)(1) in the table in the column "Drug Sponsor" to delete the name Hoechst Pharmaceuticals and insert in its place the name American Hoechst Corp.

Effective date. This regulation becomes effective April 5, 1977.

(Sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1)).)

Dated: March 30, 1977.

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

[FR Doc.77-10006 Filed 4-4-77;8:45 am]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration approves a new animal drug application (NADA) for use of tylosin in swine feed.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-5247).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration approves an NADA (96-512V) filed by Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, Mo. 64502, proposing safe and effective use of a tylosin premix for the manufacture of complete swine feed for increased weight gain and improved feed efficiency.

The Commissioner of Food and Drugs is amending §§ 510.600 and 558.625 (21 CFR §§ 510.600 and 558.625) to reflect this approval.

In accordance with § 514.11(e)(2)(ii) (21 CFR § 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

(Sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1)), and under authority delegated to the Commissioner (21 CFR 5.1).)

Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 **Names, addresses, and code numbers of sponsors of approved applications.**

* * * * *

(c) * * *

(1) * * *

Firm name and address:	*Drug listing No.*
* * * * *	
Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, Mo. 64502	018083
* * * * *	

(2) * * *

Drug listing No.:	*Firm name and address*
* * * * *	
018083	Dale Alley Co., P.O. Box 444, 222 Sylvanie St., St. Joseph, Mo. 64502.
* * * * *	

2. In Part 558, § 558.625 is amended by adding paragraph (b)(50), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(50) To 018083: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

* * * * *

Effective date. This amendment becomes effective April 5, 1977.

(Sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1)))

Dated: March 24, 1977.

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

[FR Doc.77-9866 Filed 4-4-77;8:45 am]

PART 510—NEW ANIMAL DRUGS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Zinc Bacitracin; Change of Sponsor

AGENCY: Food and Drug Administration, HEW.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration provides for a change in sponsor of a new animal drug application (NADA).

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-4317).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration approves a supplemental new animal drug application (NADA 98-452V) filed by A. L. Laboratories, Inc., a subsidiary of A/S Apothekernes Laboratorium for Specialpraeparater, 452 Hudson Terrace, Englewood Cliffs, N.J. 07632, providing for the change in sponsor from Thompson-Hayward Chemical Co. to A. L. Laboratories, Inc. Thompson-Hayward Chemical Co. has also requested the change in sponsor. The approval is effective April 5, 1977.

The Commissioner of Food and Drugs is amending Parts 510 and 558 (21 CFR Parts 510, 558) to reflect this approval. He is also amending § 558.15 (21 CFR § 558.15) to delete reference to certain uses for which the firm does not have approvals.

The intercorporate transfer of the NADA does not involve changes in manufacturing, packaging, or quality control facilities. The approval has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

(Sec. 512(1), 82 Stat. 347 (21 U.S.C. 360b(1))) and under authority delegated to the Commissioner (21 CFR 5.1)

Parts 510 and 558 are amended as follows:

§ 510.600 [Amended]

1. In Part 510, § 510.600 *Names, addresses, and code numbers of sponsors of approved applications* is amended in paragraph (c)(1) by deleting the entry

for "Thompson-Hayward Chemical Co." and in paragraph (c)(2) by deleting the entry for "011721."

2. Part 558 is amended:

a. In § 558.15, paragraph (g)(1) is amended in the second entry in the table in the column "Drug sponsor" to delete the firm name "Thompson-Hayward Chemical Co." and insert in its place the new firm name "A. L. Laboratories, Inc," and to indicate approval for use in chickens, turkeys, pheasants, and quail only. The first two entries in the table read as follows:

§ 558.15 **Antibiotic, nitrofuran, and sulfonamide drugs in animal feeds.**

* * * * *

(g) * * *

(1) * * *

Drug sponsor	Drug premix	Species	Use levels	Indications for use
IMC Chemical Group, Inc...	Zinc bacitracin...	Chickens, turkeys, swine, pheasants, quail, and cattle.	Sec. 558.78...	Sec. 558.78.
A. L. Laboratories, Inc.....	do.....	Chickens, turkeys, pheasants, and quail.	.....do.....	Do.
*	*	*	*	*

§ 558.78 [Amended]

b. In § 558.78 *Bacitracin, zinc*, paragraph (a)(1) is amended by deleting the sponsor No. "011721" and inserting in its place the number "046573," and paragraph (e)(1) is amended in the table in items (i) and (ii) in the column headed "Sponsor" to delete the sponsor numbers "011721" and insert in their place the number "046573."

Effective date. These amendments become effective April 5, 1977.

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

Dated: March 24, 1977.

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

[FR Doc.77-9875 Filed 4-4-77;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0110]

PART 701—COSMETIC LABELING

Designation of Ingredients; Termination of Judicial Stay of Effective Date

AGENCY: Food and Drug Administration (FDA).

ACTION: Notification of termination of stay.

SUMMARY: This document announces that the United States Court of Appeals for the District of Columbia Circuit has upheld the validity of § 701.3 (21 CFR 701.3) that requires cosmetic labels to bear a declaration of ingredients, and has vacated the stay of the effective date for complying with the regulation in labeling packages.

DATES: The agency will allow affected persons until April 15, 1977, to comply with § 701.3 in labeling packages.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204. (202-245-1530).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a regulation, published in the FEDERAL REGISTER of October 17, 1973 (38 FR 28912), requiring the declaration of ingredients on cosmetic labels; amendments to the regulation were published in the FEDERAL REGISTER of March 3, 1975 (40 FR 8918). In the FEDERAL REGISTER of May 30, 1975 (40 FR 23458), the Commissioner established the following effective dates for complying with the regulation as amended: "All labeling for cosmetic products ordered after May 31, 1976 and all cosmetic product packages labeled after November 30, 1976 shall comply with the requirements of § 701.3."

The Independent Cosmetic Manufacturers and Distributors (ICMAD) challenged the regulation in lawsuits brought in the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia (*ICMAD* v. *Department of Health, Education, and Welfare*, Civil Action No. 75-1845; *ICMAD* v. *Mathews*, Civil Action No. 76-1007). The lawsuit in the District Court was dismissed on jurisdictional grounds. On January 27, 1977, the Court of Appeals affirmed the dismissal by the District Court, and denied the petition for review in the lawsuit initiated in the Court of Appeals.

On November 24, 1976, the Court of Appeals granted a motion by ICMAD for a stay "of effective date" of the regulation until further order of the Court. The Court of Appeals, on March 14, 1977, vacated the stay of the effective date that it had previously ordered.

The Food and Drug Administration issued a notice in the FEDERAL REGISTER of December 7, 1976 (41 FR 53477) notifying interested persons of the stay and its effect. The stay by the Court of Appeals applied only to the November 30, 1976 effective date for labeling packages. The stay did not affect the May 31, 1976 effective date for complying with the requirement to declare ingredients in all labeling for cosmetics ordered after that date. Thus, this latter requirement continues in effect without change.

The Novemebr 30, 1976 effective date stayed by the Court of Appeals applied to packages labeled after that date. Because of the stay, labels not complying with § 701.3 that were ordered before May 31, 1976 could continue to be applied to cosmetic packages until the stay ended. When the Court of Appeals terminated the stay on March 14, 1977, the requirement to comply with § 701.3 in labeling packages came into effect.

The Commissioner recognizes, however, that it may take some time for interested person to learn of the termination of the stay and to implement the necessary actions to comply. Accordingly, the Commissioner will not take regulatory action with respect to any noncompliance with the requirement in § 701.3 to declare cosmetic ingredients in labeling applied to packages before April 15, 1977. Since all labeling ordered after May 31, 1976 that can continue to be it is only labeling ordered on or before May 31, 1976 that can ocntinue to be applied to packages until April 15, 1977 without being subject to regulatory action if the labeling fails to comply with § 701.3.

In accordance with the Commissioner's advice stated in the FEDERAL REGISTER of March 3, 1975, labeled packages in inventory bearing labeling ordered before May 31, 1976 may be used up at any time hereafter, whether or not the packages comply with § 701.3. This is not affected by the termination of the stay of the effective date for labeling packages.

(Secs. 5(c), 6(a), 80 Stat. 1298, 1299 (15 U.S.C. 1454, 1455)) (sec. 7101(e), 52 Stat. 1055-1056 as amended) (21 U.S.C. 371(e)) and under authority delegated to the Commissioner (21 CFR § 5.1).)

Dated: March 28, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-9715 Filed 3-29-77;12:09 pm]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 76N-0029]

PART 1002—RECORDS AND REPORTS

PART 1010—PERFORMANCE STANDARDS FOR ELECTRONIC PRODUCTS: GENERAL

Submissions of Data and Reports; Dealer and Distributor Records; Certification and Identification Labels

AGENCY: Food and Drug Administration, HEW.

ACTION: Rule.

SUMMARY: This rule is amending the radiological health regulations: (1) To require under new § 1002.7 (21 CFR § 1002.7) that all written material submitted pursuant to Part 1002 conform to the current applicable electronic product reporting guide or instruction when such a guide or instruction has been issued by the Director, Bureau of Radiological Health; (2) to delete the requirement under §§ 1002.40 and 1002.41 (21 CFR §§ 1002.40 and 1002.41) that dealers and distributors notify the Bureau of their election to preserve their own records, and to eliminate inconsistencies in the language between the two sections; and (3) to require under §§ 1010.2 and 1010.3 (21 CFR §§ 1010.2 and 1010.3) that certification and identification labels or

tags be in the English language, except for certain abbreviations as currently described in § 1010.3(a)(1).

EFFECTIVE DATE: May 5, 1977.

FOR FURTHER INFORMATION CONTACT:

John Taschner, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3426).

SUPPLEMENTARY INFORMATION: In a notice proposing the subject amendments published in the FEDERAL REGISTER of March 30, 1976 (41 FR 13367), interested persons were given until June 1, 1976 to file written comments with the Hearing Clerk, FDA, regarding the proposal.

Six comments from manufacturers of electronic products subject to control under the Radiation Control for Health and Safety Act of 1968 (Pub. L. 90-602, 42 U.S.C. 263b et seq.) addressed the proposed requirement that all written material submitted pursuant to Subchapter J shall conform to the reporting guide or instruction issued by the Bureau. The issues raised by these comments and the Commissioner's conclusions thereon are as follows:

1. Four comments objected to requiring adherence to current reporting guides in submitting reports and data to FDA. These comments argued that such a requirement, rather than being for the benefit of the manufacturer, is for the administrative convenience of FDA and would place an enormous burden and expense on the manufacturer. Such requirement, according to the comments, has no connection with limiting radiation exposure of the population, but would impose on the affected industry specific formats for maintaining test data and other documentation that may be in conflict with marketing protocols or the manufacturer's own rules and procedures. They also argued that the reporting guides are intended to aid communication of information submitted in response to regulatory requirements and should not become rigid rules requiring justification of any deviation.

The Commissioner believes that reporting guides are of benefit to manufacturers as well as FDA. They provide a consistent and uniform reporting format that affords greater assurance that an adequate report is prepared initially, thereby minimizing the need for costly and time consuming correspondence between FDA and the manufacturer. In the past, some manufacturers have submitted test data that were not pertinent to FDA's responsibility for ascertaining whether the manufacturer's quality control program did, in fact, assure that hazardous radiation would not be emitted from their electronic products. Reporting guides identify to the manufacturer the pertinent information required by FDA reporting regulations to fulfill its delegated responsibilities under the act and to make the manufacturer's reporting task easier. Thus, the reporting guides are intended to reduce the burden and expense of reporting on the part of the manufacturer and to expedite the review of these reports by FDA.

The Commissioner does not intend to dictate to the affected manufacturers any specific format for maintaining their test data or other documentation concerning their electronic products. The amendment requires only that the necessary information be submitted to FDA in conformance with the applicable reporting guide or instruction. Thus, manufacturers may maintain their own records to conform to their own internal documentation standards and procedures.

The Commissioner also does not intend to require rigid adherence to the applicable reporting guide or instruction when it is not feasible or when it would be inappropriate to do so. To clarify this, § 1002.7 has been modified to permit a manufacturer to use an alternate format for that portion of the reporting guide considered to be inappropriate.

2. Three comments recommended that the reporting guides be submitted to the affected industry for review and comment before their being mandated.

The Commissioner has no objection to making the reporting guides available to the affected industry for their review and comment and in the future will do so to the extent possible. In addition, comments and suggestions for revision and improvement of the reporting guides will be solicited at the time of issuance.

3. One comment stated that if following the prescribed reporting guide or instruction is to become mandatory, FDA must make certain that the information called for is required by appropriate regulations and is within FDA's authority. The comment alleged that some items in the current FDA reporting guides have been viewed by manufacturers as being an expansion of the requirements of the particular standard or are outside the authority of FDA.

The Commissioner has authority under section 360A(b) of the act to require reports and information necessary to determine if the manufacturer is acting in compliance with the act and with an applicable standard. A reporting guide is intended to interpret the reporting regulations to obtain relevant and necessary information concerning electronic products and testing programs, whether or not these products are subject to performance standards. The reporting guide is not a mechanism for imposing additional performance requirements. However, an applicable performance standard is subject to interpretation and a reporting guide may, through language or construction, relate to an interpretation of a standard as well as the reporting regulations. A manufacturer who believes that any portion of a reporting guide is based upon an erroneous interpretation of a standard or reporting regulation may request an advisory opinion on the applicable portion of the regulation or submit written comments to FDA and request that the disputed portion of the reporting guide be reconsidered, modified, or deleted.

4. In the March 30, 1976 proposal, the requirement that material submitted pursuant to Subchapter J shall conform to the applicable reporting guide or instruction was contained in a new § 1000.14 (21 CFR 1000.14). It was originally intended that this requirement apply to the submission of all written material required by Subchapter J such as test data, initial and annual reports, reports of model changes, and exemption and variance requests. The Commissioner has since determined that this requirement need apply only to the material submitted pursuant to Part 1002, related to "Records and Reports." Therefore, the requirement has been transferred to new § 1002.7 Submission of data and reports.

5. The abbreviation exception to the amended requirement in § 1010.2 that certification labels and tags be in the English language is being moved to § 1010.3 to clarify the original intent that the English language requirement is applicable also to identification labels and tags.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f) and under authority delegated to the Commissioner (21 CFR 5.1).)

Parts 1002 and 1010 are amended as follows:

1. In Part 1002:

a. By adding new § 1002.7 to read as follows:

§ 1002.7 Submission of data and reports.

All submissions such as reports, test data, product descriptions, and other information required by this part, or voluntarily submitted to the Director, Bureau of Radiological Health, shall be filed with the number of copies as prescribed by the Director, Bureau of Radiological Health, and shall be signed by the person making the submission.

(a) In addition to the requirements of this part, all material submitted to the Director, Bureau of Radiological Health, shall be submitted pursuant to the provisions of Part 20—Public Information, of this chapter.

(b) Where guides or instructions have been issued by the Director, Bureau of Radiological Health, for the submission of material required by this part such as test data, initial and annual reports, and reports of model changes, the material submitted shall conform to the applicable reporting guide or instruction to the extent that it is possible or appropriate to do so. Where it is not feasible or where it would not be appropriate to conform to any portion of a prescribed reporting guide or instruction, an alternate format for providing the information requested by that portion of the guide or instruction may be used provided the submitter of such information submits adequate explanation and justification for use of an alternate format. If the Director, Bureau of Radiological Health, determines that such justification is inadequate and that it is feasible or appropriate to conform to the prescribed reporting guide or instruction, he may require resubmission

of the information in conformance with the reporting guide or instruction.

b. By revising the section heading and paragraph (a) of § 1002.40 and by adding new paragraph (c) to read as follows:

§ 1002.40 Records to be obtained by dealers and distributors.

(a) Dealers and distributors of electronic products listed in § 1002.31(c), for which there are applicable Federal standards under this subchapter and for which the retail price is not less than $50, shall obtain such information as is necessary to permit tracing of specific products to specific purchasers.

* * * * *

(c) The information obtained pursuant to this section shall be forwarded immediately to the appropriate manufacturer of the electronic product, or preserved as prescribed in § 1002.41.

c. By revising the section heading and paragraphs (a)(2) and (b) of § 1002.41 to read as follows:

§ 1002.41 Disposition of records obtained by dealers and distributors.

(a) * * *

(2) The dealer or distributor, upon making the election under paragraph (a)(1) of this section, promptly notifies the manufacturer of such election; such notification shall be in writing and shall identify the dealer or distributor and the electronic product or products for which the information is being accumulated and preserved.

(b) Every dealer or distributor who elects to hold and preserve information required pursuant to § 1002.40 shall preserve the information for a period of 5 years from the date of the sale, award, or lease of the product, or until the dealer or distributor discontinues dealing in, or distributing the product, whichever is sooner. If the dealer or distributor discontinues dealing in, or distributing the product, such information as obtained pursuant to § 1002.40 shall be furnished at that time, or before, to the manufacturer of the product

2. In Part 1010:

a. By revising § 1010.2(b) to read as follows:

§ 1010.2 Certification.

* * * * *

(b) The certification shall be in the form of a label or tag permanently affixed to or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use, unless the applicable standard prescribes some other manner of certification. All such labels or tags shall be in the English language.

* * * * *

b. By revising the introductory text of § 1010.3(a) to read as follows:

§ 1010.3 Identification.

(a) Every manufacturer of an electronic product to which a standard under this subchapter is applicable shall set forth the information specified in paragraph (a)(1) and (2) of this section. This information shall be provided in the form of a tag or label permanently affixed or inscribed on such product so as to be legible and readily accessible to view when the product is fully assembled for use or in such other manner as may be prescribed in the applicable standard. Except for foreign equivalent abbreviations as authorized in paragraph (a)(1) of this section all such labels or tags shall be in the English language.

* * * * *

Effective date. These amendments shall be effective May 5, 1977.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f).)

Dated: March 18, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-9878 Filed 4-4-77;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dept. Reg. 108.736]

PART 6a—PRIVACY ACT POLICIES AND PROCEDURES

Denial of Access; Amendment

On February 17, 1977 the Department of State published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 9684) setting forth proposed regulations to implement the Privacy Act of 1974 (5 U.S.C. 552a). The proposed regulations established administrative procedures to appeal the Department's denial of access to records requested under the Privacy Act. Interested persons were given until March 21, 1977 to submit comments concerning the proposed regulations; no comments were received.

Accordingly, the amendments to Part 6a are adopted as set forth below.

Effective date: These amendments are effective April 1, 1977.

(Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 111; 22 U.S.C. 2658); Pub. L. 93-579, 88 Stat. 1897; 5 U.S.C. 552a.)

For the Secretary of State.

Dated: March 30, 1977.

CLAYTON E. MCMANAWAY,
Acting Deputy Under Secretary for Management.

1. Section 6a.7 is revised to read as follows:

§ 6a.7 Denial of access.

The decision to deny an individual access to his or her record shall be made by the Department official of a rank not below the Deputy Assistant Secretary or equivalent level who is responsible for the system of records involved. When an authorized official denies access to a record or portion thereof, the official will advise the individual of the denial in writing. The letter of denial shall cite the Privacy Act exemption(s) claimed and shall give the specific reasons therefor. The letter shall also state that the denial may be appealed to the Privacy Policy and Appeals Board and shall include a copy of the Department's regulations on appeals, § 6a.8.

§ 6a.8 Redesignated as § 6a.9.

2. The present § 6a.8 is renumbered as § 6a.9 and a new § 6a.8 is added to read as follows:

§ 6a.8 Appeals for denial of access.

(a) Review of an initial denial of access to a record under § 6a.7 may be requested by the individual who submitted the initial request for access. The review (hereinafter referred to as the appeal) must be in writing and should be sent by certified mail to the Chairman, Privacy Policy and Appeals Board, Department of State, Room 1239, 2201 C Street N.W., Washington, D.C. 20520. The appeal should be received within 60 days of the date the individual is informed of the Department's refusal to grant access to a record in whole or in part.

(b) The time for decision on the appeal begins on the date the appeal is received by the Chairman, Privacy Policy and Appeals Board. The appeal of a denial of access to records shall include any documentation, information and statements to support the individual's request for access and to refute the use of the exemption(s) cited in the Department's justification concerning the denial of access.

(c) The Chairman of the Privacy Policy and Appeals Board (Assistant Secretary of State for Administration) or his designee and at least two other members of the Board designated by him shall constitute a panel to consider and decide the appeal; there shall be a written record of the reasons for the final determination. The final determination will be made within 30 days (excluding Saturdays, Sundays, and legal public holidays), unless for good cause shown, the Chairman of the Privacy Policy and Appeals Board extends such determination beyond the 30-day period.

(d) When the final determination is to grant access to the record in accordance with the individual's request, the Chairman of the Privacy Policy and Appeals Board shall inform the office responsible for the record of its decision. The Board shall then request the Director, Foreign Affairs Document and Reference Center, to notify the individual in writing of the Board's decision to grant access and at the same time to inform the individual of the Department's regulations concerning access and identification, § 6a.4. The individual shall choose the means of access most convenient to him or her.

(e) When the final decision of the Board is to refuse to grant an individual access to a record, the Chairman of the Board shall advise the individual in writing:

(1) of the refusal to grant the appeal and the reasons therefor including the exemption(s) of the Privacy Act under which access is denied;

(2) of his or her right to seek judicial review of the Department's decision.

3. In the renumbered § 6a.9, paragraph (f) is revised to read as follows:

* * * * *

(f) If the office responsible for the record agrees with an individual's request to amend a record, a responsible official of the Department shall:

* * * * *

§ 6a.9 Redesignated as 6a.10.

4. Section 6a.9 is renumbered as § 6a.10 and retitled. Paragraphs (a) and (d) of the new § 6a.10 are changed to read as follows:

§ 6a.10 Appeals for refusal to amend.

(a) Review of an initial refusal to amend a record under § 6a.9(g) may be requested by the individual who submitted the request.

The review (hereinafter referred to as the appeal) should be requested in writing within 60 days of the date the individual is informed of the Department's refusal to amend a record in whole or in part. The appeal must be in writing and should be sent by certified mail to the Chairman, Privacy Policy and Appeals Board, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

* * * * *

(d) When the final determination is that the record should be amended in accordance with the individual's request, the Chairman of the Privacy Policy and Appeals Board shall direct the office responsible for the record to comply. A responsible official of the Department shall then:

* * * * *

§ 6a.10 Redesignated as § 6a.11.

5. Section 6a.10 is renumbered as § 6a.11 with no change in text.

[FR Doc.77-10119 Filed 4-4-77;8:45 am]

[Dept. Reg. 108.735; 7705216-3]

PART 6a—PRIVACY ACT POLICIES AND PROCEDURES

Specific Exemptions of Systems of Records

On December 30, 1976 the Department of State published a notice of proposed rulemaking in the FEDERAL REGISTER (41 FR 56827) setting forth proposed regulations to implement the Privacy Act (5 U.S.C. 552a). The proposed regulations would exempt two records systems, the Public Affairs Records and the Privacy Act Requests Records, from certain provisions of the Act. Interested persons were given until January 31, 1977 to submit comments concerning the proposed regulations.

Since no comments were received, § 6a.6 is amended by adding the following paragraph (k):

§ 6a.6 Exemptions.

* * * * *

(k) Portions of certain documents in the following systems of records are exempted pursuant to the provisions of 5 U.S.C. 552a (j) and (k) from subsections (c) (3) and (4); (d); (e)(1) and (e)(4) (G), (H), and (I); and (f) and 5 U.S.C. 552a:

PUBLIC AFFAIRS RECORDS—STATE–35

PRIVACY ACT REQUESTS RECORDS—STATE–40

These exemptions apply only to the extent that the records contained in the system have been obtained from other systems of records maintained by the Department of State for which exemptions from one or more provisions of the Privacy Act of 1974 have been promulgated. The exemptions claimed for these systems apply only to the records obtained from other Departmental systems and only to the extent that the records contained in such other systems have been exempted.

* * * * *

Effective date: This amendment is deemed to have been effective as of March 21, 1977.

(Sec. 4 of the Act of May 26, 1949, as amended (63 Stat. 101; 22 U.S.C. 2658); Pub. L. 93-579 88 Stat. 1897; 5 U.S.C. 552a.)

Dated: March 30, 1977.

CLAYTON E. MCMANAWAY,
Acting Deputy Under Secretary for Management.

[FR Doc.77-10120 Filed 4-4-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-325]

PART 890—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Subpart A—Performance Funding System

MISCELLANEOUS AMENDMENTS; CORRECTIONS

On December 21, 1976, at 41 FR 55676-55684, the Department of Housing and Urban Development issued the Amendment to Final Rule in Part 890—Annual Contributions for Operating Subsidy, Subpart A—Performance Funding System. In the publication of this Amendment, certain inadvertent omissions and errors occurred, which are now being corrected.

Accordingly, Part 890, Subpart A, as published on December 21, 1976, should be corrected as follows:

1. In § 890.101(a), page 55677, lines 10–11; § 890.104, page 55678, lines 22–23; and § 890.108(a), page 55681, line 11, delete the words, "low-income housing projects", "low-income housing program", or "low-income public housing program" respectively, and replace with the words, "PHA-owned rental housing".

2. In § 890.105(d)(3), page 55679, line 5, at the end of the line, following the words, "the Allowable Expense Level", add the words, "will be equal to the Allowable Expense Level".

3. In § 890.107(c)(2), page 55680, line 19, delete the word, "rate".

Effective date: February 24, 1977.

JOSEPH BURSTEIN,
Acting Deputy Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc.77-10077 Filed 4-4-77;8:45 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

PART 675—FURNITURE AND FIXTURES AND LUMBER AND WOOD PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order

AGENCY: Department of Labor.

ACTION: Rule.

SUMMARY: Pursuant to Sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259; 88 Stat. 55), and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 648 (42 FR 3038 and 3039), the Secretary of Labor appointed and convened Industry Committee No. 139-A for the Furniture and Fixtures and Lumber and Wood Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under Section 6 of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 139-A are hereby published, revising paragraphs (a) and (b) of § 675.2 of Part 675, Title 29, Code of Federal Regulations. In addition, paragraph (b) of § 675.1 is amended to reflect correct punctuation and paragraphs (c), (d), and (e) of § 675.2 are being deleted as having been merged into paragraphs (a) and (b) by the recommendations of an earlier Industry Committee.

EFFECTIVE DATE: April 21, 1977.

This document was prepared under the direction and control of Warren D. Landis, Acting Administrator, Wage and Hour Division.

FOR FURTHER INFORMATION CONTACT:

Josephine C. Stein, Director, Division of Industry Committees, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room N4428, Washington, D.C. 20210, 202–523–8720.

As amended §§ 675.1 and 675.2 read as follows:

§ 675.1 **Definition.**

* * * * *

(b) The industry includes, without limitation, furniture, office and store fixtures, mattresses and bedsprings, boxes and containers, cooperage, window and door screens and blinds, casket and coffins, matches, sawmill products, planing and plywood mill products, charcoal, trays, bowls, and other woodenware, excelsior, cork, bamboo, rattan and willowware articles.

§ 675.2 **Wage rates.**

* * * * *

(a) *Pre-1966 coverage classification.* (1) The minimum wage rate for this classification is $2.30 an hour.

* * * * *

(b) *1966 coverage classification.* (1) The minimum wage rate for this classification is $2.30 an hour.

* * * * *

(c) [Deleted]
(d) [Deleted]
(e) [Deleted]

(Secs. 5, 6, 8, 52 Stat. 1062 and 1064, as amended; 29 U.S.C. 205, 206, 208.)

Signed at Washington, D.C. on this 30th day of March 1977.

WARREN D. LANDIS,
Acting Administrator, Wage and Hour Division, Department of Labor.

[FR Doc.77–10121 Filed 4–4–77;8:45 am]

PART 678—STONE, CLAY AND GLASS PRODUCTS AND NONMETALLIC MINING INDUSTRY IN PUERTO RICO

Wage Order

AGENCY: Department of Labor.

ACTION: Rule.

SUMMARY: Pursuant to sections 5, 6, and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended (29 U.S.C. 205, 206, 208)), including the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259; 88 Stat. 55), and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by mans of Administrative Order No. 648 (42 FR 3038 and 3039), the Secretary of Labor appointed and convened Industry Committee No. 139–B for the Stone, Clay and Glass Products and Nonmetallic Mining Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6 of the Act to such employees, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 139–B are hereby published, revising § 678.2 of Part 678, Title 29, Code of Federal Regulations. In addition, paragraph (d) is being deleted as obsolete. The increases in future wage rates prescribed by Section 6(c) of the Fair Labor Standards Act, as amended in 1974, are set forth in this wage order. The other wage rates have heretofore reached the mainland rate and are continued.

EFFECTIVE DATE: April 21, 1977. This document was prepared under the direction and control of Warren D. Landis, Acting Administrator, Wage and Hour Division.

FOR FURTHER INFORMATION CONTACT:

Josephine C. Stein, Director, Division of Industry Commttees, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room N4428, Washington, D.C. 20210 (202) 523–8720.

As amended, § 678.2 reads as follows:

§ 678.2 **Wage rates.**

Wages at a rate not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1961 coverage classifications.*

* * *

(1 *Vitreous and semivitreous china food utensils classification.* (i) The minimum wage for this classification is 2.13 an hour for the period ending April 30, 1977. Under section 6(c) the rate will be increased by $0.15 an hour on May 1, 1977 and an additional $0.15 on May 1 of each subsequent year until the mainland rate is reached, Section 6(c)(2)).

* * * * *

(2) *Art pottery classification.* (i) The minimum wage for this classification is $1.70 an hour for the period ending April 30, 1977. Under Section 6(c) the rate will be increased by $0.15 an hour on May 1, 1977 and an additional $0.15 on May 1 of each subsequent year until the mainland rate is reached (Section 6(c)(2)).

* * * * *

(d) [Deleted]

(Secs. 5, 6, 8, 52 Stat. 1062 and 1064, as amended; 29 U.S.C. 205, 206, 208.)

Signed at Washington, D.C., on this 30th day of March 1977.

WARREN D. LANDIS,
Acting Administrator, Wage and, and Hour Division, U.S. Department of Labor.

[FR Doc.77–10122 Filed 4–4–77;8:45 am]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 211—COAL MINING OPERATING REGULATIONS

Adoption of Final Cooperative Agreement With New Mexico for Enforcement and Administration of Surface Coal Mine Reclamation Standards

AGENCY: U.S. Department of the Interior, Geological Survey.

ACTION: Final Rule.

SUMMARY: The rule establishes the responsibilities of the Geological Survey and the State of New Mexico to regulate reclamation of lands disturbed by surface coal mining on Federal coal leases in New Mexico. The rule also prescribes certain requirements to be included in mining plans for these leases. The rule is being issued to minimize duplication and overlap between Federal-State jurisdiction over regulation of reclamation.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Solicitor's Office, Division of Energy and Resources, Department of the Interior, Washington, D.C. 20240 (202–343–4803).

SUPPLEMENTARY INFORMATION: The adoption of the Cooperative Agreement with New Mexico was published in proposed form on January 10, 1977, 42 FR 2082. The comment period expired on February 21, 1977. The Department received only one comment on the proposed rule. That comment requested clarification of how the agreement would affect the Department's compliance with NEPA. The answer to this comment is that the Agreement does not affect these responsibilities at all since the adoption of this rule does not change, in any way, the basic steps that the Department must take before it approves a mining plan, and the Department must comply in full with its procedures, including those involving NEPA. The Agreement does coordinate these procedures with those for the State of New Mexico, and gives the State basic responsibility to administer, inspect, and enforce the requirements of the mining plan, once it has been approved. More detail on the background of the rule may be found in the preamble to the proposal.

The Department believes that this Agreement and similar Cooperative Agreements do not lessen, in any way, the need for comprehensive Federal legislation on surface mining. The Agreement should not be construed as weakening the Department's support for that

legislation. The Agreement should be construed as a part of the Department's efforts to provide effective reclamation prior to the passage of new legislation, not as a substitute for that legislation. The Department has supported and will continue to support the early passage of surface mining legislation.

The Cooperative Agreement published today is identical to the one published as a proposed rule except the final agreement contains an effective date of May 1, 1977.

Dated: March 30, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, 30 CFR 211.10 is amended by the addition of a paragraph (e)(3) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(3) New Mexico. A Federal coal lessee in the State of New Mexico who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) New Mexico Stat. § 63-34-1 et seq. NMSA 1953.;

(ii) New Mexico Coal Surface Mining Commission Regulations;

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan or permit application has been given to both the New Mexico Coal Surface Mining Commission and the Secretary.

2. Title 30 CFR 211.74 is amended by the addition of a paragraph (g)(3) to read as follows:

§ 211.74 Variances.

* * * * *

(g) *States with § 211.75(b) agreements.* * * *

(3) New Mexico. A Federal coal lessee in the State of New Mexico shall request and receive variances from the State of New Mexico Secretary under the provisions of 30 CFR § 211.74.

3. Title 30 CFR § 211.77 is amended by the addition of a new paragraph (c) to read:

§ 211.77 States with cooperative agreements.

* * * * *

(c) New Mexico. The administration and enforcement of reclamation requirements on federal coal leases in New Mexico subject to this part shall be done according to the Cooperative Agreement between the State of New Mexico and the Department of the Interior. The Cooperative Agreement is published at 42 FR 18065, April 5, 1977, and is available at appropriate offices of the Department of the Interior.

4. The State of New Mexico and the Department enter into a Cooperative Agreement to designate the State of New Mexico as the principal party to administer surface coal mine reclamation operations on Federal leases in New Mexico to read as follows:

Cooperative agreement between the United States Department of the Interior and the State of New Mexico under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 C.F.R. 211.75(b).

This agreement (referred to as the Cooperative Agreement) is made between the State of New Mexico, acting by and through Governor Jerry Apodaca (referred to as the Governor) and the United States Department of the Interior, acting by and through the Secretary of the Interior (referred to as the Secretary).

ARTICLE I

PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of New Mexico with respect to the administration and enforcement of surface coal reclamation requirements conducted under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of New Mexico, to the extent possible, as the principal entity to enforce reclamation laws and regulations on Federal coal leases in New Mexico.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the 1st day of May 1977, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The Governor affirms that the State will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Coal Surface-mining Commission (referred to as the State Agency) is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the Governor on Federal coal leases throughout the State.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 C.F.R. Part 211, and that the standards used to approve a mining plan of a Federal Lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The procedures of the State Agency shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamation requirements of 30 C.F.R. Part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The Governor affirms that the State Agency will inspect all mines on Federal coal leases located in the State, in accordance with the minimum schedule in Article V.

F. *Enforcement.* The Governor affirms that the State Agency will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State will devote adequate funds for the administration and enforcement of reclamation requirements on Federal coal leases in the State.

I. *Reports and Records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulation, 30 C.F.R. 211.10(c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The Governor and the Secretary agree that a Federal coal lessee must submit a mining plan or permit application under both State and Federal law, which plan or permit must include the following information:

1. The information required by:

a. New Mexico Stat. Section 63-34-1 et seq. NMSA 1953 Comp.;

b. New Mexico Coal Surfacemining Commission Regulations;

c. 30 C.F.R. 211.10(c).

2. A Statement certifying that a copy of the mining plan or permit application has been given to both the State Agency and the Secretary.

If either the State Agency or the Secretary requires the operator to submit additional information, the operator shall submit the information to both the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan or permit or request for an amendment or a variance from the plan or permit.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan or permit, as provided in New Mexico Stat. Sections 63-34-4(E) and 7(B), NMSA 1953 Comp., or request for an amendment, as provided in Sections 4 and 16 of the New Mexico Coal Surface mining Commission Regulations. The State Agency shall notify the Secretary of its action pursuant to such provisions. The Secretary shall then independently review and take action on the mining plan or permit as required by 30 C.F.R. 211.10(d), or request for a variance as required by 30 C.F.R. 211.74, or an amendment to an approved mining plan or permit which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action and the State Agency shall reconsider the action if necessary to comply with this Cooperative Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by New Mexico Stat. Section 63-34-14, NMSA 1953 Comp., as frequently as necessary but at least quarterly the operations area of all Federal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying

with all applicable laws, regulations and orders and all requirements of approved mining plans that affect the reclamation of mined lands. The State Agency shall also perform all inspections required under 211.41. Such inspections performed in accordance with 30 C.F.R. 211.41 shall be considered in meeting the quarterly inspection requirement.

B. The State Agency will, subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under lease, permit or license, (2) the manner in which the operations are being conducted and (3) whether the operator is complying with applicable reclamation requirements. A copy of this report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Federal Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State. Inspections by the Secretary may be made in association with regular inspection by the State Agency.

D. The Secretary may conduct inspections on Federal coal leases to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by New Mexico Stat., Section 63-34-17, NMSA 1953 Comp.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State Agency shall take immediate action, as authorized by New Mexico Stat. Sections 63-34-17 and 20, NMSA 1953 Comp.

C. The State Agency shall notify the Secretary of all violations of applicable laws regarding reclamation on Federal coal leases including violations of Federal laws and regulations or lease terms and of all actions taken under New Mexico Stat., Sections 63-34-17 and 20, NMSA 1953 Comp. with respect to such violations.

D. This section does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, but not State law.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency may require Federal coal lessees subject to the provisions of 30 C.R.F. Part 211 to submit a bond as provided in New Mexico Stat., Section 63-34-18, NMSA 1953 Comp. The Secretary shall reduce the Federal bond required for reclamation purposes under 43 C.F.R. 3041.3 and 30 C.F.R. 211.3, by the amount of the bond required by the Governor only if the release of all or any portion of the State Agency's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond provided for in New Mexico Stat., Section 63-34-18, NMSA 1953 Comp. for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advise and consent of the Secretary.

C. *Release of Bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by New Mexico Stat., Section 63-34-8, NMSA 1953 Comp.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State Agency has failed to comply and shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State Agency has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing:

1. That the State has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State has failed to comply with any assurance given by the State upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations or New Mexico laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where the State will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall be not less than 30 days from the date of such notice, and the place of hearing shall be in the State.

4. The Secretary shall also publish a notice in the FEDERAL REGISTER containing the items in 1-3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State may file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the Governor and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

Upon acceptance by the Governor and the Secretary, the amendment shall be adopted after rulemaking.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior and/or the State of New Mexico may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the State Agency shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the change. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of the Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No member of the State Agency responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decisionmaking, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses which are necessary to carry out the requirements of the Cooperative Agreement can be performed or determined or have access to such facilities.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The State Agency and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of department or division, or a change in the function or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The State Agency and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards, pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act, the Constitution of the United States, or the Constitution of the State of New Mexico.

JERRY APODACA,
Governor, State of New Mexico.

THOMAS S. KLEPPE,
Secretary, Department of the Interior.

[FR Doc.77-10035 Filed 4-4-77;8:45 am]

PART 211—COAL MINING OPERATING REGULATIONS

Adoption of Final Cooperative Agreement With Utah for Enforcement and Administration of Surface Coal Mine Reclamation Standards

AGENCY: U.S. Department of the Interior, Geological Survey.

ACTION: Final Rule.

SUMMARY: The rule establishes the responsibilities of the Geological Survey and the State of Utah to regulate reclamation of lands disturbed by surface coal mining on Federal coal leases in Utah. The rule also prescribes certain requirements to be included in mining plans for these leases. The rule is being issued to minimize duplication and overlap between Federal-State jurisdiction over regulation of reclamation.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT: Robert Uram, Solicitor's Office, Division of Energy and Resources, Department of the Interior, Washington, D.C. 20240 (202-343-4803).

SUPPLEMENTARY INFORMATION: The adoption of the Cooperative Agreement with Utah was published in proposed form on January 7, 1977, 42 FR 1489. The comment period expired on February 10, 1977. The Department did not receive any comments on the proposed rule. The Cooperative Agreement published today is identical to the one published as a proposed rule except that the final agreement contains an effective date of May 1, 1977. The background and explanation of this rule is set out in the preamble to the proposed rulemaking. The adoption of this rule does not change, in any way, the basic steps that the Department must take before it approves a mining plan, and the Department must comply in full with its procedures. The Agreement does coordinate these procedures with those for the State of Utah, and gives the State basic responsibility to administer, inspect, and enforce the requirements of the mining plan, once it has been approved.

The Department believes that this and similar Cooperative Agreements do not lessen, in any way, the need for comprehensive Federal legislation on surface mining. The Agreement should not be construed as weakening the Department's support for that legislation. The Agreement should be construed as a part of the Department's efforts to provide effective reclamation prior to the passage of new legislation, not as a substitute for that legislation. The Department has supported and will continue to support the early passage of surface mining legislation.

Dated: March 25, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, 30 CFR 211.10 is amended by the addition of a paragraph (e)(2) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(2) Utah. A Federal coal lessee in the State of Utah who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) Utah Code Ann., 1953, as amended, § 40-8-13;

(ii) Rule M-3, of Utah Division of Oil, Gas and Mining Rules and Regulations;

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan or permit application has been given to both the Governor and the Secretary.

2. Title 30 CFR 211.74 is amended by the addition of a paragraph (g)(2) to read as follows:

§ 211.74 Variances.

* * * * *

(g) *States with § 211.75(b) agreements.* * * *

(2) Utah. A Federal coal lessee in the State of Utah shall request and receive variances from the State of Utah and the Secretary under the provisions of 30 CFR § 211.74.

3. Title 30 CFR 211.77 is amended by the addition of a new paragraph (b) to read:

§ 211.77 States with cooperative agreements.

* * * * *

(b) Utah. The administration and enforcement of reclamation requirements on federal coal leases in Utah subject to this part shall be done according to the Cooperative Agreement between the State of Utah and the Department of the Interior. The Cooperative Agreement is published at 42 FR 18068, April 5, 1977 and is available at appropriate offices of the Department of the Interior.

4. The State of Utah and the Department enter into a Cooperative Agreement to designate the State of Utah as the principal party to administer surface coal mine reclamation operations on Federal leases in Utah to read as follows:

Cooperative Agreement Between the United States Department of the Interior and the State of Utah under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. 189, section 307 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Section 1737 and 30 CFR 211.75(b).

This Agreement (referred to as the Cooperative Agreement) is made between the State of Utah, acting by and through its Governor (hereinafter referred to as the "State") and the United States Department of the Interior, acting by and through the Secretary of the Interior or his duly authorized representative (referred to as the "Secretary").

ARTICLE I

PURPOSE

This agreement provides for a cooperative program between the U.S. Department of the Interior and the State of Utah with respect to the administration and enforcement of surface coal reclamation operations conducted under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of Utah, wherever possible, as the principal entity to enforce reclamation laws and regulations in Utah.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the 1st day of May 1977, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The State of Utah affirms that it will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The Utah Division of Oil, Gas and Mining of the Department of Natural Resources (hereinafter referred to as "State Agency") is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the State throughout the State of Utah.

B. *Authority of State Agency.* The State agency designated in Paragraph A of this Article has, and shall continue to have authority to carry out this Cooperative Agreement, on behalf of the State throughout the State of Utah.

C. *State Reclamation Law.* The State shall ensure that all mining plans approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR Part 211, and that the standards used to approve a mining plan of a Federal lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effectiveness of State Procedures.* The procedures of the State shall be in the judgment of the Secretary substantially as effective for the purpose of enforcing the reclamation requirements of 30 CFR Part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The State affirms that the State Agency will inspect all mines located in the State, in accordance with minimum schedules in Article V.

F. *Enforcement.* The State affirms that it will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State will devote adequate funds to the administration and enforcement of reclamation requirements in the State.

I. *Reports and records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency shall also make available to the Secretary, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulations, 30 CFR 211.10(b), (c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan or permit prior to conducting operations.

A. *Contents of mining plans and permits.* The State and the Secretary agree to require a federal coal lessee who must submit a mining plan or permit application under both State and federal law to submit a plan or permit with the following information:

1. The information required by: (a) Utah Code Ann., 1953, as amended, § 40-8-13; (b) Rule M-3, of Utah Division of Oil, Gas and Mining Rules and Regulations; (c) 30 CFR 211.10(c).

2. A statement certifying that a copy of the plan or permit has been given to both the State Agency and the Secretary.

If either the State or the Secretary require the operator to submit additional information, the operator shall submit the information to both the Governor and the Secretary. The operator will request variances from the mining plan in accordance with 30 CFR 211.-74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plans.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan or request for a variance from a plan or changes in an approved plan.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan, any request for a variance as provided in 40-8-13-18, Utah Code Ann. 1953, as amended, or a request for a change in a mining plan, and shall notify the Secretary of its action. The Secretary shall then independently review and take final action on the mining plan as required by 30 CFR 211.10(d), a request for a variance as required by 30 CFR 211.74, or a change in an approved mining plan which was acted on by the State Agency. The Secretary shall notify the State Agency of his action, and the State Agency shall reconsider its action if necessary to comply with this Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by Utah Code Ann., 1953, as amended, 40-8-6-17 as frequently as necessary, but at least quarterly, the operations area of all federal leases, permits and licenses where operations affecting the reclamation of mine lands are conducted or to be conducted, for the purpose of determining whether the operator is complying with all applicable laws, regulations and orders and all requirements of approved exploration or mining plans that affect the reclamation of mined lands.

B. The State Agency shall subsequent to conducting any inspection, file with the Secretary a report on (1) the general conditions of the lands under lease permit or license, (2) the manner in which the operations are being conducted, and (3) whether the operator is complying with applicable requirements. A copy of such report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines within the State of Utah. Inspections by the Secretary may be made in association with a regular inspection by the State Agency.

D. The Secretary may conduct inspections to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, he shall take such steps as required by Utah Code Ann., 1953, as amended, § 40-8-6-16.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation, and those activities threaten immediate and serious damage to the environment, the State shall order the immediate cessation of such activities, as authorized by Utah Ann. Code 1953, as amended, § 40-8-6.

C. The State shall notify the Secretary of all violations of applicable laws regarding reclamation including violations of federal laws and regulations or lease terms and of all actions taken under Utah Ann. Code, 1953, as amended, §§ 40-8-6-16.

D. This Article does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal, but not State law.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency shall require all Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit a bond as required by Utah Ann. Code, 1953, as amended, § 40-8-14. The Secretary shall reduce the federal bond required for reclamation purposes under 43 CFR 3041.3, and 30 CFR 211.3 by the amount of the bond required by the State Agency only if the release of all or any portion of the State's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond required by Utah Code Ann., 1953, as amended, § 40-8-14 for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by Utah Code Ann., 1953, § 40–8–16.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, in his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State has failed to comply and shall specify and state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* This Cooperative Agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the State plan shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing:

1. That the State has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State has failed to comply with any assurance given by the State upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That State action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by federal laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency specified in Article III.

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement.

3. Specify the date upon which and the place where the State will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall be not less than 30 days from the date of such notice, and the place of hearing shall be in the State of Utah.

4. The Secretary shall also publish a notice in the Federal Register containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State shall file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement plan and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the State and Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after rulemaking and the party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of Utah may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the Governor shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency shall be adequately staffed with, or have readily available to it an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement. The personnel of the State Agency shall be so qualified that the end result of their efforts is comparable to that which would have resulted from administration by Department of Interior personnel.

ARTICLE XIV

CONFLICT OF INTEREST

No member of the State Agency or agencies responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operation subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency shall have equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, analyses, can be performed or determined, and which are necessary to carry out the requirements of the Cooperative Agreement or have access to such facilities and personnel.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The State Agency and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of a department or division, or a change in the functions or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, location, telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The State Agency and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act or the Constitution of the United States.

State of Utah,
SCOTT MATHESON,
Governor of Utah.

Department of the Interior,
THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.77-10036 Filed 4-4-77;8:45 am]

PART 211—COAL MINING OPERATING REGULATIONS

Adoption of Final Cooperative Agreement With North Dakota for Enforcement and Administration of Surface Coal Mine Reclamation Standards

AGENCY: U.S. Department of the Interior, Geological Survey.

ACTION: Final Rule.

SUMMARY: The rule establishes the responsibilities of the Geological Survey and the State of North Dakota to regulate reclamation of lands disturbed by surface coal mining on Federal coal leases in North Dakota. The rule also prescribes certain requirements to be included in mining plans for these leases. The rule is being issued to minimize duplication and overlap between Federal-State jurisdiction over regulation of reclamation.

EFFECTIVE DATE: May 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Uram, Solicitor's Office, Division of Energy and Resources, Department of the Interior, Washington, D.C. 20240 (202-343-4803).

SUPPLEMENTARY INFORMATION: The adoption of the Cooperative Agreement with North Dakota was published in proposed form on January 25, 1977, 42 FR 4493. The comment period expired on February 21, 1977. The Department did not receive any comments on the proposed rule. The Cooperative Agreement published today is identical to the one published as a proposed rule except that the final agreement contains an effective date of May 1, 1977. The background and explanation of this rule is set out in the preamble to the proposed rulemaking. The adoption of this rule does not change, in any way, the basic steps that the Department must take before it approves a mining plan, and the Department must comply in full with its procedures. The Agreement does coordinate these procedures with those for the State of North Dakota, and gives the State basic responsibility to administer, inspect, and enforce the requirements of the mining plan, once it has been approved.

The Department believes that this and similar Coopeartive Agreements do not lessen, in any way, the need for comprehensive Federal legislation on surface mining. The Agreement should not be construed as weakening the Department's support for that legislation. The Agreement should be construed as a part of the Department's efforts to provide effective reclamation prior to the passage of new legislation, not as a substitute for that legislation. The Department has supported and will continue to support the early passage of surface mining legislation.

Dated: March 25, 1977.

CECIL D. ANDRUS,
Secretary.

1. Accordingly, 30 CFR 211.10 is amended by the addition of a paragraph (e) (4) to read as follows:

§ 211.10 Exploration and mining plans.

* * * * *

(e) *States with § 211.75(b) agreements.* * * *

(4) North Dakota. A Federal coal lessee in the State of North Dakota who must submit a mining plan or permit under both State and Federal law shall submit in lieu of the mining plan required in this section, a mining plan containing the information required by:

(i) North Dakota Cent. Code § 38-14-04;

(ii) North Dakota Public Service Commission Rules and Regulations for Reclamation of Surface Mined lands. R38-14-04.1 through R38-14-04.20;

(iii) 30 CFR 211.10(c); and

(iv) A statement certifying that a copy of the plan or permit application has been given to both the Governor and the Secretary.

2. Title 30 CFR § 211.74 is amended by the addition of a paragraph (g) (4) to read as follows:

§ 211.74 Variances.

(g) *States with § 211.75(b) agreements.* * * *

* * * * *

(4) North Dakota. A Federal coal lessee in the State of North Dakota shall request and receive variances from the State of North Dakota and Secretary under the provisions of 30 CFR 211.74.

3. Title 30 CFR § 211.77 is amended by the addition of a new paragraph (d) to read:

§ 211.77 States with cooperative agreements.

* * * * *

(d) North Dakota. The administration and enforcement of reclamation requirements on federal coal leases in North Dakota subject to this part shall be done according to the Cooperative Agreement between the State of North Dakota and the Department of the Interior. The Cooperative Agreement is published at 42 FR 18071, April 5, 1977.

4. The State of North Dakota and the Department enter into a Cooperative Agreement to designate the State of North Dakota as the principal party to administer surface coal mine reclamation operations on Federal leases in North Dakota to read as follows:

COOPERATIVE AGREEMENT BETWEEN THE UNITED STATES DEPARTMENT OF THE INTERIOR AND THE STATE OF NORTH DAKOTA under Section 32 of the Mineral Leasing Act of 1920, 30 U.S.C. Section 189, and Section 307 of the Federal Land Policy and Management Act of 1976, and 30 CFR 211.75(b).

This Agreement (referred to as the Cooperative Agreement) is made between the STATE OF NORTH DAKOTA acting by and through its Governor and its Public Service Commission (referred to as the State) and the United States Department Of The Interior, acting by and through the Secretary of the Interior or his duly authorized representative (referred to as the Secretary).

ARTICLE I

PURPOSE

This Cooperative Agreement provides for a cooperative program between the United States Department of the Interior and the State of North Dakota with respect to the administration and enforcement of surface coal reclamation requirements conducted under coal leases issued by the Department of the Interior under the Mineral Leasing Act of 1920. The basic purpose of the agreement is to prevent duality of administration and enforcement of surface reclamation requirements by designating the State of North Dakota as the principal entity to enforce reclamation laws and regulations in North Dakota.

ARTICLE II

EFFECTIVE DATE

The Cooperative Agreement is effective on the 1st day of May, 1977, and remains in effect until terminated as provided in Article IX.

ARTICLE III

REQUIREMENTS FOR COOPERATIVE AGREEMENT

The State of North Dakota affirms that the State will comply with all of the provisions of this Cooperative Agreement and will continue to meet all the conditions and requirements specified in this Article upon which the approval of the Secretary is based.

A. *Responsible Administrative Agency.* The North Dakota Public Service Commission (hereinafter referred to as the State Agency) is, and shall continue to be, the sole agency responsible for administering this Cooperative Agreement on behalf of the State throughout the State of North Dakota.

B. *Authority of State Agency.* The State Agency designated in Paragraph A of this Article has, and shall continue to have, authority to carry out this Cooperative Agreement on behalf of the State throughout the State of North Dakota.

C. *State Reclamation Law.* The State Agency shall ensure that all mining plans covering coal subject to federal lease approved under this agreement shall afford general protection of the environment at least as stringent as would occur under the exclusive application of 30 CFR Part 211, and that the standards used to approve a mining plan of a Federal Lessee will not unreasonably impair coal mining that is in the overriding national interest.

D. *Effective of State Procedures.* The procedures of the State shall be, in the judgment of the Secretary, substantially as effective for the purpose of enforcing the reclamation requirements of 30 CFR Part 211 as the procedures of the Department of the Interior.

E. *Inspection of Mines.* The State affirms that the State Agency will inspect all mines located in the State, in accordance with the minimum schedules in Article V.

F. *Enforcement.* The State affirms that it will enforce the Agreement in a manner that ensures effective environmental protection.

G. *Qualified Personnel.* The State Agency will have an adequate number of fully qualified personnel necessary for the enforcement of this Cooperative Agreement.

H. *Funds.* The State will devote adequate funds for the administration and enforcement of reclamation requirements in the State.

I. *Reports and Records.* The State Agency shall make reports to the Secretary, containing information about its compliance with the terms of this Cooperative Agreement, as the Secretary shall from time to time require. The State Agency and the Secretary shall exchange, upon request, information developed under this Cooperative Agreement.

The Secretary affirms that the Department of the Interior will comply with all of the provisions of this Cooperative Agreement.

ARTICLE IV

MINE PLANS

Federal regulation, 30 CFR 211.10(c), and State laws and regulations require the operator of lands leased, permitted or licensed for coal mining to receive approval of a mining plan, or permit, or amendment thereto, prior to conducting operations.

A. *Contents of Mining Plans and Permits.* The State and the Secretary agree to require a Federal coal lessee who must submit a mining plan or permit application under both State and Federal law, to submit a plan or permit with the following information:

1. The information required by:

a. North Dakota Cent. Code § 38-14-04.

b. North Dakota Public Service Commission Rules and Regulations for Reclamation of Surface Mined Lands, R38-14-04.1 through R38-14-04.20.

c. 30 CFR 211.10(c).

2. A Statement certifying that a copy of the plan or permit has been given to both the State Agency and the Secretary.

If either the State or the Secretary requires the operator to submit additional information, the operator shall submit the information to both the State and the Secretary. The operator will request variance from the mining plan in accordance with 30 CFR 211.74, and shall file the request with the State Agency and the Secretary.

B. *Review of Plan.* The State Agency and the Secretary shall each review and analyze the adequacy of the plan or request for a variance from a plan or changes in an approved plan.

C. *Approval of Mining Plans.* The State Agency shall review the adequacy of the mining plan, any request for a variance, or a request for a change in a mining plan, as provided in North Dakota Public Service Commission Rules and Regulations for Reclamation of Surface Mined Lands, R30-14-04.18, and shall notify the Secretary of its action. The Secretary shall then review and take final action on the mining plan as required by 30 CFR 211.10(d), a request for a variance as required by 30 CFR 211.74, or a change in an approved mining plan which was acted upon by the State Agency. The Secretary shall notify the State Agency of his action, and the State Agency shall reconsider its action if necessary to comply with this Cooperative Agreement.

ARTICLE V

INSPECTIONS

A. The State Agency shall inspect as authorized by North Dakota Cent Code § 38-14-03.1 as frequently as necessary but at least quarterly the operations area of all Federal leases, permits and licenses where operations affecting the reclamation of mined lands are conducted or are to be conducted, for the purpose of determining whether the operator is complying with all requirements of approved mining plans.

B. The State Agency shall subsequent to conducting any inspection, file with the Secretary a copy of their report on (1) the general conditions of the lands under lease permit or license, (2) the manner in which the operations are being conducted, and (3) whether the operator is complying with applicable reclamation requirements. A copy of such report shall be furnished to the operator on request, and shall be made available for public inspection during normal business hours at the offices of the Mining Supervisor.

C. For the purpose of evaluating the manner in which the Cooperative Agreement is being carried out and to ensure that reclamation is being effectively performed, the Secretary may inspect from time to time mines on Federal coal leases within the State of North Dakota. Inspections by the Secretary may be made in association with regular inspection by the State Agency.

D. The Secretary may conduct inspections to determine whether the operator is complying with requirements that are unrelated to reclamation.

ARTICLE VI

ENFORCEMENT

A. If the State Agency determines that the operator is not complying with a requirement that relates to the reclamation of lands disturbed by surface mining, it shall take such steps as required by North Dakota Cent. Code § 38-14-03.1, and § 38-14-12.

B. If, in the judgment of the State Agency, an operator is conducting activities on lands subject to this Agreement which fail to comply with a requirement that relates to reclamation and those activities threaten immediate and serious damage to the environment, the State shall order the immediate cessation of such activities, as authorized by North Dakota Cent. Code § 38-14-03.1.

C. The State shall notify the Secretary of all violations of applicable laws regarding reclamation including violations of Federal laws and regulations or lease terms and of all actions taken under North Dakota Cent. Code § 38-14-03.1, and § 38-14-12.

D. This Article does not limit the Secretary's authority to seek cancellation of a Federal coal lease under Federal laws and regulations, or prevent the Secretary from taking appropriate steps to correct actions that violate Federal law, other than those incorporated in this Agreement, but not State law.

E. Failure to adequately enforce the reclamation laws and regulations shall be grounds for termination of this Cooperative Agreement.

ARTICLE VII

BONDS

A. *Amount and Responsibility.* The State Agency shall require all Federal coal lessees subject to the provisions of 30 CFR Part 211 to submit a bond as required by North Dakota Cent. Code § 38-14-07. The Secretary shall reduce the federal bond required for reclamation purposes under 43 CFR 3041.3, and 30 CFR 211.3 by the amount of the bond required by the State Agency only if the release of all or any portion of the State's bond is conditioned on compliance with the requirements of the approved plan, and the amount released is appropriate to the work completed. Where the surface of the lands is not owned by the United States, the State Agency shall notify the surface owner and solicit and take into account his comments before recommending release of the bond.

B. *Notification.* Prior to releasing the bond required by North Dakota Cent. Code § 38-14-07 for lands the surface of which is owned by the Federal Government, the State Agency shall consult with and seek the advice and consent of the Secretary.

C. *Release of Bond.* The State Agency shall hold the operator responsible and liable for successful reclamation as required by North Dakota Cent. Code § 38-14-07.

ARTICLE VIII

OPPORTUNITY TO COMPLY WITH COOPERATIVE AGREEMENT

The Secretary may, at his sole discretion, and without instituting or commencing proceedings for withdrawal of approval of the Cooperative Agreement, notify the State Agency that it has failed to comply with the provisions of the Cooperative Agreement. The Secretary shall specify how the State has failed to comply and shall specify and state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him that the State has remedied the defects in administration and is in compliance with and has met the requirements of the Secretary. Upon failure of the State Agency to meet the requirements of the Secretary within the time specified, the Secretary may institute proceedings for withdrawal of approval of the Cooperative Agreement as set forth in Article IX.

ARTICLE IX

TERMINATION OF COOPERATIVE AGREEMENT

The Cooperative Agreement may be terminated as follows:

A. *Termination by the State.* The Cooperative Agreement may be terminated by the State upon written notice to the Secretary, specifying the date upon which the Cooperative Agreement shall be terminated, but which date of termination shall not be less than 60 days from the date of the notice.

B. *Termination by the Secretary.* The Cooperative Agreement may be terminated by the Secretary whenever the Secretary finds, after giving due notice to the State and affording the State an opportunity for a hearing:

1. That the State has failed to comply substantially with any provision of the Cooperative Agreement; or

2. That the State has failed to comply with any assurance given by the State upon which the Cooperative Agreement is based, or any condition or requirement which is specified in Article III; or

3. That State action unrelated to surface coal mine reclamation will unreasonably and substantially prevent the mining of Federal coal.

C. *Termination by Operation of Law.* This Cooperative Agreement shall terminate by operation of law when no longer authorized by Federal laws and regulations.

D. *Notice of Proposed Termination.* Whenever the Secretary proposes to terminate the Cooperative Agreement he shall:

1. Give written notice to the Governor and to the State Agency specified in Article III;

2. Specify and set out in the written notice the grounds upon which he proposes to terminate the Cooperative Agreement;

3. Specify the date upon which and the place where tht State will be afforded an opportunity for hearing and to show cause why the Cooperative Agreement should not be terminated by the Secretary. The date upon which such hearing shall be held shall be not less than 30 days from the date of such notice, and the place of hearing shall be in the State of North Dakota.

4. The Secretary shall also publish a notice in the FEDERAL REGISTER containing the items in 1–3 of this paragraph.

5. Within 30 days of the date of the written notice specifying the date of the hearing, the State shall file a written notice with the Secretary stating whether or not it will appear and participate in the hearing. The notice shall specify the issues and grounds specified by the Secretary for termination which the State will oppose or contest and a statement of its reasons and grounds for opposing or contesting. Failure to file a written notice in the Office of the Secretary within 30 days shall constitute a waiver of the opportunity for hearing, but the State may present or submit before the time fixed for the hearing written arguments and reasons why the Cooperative Agreement should not be terminated, and within the discretion of the Secretary may be permitted to appear and confer in person and present oral or written statements, and other documents relative to the proposed termination.

E. *Conduct of Hearing.* The hearing will be conducted by the Secretary. A record shall be made of the hearing and the State shall be entitled to obtain a copy of the transcript. The State shall be entitled to have legal and technical and other representatives present at the hearing or conference, and may present, either orally or in writing, evidence, information, testimony, documents, records, and materials as may be relevant and material to the issues involved.

F. *Notice of Withdrawal of Approval of Cooperative Agreement.* After a hearing has been held, or the right to a hearing has been waived or forfeited by the State, the Secretary, after consideration of the evidence, information, testimony, and arguments presented to him shall advise the State of his decision. If the Secretary determines to withdraw approval of the Cooperative Agreement, he shall notify the State Agency of his intended withdrawal of approval of the Cooperative Agreement, and afford the State an opportunity to present evidence satisfactory to the Secretary that the State has remedied the specified defects in its administration of the Cooperative Agreement. The Secretary shall state the period of time within which the defects in administration shall be remedied and satisfactory evidence presented to him, and upon failure of the State to do so within the time stated, the Secretary may thereupon withdraw his approval of the Cooperative Agreement without any further opportunity afforded to the State for a hearing.

ARTICLE X

REINSTATEMENT OF COOPERATIVE AGREEMENT

The Cooperative Agreement which has been terminated may be reinstated upon application by the State and upon giving evidence satisfactory to the Secretary that the State can and will comply with all the provisions of the Cooperative Agreement and has remedied all defects in administration for which the Cooperative Agreement was terminated.

ARTICLE XI

AMENDMENTS OF COOPERATIVE AGREEMENT

This Cooperative Agreement may be amended by mutual agreement of the State and the Secretary. An amendment proposed by one party shall be submitted to the other with a statement of the reasons for such proposed amendment. The amendment shall be adopted after rulemaking and the party to whom the proposed amendment is submitted shall signify its acceptance or rejection of the proposed amendment, and if rejected shall state the reasons for rejection.

ARTICLE XII

CHANGES IN STATE OR FEDERAL STANDARDS

The Secretary of the Interior or the State of North Dakota may from time to time revise and promulgate new or revised reclamation requirements or enforcement and administration procedures. The Secretary and the Governor shall immediately inform the other of any final changes in their respective laws or regulations. Each party shall, if it determines it to be necessary to keep this Cooperative Agreement in force, change or revise its respective laws or regulations. For changes which may be accomplished by rulemaking, each party shall have six months in which to make such changes. For changes which require legislative authorization, each party has until the close of its next legislative session at which such legislation can be considered in which to make the changes. If such changes are not made, then the termination provision of Article IX may be invoked.

ARTICLE XIII

QUALIFICATIONS AND EXPERIENCE OF PERSONNEL

The State Agency, under appropriations from the Legislature, shall be adequately staffed with, or have readily available to it, an adequate number of qualified personnel to carry out fully the requirements of the Cooperative Agreement.

ARTICLE XVI

CONFLICT OF INTEREST

No member of the State Agency or agencies responsible for the administration of the State law and rules and regulations relating to this Cooperative Agreement shall participate in the review, analysis, administration, decision-making, or enforcement actions relating to any operation subject to this Cooperative Agreement if such person has, directly or indirectly, any financial interest in a company, partnership, organization, or corporation (parent or subsidiary) which owns, operates or has a financial interest in such operations subject to this Cooperative Agreement.

ARTICLE XV

EQUIPMENT AND LABORATORIES

The State Agency, under appropriations from the Legislature, shall have the equipment, laboratories, and facilities with which all inspections, investigations, studies, tests, and analyses can be performed or determined, and which are necessary to carry out the requirements of the Cooperative Agreement or have access to such facilities and personnel.

ARTICLE XVI

EXCHANGE OF INFORMATION

A. *Organizational and Functional Statement.* The State Agency and the Secretary shall advise each other of the organization, structure, functions, and duties of the offices, departments, divisions, and persons within their organizations. Each shall advise promptly the other in writing of changes in personnel, officials, heads of departments or divisions, or a change in the functions or duties of persons occupying the principal offices within the organization. The State Agency and the Secretary shall advise each other in writing the location of its various offices, addresses, telephone numbers, and the names, locations, and telephone numbers of their respective mine inspectors and the area within the State for which such inspectors are responsible, and shall advise promptly of any changes in such.

B. *Laws, Rules and Regulations.* The State Agency and the Secretary shall provide to each other copies of their respective laws, rules, regulations and standards pertaining to the enforcement and administration of this Cooperative Agreement and promptly furnish copies of any final revision of such laws, rules, regulations, and standards when the revision becomes effective.

ARTICLE XVII

RESERVATION OF RIGHTS

This Cooperative Agreement shall not be construed as waiving or preventing the assertion of any rights the Governor and the Secretary may have under the Mineral Leasing Act, the Constitution of North Dakota or the Constitution of the United States.

STATE OF NORTH DAKOTA,
ARTHUR A. LINK,
Governor of North Dakota.

RICHARD ELKIN,
Chairman, Public Service Commission.

DEPARTMENT OF THE INTERIOR,
THOMAS S. KLEPPE,
Secretary of the Interior.

[FR Doc.77-10037 Filed 4-4-77;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER V—OFFICE OF FOREIGN ASSETS CONTROL, DEPARTMENT OF THE TREASURY

PART 530—RHODESIAN SANCTIONS REGULATIONS

Prohibitions Against Imports of Strategic and Critical Materials of Southern Rhodesion Origin and of Ferrochromium and Chromium Steel Products From Any Country, Except as Authorized

The Rhodesian Sanctions Regulations are being amended in connection with the enactment of Pub. L. 95–12.

The amendments are:

(1) A revocation of § 530.518 which has permitted the importation of strategic and critical materials of Southern Rhodesian origin. The effect of this revocation is to again restrict the importation of a list of Rhodesian strategic commodities such as chromium ore, ferrochromium, nickel, asbestos, beryllium, and other strategic materials. It also again restricts the importation of ferrochromium produced in any other country from Rhodesian ores or concentrates.

(2) A new prohibition (§ 530.202) against the importation of chromium ore from any country except when imported directly or on a through bill of lading. Also, a new prohibition against the importation from any country of ferrochromium and steel mill products containing more than 3 percent chromium, except as authorized.

(3) A new section (§ 530.313) defining "steel mill products" and identifying those products affected by the import restrictions.

(4) An amendment of § 530.503 to authorize the importation of ferrochromium and steel mill products whenever they have been specially certified by the Government of the producing country not to contain any chromium of Southern Rhodesian origin. These special certificates may be issued only pursuant to

special certification procedures to be agreed upon between the certifying country and the Treasury Department. Notices of the availability of special certificates will be published from time to time in the FEDERAL REGISTER.

(5) A new section explaining that in-transit shipments of strategic and critical materials of Southern Rhodesian origin may be authorized to be imported, but in such cases a specific license will have to be obtained from the Office of Foreign Assets Control. The application should be supported by satisfactory documentary proof of exportation from Southern Rhodesia before March 18, 1977.

(6) A General License (§ 530.520) authorizing the importation, without application to Treasury, of ferrochromium and steel mill products from third countries when the materials were in-transit as of March 18, 1977. The ocean bill of lading must have been issued before March 18, 1977. Other in-transit shipments may be authorized to be imported, but in such cases a specific license will have to be obtained from the Office of Foreign Assets Control. The application should be supported by satisfactory documentary proof of exportation from the producing country before March 18, 1977.

(7) A new section (§ 530.521) explaining that imports of merchanise subject to the Regulations may be refused when there is reason to believe the merchandise contains Rhodesian materials. Refusal of these imports may occur although a special certificate of origin or license may have been obtained.

(8) A new section (§ 530.522) describing special certificates of origin and explaining that other certificates of origin are not acceptable for purposes of these Regulations.

(9) A technical amendment to § 530.808, authorizing certain Customs transactions in connection with these new controls.

In addition to these controls, the Office of Foreign Assets Control is also instructing Customs to sample all imports of chromium ore and ferrochomium from South Africa. The samples are to be forwarded for Customs' laboratory testing. This testing will ensure that Rhodesian chromium ore and ferrochromium does not enter the United States misdescribed as being of South African origin.

As the material contained herein involves a foreign affairs function, the provisions of the Administrative Procedure Act (5 U.S.C. 533) requiring notice of proposed rule making, opportunity for public participation, and delay in effective date, are inapplicable.

For further information, contact George F. Hazard, Chief of Licensing, Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220, telephone (202) 376-0428. The principal author of this amendment is Stanley L. Sommerfield.

31 CFR Part 530, is amended to revoke § 530.518; to revise §§ 530.503 and 530.808; and to add §§ 530.202, 530.313, 530.519, 530.520, 530.521, and 530.522. The revised and added sections read as follows:

§ 530.202 Imports of chromium ore, ferrochromium, and steel mill products containing chromium.

(a) All of the following direct or indirect transactions by any person subject to the jurisdiction of the United States are prohibited, except as authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, general or specific licenses or otherwise:

(1) Importation from any country of non-Rhodesian chromium ore except when imported directly or on a through bill of lading.

(2) Importation from any country of ferrochromium.

(3) Importation from any country of steel mill products in their basic shapes and forms which contain more than 3 percent chromium. Steel mill products subject to this prohibition are specified in § 530.313.

§ 530.313 Chromium ore, ferrochromium, and steel mill products.

The terms "chromium ore", "ferrochromium", and "steel mill products" as used in § 530.202 mean:

(a) Chromium ore provided for in item 601.15 of the Tariff Schedules of the United States (BTN ch. 26.01).

(b) Ferrochromium provided for in items 607.30 and 607.31 of the Tariff Schedules of the United States (BTN ch. 73, ch. note 1.(c)).

(c) Stainless steel and other alloy steels in their basic shapes and forms containing more than 3 percent chromium provided for in Schedule 6, Part 2, Subpart B, of the Tariff Schedules of the United States (BTN ch. 73, ch. note 1.(d)).

§ 530.503 Certain transactions with respect to merchandise affected by §§ 530.201 and 530.202.

(a) With respect to materials the unauthorized importation of which is prohibited by § 530.201 or § 530.202, all Customs transactions are authorized except the following:

(1) Entry for consumption (including any appraisement entry, and entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone.

This paragraph is intended solely to allow certain restricted disposition of merchandise which is imported without proper authorization. This paragraph does not authorize the purchase or importation of any merchandise.

(b) With respect to materials the unauthorized importation of which is prohibited by § 530.202(a), (2), and (3), importation is authorized if there is presented to the District Director of Customs in connection with such importation the original of a special certificate of origin as defined in § 530.522. The materials must have been shipped to the United States directly, or on a through bill of lading, from the country issuing the special certificate of origin.

§ 530.518 [Revoked]

§ 530.519 In-transit materials of Southern Rhodesian Origin.

Specific licenses may be issued authorizing the importation into the U.S. of strategic and critical materials of Southern Rhodesian origin which were in transit on March 18, 1977. Applications will be decided on a case-by-case basis in the discretion of the Office of Foreign Assets Control. In such cases, importations will not be authorized unless the Office is satisfied that undue hardship would result from denial. Applications must be supported by documentary proof establishing the goods were in-transit on March 18, 1977, and establishing the claim of undue hardship.

§ 530.520 In-transit steel mill products.

(a) All transactions incidental to the importation into the United States of ferrochromium and steel mill products subject to the prohibitions of § 530.202 are authorized: *Provided*, The pertinent ocean bill of lading was issued before March 18, 1977.

(b) Such materials may also be licensed to be imported if the Office of Foreign Assets Control is satisfied the materials were exported from the producing country before March 18, 1977. The application must be supported by documentary proof establishing exportation before March 18, 1977.

(c) The authorization contained in paragraph (a) of this section shall expire at the close of business on May 18, 1977.

§ 530.521 Rejection of imports.

Imports of merchandise subject to § 530.202 will be refused, although a special certificate of origin or a special license has been obtained, if there is reason to believe the merchandise is of Southern Rhodesian origin or contains chromium materials of Southern Rhodesian origin.

§ 530.522 Special certificates of origin.

(a) There are many types of certificates of origin issued by governmental and commercial agencies abroad. However, the only certificates of origin which will be accepted by Customs for Foreign Assets Control purposes in connection with imports of commodities subject to § 530.202 are certificates issued pursuant to special agreements between the country of issue and the Treasury Department. The availability of special certificates of origin which are acceptable for Office of Foreign Assets Control purposes is announced in the FEDERAL REGISTER. The special certificate must bear a statement by the issuing foreign government

agency referring to the Rhodesian Sanctions Regulations, stating that the special certificate has been issued under procedures agreed upon with the United States Government. The name of the issuing agency in each country will be published in the FEDERAL REGISTER.

(b) The Office of Foreign Assets Control reserves the right to refuse importations when the special certificate of origin presented to Customs in connection with an importation under § 530.202 has been improperly issued. Certificates must be requested from the certifying country prior to exportation. Certificates may be improperly issued if the goods were not produced in the certifying country or were produced in the certifying country by a non-registered producer. Further, if the certificate does not fully and specifically describe the merchandise to which it refers, the importation may likewise be rejected.

§ 530.808 Customs procedures; merchandise specified in §§ 530.201 and 530.202.

(a) With respect to merchandise specified in §§ 530.201 and 530.202, whether or not such merchandise has been imported into the United States, District Directors of Customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone,

unless either:

(i) The merchandise was imported prior to March 18, 1977, in the case of merchandise subject to § 530.202; or

(ii) An applicable general license appears in Subpart E hereof of this part; or

(iii) A specific license issued pursuant to this part is presented; or

(iv) Instructions from the Office of Foreign Assets Control, either directly or through the Federal Reserve Bank of New York, authorizing the transactions are received; or

(v) The original of a special certificate of origin as defined in § 530.522 is presented; or

(vi) The merchandise is chromium ore of non-Rhodesian origin and is imported directly or on a through bill of lading from the country of origin.

(b) Whenever a specific license is presented to a District Director of Customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be submitted to the District Director of Customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal, or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is submitted. The original copy of the specific license shall be presented to the District Director in respect to each such transaction. It shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity, and value of the merchandise to be entered, withdrawn, or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise, the District Director or other authorized Customs employee shall verify the notation by signing or initialing it. He shall first assure himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it. The additional copy of the entry, withdrawal, or other appropriate document shall be forwarded by the District Director to the Office of Foreign Assets Control.

(c) (1) The original of a special certificate of origin as defined in § 530.522 must be presented to a District Director of Customs in accordance with the provisions of this section. An additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be submitted to the District Director of Customs at the port where the transaction is to take place. Each copy of the entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the following statement: "This document is presented under the provisions of § 530.503(b) of the Rhodesian Sanctions Regulations." The original of the certificate of origin shall not be returned to the person presenting it, but shall be securely attached to the additional copy required by this subparagraph. It shall be forwarded by the District Director to the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220. District Directors may forward such documents weekly, or more often if the volume warrants.

(2) The original of a special certificate of origin must be submitted to a District Director of Customs with respect to a transaction which is the first of a series of transactions allowed under subdivision (v) of paragraph (a) (6) of this section. (For example, merchandise has been entered in a bonded warehouse and a specific certificate of origin is submitted. The certificate relates to all of the merchandise entered. However, the importer desires to withdraw only part of the merchandise in the first transaction). The District Director shall so note on the original of the specific certificate of origin and return it to the importer. In addition, the District Director shall endorse his pertinent records so as to record what merchandise is covered by the specific certificate of origin submitted. The District Director may thereafter allow subsequent authorized transactions on presentation of the certificate of origin. The District Director shall, with respect to each such transaction, demand an additional copy of each withdrawal or other appropriate document. The additional copy shall be promptly forwarded by the District Director to the Director of the Office of Foreign Assets Control, Treasury Department, Washington, D.C. 20220. It shall bear an endorsement reading: "This document has been accepted pursuant to § 500.808(c) (2) of the Foreign Assets Control Regulations. Special certificate of origin No. —— from (country)." When the final transaction has been effected under the certificate of origin, the original shall be taken up and attached to the entry. It shall then be forwarded as in paragraph (c) (1) of this section.

(d) A person presenting an entry, withdrawal, or other appropriate document affected by this section may assert that no specific Foreign Assets Control license or special certificate of origin as defined in § 530.522 is required. The District Director of Customs shall then withhold action. He shall advise the person to communicate directly with the Federal Reserve Bank of New York, Foreign Assets Control Division. The person should request the Division to issue appropriate instructions to the District Director.

(22 U.S.C. 287(c); Pub. L. 95-12, March 18, 1977, 91 Stat. 22; Executive Order 11322; Executive Order 11419; Executive Order 11978.)

Effective date: These amendments take effect on March 18, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

JOHN H. HARPER,
Acting Assistant Secretary, Enforcement, Operations and Tariff Affairs.

[FR Doc.77-10108 Filed 3-31-77; 4:37 pm]

Title 39—Postal Service

CHAPTER III—POSTAL RATE COMMISSION

[Order No. 157; Docket No. RM77-2]

PART 3001—RULES OF PRACTICE

Order Amending Rules of Practice; Correction

MARCH 29, 1977.

In FR Doc. 77-4112 appearing at 42 FR 8141, Wednesday, February 9, 1977, the following amendments should have been made to reflect the addition of new paragraphs (q), (r) and (s) in Subpart B, § 3001.54.

Since the amendments herein made involve matters of editorial change resulting from the amendment to the rules of practice appearing at 42 FR 8141, the notice requirements of the Administrative Procedure Act are unnecessary (5 U.S.C. 553). *Accordingly, it is ordered,* That effective April 1, 1977, Part 3001 of Chapter III of Title 39 of the Code of Federal Regulations is amended as follows:

§ 3001.54 [Amended]

1. Section 3001.54, paragaphs (a)(1), (a)(2), (a)(3), and (a)(4) respectively are amended by changing the references to paragaphs "(b)–(o)" to paragraphs "(b)–(r)."

2. Section 3001.54, paragraphs (p)(2)(i) and (p)(3) are amended by changing the references to paragraphs "(b)–(l)" to paragraphs "(b)–(o)."

3. Section 3001.54(s) is amended by changing the reference to paragraphs "(b)–(o)" to paragraphs "(b)–(r)."

4. Section 3001.64(h)(2)(i) is amended to read as follows:

§ 3001.54 Contents of formal requests.

* * * * *

(h) * * *

(2) * * *

(i) The information required by paragraphs (b)–(h), (j)–(l), and (o)–(p) of § 3001.54, together with the statement and opinion required by paragraphs (q) and (r) of § 3001.54; and;

* * * * *

By the Commission.

DAVID P. HARRIS,
Secretary.

[FR Doc.77-10020 Filed 4-4-77;8:45 am]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—GENERAL REGULATIONS

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Docket No. 76-12; Amdt. No. 76-3]

MOTOR CARRIER SAFETY SETTLEMENT AND HEARING PROCEDURES

• *Purpose.* These amendments create uniformity for administrative proceedings relating to motor carriers conducted by the Federal Highway Administration (FHWA) pursuant to the Interstate Commerce Act, 49 U.S.C. 301 et seq., and the Hazardous Materials Transportation Act, Pub. L. 93-633, 49 U.S.C. 1801 et seq., by establishing procedures for commencement of actions, hearings, settlements, and decisionmaking. •

In order to promote uniformity and provide those subject to motor carrier safety and hazardous materials regulations with their due process rights, the rules of practice have been extensively revised and the settlement procedures formerly in Part 385 have been transferred to Part 386. In addition, the procedure for dealing with medical conflicts in driver qualification cases has been revised for the same purpose and the delegations of authority have been amended to clarify responsibilities under these changes.

This amendment adds to Part 386 procedures for handling driver qualification cases and civil forfeitures under the Interstate Commerce Act, 49 U.S.C. 304, 322(h), and the Hazardous Materials Transportation Act, 49 U.S.C. 1809, and alters slightly the procedures for handling enforcement actions. All proceedings are commenced under § 386.11 by the issuance of some type of notice. The content of the notice is suited to each proceeding and each contains sufficient information to notify those served of their opportunity to reply or petition and the consequences of their failure to do so. The reply and petition section is § 386.13, which explains to the parties what they must submit to petition or reply and what they must do in order to request a hearing or a decision without a hearing. One key element to the section is the requirement that the party submitting the reply or petition justify the need for oral hearing if one is requested. This requirement is added in order to expedite the decisionmaking process and to reduce the number of unnecessary hearings.

The amendments allow the Associate Administrator for Safety to make a decision whether a hearing is necessary in each case and to decide the case without a hearing if there are no material factual issues in dispute. If a hearing is to be held the Associate Administrator for Safety appoints a hearing officer who issues a decision which becomes final unless a review is requested. Although neither due process nor the Administrative Procedure Act requires administrative law judges to hear cases under the Hazardous Materials Transportation Act these rules provide for such judges in order to assure uniformity in all proceedings.

Certain general sections are added to the rules in order to expedite the proceedings and clarify procedural points which have arisen in the past. The following subjects are covered in the new tories and depositions, motions, official sections: computation of time, interroganotices, extensions of time, form of evidence, medical records, burden of proof, appearances, amendments to pleadings, interlocutory appeals, subpoenas and witness fees and motions to dismiss or make more definite. The computation of time, official notice, and extension of time sections are inserted to clarify procedural points that will lead to uniformity. The motions section allows parties to request certain action when no other rules apply. It formalizes an unstated procedure that was used in cases under the old rules. The interrogatory and deposition rules provide discovery upon approval by hearing officer. The medical records rule requires a full disclosure in all medical cases and the form of evidence rule provides guidelines for those submitting evidence in written form. The burden of proof is clearly placed on the Administration when enforcement action is taken and on the petitioner when there has been a determination under § 391.47 concerning a driver's physical qualifications. The interlocutory appeal rule clarifies that such appeal may only be taken in exceptional circumstances. The appearances, subpoenas, witness fees, change and withdrawal of pleading, and motion to dismiss or for more definite statement rules provide uniform procedures for circumstances that have in the past been handled on an ad hoc basis.

Part 385 is deleted as unnecessary. The granting of authority in this section had been duplicated in Part 301. This change eliminates that duplication. The procedures for settlement of civil forfeitures are transferred to Part 386 so that procedures for initiating and settling civil forfeiture claims under both the Interstate Commerce Act and the Hazardous Materials Transportation Act will be the same. The only difference in the procedures under the two Acts is the opportunity for a hearing in cases arising under the Hazardous Materials Transportation Act.

49 CFR 391.47 is completely revised to provide a better method of dealing with medical conflicts. The new procedures specify that sufficient medical information must be submitted, that an attempt be made to obtain a specialist's opinion, that the Director's decision may be appealed, and that on appeal a hearing may be held if one is requested and there are factual issues in dispute.

The delegations of authority are amended to clarify the responsibilities in carrying out these procedural rules. The Regional Administrators are given the authority to issue letters of disqualification when the standard involves a nonphysical qualification or when a physical qualification can be determined without a physician's subjective judgment. The physical qualification standards that can be determined in this manner are identified in the delegation.

The Director of the Bureau of Motor Carrier Safety's authority is clarified to make it clear that he does not have the authority to issue final decisions in proceedings under Part 386. He is, however, given the power to make determinations in conflict of medical opinion cases under § 391.47, issue letters of disqualification and notices of investigation, and initiate and settle civil forfeiture claims under the Hazardous Materials Transportation Act.

The Associate Administrator for Safety retains the authority to determine whether factual issues are in dispute, appoint hearing officers, and make final determinations when no settlement can be reached. In matters involving determinations by the Director of the Bureau of Motor Carrier Safety under § 391.47 and letters of disqualification issued by the Director or the Regional Administrators, the Director or Regional Administrator's decision becomes that of the Associate Administrator if no petition to review is filed within the time set out in the regulations.

Because these rules concern practice and procedure, relate to the internal organization of the Federal Highway Administration, and are necessary to ensure enforcement of hazardous materials regulations which went into effect on January 3, 1977, notice and comment are unnecessary and the regulations will go into effect upon publication. Although no comment period is required, the Federal Highway Administration is providing for comments which will be considered when these rules are reevaluated. All comments

must be submitted on or before May 1, 1977, to:

Docket No. 76-12, Room 4217, Office of the Chief Counsel, HCC-20, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

The reevaluation of these rules will take place not less than 6 months or more than 18 months after the rules have been in effect.

Because these changes are numerous and issuance of them on a piecemeal basis would create confusion, 49 CFR Part 386 is being republished in its entirety. In consideration of the foregoing, 49 CFR Parts 385, 386, 391 and 301 are revised as follows:

1. 49 CFR Part 385 is deleted from the Code of Federal Regulations.

2. 49 CFR Part 386 is revised to read as follows:

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS

Subpart A—Scope of Rules; Definitions

Sec.

386.1 Scope of rules in this part.
386.2 Definitions.

Subpart B—Commencement of Proceedings, Pleadings

386.11 Commencement of proceedings.
386.12 Complaint.
386.13 Petitions to review, replies.
386.14 Action on petitions or replies.
386.15 Intervention.

Subpart C—Consent Order Procedure

386.21 Consent order.
386.22 Content of consent order.

Subpart D—General Rules and Hearings

386.31 Computation of time.
386.32 Extension of time.
386.33 Official notice.
386.34 Motions.
386.35 Deposition and interrogatories.
386.36 Medical records and physicians' reports.
386.37 Form of written evidence.
386.38 Filing and service of pleadings and papers.
386.39 Appearances and rights of witnesses.
386.40 Amendment and withdrawal of pleadings.
386.42 Motions to dismiss and for a more definite statement.
386.43 Subpoenas, witness fees.
386.44 Hearing officer.
386.45 Prehearing conferences.
386.46 Hearings.
386.47 Proposed findings of fact, conclusions of law.
386.48 Burden of proof.

Subpart E—Decision

386.51 Decision.
386.52 Review of hearing officer's decision.
386.53 Decision on review.
386.54 Reconsideration.
386.55 Publication of orders.
386.56 Motions for rehearing or for modification.

AUTHORITY: 18 U.S.C. 831-35; Pub. L. 93-633, 88 Stat. 2156 (49 U.S.C. § 1801 et seq.); delegations of authority 49 CFR 1.45, 1.48, Part 301.

Subpart A—Scope of Rules; Definitions

§ 386.1 Scope of rules in this part.

The rules in this part govern procedures in proceedings before the Associate Administrator authorized by §§ 204 and 222(h) of the Interstate Commerce Act (49 U.S.C. §§ 304 and 322(h) and those authorized by § 110 of the Hazardous Materials Transportation Act (49 U.S.C. § 1809) and those under 18 U.S.C. 831-35. The purpose of the proceedings is to enable the Associate Administrator to determine whether any motor carrier, its agent, employee or other person subject to the jurisdiction of the Federal Highway Administration under Part II of the Interstate Commerce Act (49 U.S.C. § 301, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), or under 18 U.S.C. § 831-35 has failed to comply with any provision or requirement of those statutes or regulations issued under them and if such a violation is found, to issue an appropriate order to compel compliance with the statute or regulation.

§ 386.2 Definitions.

(a) "Administration" means the Federal Highway Administration.

(b) "Associate Administrator" means the Associate Administrator for Safety of the Federal Highway Administration or his delegate. Delegations are contained in Part 301 of this chapter.

(c) "Civil forfeiture proceedings" means proceedings to collect civil penalties for violations under the Hazardous Materials Transportation Act, 49 U.S.C. § 1809, or the Interstate Commerce Act, 49 U.S.C. § 322(h).

(d) "Claimant" means the representative of the Federal Highway Administration authorized to make claims.

(e) "Driver qualification proceeding" means a proceeding commenced under 49 CFR 391.47 or by issuance of a letter of disqualification.

(f) "Hearing officer" means an administrative law judge.

(g) "Motor carrier" means a common, contract, private or exempt carrier as defined in 49 U.S.C. 303.

(h) "Petitioner" means a party petitioning to overturn a determination in a driver qualification proceeding.

(i) "Respondent" means a party against whom relief is sought or claim is made.

Subpart B—Commencement of Proceedings, Pleadings

§ 386.11 Commencement of proceedings.

(a) *Driver qualification proceedings.* These proceedings are commenced by the issuance of a determination by the Director, Bureau of Motor Carrier Safety in a case arising under § 391.47 of this chapter or by the issuance of a letter of disqualification.

(1) Such determinations and letters must be accompanied by the following:

(i) A citation of the regulation under which the action is being taken,

(ii) A copy of all documentary evidence relied on or considered in taking such action, or in the case of voluminous evidence a summary of such evidence,

(iii) Notice to the driver and motor carrier involved in the case that they may petition for review of the action,

(iv) Notice that a hearing will be granted if the Associate Administrator determines there are material factual issues in dispute,

(v) Notice that failure to petition for review will constitute a waiver of the right to contest the action, and

(vi) Notice that the burden of proof will be on the petitioner in cases arising under § 391.47 of this chapter.

(2) At any time before the close of hearing, upon application of a party, the letter or determination may be amended in the discretion of the hearing officer upon such terms as he approves.

(b) *Civil forfeitures.* These proceedings are commenced by the issuance of a claim letter.

(1) Each claim letter must contain the following:

(i) A statement of the provisions of law alleged to have been violated;

(ii) A brief statement of the facts constituting each violation;

(iii) Notice of the amount being claimed, and notice of the maximum amount authorized to be claimed under the statute;

(iv) The form in which and the place where the respondent may pay the claim; and

(v) In proceedings for collection of civil penalties under the Hazardous Materials Transportation Act, notice of the opportunity for a hearing.

(2) In addition to the information required by pragraph (b)(1) of this section, the letter may contain such other matters as the claimant deems appropriate.

(c) *All other proceedings.* All other proceedings are commenced by issuance of a notice of investigation. The Associate Administrator may issue a notice of investigation on his own motion or upon a complaint filed pursuant to § 386.12.

(1) Each notice of investigation must include the following:

(i) A statement of the legal authority and jurisdiction for the institution of the proceedings,

(ii) The name and address of each motor carrier against whom relief is sought,

(iii) One or more clear, concise, and separately numbered paragraphs stating the facts alleged to constitute a violation of the law,

(iv) The relief demanded which, where practical, should be in the form of an order for the Associate Administrator's signature,

(v) A statement that the rules in this part require a reply to be filed within 30 days of service of the notice of investigation, and

(vi) A certificate that the notice of investigation was served in accordance with § 386.38.

(2) At any time before the close of hearing or upon application of a party, the notice of investigation may be amended in the discretion of the hearing officer upon such terms as he deems appropriate.

§ 386.12 Complaint.

(a) *Filing of a complaint.* Any person, State board, organization, or body politic may file a written complaint with the Associate Administrator, requesting the issuance of a notice of investigation

under § 386.11(c). Each complaint must contain:

(1) The name and address of the party who files it, and a statement specifying the authority for a party (other than a natural person) to file the complaint;

(2) A statement of the interest of the party in the proceedings;

(3) The name and address of each motor carrier against whom relief is sought;

(4) The reasons why the party believes that a notice of investigation should be issued;

(5) A statement of any prior action which the party has taken to redress the violations of law alleged in the complaint and the results of that action; and

(6) The relief which the party believes the Administration should seek.

(b) *Action on complaint.* Upon the filing of a complaint, the Associate Administrator determines whether it states reasonable grounds for investigation and action by the Administration. If he determines that the complaint states such grounds, the Associate Administrator issues, or authorizes the issuance of, a notice of investigation under § 386.11(c). If he determines that the complaint does not state reasonable grounds for investigation and action by the Administration, the Associate Administrator dismisses it.

§ 386.13 Petitions to review; replies.

(a) *Driver qualification proceedings.* Within 60 days after service of the determination under § 391.47 of this chapter or the letter of disqualification the driver or carrier may petition to review such action. Such petitions must be submitted to the Associate Administrator and must contain the following:

(1) Identification of what action the petitioner wants overturned,

(2) Copies of all evidence upon which petitioner relies in the form set out in § 386.37,

(3) All legal and other arguments which the petitioner wishes to make in support of his position,

(4) A request for oral hearing if one is desired which must set forth material factual issues believed to be in dispute,

(5) Certification that the reply has been filed in accordance with § 386.38, and

(6) Any other pertinent material.

(b) *Civil forfeiture proceedings.* (1) The respondent must reply within 20 days after the claim letter is served or within such other additional time as the claim letter may specify. The reply must contain the following:

(i) A statement of whether the respondent admits liability under the claim;

(ii) A statement of whether the respondent wishes to discuss the amount of the claim or whether he agrees to pay the full amount claimed; and

(iii) A statement that the reply has been served in accordance with § 386.38.

(2) In proceedings under the Hazardous Materials Transportation Act, the respondent, if he desires one, at any time within 60 days after the service of his reply or within such other longer period as the claimant may prescribe, may request a hearing. If an oral hearing is not requested, the respondent must within the same time period submit all arguments and evidence in support of his position in the form specified in § 386.37.

(3) A request for an oral hearing must be accompanied by a listing of all material factual issues believed to be in dispute.

(c) *All other proceedings.* Within 30 days after the notice of investigation is served, the respondent must file a reply. The reply must contain the following information:

(1) In cases where an allegation of the notice of investigation is contested:

(i) A concise statement of facts constituting each defense and a specific admission, denial or explanation of each allegation, and

(ii) A request for an oral hearing if one is desired which must set forth material factual issues believed to be in dispute, and if one is not requested any evidence and arguments in support of the respondent's position in the form specified in § 386.37.

(2) In cases where the respondent elects not to contest the allegations, the reply must so state. The respondent may also propose an appropriate order disposing of the proceedings or propose that the matter be terminated by entry of a consent order under Subpart C. A statement of election not to contest waives a hearing on the facts alleged in the notice of investigation and provides a record basis for a decision in the case.

(3) In all cases commenced by notice of investigation, the reply must contain a certification that it was served in accordance with § 386.38.

(d) *Failure to reply or petition, decision.* Failure to submit a petition as specified in paragraph (a) of this section shall constitute a waiver of the right to petition for review of the determination or letter of disqualificaiton. In these cases the determination or disqualification issued automatically becomes the final decision of the Associate Administrator, 30 days after the time to submit the reply or petition to review has expired unless the Associate Administrator orders otherwise. When no reply is received to the claim letter or notice of investigation under paragraphs (b) and (c) of this section, the Associate Administrator may then find the facts to be as alleged and issue a final order in the case.

§ 386.14 Action on petitions or replies.

(a) *Petitions or replies not requesting an oral hearing.* If the petition or reply submitted does not request an oral hearing, the Associate Administrator may issue a final decision and order based on the evidence and arguments submitted.

(b) *Petitions or replies requesting oral hearing.* If a petition or reply requests an oral hearing, the Associate Administrator shall determine whether there are material factual issues in dispute. If there are none, he shall issue a final decision and order. If there are material factual issues in dispute, he shall call the matter for a hearing.

(c) *Settlement of civil forfeitures.* (1) When the reply to a claim letter indicates that the respondent wishes to discuss payment and negotiations produce an agreement, a settlement agreement shall be drawn and signed by the respondent and the Associate Administrator. Such settlement agreement must contain the following:

(i) The statutory basis of the claim,

(ii) A brief statement of the violations,

(iii) The amount claimed and the amount paid,

(iv) The date, time, and place and form of payment, and

(v) A statement that the agreement is not binding upon the Associate Administrator until executed by him.

(2) Any settlement agreement may contain a consent order.

(3) An executed settlement agreement is binding on the respondent and the claimant according to its terms. The respondent's consent to a settlement agreement that has not been executed by the Associate Administrator may not be withdrawn for a period of 30 days after it is executed by the respondent.

§ 386.15 Intervention.

After the matter is called for hearing and before the date set for the hearing to begin, any person may petition for leave to intervene. The petition is to be served on the hearing officer. The petition must set forth the reasons why the petitioner alleges he is entitled to intervene. The petition must be served on all parties in accordance with § 386.38. Any party may file a response within 10 days of service of the petition. The hearing officer shall then determine whether to permit or deny the petition. Once admitted a petitioner is a party for the purpose of all subsequent proceedings.

Subpart C—Consent Order Procedure

§ 386.21 Consent order.

When a respondent has filed an election not to contest under § 386.13(c) or has agreed to settlement of a civil forfeiture, and at any time before the hearing is concluded, the parties may execute an appropriate agreement for disposing of the case by consent for the consideration of the Associate Administrator. The agreement is filed with the Associate Administrator who may (a) accept it, (b) reject it and direct that proceedings in the case continue, or (c) take such other action as he deems appropriate. If the Associate Administrator accepts the agreement, he enters an order in accordance with its terms.

§ 386.22 Content of consent order.

(a) Every agreement filed with the Associate Administrator under § 386.21 must contain:

(1) An order for the disposition of the case in form suitable for the Associate Administrator's signature that has been signed by the respondent.

(2) An admission of all jurisdictional facts,

(3) A waiver of further procedural steps, of the requirement that the decision or order must contain findings of fact and conclusions of law, and of all right to seek judicial review or otherwise challenge or contest the validity of the order,

(4) Provisions that the notice of investigation or settlement agreement may be used to construe the terms of the order,

(5) Provisions that the order has the same force and effect, becomes final, and may be modified, altered, or set aside in the same manner and within the same time as other orders issued under section 204(c) of the Interstate Commerce Act (49 U.S.C. 304(c)), and

(6) Provisions that the agreement will not be part of the record in the proceeding unless and until the Associate Administrator executes it.

(b) An agreement filed with the Associate Administrator under § 386.21 may contain:

(1) A statement that it is executed for settlement purposes only and does not admit any violations of law alleged in the notice of investigation, and

(2) Provisions for the compromise of any claim for civil forfeiture.

Subpart D—General Rules and Hearings

§ 386.31 Computation of time.

In computing any time period set out in these rules, the date of the act, event, or default after which the designated period begins to run is not included in the computation. The computation begins to run the date following the act, event, or default. The last day of the period is to be included unless it is a Saturday, Sunday or legal Federal holiday in which case the time period shall run to the end of the next day that is not a Saturday, Sunday, or legal Federal holiday. All Saturdays, Sundays, and legal Federal holidays except those falling on the last day of the period shall be computed.

§ 386.32 Extension of time.

All requests for extensions of time shall be filed with the Associate Administrator or, if the matter has been called for a hearing, with the hearing officer. All requests must state the reasons for the request. Only those requests showing good cause will be granted. No motion for continuance or postponement of a hearing date filed within 7 days of the date set for a hearing will be granted unless it is accompanied by an affidavit showing that extraordinary circumstances warrant a continuance.

§ 386.33 Official notice.

The Associate Administrator or hearing officer may take official notice of any fact not appearing in evidence if he notifies all parties he intends to do so. Any party objecting to the official notice shall file an objection within 10 days after service of the notice.

§ 386.34 Motions.

(a) *General.* An application for an order or ruling not otherwise covered by these rules shall be by motion. All motions filed prior to the calling of the matter for a hearing shall be to the Associate Administrator. All motions filed after the matter is called for hearing shall be to the hearing officer.

(b) *Form.* Unless made during hearing motions shall be made in writing, shall state with particularity the grounds for relief sought and shall be accompanied by affidavits or other evidence relied upon.

(c) *Answers.* Except when a motion is filed during a hearing, any party may file an answer in support or opposition to a motion accompanied by affidavits or other evidence relied upon. Such answers shall be served within 7 days after the motion is served or within such other time as the Associate Administrator or hearing officer may set.

(d) *Argument.* Oral argument or briefs on a motion may be ordered by the Associate Administrator or the hearing officer.

(e) *Disposition.* Motions may be ruled on immediately or at any other time specified by the Hearing Officer or the Associate Administrator.

(f) *Suspension of time.* The pendency of a motion shall not affect any time limits set in these rules unless expressly ordered by the Associate Administrator or hearing officer.

§ 386.35 Deposition and interrogatories.

At any time after the matter is called for a hearing a party may file a motion with the hearing officer requesting permission to take a deposition of any person including a party or to file written interrogatories on any party to the proceedings. All requests for depositions or interrogatories must include a description of the general subject matter about which the depositions and interrogatories are requested and the time and place for such matters to take place. Service of the motion shall be made on all other parties. Other parties may submit responses within 7 days after the motion is served. The hearing officer may then rule on the motion. His ruling may deny the motion or permit it in whole or in part.

§ 386.36 Medical records and physicians' reports.

In cases involving the physical qualifications of drivers, copies of all physicians' reports, test results, and other medical records that a party intends to rely upon shall be served on all other parties at least 10 days prior to the date set for a hearing.

§ 386.37 Form of written evidence.

All written evidence shall be submitted in the following forms:

(a) an affidavit of a person having personal knowledge of the facts alleged, or

(b) documentary evidence in the form of exhibits attached to an affidavit identifying the exhibit and giving its source.

§ 386.38 Filing and service of pleadings and papers.

Whenever these rules require filing with the Associate Administrator for Safety two copies must be filed with the Associate Administrator or his delegate. Filing should be addressed to the Associate Administrator for Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Delegations of authority are set out in Part 301 of this chapter. Once a hearing officer is appointed all papers should be filed with him at the address specified in the order appointing him. One copy of all pleadings and papers must be served on all other parties by registered or certified mail, first class, postage prepaid.

§ 386.39 Appearances and rights of witnesses.

(a) Any party to a proceeding may appear and be heard in person or by attorney.

(b) Any person who submits data or evidence in a proceeding governed by this part may, upon timely request and payment of costs, procure a copy of any document submitted by him or of any transcript. Original documents, data or evidence may be retained upon permission of the hearing officer or Associate Administrator upon substitution of copy therefor.

§ 386.40 Amendment and withdrawal of pleadings.

(a) Except in instances covered by other rules, anytime more than 15 days prior to the hearing, a party may amend his pleadings by filing the amended pleading on all parties and the hearing officer. After that time, amendment shall be allowed only at the discretion of the hearing officer. When an amended pleading is filed, the other parties may file a response and objection within 10 days. The hearing officer shall rule on the permissibility of the amendment.

(b) A party may withdraw his pleading only on approval of the hearing officer or Associate Administrator.

§ 386.41 Appeals from interlocutory rulings.

Rulings of the hearing officer may not be appealed to the Associate Administrator prior to his consideration of the entire proceeding except under exceptional circumstances and with the consent of the hearing officer. In deciding whether to allow appeals, the hearing officer shall determine whether the appeal is necessary to prevent undue prejudice to a party or to prevent substantial detriment to the public interest.

§ 386.42 Motions to dismiss and for a more definite statement.

(a) Motions to dismiss must be made within the time set for reply or petition to review except motions to dismiss for lack of jurisdiction which may be made at any time.

(b) Motions for more definite statement may be made in lieu of a reply. The motion must point out the defects complained of and the details desired. If the motion is granted, the pleading complained of must be remedied within 15 days of the granting of the motion or it will be stricken. If the motion is denied the party who requested the more

definite statement must file his pleading within 10 days after the denial.

§ 386.43 Subpoenas, witness fees.

(a) Applications for the issuance of subpoenas must be submitted to the Associate Administrator, or in cases that have been called for a hearing, to the hearing officer. The application must show the general relevance and reasonable scope of the evidence sought. Any person served with a subpoena may, within 7 days after service, file a motion to quash or modify. The motion must be filed with the official who approved the subpoena. The filing of a motion shall stay the effect of the subpoena until a decision is reached.

(b) Witnesses shall be entitled to the same fees and mileage as are paid witnesses in the courts of the United States. The fees shall be paid by the party at whose instance the witness is subpoenaed or appears.

(c) Paragraph (a) of this section shall not apply to the Administrator or employees of the Federal Highway Administration or to the production of documents in their custody. Applications for the attendance of such persons or the production of such documents at a hearing shall be made to the Associate Administrator or hearing officer if one is appointed and shall set forth the need for such evidence and its relevancy.

§ 386.44 Hearing officer.

(a) *Appointment.* After the matter is called for hearing, the Associate Administrator appoints a hearing officer.

(b) *Power and duties.* Except as provided in paragraph (c) of this section, the hearing officer has power to take any action and to make all needful rules and regulations to govern the conduct of the proceedings to ensure a fair and impartial hearing, and to avoid delay in the disposition of the proceedings. His powers include the following:

(1) To administer oaths and affirmations;

(2) To issue orders permitting inspection and examination of lands, buildings, equipment, and any other physical thing and the copying of any document;

(3) To issue subpoenas for the attendance of witnesses and the production of evidence as authorized by law;

(4) To rule on requests for discovery by the parties or to order discovery on his own motion;

(5) To rule on offers of proof and receive evidence;

(6) To regulate the course of the hearing and the conduct of participants in it;

(7) To consider and rule upon all procedural and other motions, except motions which, under this Part, are made directly to the Associate Administrator;

(8) To hold conferences for settlement, simplification of issues, or any other proper purpose;

(9) To make and file decisions; and

(10) To take any other action authorized by these rules and permitted by law.

(c) *Powers reserved to Administrator.* Unless the Associate Administrator specifically directs him to do so, the hearing officer may not compel testimony of a witness who claims that such testimony may tend to incriminate him or subject him to penalty or forfeiture nor may he grant immunity from prosecution, penalty, or forfeiture to such a witness.

§ 386.45 Prehearing conferences.

(a) *Convening.* At any time before the hearing begins, the hearing officer, on his own motion or on motion by a party, may direct the parties or their counsel to participate with him in a prehearing conference to consider the following:

(1) Simplification and clarification of the issues;

(2) Necessity or desirability of amending pleadings;

(3) Stipulations as to the facts and the contents and authenticity of documents;

(4) Issuance of and responses to subpoenas;

(5) Taking of depositions and the use of depositions in the proceedings;

(6) Orders for discovery, inspection, and examination of premises, documents, and other physical objects and responses to such orders;

(7) Disclosure of the names and addresses of witnesses and the exchange of documents intended to be offered in evidence; and

(8) Any other matter that will tend to simplify the issues or expedite the proceedings.

(b) *Order.* The hearing officer issues an order which recites the matters discussed, the agreements reached, and the rulings made at the prehearing conference. The order is served on the parties and is filed in the record of the proceedings.

§ 386.46 Hearings.

(a) As soon as practicable after his appointment, the hearing officer issues an order setting the date, time, and place for the hearing. The order is served on the parties and becomes a part of the record of the proceedings. The order may be amended for good cause shown.

(b) *Conduct of hearing.* The hearing officer presides over the hearing. Hearings are open to the public unless the hearing officer orders otherwise.

(c) *Evidence.* Except as otherwise provided in these rules and the Administrative Procedure Act, 5 U.S.C. 551 et seq., the Federal Rules of Evidence shall be followed.

(d) *Information obtained by investigation.* Any document, physical exhibit, or other material obtained by the Administration in an investigation under the Interstate Commerce Act may be disclosed by the Administration during the proceeding and may be offered in evidence by counsel for the Administration.

(e) *Record.* The hearing is stenographically transcribed and reported. The transcript, exhibits, and other documents filed in the proceedings constitute the official record of the proceedings. A copy of the transcript and exhibits is available to any person upon payment of prescribed costs.

§ 386.47 Proposed findings of fact, conclusions of law.

The hearing officer shall afford the parties reasonable opportunity to submit proposed findings of fact, conclusions of law, and supporting reasons therefore. If the hearing officer orders written proposals and arguments each proposed finding must include a citation to the specific portion of the record relied on to support it. Written submissions, if any, must be served within the time period set by the hearing officer.

§ 386.48 Burden of proof.

(a) *Enforcement cases.* The burden of proof shall be on the Administration in enforcement cases.

(b) *Conflict of medical opinion.* The burden of proof in cases arising under § 391.47 of this chapter shall be on the party petitioning for review under § 386.13(a).

Subpart E—Decision

§ 386.51 Decision.

After receiving the proposed findings of fact, conclusions of law, and arguments of the parties, the hearing officer shall issue a decision. If the proposed findings of fact, conclusions of law, and arguments were oral, he may issue an oral decision. The decision of the hearing officer becomes the final decision of the Associate Administrator 45 days after it is served unless a petition or motion for review is filed under § 386.52. The decision shall be served on all parties and on the Associate Administrator.

§ 386.52 Review of hearing officer's decision.

(a) All petitions or motions to review must be accompanied by exceptions and briefs. Each must set out in detail objections to the initial decision and shall state whether such objections are related to alleged errors of law or fact. It shall also state the relief requested. Failure to object to any error in the initial decision shall waive the right to allege such error in subsequent proceedings.

(b) Reply briefs may be filed within 30 days after service of the appeal brief.

(c) No other briefs shall be permitted except upon request of the Associate Administrator.

(d) Copies of all briefs must be served on all parties.

(e) No oral argument will be permitted except on order of the Associate Administrator.

§ 386.53 Decision on review.

Upon review of a decision, the Associate Administrator may adopt, modify, or set aside the hearing officer's findings of fact and conclusions of law. He may also remand proceedings to the hearing officer with instructions for such further proceedings as he deems appropriate. The Associate Administrator issues a final order disposing of the proceedings. If not remanded, the Associate Administrator's order is served on the parties.

§ 386.54 Reconsideration.

Within 20 days after the Associate Administrator's final order is issued, any party may petition the Associate Administrator for reconsideration of his findings of fact, conclusions of law, or final order. The filing of a petition for reconsideration does not stay the effec-

tiveness of the final order unless the Associate Administrator so orders.

§ 386.55 Publication of orders.

All final determinations in driver qualification proceedings shall be published in the Federal Register.

§ 386.56 Motions for rehearing or for modification.

(a) No motion for rehearing or for modification of an order shall be entertained for 1 year following the date the Associate Administrator's order goes into effect. After 1 year, any party may file a motion with the Associate Administrator requesting a rehearing or modification of the order. The motion must contain the following:

(1) A copy of the order about which the change is requested,

(2) A statement of the changed circumstances justifying the request, and

(3) Copies of all evidence intended to be relied on by the party submitting the motion.

(b) Upon receipt of the motion the Associate Administrator may make a decision denying the petition or modifying the order in whole or in part. He may also, prior to making his decision, order such other proceedings under these rules as he deems necessary and may request additional information from the party making the motion.

PART 391—QUALIFICATIONS OF DRIVERS

3. 49 CFR 391.47 is revised to read as follows:

§ 391.47 Resolution of conflicts of medical evaluation.

(a) *Applications.* Applications for determination of a driver's medical qualifications under standards in this part will only be accepted if they conform to the requirements of this section.

(b) *Content.* Applications will be accepted for consideration only if the following conditions are met.

(1) The application must contain the name and address of the driver, motor carrier, and all physicians involved in the proceeding.

(2) The applicant must submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

(3) The applicant must submit a copy of an opinion and report including results of all tests of an impartial medical specialist in the field in which the medical conflict arose. The specialist should be one agreed to by the motor carrier and the driver.

(i) In cases where the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant must submit a statement of his agreement to submit the matter to an impartial medical specialist in the field, proof that he has requested the driver to submit to the medical specialist, and the response, if any, of the driver to his request.

(ii) In cases where the motor carrier refuses to agree on a medical specialist, the driver must submit an opinion and test results of an impartial medical specialist, proof that he has requested the motor carrier to agree to submit the matter to the medical specialist and the response, if any, of the motor carrier to his request.

(4) The applicant must include a statement explaining in detail why the decision of the medical specialist identified in paragraph (b)(3) is unacceptable.

(5) The applicant must submit proof that the medical specialist mentioned in paragraph (b)(3) of this section was provided, prior to his determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

(6) The applicant must submit the medical history and statement of work provided to the medical specialist under paragraph (b)(5) of this section.

(7) The applicant must submit all medical records and statements of the physicians who have given opinions on the driver's qualifications.

(8) The applicant must submit a description and a copy of all written and documentary evidence upon which the party making application relies in the form set out in 49 CFR § 386.37.

(c) *Information.* The Director may request further information from the applicant if he determines that a decision cannot be made on the evidence submitted. If the applicant fails to submit the information requested, the Director may refuse to issue a determination.

(d) *Action.* Upon receiving an application and sufficient evidence, a determination shall be made by the Director. Such determination shall become final if no petition to review is filed.

(e) *Petitions to review, burden of proof.* The driver or motor carrier may petition to review the Director's determination. Such petition must be submitted in accordance with § 386.13(a) of this chapter. The burden of proof in such a proceeding is on the petitioner.

(f) *Status of driver.* Once an application is submitted to the Director, the driver shall be deemed disqualified until such time as the Director makes a determination, or until the Director orders otherwise.

PART 301—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES OF THE FEDERAL HIGHWAY ADMINISTRATION

4. 49 CFR 301.60 is amended to read as follows:

§ 301.60 Delegations of authority relating to motor carrier safety.

(a) * * *

(2) *Consent orders.* A cease and desist order entered into voluntarily pursuant to §§ 386 14 or 386.21.

(3) *Civil forfeiture.* A civil penalty under 49 U.S.C. 322(h) or under the Hazardous Materials Transportation Act, 49 U.S.C. 1809.

* * * * *

(d) * * *

(2) * * *

(i) Initiate, collect, compromise, suspend and terminate civil forfeiture claims under the Interstate Commerce Act, 49 U.S.C. 322(h), when the claim is less than $25,000 in the aggregate and issue consent orders with any settlement agreements.

(ii) * * *

(iii) Issue letters of disqualification under the objective standards of 49 CFR Part 391 including the following physical qualification standards, §§ 391.41(b)(1), (3), and (10) of this chapter. This authority may be redelegated.

(e) * * *

(1) Perform the functions, powers, and duties enumerated in § 1.48, paragraphs (a), (d), (e), (f), (g), (h), (k), (p), (u), and (v) in Part 1 of this title except the powers to call a matter for a hearing, appoint a hearing officer, and issue a final decision under § 386.

* * * * *

(4) Issue determinations and letters of disqualification in cases pursuant to Part 391 and § 386.11.

(5) Initiate, collect, compromise, suspend, and terminate civil forfeiture claims under the Interstate Comerce Act, 49 U.S.C. 322(h), when the claim is $25,000 or more in the aggregate, and the Hazardous Materials Transportation Act, 49 U.S.C. 1809 on all claims in which a violation under that Act is included.

(6) Issue notices of investigation under § 386.11 of this chapter.

AUTHORITY: (49 U.S.C. 304, 322; 18 U.S.C. 831-35; Pub. L. 93-633, 88 Stat. 8156 (49 U.S.C. 1801, et seq.); 49 CFR 1.48, 301.60.)

Issued this 10th day of March, 1977, in Washington, D.C.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.
L. P. LAMM,
Acting Federal Highway Administrator.

[FR Doc.77-10003 Filed 4-4-77;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1263]

PART 1033—CAR SERVICE

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co.

At a general session of the Interstate Commerce Commission, held in Washington, D.C., on the 29th day of March 1977.

It appearing, that because of deteriorated track conditions the line of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) between Culver, Iowa, and Polo, Missouri, is no longer suitable for daily operation of heavily loaded through freight trains; that such disability results in excessive delays to cars transported in such trains thus contributing to nationwide shortages of certain types of cars; that such delayed movements of freight cars renders the MILW unable to transport

traffic over this line so as to properly serve the public; that the parallel line of the Chicago, Rock Island and Pacific Railroad Company (RI) between these points has excess capacity and is suitable for the movement of such trains; that the RI has consented to use of its line between these points by the MILW; that the MILW will request authority from the Commission for permanent operation over these tracks of the RI, including supplemental operation over the RI's line between Eldon, Iowa, and Ottumwa, Iowa; that the MILW has formally notified the Commission that if its petition for permanent authority to operate over these RI tracks is granted it will apply retroactively to the date operations commence under this order any employee protective conditions prescribed by the Commission in that Docket; that the MILW has notified the Commission that it will continue to provide service to patrons served directly by its line between Culver and Polo; that operation by the MILW over the aforementioned tracks of the RI is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1263 Service Order No. 1263.

(a) *Chicago, Milwaukee, St. Paul and Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company.* The Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) be, and it is hereby authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) between RI milepost 221.6 at Culver, Iowa, and RI milepost 460.2 at Polo, Missouri, a distance of approximately 248.6 miles, and between RI milepost 63.73 at Eldon, Iowa, a point on the line between Culver and Polo, and RI milepost 74.47 at Ottumwa, Iowa, a distance of approximately 10.74 miles; and over drill tracks 2 and 4, and yard tracks 10 and 11, together with the necessary yard leads providing access to such tracks in the Eldon, Iowa, yard of the RI.

(b) Nothing herein shall be considered as a prejudgement by the Commission of the application of the MILW seeking permanent authority to operate over the aforementioned tracks of the RI.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(d) Rates applicable. Inasmuch as this operation by the MILW over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the MILW over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(e) Effective date. This order shall become effective at 11:59 p.m. March 31, 1977.

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10–17), 15(4), 17(2)).

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

COMMISSIONER MURPHY, concurring in part:

The matter involved is of major importance. Ordinarily, it should have been considered at a special Commission conference so that this policy decision could be fully explored as to the many possible ramifications thereof. Unfortunately, the regulations recently adopted in Ex Parte No. 333, Meetings of the Commission, I.C.C. (Served March 11, 1977), 49 CFR 1012.3(d), which provide for short notice in appropriate situations do not cover issuance of car service orders in an emergency.

The proposed service order which undoubtedly will be of benefit to the two railroads will assuredly affect shippers as well as the railroad employees of the two carriers, possibly to the detriment of one or both groups. In these circumstances, I believe a more detailed analysis should have preceded issuance of the service order, even though it will be effective for a short period of time.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10109 Filed 4-4-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: Part 213 is amended to reflect the following title change from: Personal Assistant to the Secretary (Special Activities) to Steward. This change in title reflects more appropriately the duties of the position.

EFFECTIVE DATE: April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR § 213.3316(a)(7) is amended to read as follows:

§ 213.3316 Department of Health, Education, and Welfare.

(a) Office of the Secretary. * * *

(7) One Steward.

(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.77-10267 Filed 4-4-77;11:37 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 THE INTERIOR

Bureau of Indian Affairs

[25 CFR Parts 171, 177, 182, and 183]

MINING ON INDIAN LANDS

Mineral Development Contracts

MARCH 30, 1977.

This notiie is published in exercise of authority delegated by the Secretary of the Interior to the Commission of Indian Affairs by 230 DM 2.

Notice is hereby given that it is proposed to revise Parts 171, 177, and 183, to revoke Parts 172 and 173, and to issue a new Part 182, Subchapter P–Q, Chapter 1, of Title 25 of the Code of Federal Regulations. This rulemaking is proposed pursuant to the authority contained in section 4 of the Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), the Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396), section 1 of the Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415), the Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380), sections 16 and 17 of the Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477), section 2103 of Revised Statutes (25 U.S.C. 81), section 3 of the Act of February 28, 1891 (26 Stat. 795, 25 U.S.C. 397), the Act of May 29, 1924 (43 Stat. 244, 25 U.S.C. 398), the Act of March 3, 1927 (44 Stat. 1347, 25 U.S.C. 398a–e), Section 26 of the Act of June 30, 1919, as amended (41 Stat. 31, 25 U.S.C. 399), and section 3 of the Act of June 28, 1906, as amended (34 Stat. 543).

The purpose of this revision is to update and clarify current regulations governing mining on Indian lands in acknowledgement of the increasing desire of Indian mineral owners, both tribal and individual, to exercise greater responsibility in the development and management of their minerals and other natural resources. That desire is reflected in recent attempts to maximize the economic return on Indian mineral development, to achieve greater Indian self determination, and also to minimize the adverse effects of such development on Indian culture and the surrounding environment.

The initial impetus for the revision of the current regulatory scheme was provided by then Secretary Morton in his June 1974 decision on the petition of the Northern Cheyenne Tribe to rescind certain leases and permits for coal mining on tribal lands. He concluded his decision with a directive to the Interior Department Solicitor to rewrite Parts 171 and 177 of 25 CFR "to correct their present ambiguities" and in order "to better fulfill my future trust responsibility to assure the protection of Indian culture and environmental interests as well as to allow maximum development of Indian natural resources."

A preliminary draft revision of those regulations was then submitted by the Solicitor for Departmental comment in September 1974. There was also some circulation of that draft outside the Department for the commentary of interested parties. In December of that year representatives of the Solicitor's Office met in Denver with field realty officials of the Bureau of Indian Affairs to discuss the draft.

Meanwhile, employees of the Bureau began working independently to revise current regulations governing oil and gas development on Indian lands. It was decided that that subject should receive separate treatment in the regulations.

During much of 1975, however, work on the revisions was postponed while Congress was considering legislation to impose strict controls on coal surface mining, because it was expected that such legislation, if enacted, would have a significant effect on Indian lands. Later that year, after the Congress had failed to override a Presidential veto of the proposed legislation, the task of revision was undertaken once again by the Solicitor's Office in cooperation with the Bureau.

At this same time, the Department was nearing completion of the important task of promulgation of final regulations governing coal mining on federal lands. Those regulations contain environmental protections in the form of stringent operating and reclamation standards. Throughout the drafting period (they were first published as interim regulations on April 30, 1973), it was contemplated that those regulations would apply to both federal and Indian lands. On April 19, 1976, however, Secretary Kleppe announced that Indian-owned coal should be excluded altogether from their purview. That decision was based upon the conclusion that considerations governing the administration of Indian-owned resources are different from those involved in administering the public estate, and that certain provisions contained in the new regulations could not be married to the Department's legal relationship with Indian tribes. In announcing this decision, the Secretary directed the Commissioner of Indian Affairs to revise the regulations governing mining of Indian-owned coal in a manner that would adequately reflect both the Department's legal role as trustee of the natural resources of Indian tribes and also the national policy of Indian self-determination in the administration of those resources, while also providing needed measures to protect the environment and ensure reclamation of lands disturbed by surface mining of coal. That task was then coordinated with the more general revision project.

Shortly thereafter the Commissioner appointed task forces of BIA realty officials to review and revise regulations in 25 CFR governing Indian land management. Among those task forces were two assigned to review the latest drafts of the mineral regulations and the oil and gas regulations, respectively. Those task forces have since met with representatives of the Solicitor's Office and BIA Central Office to submit their comments on those drafts.

In addition, various preliminary drafts have received some circulation among Indian tribes, tribal attorneys, and Indian organizations. Representatives of the Solicitor's Office and the Bureau also accepted invitations to attend several meetings of the Native American Natural Resource Development Federation during the past year to discuss the proposed revisions and to solicit comments on them.

The proposed regulations published here are the result of these joint efforts. Proposed Part 171 covers that area of rulemaking now found in 25 CFR Parts 171, 172, and 173, except that oil and gas development is the subject of proposed Part 182. Proposed Part 177, and to a lesser extent, Part 183, are substantial revisions of the current regulations in those Parts.

While the current Part 171 can be read as presupposing almost exclusive use of a competitive bid/lease procedure administered by the Bureau of Indian Affairs, the proposed revision recognizes the authority of Indian mineral owners to negotiate with the mineral industry to develop their natural resources, and to enter into any lawful contractual arrangement which will further that goal—subject, of course, to the statutorily required approval of the Secretary of the Interior. Nevertheless, under this proposal mineral leases may still be advertised by a BIA official when the Indian mineral owner requests him to do so.

Proposed Part 171 is also intended to facilitate a management role on the part of Indian mineral owners during the period of the mineral development contract, where the contract so provides.

And the increased participation of Indian tribes in decision-making would be encouraged under the proposal whenever tribally-owned minerals are to be developed.

Though there are necessarily some differences between the development of individually-owned and tribally-owned Indian minerals, it was thought that the same basic principles should apply. Thus,

the substance of current Part 172 is incorporated in proposed Part 171. It is anticipated, however, that Bureau officials will continue to play a major role in the award and supervision of leases of individually-owned Indian minerals in cases of fragmented ownership resulting from problems of heirship.

Current Part 173 is proposed to be revoked in acknowledgement of the fact that the Crow Tribe is now effectively subject to the same statutory authorities affecting Indian mineral development as are most other tribes, as a result of the Act of May 17, 1968 (82 Stat. 123).

Proposed Part 117 has been drafted to clarify the roles of Bureau and other Departmental officials in safeguarding of other Indian natural resources during mineral development. The technical examination required by current § 177.4 would be replaced by the requirement of a written environmental and cultural assessment. The assessment, as proposed, would require specific consideration of a number of environmental, cultural, and social factors prior to the approval of a mineral contract. It would serve to assist the Area Director and the Indian mineral owner in the decision whether to proceed with mineral development, and would also facilitate compliance with the requirements of the National Environmental Policy Act of 1969, which was enacted shortly after promulgation of the current Part 177.

Subpart B of proposed Part 177 contains reclamation and performance standards nearly identical to the standards found in the new coal regulations for public lands. 30 CFR 211.40, 211.41 (41 FR 20268, May 17, 1976). Those regulations were the subject of an environmental impact statement published in March of this year. While the proposed Indian coal standards are little different from those applicable to public lands, their application is coordinated with the other portions of the proposal so that they will be more in line with procedures and considerations which apply only to Indian lands.

Section 177.6(c) of the proposal is reserved for future promulgation of reclamation and performance standards applicable to minerals other than coal. Comprehensive standards for such mineral development do not now exist in the regulations governing either Indian lands or federal public lands.

Proposed Part 182 is similar to proposed Part 171 in its anticipation of greater Indian involvement in the development of oil and gas reserves. However, existing statutory requirements impose more limitations on the methods by which oil and gas development can proceed on most reservations. Certain so-called "organized" tribes may utilize virtually any method they choose while most other tribes must utilize a competitive bid procedure. It is not necessary, however, to conduct these bids on a set royalty basis with the award going to the bidder who offers the largest bonus. Bidders may be allowed to compete on such terms as rental, royalties on other returns to be paid on the oil and gas produced. The proposed Part 182 provides that the advertisement shall specify any terms requested by the Indian mineral owner. The proposed regulations are also intended to allow interested parties the necessary flexibility to capitalize their ventures. Accordingly, overriding royalties and assignments, including assignments of separate horizons, are expressly permitted under certain conditions that are designed to reflect the Department's continuing trust responsibility to the Indian mineral owners.

The proposed revisions to Part 183 reflect the desire of the Osage Tribe of Oklahoma to take a greater role in the management of its mineral estate. Accordingly, it is proposed that the primary terms of oil and gas leases to be issued on the Osage Reservation shall be set by the Osage Tribal Council and stated in the notice of sale. Section 183.9 is clarified, and proposes to raise the annual rental on combination oil and gas leases from $1.50 to $2.00 per acre. It is also proposed to change the prescribed royalty of 16⅔ percent and to set that figure, based on market value, as a floor for royalties to be paid on all oil and gas produced on the Osage Reservation.

Because these proposed regulations are procedural in nature, with the exception of the standards dealing specifically with coal operations in Subpart B of Part 177, it has been determined that, as a matter of law, no environmental impact statement pursuant to section 102(2)(c) of the Natural Environmental Policy Act of 1969 is required. The subject matter of proposed Subpart B of Part 177 was covered by a final environmental statement published in April, 1976.

The Department of the Interior has determined that this proposed rulemaking does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

It is the policy of the Department of the Interior, whenever practicable to afford the public an opportunity to participate in the rulemaking process. Accordingly, all interested persons are invited to submit written comments, suggestions, or objections with respect to these proposed regulations to the Commissioner of Indian Affairs. Comments from Indian tribes and regional and national Indian organizations will be particularly welcomed. BIA Area Directors are encouraged to consult with the tribes in their respective jurisdictions with regard to this proposed rulemaking.

Special attention to and comment on the following issue is invited: to what extent should these regulations, when made final, apply to existing permits and leases.

All written comments received by June 6, 1977 will be considered. Comments should be sent to the Commissioner of Indian Affairs—Code 202, Bureau of Indian Affairs, Washington, D.C. 20245. However, consideration of and response to comments on the proposed revision of Part 183 will be expedited if they are sent directly to Superintendent, Osage Indian Agency, Pawhuska, Oklahoma 74056.

It is anticipated that public meetings will be held in six Areas (Aberdeen, Billings, Albuquerque, Phoenix, Window Rock, and Muskogee-Anadarko) to receive public comments on the proposed regulations. The dates, times, and places of these meetings will be announced in the FEDERAL REGISTER.

RAYMOND V. BUTLER,
Acting Commissioner of Indian Affairs.

1. Part 171 is revised as follows:

PART 171—CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Sec.

171.1 Purpose and scope.
171.2 Definitions.
171.3 Authority to contract.
171.4 Procedures for awarding contracts and types of contracts authorized.
171.5 Approval of contracts.
171.6 Economic considerations.
171.7 Performance bonds.
171.8 Approval of amendments to contracts.
171.9 Responsibilities.
171.10 Recordkeeping and inspection.
171.11 Assignments; overriding royalties.
171.12 Enforcement of orders.

AUTHORITY: Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415), Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380); secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477), sec. 2103, Revised Statutes (25 U.S.C. 81), sec. 3, Act of February 28, 1891 (26 Stat. 795, 25 U.S.C. 397), Act of May 29, 1924 (43 Stat. 244, 25 U.S.C. 398), Act of March 3, 1927 (44 Stat. 1347, 25 U.S.C. 398a-e); sec. 26, Act of June 30, 1919, as amended (41 Stat. 31, 25 U.S.C. 399); sec. 3, Act of June 28, 1906, as amended (34 Stat. 543)

§ 171.1 Purpose and scope.

(a) The regulations in this part govern contracts for the prospecting for and mining of Indian-owned minerals, other than oil and gas. These regulations are intended to ensure that Indians desiring to have their mineral reserves developed receive, at least, fair market value for their ownership rights; to ensure at the same time that any adverse environmental or cultural impact on Indians, resulting from such development, is minimized; and to allow Indian mineral owners to enter into contracts which reserve to them the responsibility for overseeing the management and/or development of their mineral reserves.

(b) The regulations in this part do not apply to leasing and mining governed by the regulations in 25 CFR Parts 174, 175, and 176. The regulations in 25 CFR Parts 172 and 173 are hereby revoked.

(c) The regulations in this Part apply only to contracts subject to the approval of the Secretary of the Interior which have not already been approved on the date on which these regulations become effective. All contracts which were approved prior to the effective date of these regulations shall be governed by the

regulations applicable to them on the date of approval. However, existing contracts which are modified by agreements entered into after the effective date of these regulations, shall be subject to § 171.8 of this part.

§ 171.2 Definitions.

As used in the regulations in this Part:

(a) "Area Director" means the Bureau Area Director or his authorized representative having immediate jurisdiction over the minerals covered by a contract under this part.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Contract" means any written contract or legally-binding agreement, and is not limited in its meaning to leases, permits, or licenses.

(d) "Gas" means any fluid, either combustible or noncombustible, which is produced from a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

(e) "Indian mineral owner" means—

(1) A federally recognized Indian tribe, band, nation, community, group, colony, or pueblo, or agency or subdivision thereof; or

(2) An individual Indian; who owns trust or restricted minerals or mineral rights or is entitled to the proceeds or benefits of the mining or development of minerals, title to which is held by the United States.

(f) "Indian-owned minerals" means—

(1) Minerals, title to which is held by the United States in trust for the benefit of an Indian mineral owner;

(2) Minerals in which an interest is held by an Indian mineral owner subject to federal restrictions against alienation or encumbrance; or

(3) Minerals the proceeds from the mining or development of which are required by federal law to be used for the benefit of Indians.

(g) "Individual Indian mineral owner" means an Indian mineral owner as defined in paragraph (e) (2) of this section.

(h) "Minerals" includes both metalliferous and nonmetalliferous minerals, except oil and gas, and also includes but is not limited to, sand, gravel, pumice, cinders, granite, building stone, limestone, clay, and silt.

(i) "Mining" means the science, technique and business of mineral development, including opencast and underground work directed to severance and treatment of minerals. However, when sand, gravel, pumice, cinders, granite, building stone, limestone, clay, or silt is the subject mineral, an enterprise is mining only if the sale and removal of such mineral exceeds 250 cubic yards.

(j) "Mining Supervisor" means the Area Mining Supervisor, United States Geological Survey, having responsibility for the area in which the property covered by a contract under this Part is located.

(k) "Oil" means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(l) "Operator" means a person, proprietorship, partnership, corporation, or other business association which has made application for, is negotiating with an Indian mineral owner with respect to, or has entered into a contract to mine for Indian-owned minerals.

(m) "Prospector" means a person, proprietorship, partnership, corporation, or other business association which has made application for, is negotiating with an Indian mineral owner with respect to, or has entered into a contract to prospect or explore for Indian-owned minerals.

(n) "Secretary" means the Secretary of the Interior or his authorized representative.

(o) "Tribal mineral owner" means an Indian mineral owner as defined in paragraph (e) (1) of this section.

§ 171.3 Authority to contract.

(a) Contracts authorizing prospecting for or mining of Indian-owned minerals may be entered into by a tribal mineral owner through its governing body, by an individual Indian mineral owner, or by a group of Indian mineral owners acting jointly through an association or entity in which they all participate. Such contracts, as well as amendments thereto, shall be subject to the approval authority described in § 171.5 of this part, and shall not be valid until such approval has been secured. Indian mineral owners are encouraged to consult with the Area Director during the negotiation of a mineral contract.

(b) An Indian mineral owner may at any time seek technical or other advice or assistance regarding development of Indian-owned minerals from the Area Director, Mining Supervisor, or the representatives of other appropriate federal monitoring agencies such as the Bureau of Mines, who shall provide such advice or assistance upon request, consistent with his authority.

(c) The Secretary may enter into contracts authorizing prospecting for or mining of Indian-owned minerals on behalf of an individual Indian mineral owner only under the following circumstances:

(1) Where the individual Indian mineral owner of record is deceased and the heirs to or devisees of any interest in the minerals have not been determined, and the Area Director has complied with Bureau regulations regarding the timeliness of the probate of the estate;

(2) Where there are multiple individual Indian mineral owners in an undivided tract which is sought for mining or prospecting, and (i) one or more owners desires to enter into a contract pursuant to this Part but the remainder of the owners cannot be located, or (ii) none of the owners can be located; or

(3) Where the individual Indian mineral owner or a majority ownership interest in an Indian mineral tract is incapacitated by reason of minority;

Provided, that the procedures in § 171.4 (c) of this part must be followed.

(d) The Secretary may not otherwise award any contracts affecting rights in Indian-owned minerals unless he has been requested to do so by the Indian mineral owner.

§ 171.4 Procedures for awarding contracts and types of contracts authorized.

(a) An Indian mineral owner may utilize the following procedures, among others, in entering into a mining or prospecting contract. A contract may be entered into through competitive bidding, negotiation, or a combination of both, and may relate to prospecting, mining, or both. The Indian mineral owner may also request the Secretary to undertake the preparation, advertisement, negotiation, and/or award of such a contract on his behalf. If so requested, the Secretary shall undertake such responsibility in accordance with the procedure hereinafter described in this section. If application is made to the Secretary by a potential prospector or operator for a contract to prospect and/or mine Indian-owned minerals, the Secretary shall promptly notify the Indian mineral owner thereof, and advise the owner in writing of the alternatives open to him, and that he may decline to permit any prospecting for or mining of his minerals.

(b) All prospecting or mining contracts entered into by Indian mineral owners shall be in writing and approved by the Secretary in accordance with § 171.5 of this part. Except as otherwise provided in these regulations or by applicable law, there shall be no restrictions on the terms of such contracts, provided however that no interest in land or minerals may be granted in perpetuity and the Indian mineral owner shall be guaranteed a fair share of the minerals extracted or produced or of the revenue derived therefrom. Individual contracts shall be written to express the will of the parties considering local conditions and circumstances.

(c) Where the Secretary exercises his authority to enter into contracts on behalf of individual Indian mineral owners pursuant to § 171.3(c) of this part, or where he has been requested by the Indian mineral owner under paragraph (a) of this section to assume the responsibility of awarding the contract, he shall offer contracts to the highest responsible qualified bidder subject to the following procedures, unless he determines in accordance with paragraph (d) of this section that the highest return can be obtained on the minerals by other methods of contracting (such as negotiation):

(1) Contracts shall be offered for a bonus consideration under sealed bids or public auction at least 30 days in advance of sale or such longer time as is necessary to achieve optimum competition;

(2) The advertisement shall specify any terms requested by the Indian mineral owner and may permit bidders to compete on such terms as rental and royalty rates as well as upon bonus payment; and it shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the

contract bid by or on behalf of the Indian mineral owner is required;

(3) Each bid must be accompanied by a cashier's check, certified check, or postal money order or any combination thereof, payable to the payee designated in the advertisement, in an amount of not less than 25 percent of the bonus bid, which will be returned if that bid is unsuccessful;

(4) If no bid is received which meets the criteria of § 171.5 or if the accepted bidder fails to complete the contract, or if the Indian mineral owner refuses the highest bid, the Secretary may readvertise the contract, or if deemed advisable, and in accordance with paragraph (d) of this section, he may attempt to award the contract by private negotiations, provided that the Secretary shall not award a contract by private negotiations without the written concurrence of the Indian mineral owner unless he is exercising his authority under § 171.3(c) of this part;

(5) A successful bidder must remit within 30 days after notification of the bid award the balance of the bonus, the first year's rental, a $25 filing fee, his share of the advertising costs, and all required bonds, with the Area Director. The successful bidder shall also file the contract in completed form at that time. However, for good and explicit reasons the Secretary may grant an extension of time for filing of the contract. Failure on the part of the bidder to comply with the foregoing will result in forfeiture of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner, in addition to pursuit of any and all other available remedies.

(d) If methods of contracting other than the competitive bid procedure are used, the Area Director shall prepare written findings stating the reasons why it was determined that the method used was more satisfactory than other methods, after consultation with the Mining Supervisor.

(e) Where the Indian mineral owner has requested the Secretary to offer a contract to the highest responsible bidder in accordance with paragraph (c) of this section, the Secretary shall advise the Indian mineral owner of the results of the bidding, and shall not award the contract to the successful bidder until the consent of the Indian mineral owner has been obtained.

(f) No mining contract with an Indian mineral owner shall exceed a term of ten years and as long thereafter as minerals are produced in paying quantities, except where a longer period is permitted or a shorter period required by federal law. For the purpose of this provision, the term of a mining contract entered into by means of the exercise of an option shall be measured from the date of the exercise of the option.

(g) Where a mining contract specifies a term of years and "as long thereafter as minerals are produced in paying quantities" or similar phrase, the term "paying quantities" shall mean:

(1) That quantity of recovered minerals which produces, during the fiscal year of the contract, an after-tax profit to the operator, over and above the total cost of: Extraction, processing, including beneficiation, and handling to the point of sale; all rents and royalties paid under the contract; all salaries and employee expenses incident to such extraction, processing and handling; all taxes incident thereto; all depreciation on salvageable production equipment; all administrative expenses attributable to operation of the subject mine; and any other expenses so attributable, such as business licenses, repairs of equipment, and transportation; and also

(2) That quantity of minerals which produces sufficient income so that a reasonably prudent operator would continue to operate the mine in a diligent manner for the purpose of making a profit from the subject mine and not merely for speculation.

(h) In order to continue production in paying quantities, the operator must not suspend mining operations at any time for a period of 30 days or more without the prior express written approval of the Secretary unless production is impossible as a result of an Act of God or some other cause clearly beyond the operator's power to control. At the expiration of the principal term of the mining contract and at the end of each fiscal year thereafter until expiration of the contract, the operator shall present sufficiently detailed written evidence to the Indian mineral owner and to the Secretary to demonstrate under both standards above that minerals are being produced in paying quantities.

§ 171.5 Approval of contracts.

A prospecting contract or a mining contract shall be approved by the Secretary if he determines that the following conditions are met:

(1) The contract provides a fair and reasonable remuneration to the Indian mineral owner;

(2) The contract does not have adverse cultural or environmental consequences sufficient to outweigh its benefits to the Indian mineral owner;

(3) The contract complies with the requirements of this part, Part 177 of this title, all other applicable regulations, the provisions of applicable federal law, and applicable tribal law where not inconsistent with Federal law.

Such determinations must also be made prior to the award of any contract pursuant to § 171.4(c) of this part.

§ 171.6 Economic considerations.

(a) To aid in the Secretary's consideration of the criteria in § 171.5 of this part, the Area Director shall prepare a written economic assessment of the contract with the assistance of the Mining Supervisor. Such assessment shall include the following findings to the extent of their applicability to mining or prospecting:

(1) Assurances in mining contracts that the minerals will be mined with appropriate diligence;

(2) The availability of water in the amount needed for purposes of operations under the contract;

(3) The adequency of production royalties or other form of return on the minerals, considering the history and the economics of the mineral industry involved;

(4) The adequacy of payment and enforcement provisions in the contract;

(5) Provisions for the training and preferential employment of the local Indian labor force;

(6) The size and shape of the area to be mined (the mineral tract shall be contained in a reasonably compact body); and

(7) The reputation of the prospector or operator for responsible and diligent development of mineral resources. Contracts shall not be entered into for purposes of speculation.

Information required to be included in such an assessment may be incorporated therein by reference to attached documentation. Such an assessment shall be regarded as an intra-agency memorandum, but shall be made available to the Indian mineral owner in all cases.

(b) In all cases where the mineral estate has been severed from the surface estate, the Area Director shall advise the Indian mineral owner in writing of the possible legal and economic consequences of such severance. At his discertion, the Secretary may postpone approval of a contract until problems of severed ownership have been resolved. Prior to approval the Area Director shall insure that attempts have been made to provide all users and owners of the surface estate with the best practicable notice of the impending operation.

(c) A prospecting contract which also confers mining rights or includes an option on such rights may be approved in two steps: approval may first be given to those parts of the contract relating to prospecting, with the mining aspects of the contract being held in abeyance for subsequent approval at such time as the option is exercised. A prospecting contract granting an exclusive option to mine for potentially substantial or valuable mineral reserves shall be subject to special scrutiny prior to exercise of the approval power. If it appears that the Indian mineral owner will be able to obtain a measurably more favorable return on his minerals by means of a contract or contracts not containing provisions for such an exclusive option, then a prospecting contract granting such an exclusive option shall not be approved; or in the alternative, approval of the mining aspects of such contract shall be withheld pending exercise of the option and submission of a mining plan, as provided above. No prospecting permit containing an exclusive option to mine shall prescribe an inflexible royalty rate or fixed return on production to be paid to the Indian mineral owner.

(d) In aid of his consideration of whether approval should be given to a contract, the Secretary may request that any party thereto submit additional information regarding his financial structure or experience in mining or any other relevant matter. Failure to supply such information may be regarded as a ground for declining to grant approval.

§ 171.7 Performance bonds.

The prospector or operator shall furnish a bond to secure performance on each contract in accordance with § 177.8 of Part 177 of this title.

§ 171.8 Approval of amendments to contracts.

(a) Amendments to or modification of contracts approved pursuant to § 171.5 of this part shall be approved by the Secretary if the entire contract after amendment or modification meets the conditions of that section. The Secretary shall review assessments compiled pursuant to paragraph (a) of § 171.6 of this part and § 177.4 of Part 177 of this title in light of the amendment or modification, and shall revise such assessments, where appropriate.

(b) An amendment to or modification of a contract for the prospecting for or mining of Indian-owned minerals, which contract was approved by the Secretary prior to the effective date of these regulations, shall be approved by the Secretary if, to the extent of the application of the amendment or modification, it meets the conditions of § 171.5. When appropriate, the Secretary shall prepare a written economic assessment of the amendment or modification pursuant to paragraph (a) of § 171.6. Whenever an amendment or modification to a contract increases the acreage covered by the contract, a written economic assessment of the amendment or modification shall be required.

§ 171.9 Responsibilities.

(a) The Mining Supervisor shall be responsible for advising the Secretary, the Area Director, and Indian mineral owners regarding development and conservation of Indian mineral resources. He is responsible for all geologic, engineering, and economic value determinations incident to contracts for the development of Indian-owned minerals.

(b) In addition to the other responsibilities under this part and part 177 of this title, the Area Director is responsible for promptly transmitting to a tribal mineral owner, and upon request, to an individual Indian mineral owner, all information found and determinations made by the Mining Supervisor regarding the subject minerals or contracts for the development thereof.

(c) In addition to their other responsibilities under this part and Part 177 of this title, the Area Director and Mining Supervisor shall be responsible for consulting with a tribal mineral owner, and upon request, with an individual Indian mineral owner before acting on the approval of a contract or any amendment or modification thereto, a complete or partial mining plan or any amendment or modification thereto, a variance from applicable reclamation or performance standards, the release of any portion of any bond, or before taking any other action which substantially affects the rights of such Indian mineral owner.

(d) Where an approved contract provides for authority on the part of the Indian mineral owner for overseeing the management and/or the development of mineral reserves and/or other natural resources, the Mining Supervisor and Area Director shall take all steps necessary to insure that the Indian mineral owner is involved in such management and/or development in accordance with the terms of the contract.

§ 171.10 Recordkeeping and inspection.

(a) The prospector or operator shall maintain records of all prospecting and mining operations done under contract, including information on the type, grade, or quality, and weight of all minerals mined, sold, used on the premises, or otherwise disposed of, and all minerals in storage (remaining in inventory), and all information on the sale or disposition of the minerals. Such records shall be kept so that they may be readily inspected.

(b) All records maintained under subsection (a), all records regarding the financial structure of the prospector or operator, and any other records which are pertinent or related to operations done under contract shall be available for examination, upon request, by the Secretary or the Indian mineral owner until all obligations under the contract have been fulfilled. Such records shall at all times be available for purpose of audit upon the request of the Secretary. When an independent audit is requested by the Secretary the cost thereof shall be borne by the operator.

(c) The Indian mineral owner, the Area Director, and the Mining Supervisor shall at any reasonable time have the right to enter upon all parts of the premises of the operations under the contract for the purpose of inspection.

§ 171.11 Assignments; overriding royalties.

(a) No assignment or sublease of any interest in a contract under this part shall be effective without the approval of the Secretary pursuant to and subject to the criteria of § 171.5. Such approval shall not relieve the assignor of his obligations under the original contract. However, the Secretary, with the consent of the Indian mineral owner, may permit the release of any bonds executed by the assignor upon execution of satisfactory bonds by the assignee.

(b) Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Secretary shall not be required with respect thereto, but such agreement shall not be construed as modifying any of the obligations of the prospector or operator under his contract and the regulations in this part and Part 177 of this title, including the requirement of Department approval prior to abandonment.

§ 171.12 Enforcement of orders.

(a) If the Secretary determines that a prospector or operator subject to the regulations in this part has failed to comply with the regulations in this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or mining plan, or the orders of the Mining Supervisor, and such noncompliance does not threaten immediate and serious damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Secretary shall serve a notice of noncompliance upon the prospector or operator by delivery in person or mailed to him at his last known address. Copies of said notice shall be sent to all interested parties. Failure of the prospector or operator to take action in accordance with the notice of noncompliance within the time limits specified by the Secretary or to initiate an appeal pursuant to either Part 2 of this title or Part 290 of Title 30 of the Code of Federal Regulations shall be grounds for suspension of operations subject to such notice by the Secretary or his recommendations for the initiation of action for cancellation of the lease, permit, license, or contract and forfeiture of any compliance bonds.

(b) The notice of noncompliance shall specify in what respect the operator has failed to comply with the provisions of applicable regulations, laws, terms of the mining plan or contract, or the orders of the Mining Supervisor, and shall specify the action which must be taken to correct such noncompliance and the time limits within which such action shall be taken. A written report shall be submitted by the prospector or operator to the Secretary when such noncompliance has been corrected.

(c) If, in the judgment of the Secretary, a prospector or operator is conducting activities on lands subject to the provisions of this part which fail to comply with the provisions of this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or mining plan, or the orders of the Mining Supervisor, and which threaten immediate and serious damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Secretary shall order the immediate cessation of such activities, without prior notice of noncompliance. Such order may be appealed as provided in either Part 2 of this Title or Part 290 of Title 30 of the Code of Federal Regulations, whichever is applicable. Compliance with such order shall not be suspended by reason of the taking of an appeal, unless such suspension is ordered in writing by the official before whom such appeal is pending, and then only upon a written determination by such official that such suspension will not be detrimental to the Indian mineral owner or upon submission of a bond deemed adequate by both the Indian mineral owner and the Secretary to indemnify the Indian mineral owner from any resulting loss or damage.

(d) The Mining Supervisor shall investigate all claims of the Indian mineral owner regarding a prospector's or operator's failure to comply with the provisions of this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved explor-

ation or mining plan, or the orders of the Mining Supervisor. The Mining Supervisor shall consult with the Area Director and Indian mineral owner, where possible, prior to taking any action pursuant to this section.

(e) No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owner as set forth in the contract or otherwise available at law.

2. Part 177 is revised as follows:

PART 177—PLANS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS: RECLAMATION OF NONMINERAL RESOURCES

Subpart A—General Provisions

Sec.
177.1 Purpose.
177.2 Scope.
177.3 Definitions.
177.4 Environmental and cultural assessment.
177.5 Approval of exploration and mining plans.
177.6 Reclamation and performance standards.
177.7 Responsibilities.
177.8 Performance bond.
177.9 Reports.
177.10 Enforcement; appeals.
177.11 Waiver.

Subpart B—Coal Operations

177.21 Operating and reclamation standards.
177.22 Completion of operations and abandonment.

AUTHORITY: Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415), Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380); secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477), sec. 2103, Revised Statutes (25 U.S.C. 81), sec. 3, Act of February 28, 1891 (26 Stat. 795, 25 U.S.C. 397), Act of May 29, 1924 (43 Stat. 244, 25 U.S.C. 398), Act of March 3, 1927 (44 Stat. 1347, 25 U.S.C. 398-e); sec. 26, Act of June 30, 1919, as amended (41 Stat. 31, 25 U.S.C. 399); sec. 3, Act of June 28, 1906, as amended (34 Stat. 543)

Subpart A—General Provisions

§ 177.1 Purpose.

It is the policy of this Department to encourage the development of Indian-owned minerals when the Indian mineral owner desires such development. However, the federal government's trust responsibilities to Indian tribes and their members require that adequate measures be taken to avoid, minimize, or correct damage to the environment—land, water, and air—as a result of such development, and to avoid, minimize, or correct hazards to the public health and safety. The regulations in this Part prescribe procedures to that end.

§ 177.2 Scope.

(a) Except as provided in paragraphs (b) and (c) of this section, the regulations and this part are applicable to contracts governing operations for the discovery, development, mining, and onsite processing of Indian-owned minerals.

(b) The regulations in this part do not apply to the exploration for or development of oil or gas.

(c) Contracts approved by the Secretary prior to the effective date of this part shall not be subject to the requirements of this part, except that:

(i) The reclamation standards and requirements of this part shall apply to approved contracts for the surface-mining of minerals 180 days after the effective date of this part with respect to those lands from which the overburden has not been removed; and

(ii) The requirements of approved exploration and/or mining plans under this part shall apply to new or modified plans with respect to an existing operation, which plans are submitted for approval more than 18 months after the effective date of this part.

§ 177.3 Definitions.

The definitions in § 171.2 of Part 171 of this title are applicable to the regulations in this part. In addition, as used in the regulations in this part:

(a) "Affected area" or "area to be affected" means any lands affected or to be affected by exploration, development, mining operations, or the construction of any facilities necessary or related to such operations.

(b) "Casual use" means activities which do not cause significant surface disturbance or damage to lands, resources, or improvements, such as activities which do not include heavy equipment, explosives, or heavy vehicular movement off established roads or trails which causes such disturbance.

(c) "Coal" includes coal of all ranks from lignite to anthracite.

(d) "Operation" or "operations" means all of the activities related to mineral exploration or development on or within close proximity to the land identified in a prospecting or mining contract as being subject to the terms of the contract.

(e) "Overburden" means the earth and other materials which lie above a natural deposit of minerals, and such earth and other materials after removal from their natural state in the process of mining or prospecting.

(f) "Pollution" means man-made or man-induced adverse alteration of the chemical, physical, biological, or radiological integrity of land, water, or air, which does or has the potential of reducing the beneficial uses of these resources.

(g) "Reclamation" means the processes of land, air, vegetation, and water treatment that restrict and control water quality and flow degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other harmful effects on the environment resulting from exploration, mineral development, mining, on-site mineral preparation, transport, or waste disposal so that the affected area is reclaimed to a stable condition capable of supporting the uses established prior to commencement of such operations, or an equal or better use which has been identified in an approved exploration or mining plan under this part.

(h) "Refuse" means solid or liquid waste material produced by an operations and any other wastes having no further use on the affected area.

(i) "Revegetation" means the emergence, continued growth, sustained productivity, and achievement of a long-term natural succession of vegetation, as determined by a qualified scientist, suitable to the approved post-disturbance land use for the surface of the affected area, and includes seeding, planting, and measures taken to support stable vegetative growth, such as fertilization, cultivation, mulching, and irrigation where these support measures are necessary to achieve the vegetative cover required by a prospecting or mining contract, an approved exploration or mining plan, and these and other applicable regulations.

(j) "Topsoil" means the unconsolidated soil horizons that exist in the natural state, and that are or can be made suitable for plant growth, and also the unconsolidated mineral matter naturally present on the surface of the earth which has been subjected to and influenced by genetic and environmental factors of parent materials, climate, macro- and micro-organisms, and topography, all acting over a period of time, and that is necessary for the growth and regeneration of vegetation on the surface of the earth.

§ 177.4 Environmental and cultural assessment.

(a) To aid in the Secretary's consideration of the cultural and environmental consequences of a contract, pursuant to § 171.5(2) of Part 171 of this title or other provision governing approval of contracts for the mining of or prospecting for minerals other than oil and gas, and to determine whether preparation of an environmental impact statement is required by section 102(2)(C) of the National Environmental Policy Act of 1969, the Area Director shall prepare a written environmental and cultural assessment of the contract.

(b) Such assessment shall examine the prospective effects of the proposed operation upon the environment and the local Indian culture, and shall specifically consider:

(1) The prevention and control of flooding, erosion, and earth slides;

(2) The effect of the operation on the quality and flow of water and watercourses in the affected area;

(3) The effect on air quality;

(4) The need for reclamation of the affected area by revegetation, replacement of soil, or other means;

(5) Land uses both before and after operations;

(6) The protection of fish and wildlife and their habitat;

(7) Measures designed to guarantee health and safety;

(8) The effect on items of historical, scenic, archeological, and ethnological value;

(9) The impact on the local Indian population, with particular reference to:

(i) The possible dislocation of people from their homes or occupations;

(ii) The influx of non-Indians into the Indian community, and its effect on the local cost of living, tribal government, housing, educational services, police protection, transportation and communication facilities, health care, and intercultural relationships;

(iii) Noise and esthetics; and

(iv) Threats to vegetation, wildlife, and natural or other monuments which play an important role in local Indian culture or religion; and

(10) Any other potentially adverse effects on the environment.

The format for such an assessment is provided in the Environmental Quality Handbook, 30 BIAM Supplement 1. When it is recognized that a complete environmental impact statement is to be prepared prior to approval of the contract, it is sufficient that information required to be included in the assessment appear in the impact statement. The environmental and cultural assessment shall be made available to the Indian mineral owner prior to contract approval, and may be made available for public review at the Bureau office having jurisdiction over the proposed contract.

(c) In the making of any assessment under this section, the Area Director may obtain the assistance of the Mining Supervisor.

§ 177.5 Approval of exploration and mining plans.

(a) Before conducting any operation other than casual use, the prospector or operator shall submit to the Mining Supervisor and Area Director and obtain their approval of, an exploration or mining plan. Such plans shall be consistent with and responsive to the requirements of the underlying contract, and shall demonstrate that reclamation of the affected area, to the extent it is possible, is an integral part of the planned operations and that reclamation will progress in accordance with all applicable performance standards. The details of the reclamation aspects of the plan shall be based upon the advice of technically trained personnel experienced in the type of reclamation to be undertaken. The Mining Supervisor shall be available to consult with the Indian mineral owner before acting to approve or disapprove any such plan.

(b) Where a contract involves both prospecting and mining operations in an affected area, or where a prospecting permit conveys an option to conduct mining operations or a right of first refusal with regard to contracting for such operations, prospecting operations may commence after approval of an exploration plan but prior to submission and approval of a mining plan.

(c) The plan required by paragraph (a) of this section shall include: (1) Accurate and up-to-date maps of the area to be affected by the operation, drawn to a scale acceptable to the Mining Supervisor and showing roads, dwellings, utilities, and fences, and the topographic, cultural and drainage features of the area;

(2) A detailed description of the prospecting, mining, processing, and transporting methods to be used in any given portion of the affected area, including, but not necessarily limited to, descriptions of equipment, locations of vehicular trails, roads, and railroads, drilling, trenching, and blasting requirements, size and location of support facilities, and a designation of those portions of the affected area which will be specifically disturbed or damaged by these methods and a description of the anticipated disturbance or damage to each such portion;

(3) Identification of all known items of archeological, historical, ethnological, or cultural value in the affected area, and a description of the specific measures to be taken to identify and protect any such items during the course of the operation;

(4) A list of the anticipated number of persons to be employed in each occupation at an operation at any given time, and plans for the training and utilization of the local Indian labor force;

(5) A description of the condition and uses of the area to be affected at the time the plan is prepared, and a statement of the capability of the area to support its existing use or any equal or better use, giving consideration to topography, vegetative cover, and soil, foundation and water characteristics;

(6) A projection of the quantity of water to be used during an operation, the source of such water, a description of any pollutants which are expected to enter any receiving waters, and a detailed plan for the control and treatment of all water and water courses (both surface and subsurface) connected with or to be affected by the operation;

(7) Consistent with the proposed land use after cessation of an operation, a planting and revegetation program calculated to restore permanently to the affected area, where possible, the native vegetation; such program shall provide for soil stabilization and preservation prior to such revegetation and shall show proposed methods of preparation and fertilization of the soil and proposed methods of planting;

(8) A description of all measures to be taken to prevent or control fire, soil erosion, air pollution, damage to fish and wildlife (key wildlife habitats in the affected area shall be identified), and hazards to public health and safety both during and upon cessation of the operation;

(9) The names and addresses of supervisory personnel employed by the prospector or operator and responsible for the planned activities under the contract;

(10) A detailed description of the methods to be used to grade, backfill, and contour, if necessary, the affected area; and

(11) An integrated timetable for the planned commencement and completion of prospecting, mining, and reclamation operations.

(d) After the plan is approved, it shall be attached to the contract, and shall be made a part thereof. The prospector and/or operator and all subcontractors shall conform all their operations to the terms of the plan.

(e) A plan may be reasonably revised or supplemented at any time at the direction of the Mining Supervisor, after consultation with the Area Director and Indian mineral owner, to adjust to changed conditions or to correct oversights. If the prospector or operator seeks to change an approved plan, he shall submit a written statement of the proposed revision and the justification therefor to the Mining Supervisor, the Area Director and the Indian mineral owner.

(f) If development of an exploration or mining plan for the entire operation is dependent upon unknown factors which cannot be determined except during the progress of the operations, the Mining Supervisor may, after consultation with the Area Director and Indian mineral owner, approve a partial plan and permit commencement of the operation under such partial plan. A partial plan shall include all information required by paragraph (c) of this section and other applicable regulations to the extent that such information is available. Before approval of a partial plan may be secured, the prospector or operator must demonstrate to the Mining Supervisor that the data or information necessary to complete the plan could not be obtained, and provide the Mining Supervisor with adequate assurances that such data or information will be collected with due diligence during the progress of the operation, and that when sufficient data or information has been obtained, a complete plan will be promptly submitted for approval. If it appears to the Mining Supervisor that a prospector or operator has failed to abide by such assurances, he shall inform the Area Director and Indian mineral owner. The Area Director may then order operations suspended in accordance with enforcement procedures provided by applicable regulations or the terms of the contract.

§ 177.6 Reclamation and performance standards.

(a) In addition to the reclamation and performance standards provided for in a prospecting or mining contract, the standards found in Subpart B of this Part shall be applicable to all operations for the prospecting for or mining of coal.

(b) Upon completion or suspension of prospecting operations for minerals other than coal, and as provided in the prospecting contract, a prospector shall submit to the Mining Supervisor, the Area Director, and the Indian mineral owner signed copies of records and geologic interpretations of all prospecting operations conducted on the subject lands, including all calculations of recoverable mineral reserves, maps showing all prospecting activities, and any other data or maps revealing the mineral composition of the subject lands and the accessibility of the minerals. All such information shall be regarded as geological and geophysical information

and data subject to section 552(b)(9) of Title 5 of the U.S. Code.

(c) [Reserved]

NOTE.—The preparation of reclamation and performance standards applicable to mining operations for minerals other than coal is currently being considered within the Department.

(d) Variances from compliance with the reclamation and performance standards in this section and in § 177.21 of Subpart B of this part may be allowed only upon the written application of the operator and the Indian mineral owner to the Secretary. The application shall state with particularity the standards sought to be waived and the proposed alternatives to compliance with such standards, and shall provide appropriate information demonstrating the need for such a variance. In considering such application, the Secretary shall be guided by the criteria of § 171.5 of Part 171 of this title. Before approving an application for variance, the effect of such variance on the surrounding environment shall be indicated in an amendment to the environmental and cultural assessment prepared pursuant to § 177.4 of this part.

§ 177.7 Responsibilities.

(a) The responsibilities stated in § 171.9 of Part 171 of this title are applicable to the provisions in this part.

(b) Nothing in the regulations in this part shall be construed as abridging the rights of Indian mineral owners to enforce the provisions of any such contract, or (in the case of an Indian Tribe exercising governmental authority) to promulgate rules, regulations, or ordinances governing mineral development or reclamation of mineral lands. To the extent that any such tribal law is more stringent than the standards in this Part governing the management and supervision of natural resources, such tribal law shall supersede these regulations.

(c) Where the regulations in this part recognize certain responsibilities on the part of the Indian mineral owner, such responsibilities shall be assumed by the Area Director in situations where the Secretary has assumed the responsibility for contracting pursuant to § 171.3(c) of Part 171 of this title, or other applicable regulation, or where the Indian mineral owner has delegated such responsibilities to the Secretary pursuant to § 171.4(a) of Part 171 of this title.

§ 177.8 Performance bond.

(a) Upon approval of an exploration or mining plan, and before conducting any operation other than casual use, the prospector or operator shall be required to furnish a bond, payable to the Secretary, with surety satisfactory to the Mining Supervisor and the Area Director, conditioned on the faithful performance of the requirements of the prospecting or mining contract, the approved exploration or mining plan, the regulations of this Part, and all other applicable regulations. The bond shall be in an amount sufficient to secure diligent performance of the terms of the contract and approved plan, and to satisfy the reclamation requirements of these and other applicable regulations. In determining the amount of the bond, consideration shall be given to the character and nature of the reclamation requirements and the estimated costs of reclamation in the event that the prospector or operator forfeits his performance bond.

(b) Liability under the bond shall be for the duration of the prospecting or mining operations and for a period of five years thereafter. The Mining Supervisor and Area Director may, after consultation with the Indian mineral owner, permit complete or partial release of the bond prior to the expiration of five years after the cessation of operations, in accordance with § 177.9 of this part.

(c) The right is specifically reserved to the Secretary to increase the amount of the bond during the term of the contract if changed economic conditions make such an increase necessary to secure performance under the contract or to satisfy the reclamation requirements of all applicable regulations.

§ 177.9 Reports.

(a) Within 30 days after the end of each calendar year, or if operations cease before the end of a calendar year, within 30 days after the cessation of operations, the prospector or operator shall submit a report to the Mining Supervisor and the Area Director containing the following information:

(1) Identification of the contract and the location of the operation;

(2) A description of the operations performed during the period of time for which the report is filed;

(3) Identification of the area of land affected by the operations during the report period and a description of the manner in which the land has been affected;

(4) A statement of the number of acres disturbed by the operations and the number of acres which were reclaimed during the report period;

(5) A description of the methods utilized for reclamation, and data showing the success of such reclamation; and

(6) A statement and description of the reclamation work remaining to be done and a time schedule.

Such report shall be made available to the Indian mineral owner, upon request.

(b) Upon completion of such grading and back-filling as may be required by an approved exploration or mining plan and applicable regulations, the prospector or operator shall make a report thereon to the Mining Supervisor and the Area Director, who shall advise the Indian mineral owner, and request their inspection for approval. Whenever it is determined by such inspection that backfilling and grading have been carried out in accordance with the established requirements and approved exploration or mining plan, the Area Director may issue a release of an appropriate amount of the performance bond for the area graded and backfilled. Appropriate amounts of the bond shall be retained to assure that the required revegetation program is carried out.

(c) Upon completion of such revegetation as may be required by an approved exploration or mining plan and applicable regulations, the prospector or operator shall make a report thereon to the Mining Supervisor and the Area Director, who shall advise the Indian mineral owner. Such report shall—

(1) Identify the contract;

(2) Show the type of planting or seeding, including mixtures and amounts, and equipment used;

(3) Show the date(s) of planting or seeding;

(4) Identify or describe the areas of the lands which have been planted or seeded;

(5) Describe any mulching, surface manipulation, fertilization, and irrigation procedures;

(6) Describe the weather conditions (precipitation, temperature, wind) preceding, during, and following vegetation, as these may have affected or affect revegetation;

(7) Describe plant nutrient fertilizers incorporated into the soils of the revegetated lands; and

(8) Contain such other information as may be relevant.

As soon as possible after the completion of the first full growing season, the Mining Supervisor and Area Director shall make an inspection and evaluation of the vegetative cover to determine if a satisfactory growth has been established. If it is determined that a satisfactory vegetative cover has been established in accordance with the approved exploration or mining plan and applicable regulations, and that it is likely to continue to grow, any remaining portion of the performance bond may be released if all other requirements have been met by the prospector or operator.

(d) Not less than 30 days prior to cessation or abandonment of operations, the prospector or operator shall report to the Mining Supervisor and the Area Director, who shall advise the Indian mineral owner, his intention to cease or abandon operations, together with a statement of the exact number of acres of land affected by his operations, the extent and kind of reclamation accomplished, a statement and description of the structures and other facilities that remain in the affected area, and any other relevant information. Upon receipt of such a report the Mining Supervisor shall inspect the affected area and consult with the Area Director to determine whether operations have been carried out in accordance with the terms of the contract, the approved exploration or mining plan and applicable regulations.

§ 177.10 Enforcement; appeals.

The provisions of this part may be enforced as provided by § 171.12 of Part 171 of this title. The Mining Supervisor shall promptly notify the Indian mineral owner and Area Director of violations or impending violations of the provisions of this Part so that they may take appropriate action. Appeals from decisions of

the Mining Supervisor under this part may be made pursuant to 30 CFR Part 290.

§ 177.11 Waiver.

The Indian mineral owner may seek a waiver from any of the provisions of this Part by making a written request to the Area Director, detailing the provisions sought to be waived and the reasons therefore. After consultation with the Indian mineral owner, the Area Director shall forward the request for waiver to the Commissioner of Indian Affairs for appropriate action. The Commissioner may grant such a waiver in accordance with § 1.2 of Part 1 of this title. Waivers may not be made by the inclusion of a waiver provision in a federal government contract form.

Subpart B—Coal Operations

§ 177.21 Operating and reclamation standards.

(a) Performance standards. The following performance standards shall be applicable to all coal exploration, development, mining, preparation, handling, and reclamation operations on the surface of land subject to this part, including the surface effects of underground mining:

(1) The operator shall reclaim affected lands pursuant to his approved plan, as contemporaneously as practicable with operations, to a condition capable of supporting all practicable uses which such lands were capable of supporting immediately prior to any exploration or mining, or equal or better uses that have been approved in accordance with this subpart.

(2) The operator shall replace overburden and waste minerals in the mined area by backfilling (compacting, where necessary, to ensure stability or to prevent leaching of toxic materials), grading, or other means, so as to cover all acid-forming or other toxic materials, eliminate highwalls and spoil piles and restore the approximate original contour. Where the thickness of the coal deposits relative to the volume of overburden is large and where the overburden and other spoil and waste materials are either insufficient or more than sufficient to restore the approximate original contour, the operator shall, in order to provide adequate drainage, backfill, grade, and, where necessary, compact, using all available overburden or spoil material, to obtain the lowest practicable grade, which shall in any event be less that the angle of repose. Excess overburden or other spoil material shall be fully reclaimed in accordance with the requirements of this subpart. Variance from the requirements of paragraphs (a) (1) and (2) of this section may be allowed in an approved mining plan if the Mining Supervisor, with the concurrence of the Area Director, determines that unusual physical conditions, such as steeply dipping coal beds or multiple seam mining, exist at the site, and such conditions make backfilling pursuant to such requirements impracticable as a result of the volume of material excavated or environmentally undesirable as a result of the duration of the operation.

(3) The operator shall stabilize and protect all surface areas, including spoil piles, affected by the coal mining and reclamation operation, to effectively control slides, erosion, subsidence, and attendant air and water pollution.

(4) The operator shall remove topsoil separately, for replacement on the backfill area, and if not so utilized immediately, segregate it in a separate pile from other soil. When topsoil is not to be replaced on a backfill area within a time short enough to avoid deterioration, the operator shall establish and maintain an approved quick growing vegetative cover or employ other approved measures so that the topsoil is protected from wind and water erosion and establishment of noxious plant species, and is in a condition for sustaining vegetation when used during reclamation. If topsoil is of insufficient quantity or of poor quality for sustaining vegetation, and if other excavated materials can be shown to be more suitable for revegetation, then the operator may be authorized in the approved plan to remove, segregate, protect, and utilize in a like manner such other material.

(5) The operator shall utilize water impoundments, water retention facilities, dams, or settling ponds only pursuant to an approved plan, and shall ensure that:

(i) Such facility is adequate for its intended purposes and the quality and quantity of impounded water will be suitable for its intended use.

(ii) Such facility is designed, located, built, used and maintained in accordance with sound engineering standards and practices and applicable Federal and tribal laws and regulations to ensure that such facilities will have necessary stability with an adequate margin of safety.

(iii) Final grading will provide adequate safety and access for proposed or reasonably anticipated water users.

(iv) Such facilities will not have a significant adverse impact on the water resources utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses, provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property rights to any water held by any person.

(v) No mine or processing waste is used in the construction of such facilities unless authorized in the approved plan.

(6) The operator shall cover or plug all auger mine holes with noncombustible and, where necessary to minimize, control or prevent harmful drainage, impervious material.

(7) The operator shall utilize the best practicable commercially available technology to minimize, control, or prevent disturbances of the prevailing quality, quantity, and flow of water in surface and ground water systems, and of the prevailing erosion and deposition conditions at the mine site and in affected offsite areas, both during and after coal mining operations and reclamation by:

(i) Controlling acid or toxic drainage and the adverse consequences thereof by such measures as, but not limited to, diverting surface runoff water away from disturbed areas; excluding oxygen from, or restricting the flow of water through, acid or toxic-producing materials; treating drainage to reduce acid or toxic content which adversely affects downstream water upon being released to water courses; and casing, sealing, or otherwise treating drill holes, shafts, and walls to keep acid or toxic drainage from entering ground and surface waters.

(ii) Conducting surface mining operations so as to minimize, control, or prevent (A) contributions of suspended solids to streamflow or runoff outside the mining site above natural levels under seasonal flow conditions as measured for a period and at sites determined by the Mining Supervisor, in consultation with the Area Director, and (B) except where specifically authorized in an approved plan, deepening or enlarging of stream channels where operations include the discharge of water from mines.

(iii) Removing or modifying siltation structures after disturbed areas are revegetated and stabilized unless otherwise authorized by the Mining Supervisor in an approved plan, with the concurrence of the Area Director, provided, however, that any siltation structure retaining water shall in any event be subject to the requirements of paragraph (a) (5) of this section.

(iv) Protecting the quality, quantity, and flow, including depth of flow, of both upstream and downstream surface and ground water resources of those valley floors which provide water sources that support significant vegetation or supply significant quantities of water for other purposes, by such measures as, but not limited to, relocating and maintaining the gradients of streams, avoiding mining, installing, reestablishing, or replacing aquifers or aquicludes, and replacing soil, provided, however, that this subparagraph shall not be deemed or construed to increase or diminish any property right to any water held by any person.

(8) The operator shall: (i) Treat or dispose of all rubbish and noxious substances in a manner designed to minimize, control, or prevent air and water pollution and the hazards of ignition and combustion.

(ii) Dispose of all waste resulting from the mining and preparation of coal in a manner designed to minimize, control, or prevent air and water pollution and hazards of ignition and combustion. Where surface disposal of solid wastes in areas other than the mine workings or other excavations has been authorized in the approved plan, stabilize such waste including, where necessary, constructing waste piles in compacted layers with the use of incombustible and impervious materials; shape

waste piles to be compatible with the natural surroundings and terrain; cover with topsoil or other suitable material in accordance with paragraph (a)(4) of this section, and revegetate in accordance with paragraph (a)(13) of this section. All impoundments of liquid wastes shall comply with the requirements of paragraph (a)(5) of this section. Waste containing coal in such quantity that it may be later separated from the waste by washing or other means shall be stored separately.

(9) Except as provided herein, the operator shall not conduct excavation, drilling, or blasting operations within 200 feet of an active or abandoned underground mine. Where it can be established by certified maps or inspection of such an underground mine that such activities may be conducted without danger of interference with, or penetration of, an underground mine, they may be authorized in an approved plan to be conducted up to but not less than 25 feet from such underground mine, provided that nothing in this paragraph shall preclude daylighting or similar surface coal mining activities intended to improve resource recovery, abate water pollution, or eliminate public hazards resulting from such underground mines.

(10) To prevent personal injury or damage to public and private property, the operator shall use explosives only in accordance with all applicable Federal and tribal laws and an approved plan, and shall:

(i) Provide adequate advance written notice by publication and/or posting of planned blasting schedules, to tribal and other local governments and to residents who might be affected by the use of such explosives, and maintain a log of the magnitudes and times of blasts for a period of at least two years.

(ii) Limit the size, timing, and frequency of blasts to those least disruptive of normal activities in the vicinity of the blasting.

(11) The operator shall design to applicable standards, construct, maintain, and, when no longer necessary and unless otherwise authorized in an approved plan, remove all roads, pipelines, powerlines and similar utility access facilities and associated bridges, culverts, and ditches, into and across the site of operations, in a manner that will minimize, control, or prevent erosion and siltation, pollution of water, damage to fish and wildlife or their habitat and public or private property. The operator shall maintain dust control by watering down or other suitable methods.

(12) (i) Roads shall not be surfaced with any acid or toxic producing material. No access roads will be constructed unless (A) the operator shall have first submitted to the Mining Supervisor a surveyed profile accompanied by typical cross-sections of the road and ditches, showing pipe, entrance and exit channels and sediment control structures and other structures or configurations to be used on the road to meet performance standards and (B) the location shall have been marked, and inspected and approved by the Mining Supervisor, in consultation with the local tribal government and the Area Director.

(ii) No access road shall be constructed in a stream, nor shall any stream or stream bed be used as an access road. Insofar as possible, all roads shall be located on benches, ridges, and flatter slopes to enhance stability and minimize disturbance. Stream fordings shall be avoided and the normal season flow and the normal seasonal sediment load shall not be detrimentally affected by access roads in a continuous fashion that results in harm to the aquatic eco-system, provided, however, that nothing in this subparagraph shall be construed to prohibit relocation or alteration of such beds or channels pursuant to the provisions of this Subpart and as set forth in an approved plan.

(13) (i) The operator shall, except where other reclamation based upon post-mining land use and not requiring revegetation pursuant to the requirements of this section is expressly provided for in an approved plan, establish on regraded areas and all other affected lands a diverse vegetative cover, native to the area and capable of regeneration and plant succession, at least equal in density and permanence to the natural vegetation; provided, however, that the Mining Supervisor, with the concurrence of the Area Director, may allow the use of approved mixtures or introduced or native species where preferable to achieve quick cover or assure successful revegetation. In approving such mixture, preference will be given to nonnoxious species.

(ii) The operator's responsibility and liability under his performance bond for revegetation of each planting area shall extend until such time as the Mining Supervisor and the Area Director determine that successful revegetation in compliance with paragraph (a)(13)(i) of this section has occurred, provided, however, that this period shall extend for a minimum of five full years after the first planting, and for a total period of liability not to exceed 10 years from the original planting; and further provided that,

(A) Where the Area Director, in consultation with the Mining Supervisor, determines that natural conditions such as annual precipitation, soil characteristics, and native vegetation are stable and favor rapid revegetation, and that revegetation pursuant to paragraph (i) of this section is likely to occur before the expiration of such minimum period, he may specify in the contract that such minimum period will not apply with respect to some or all of the lands included in such contract; and

(B) Where during any period the Area Director, in consultation with the Mining Supervisor, determines that natural conditions such as annual precipitation and soil characteristics are sufficiently unstable so as to favor only slow and uncertain revegetation, he may recommend to the Mining Supervisor that the liability of the operator be extended for a period of up to five years beyond the period initially established, if the financial liability that would be incurred by the operator as a result is reasonably commensurate with the increased probability of successful revegetation.

(iii) During the relevant period of liability, the Mining Supervisor and the Area Director shall jointly inspect and evaluate the revegetated areas as soon as possible after each full growing season to determine whether satisfactory vegetative growth is being established, or whether additional revegetation efforts should be ordered by the Mining Supervisor.

(14) The operator shall regulate public access, vehicular traffic and wildlife or livestock grazing in all areas of active operations, including lands undergoing reclamation, in order to protect the residents and the public wildlife and livestock from hazards associated with such operations, and to protect revegetated areas from unplanned and uncontrolled grazing. For this purpose, the operator shall provide warning signs, fencing, flagmen, barricades and other safety and protective measures as may be necessary.

(15) Coal storage areas shall be designed and maintained so as to eliminate fire hazards from spontaneous combustion and other accidental ignition. If a coal seam exposed by surface mining or an accumulation of slack coal or combustible waste becomes ignited during the term of a contract, the operator shall immediately take all necessary steps to extinguish the fire.

(16) Upon completion or temporary or permanent abandonment of mining operations in all or any part of a strip pit, the face of the coal shall be covered with noncombustible material that will effectively protect the coal bed from becoming ignited.

(17) The driving of any underground openings by auger or other methods from any strip pit shall not be undertaken except as specifically approved by the Mining Supervisor in an approved plan.

§177.22 Completion of operations and abandonment.

(a) *Grading and backfilling.* Upon completion of backfilling and grading as required by the approved plan and prior to replacing topsoil and revegetation, the operator shall submit a report thereon, in duplicate, to the Mining Supervisor and request inspection for approval. Whenever it is determined by such inspection that the backfilling and grading requirements have been met, the Mining Supervisor shall recommend to the Area Director release of an appropriate amount of the compliance bond for the area satisfactorily backfilled and graded.

(b) *Temporary abandonment.* In areas in which there are no current operations, but operations are to be resumed under an approved plan, the operator shall substantially backfill, fence, protect, or otherwise effectively close all surface openings, auger holes, areas prone to subsidence, and surface facilities or workings which are a hazard to people or animals. Conspicuous signs shall be posted prohibiting entrance of un-

authorized persons. All such protective measures shall be maintained in a secure condition until such operations are resumed or permanently abandoned.

(c) *Permanent abandonment.* Before permanent abandonment of exploration or mining operations, all openings and excavations, including water discharge points, shall be closed or backfilled, or otherwise permanently dealt with in accordance with sound engineering practices and according to the approved plan. Drill holes, trenches, and other excavations, for exploration, development, or prospecting shall be abandoned in such a manner as to protect the surface and not to endanger any present or future underground operations or any deposit of oil, gas, other mineral resources, or ground water. Methods of abandonment shall be approved in advance by the Mining Supervisor in an approved plan, and may include casing, or combinations of these or other methods. Reclamation and clean-up of permanently abandoned underground or surface mines and surrounding areas, including, except where otherwise expressly provided in an approved plan, removal of equipment and structures related to the mining operations, shall commence without delay following cessation of mining operations. Areas affected by access roads will be graded, drained, and revegetated in accordance with the approved mining plan and therein approved post-mining land use prior to bond release. In the event that access or haul roads are intended to remain after abandonment of the operation, pursuant to section 177.21 of this Subpart, they must be designed and constructed so as to be permanently stabilized, using adequate drains, water barriers, and other practices.

(d) *Notice of Abandonment; release of bond.* (1) Not less than 30 days prior to cessation or abandonment of operations, the operator shall submit to the Mining Supervisor, in duplicate, a notice of his intention to cease or abandon operations, together with a statement of the exact number of acres affected by his operations, the extent and kind of reclamation accomplished, and a statement as to the structures and other facilities that are to be removed from or remain on the leased, permitted, or licensed lands.

(2) Upon receipt of such notice, the Mining Supervisor and the Area Director shall promptly make an inspection to determine whether all operations have been completed in accordance with the terms and conditions of all contracts, and with the requirements of the approved operating plan. Where the operator has complied with all such terms, conditions, and requirements, and the regulations of this part, the Mining Supervisor shall recommend to the Area Director that the appropriate period of liability be terminated.

(3) When the surface of lands in a contract is not owned by the Indian mineral owner and is not held in trust by the United States for the Indian mineral owner, the Mining Supervisor shall notify the surface owner and solicit and take into account his comments before recommending to the Area Director that the period of such bond liability be terminated.

3. Part 182 is added as follows:

PART 182—OIL AND GAS CONTRACTS

Sec.

182.1 Scope of regulations.
182.2 Definitions.
182.3 Applicability of U.S. Geological Survey regulations.
182.4 Authority and responsibility of Area Supervisor.
182.5 Appeals.
182.6 General provisions.
182.7 Removal of restrictions.
182.8 Removal of restrictions upon part of acreage.
182.9 Geological and geophysical permits.
182.10 Application for geological and/or geophysical permits, leases, and other development contracts.
182.11 Authority to contract.
182.12 Procedures for awarding contracts and types of contracts authorized.
182.13 Approval of contracts.
182.14 Persons signing in representative capacity; furnishing of corporate and other information.
182.15 Bonds.
182.16 Rentals, minimum royalty, production royalty.
182.17 Manner of payments.
182.18 Inspection of premises, books and accounts.
182.19 Assignments, operating and development agreements, and overriding royalties.
182.20 Restrictions on operations, workover and shut-in applications.
182.21 Unitization, communization and well spacing.
182.22 Contracts for subsurface storage of oil or gas.
182.23 Termination and cancellation, enforcement of orders.
182.24 Fees.

AUTHORITY: Sec. 4, Act of May 11, 1938 (52 Stat. 348, 25 U.S.C. 396d), Act of March 3, 1909, as amended (35 Stat. 783, 25 U.S.C. 396); sec. 1, Act of August 9, 1955, as amended (69 Stat. 539, 25 U.S.C. 415), Act of July 8, 1940 (54 Stat. 745, 25 U.S.C. 380), secs. 16 and 17, Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476 and 477); sec. 2103, Revised Statutes (25 U.S.C. 81); sec. 3, Act of February 28, 1891 (26 Stat. 795, 25 U.S.C. 397), Act of May 29, 1924 (43 Stat. 244, 25 U.S.C. 398), Act of March 3, 1927 (44 Stat. 1347, 25 U.S.C. 398a–e); sec. 26, Act of June 30, 1919, as amended (41 Stat. 31, 25 U.S.C. 399); sec. 3, Act of June 28, 1906, as amended (34 Stat. 543).

§182.1 Scope of regulations.

(a) Except as provided in this section, the regulations in this part govern oil and gas development on individually owned and tribal land and other lands under the jurisdiction of the Department of the Interior where the proceeds from oil and/or gas development belong to Indians or are required to be used for the benefit of Indians, except lands leased by the Bureau of Land Management pursuant to the Minerals Leasing Act for Acquired Lands, enacted August 7, 1947 (61 Stat. 918; 30 U.S.C. 351–359). These regulations shall not apply to the Osage Reservation or to lands of Members of the Five Civilized Tribes in Oklahoma.

(b) Where oil and gas mineral rights are acquired for or by Indians and at the time of such acquisition they are under lease pursuant to 43 CFR, those leases shall be administered by the Commissioner of Indian Affairs in accordance with 43 CFR except that appeals shall be governed by 25 CFR, Part 2, and all payments or reports required by such leases shall be made to the official of the Bureau of Indian Affairs having jurisdiction over the land instead of to the Bureau of Land Management as designated in 43 CFR.

(c) All former regulations in Parts 171, 172, 173, and 174 (except as otherwise provided in this part) governing oil and gas exploration and leasing are superseded by the regulations in this Part. Except as otherwise provided in this Part, all contracts which were approved prior to the effective date of these regulations shall be governed by the regulations applicable to them on the date of approval.

(d) The operating and development standards in this Part may be superseded by the provisions of any tribal Constitution, by-laws or charter issued pursuant to the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), the Alaska Act of May 1, 1936 (49 Stat. 1250; 25 U.S.C. 473a); or the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 501, et. seq.), or by ordinance, resolution or other action authorized under such Constitution, by-laws or charter, if the tribal action provides protection at least as stringent as is provided by these regulations. The operating and development standards in this Part, insofar as they are not so superseded, shall apply to contracts made by organized tribes if the validity of the contract depends upon the approval of the Secretary of the Interior.

(e) Valid leases previously approved and renewed pursuant to Part 184 shall continue through the present renewal period according to their terms until expiration. Subsequent renewals shall be subject to the regulations of this part and applicable provisions of 30 CFR, Part 221, including development and production requirements.

§ 182.2 Definitions.

As used in the regulations in this part:

(a) "Area Director" means the Bureau Area Director or his authorized representative having immediate jurisdiction over the oil or gas covered by a contract governed by the regulations of this part.

(b) "Bureau" means the Bureau of Indian Affairs.

(c) "Contract" means any written contract or other legally binding agreement, and is not limited in its meaning to leases, and does not include geological or geophysical permits.

(d) "Gas" means any fluid, either combustible or noncombustible, which is produced from a natural state from the earth and which maintains a gaseous or rarefied state at ordinary temperature and pressure conditions.

(e) "Indian mineral owner" means:
(1) A federally recognized Indian tribe, band, nation, community, group, colony, or Pueblo, or agency or subdivision thereof; or
(2) An individual Indian;

Who owns trust or restricted minerals or mineral rights, or is entitled to the proceeds or benefit of the mining or development of minerals, title to which is held by the United States.

(f) "Individual Indian mineral owner" means an Indian mineral owner as defined in subsection (e)(2) of this section.

(g) "Oil" means any liquid hydrocarbon substance which occurs naturally in the earth, including drip gasoline or other natural condensates recovered from gas, without resort to manufacturing process.

(h) "Operator" means a person, proprietorship, partnership, corporation, or other business association which has made application for, is negotiating with an Indian mineral owner with respect to, or has entered into a contract to mine for oil or gas.

(i) "Secretary" means the Secretary of the Interior or his authorized representative.

(j) "Superintendent" means the Bureau Superintendent or his authorized representative having immediate jurisdiction over the minerals covered by a contract under this Part.

(k) "Supervisor" means the Area oil and gas Supervisor, a representative of the Secretary, subject to the direction and supervisory authority of the Director, Geological Survey.

(l) "Tribal mineral owner" means an Indian mineral owner as defined in subsection (e)(1) of this section.

§182.3 Applicability of U.S. Geological Survey regulations.

The regulations of the United States Geological Survey published in 30 CFR, Part 221, as amended, are applicable to geological and geophysical permits, leases, and other contracts governed by this Part when not inconsistent with the express provisions of the permits, leases, or other contracts, or with the regulations of this Part.

§182.4 Authority and responsibility of area supervisor.

The Area Supervisor is authorized and empowered to approve, supervise, and direct operations under oil and gas contracts governed by the regulations of this part; to furnish to the Secretary and the Indian mineral owner scientific and technical information and advice; to ascertain and record the amount and value of production; to determine and record rentals and royalties due and paid. As to oil land gas contracts involving profit-sharing or other than percentage royalty method of payment, the Supervisor shall not be responsible for monitoring, accounting for and collecting the funds resulting from such contractual agreements. However, the Supervisor shall be responsible for reviewing and reporting to the Secretary his recommendations concerning any proposed oil and gas contracts.

§182.5 Appeals.

Appeals from decisions regarding contracts governed by the regulations in this part shall be made in accordance with Part 2 of this title if the decision is made by an official of the Bureau of Indian Affairs. If the decision appealed is rendered by an official of the U.S. Geological Survey, the appeal shall be made in accordance with Part 290 of Title 30 of the Code of Federal Regulations.

§ 182.6 General provisions.

(a) All geological and geophysical permits, leases, or other contracts, and all assignments thereof for the exploration for or development of oil and/or gas, and all bonds shall be in a form approved by the Secretary, and such instruments and ratifications of such instruments shall be subject to his written approval. The forms may be obtained from the officer having jurisdiction over the lands.

(b) All leases or other contracts executed before the removal of restrictions against alienation on land from which all restrictions are removed after execution but before Departmental approval, whether now filed with the Secretary or presented for consideration hereafter, will be considered and acted upon by the Department of the Interior if such leases or contracts contain specific provision for approval by the Secretary.

§ 182.7 Removal of restrictions.

(a) Nothing contained in any oil or gas contract shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of a contract. The owners of the land and the holder of any such contract shall be notified of any change in the status of the land.

(b) Notwithstanding the provisions of any oil or gas contract to the contrary, the removal of all restrictions against alienation shall operate to divest the Department of all supervisory authority and responsibility with respect to the contract. Thereafter, all payments required to be made under the contract shall be made directly to the mineral owner(s).

(c) In the event restrictions are removed from a part of the land included in any contract to which this part applies, the entire contract shall continue subject to the supervision of the Secretary until such time as the holder of the contract and the mineral owner shall furnish to the Secretary satisfactory evidence that adequate arrangements have been made to account for the oil and gas upon the restricted land separately from that upon the unrestricted. Thereafter, the unrestricted portion shall be relieved from supervision of the Secretary, and the restricted portion shall continue subject to such supervision as is provided by the contract, the regulations of this part, and all other applicable laws and regulations.

§ 182.8 Removal of restrictions upon part of acreage.

Should restrictions be removed from only part of the acreage covered by a contract which provides that payments to the mineral owners shall thereafter be paid to each owner in the proportion which his acreage bears to the entire acreage covered by the contract, the operator on any unrestricted portion shall continue to be required to make the reports required by the regulations in this Part with respect to the beginning of drilling operations, completion of wells, and production, the same as if no restrictions had been removed. In the event the unrestricted portion of the contracted premises is producing, the operator will also be required to pay the portion of the royalties or other revenue due the Indian mineral owner at the time and in the manner specified by the regulations in this Part.

§ 182.9 Geological and geophysical permits.

Geological and geophysical permits may be granted to search for evidence of oil or gas. Prior consent of the tribe must be obtained for geological and/or geophysical permits on tribal land and the consent of a majority of the ownership interest if known on individually owned land. Such permits must describe the area to be explored, definitely state the term and the consideration to be paid. A geological and/or geophysical permit will not give the permittee any preference right to a lease or other development contract nor authorize the production or removal of oil or gas.

§ 182.10 Application for geological and/or geophysical permits, leases and other contracts, and sales of leases or other development contracts.

Applications for geological and/or geophysical permits accompanied by a plan of the work which the applicant intends to perform and requests for tracts to be advertised may be made to the official of the Bureau of Indian Affairs having jurisdiction over the land, or to the Indian mineral owner.

§ 182.11 Authority to contract.

(a) Contracts authorizing exploration or prospecting for, or for development and production of Indian-owned oil and/or gas may be entered into by a tribal mineral owner through its governing body, by an individual Indian mineral owner, or by a group of Indian mineral owners acting jointly or through an association or entity in which they all participate. Such contracts, as well as amendments thereto, shall be subject to the approval authority described in section 182.13 of this Part, and shall not be valid until such approval has been secured. Indian mineral owners are encouraged to consult with the Area Director during the negotiation of an oil or gas contract.

(b) An Indian mineral owner may at any time seek technical or other advice or assistance regarding development of Indian-owned minerals from the Superintendent or Supervisor, who shall provide such advice or assistance upon request consistent with his authority.

(c) The Secretary may enter into contracts authorizing exploration for or

development of Indian-owned oil and/or gas on behalf of individual Indian mineral owners only under the following circumstances:

(1) Where the individual Indian mineral owner of record is deceased and the heirs to or devisees of any interest in the minerals have not been determined, and the Superintendent has complied with Bureau regulations regarding the timeliness of the probate of the estate; or

(2) Where there are multiple individual Indian mineral owners in an undivided tract which is sought for exploration or development, and

(i) One or more owners desires to enter into a contract pursuant to this Part but the remainder of the owners cannot be locaed, or

(ii) None of the owners can be located; or

(3) Where the individual mineral owner or a majority ownership interest in the mineral tract is incapacitated by reason of minority.

(d) The Secretary may not otherwise award any contracts affecting rights in Indian-owned oil or gas unless he has ben requested to do so by the Indian mineral owner.

§ 182.12 Procedures for awarding contracts and types of contracts authorized.

(a) Except in the case of leases by tribal mineral owners who are not organized under sections 16 and 17 of the Act of June 18, 1934 (25 U.S.C. 476, 477), an Indian mineral owner may utilize the following procedures, among others, in entering into a mining or prospecting contract. A contract may be entered into through competitive bidding, negotiation, or a combination of both, and may relate to prospecting, mining or both. The Indian mineral owner may also request the Secretary to undertake the preparation, advertisement, negotiation, and/or award of such contract on his behalf. If so requested, the Secretary shall undertake such responsibility in accordance with the procedures hereinafter described in this section. If application is made to the Secretary by a potential prospector or operator for a contract to prospect and/or mine Indian-owned minerals, the Secretary shall promptly notify the Indian mineral owner thereof, and advise the owner in writing of the alternatives open to him, and that he may decline to permit any prospecting for or mining of his minerals.

(b) All prospecting or mining contracts entered into by Indian mineral owners shall be in writing and approved by the Secretary. Except as otherwise provided in these regulations or by applicable law, there shall be no restrictions on the terms of such contracts, provided, however, that no interest in land or minerals may be granted in perpetuity and the Indian mineral owner shall be guaranteed a fair royalty or share of the minerals extracted or produced or of the revenue derived therefrom. Individual contracts shall be written to express the will of the parties considering local conditions and circumstances.

(c) Where the Secretary exercises his authority to enter into contracts on behalf of individual Indian mineral owners pursuant to § 182.11(c) of this part, or where he has been requested by the Indian mineral owner under paragraph (a) of this section to assume the responsibility of awarding the contract, he shall offer contracts to the highest responsible qualified bidder subject to the following procedures, unless he determines in accordance with paragraph (d) of this section that the highest return can be obtained on the minerals by other methods of contracting (such as negotiation):

(1) Contracts shall be offered for a bonus consideration under sealed bids or public auction at least 30 days in advance of sale or such longer time as is necessary to achieve optimum competition.

(2) The advertisement shall specify any terms requested by the Indian mineral owner and may permit bidders to compete on such terms as rental and royalty rates as well as upon bonus payment; and it shall provide that the Secretary reserves the right to reject any or all bids, and that acceptance of the contract bid by or on behalf of the Indian mineral owner is required;

(3) Each bid must be accompanied by a cashier's check, certified check, or postal money order or any combination thereof, payable to the payee designated in the advertisement, in an amount not less than 25 percent of the bonus bid, which will be returned if that bid is unsuccesful;

(4) If no bid is received which meets the criteria of § 182.13, or if the accepted bidder fails to complete the contract, or if the Indian mineral owner refuses to accept the highest bid, the Secretary may readvertise the contract, or if deemed advisable, and in accordance with subsection (d) of this section, he may attempt to award a contract by private negotiations, provided that the Secretary shall not award a contract by private negotiations without the written concurrence of the Indian mineral owner unless he is exercising his authority under § 182.11(c) of this part.

(5) A successful bidder must remit within 30 days after notification of the bid award the balance of the bonus, the first year's rental, a $25 filing fee, and his share of the advertising costs, and all required bonds, with the Superintendent. The successful bidder shall also file the contract in completed form at that time. However, for good and explicit reasons the Secretary may grant an extension of time for filing of the contract. Failure on the part of the bidder to comply with the foregoing will result in forfeiture of 25 percent of any bonus bid for the use and benefit of the Indian mineral owner, in addition to pursuit of any and all other available remedies.

(d) If methods of contracting other than the competitive bid procedure are used, the Superintendent shall prepare written findings stating the reasons why it was more satisfactory than other methods, after consultation with the Mining Supervisor.

(e) Where the Indian mineral owner has requested the Secretary to offer a contract to the highest responsible bidder in accordance with paragraph (c) of this section, the Secretary shall advise the Indian mineral owner of the results of the bidding, and shall not award the contract to the successful bidder until the consent of the Indian mineral owner has been obtained.

(f) No oil or gas contract with an Indian mineral owner shall exceed a term of ten years and as long thereafter as minerals are produced in paying quantities, except where a longer period is permitted or a shorter period required by Federal law. For the purposes of this provision, the term of a contract entered into by the exercise of an option shall be measured from the date of the exercise of the option.

(g) Where a mining contract specifies a term of years and "as long thereafter as minerals are produced in paying quantities" or similar phrase, the term "paying quantities" shall mean:

(1) That quantity of recovered minerals which produces during the fiscal year of the contract, an after-tax profit to the operator, over and above the total cost of: extraction, processing, and handling to the point of sale; all rents and royalties paid under the contract; all salaries and expenses incident to such extraction, processing, and handling; all taxes incident thereto; all depreciation on salvageable production equipment; all administrative expenses attributable to the operation; and any other expenses so attributable, such as business licenses, repair of equipment, and transportation; and also

(2) That quantity of minerals which proudces sufficient income so that a reasonably prudent operator would continue to operate in a diligent manner for the purpose of making a profit from the subject operation and not merely for speculation.

(h) In order to continue production in paying quantities, the operator must not suspend mining or production operations at any time for a period of 30 days or more without the prior express written approval of the Secretary unless production is impossible as a result of an Act of God or some other cause clearly beyond the operator's power to control. At the expiration of the principal term of the mining or production contract and at the end of each fiscal year thereafter until expiration of the contract, the operator shall present sufficiently detailed written evidence to the Indian mineral owner and to the Secretary to demonstrate under both standards above that minerals are being produced in paying quantities.

(i) Where development or production contracts are for a primary term of less than ten years, it may be provided in the contract that if actual drilling operations have commenced prior to the end of the primary term and are being diligently prosecuted at the expiration of the primary term, and subject to the consent of the Indian mineral owner, the operator shall have the right to drill such

well or wells to completion with reasonable diligence and, if oil or gas as covered by the contract is found in paying quantities, the contract shall continue in force and effect as if such well or wells had been completed within the primary term.

(j) Oil and/or gas leases by tribal mineral owners, who are not organized under sections 16 and 17 of the Act of June 18, 1934 (25 U.S.C. 476, 477), shall be entered into in accordance with the procedures in subsection (c) of this section. However, if no satisfactory bid is received, or the accepted bidder fails to complete the lease, the Secretary may readvertise the lease for sale, or the lease may be let through private negotiations, subject to the consent of the tribal governing body and the approval of the Secretary pursuant to § 182.13 of this part. This provision is not applicable to oil and gas contracts other than leases.

§ 182.13 Approval of contracts.

An oil and/or gas contract shall be approved by the Secretary if he determines that the following conditions have been met:

(1) The contract provides fair and reasonable remuneration to the Indian mineral owner;

(2) The contract does not have adverse cultural or environmental consequences sufficient to outweigh its benefits to the Indian mineral owner;

(3) The contract complies with the requirements of this Part, all other applicable laws and regulations, and tribal law where not inconsistent with federal law.

§ 182.14 Persons signing in a representative capacity; furnishing of corporate and other information.

(a) The signing in a representative capacity and delivery of bids, geological and geophysical permits, contracts or assignments, bonds, or other instruments required by these regulations constitutes certification that the individual signing, except a surety agent, is authorized to act in such capacity. An agent for a surety shall furnish a satisfactory power of attorney.

(b) A corporation proposing to acquire an interest in a permit or a contracted real property interest in Indian-owned oil and/or gas shall file with the instrument a statement showing:

(1) The state in which the corporation is incorporated, and that the corporation is authorized to hold such interests in the state where the land described in the instrument is situated; and

(2) That it has power to conduct all business and operations as described in the instrument; and

(3) Such other information as the Secretary may require in the exercise of his trust responsibility to the Indian mineral owner.

(c) The Secretary may, either before or after the approval of a permit, contract, assignment, or bond call for any additional information necessary to carry out the regulations in this Part, other applicable laws and regulations and his trust responsibility to the Indian mineral owner. Failure to furnish the requested information will be deemed sufficient cause for disapproval or cancellation of the instrument, whichever is appropriate.

§ 182.15 Bonds.

(a) The Secretary may require a geological or geophysical permittee to furnish a surety bond in such amount as he deems advisable.

(b) Operators shall furnish a bond with each contract and assignees shall furnish a bond with each assignment in a sum of at least double the amount of the annual rental, but in no case less than $1,000 per quarter-section or fractional quarter-section covered by a contract, and conditioned upon compliance with all the terms of the contract. Before beginning drilling operations, an additional bond in an amount to be determined by the Supervisor and the approving official must be furnished, but in no event less than $10,000.

(c) In lieu of the lease or drilling bonds required under paragraph (b) of this section, the operator may file one bond for $50,000 for all oil and gas contracts in any one state, or such lesser jurisdiction as determined by the Secretary, including contracts on that part of an Indian reservation extending into states contiguous thereto, to which the operator may become a party. The total acreage covered by such bond shall not exceed 10,240 acres.

(d) In lieu of the bonds required under paragraphs (a), (b), and (c) of this section, a operator or permittee may file a bond in the sum of $150,000 for full nationwide coverage for all contracts and permits without geographic or acreage limitations.

(e) Bonds shall be corporate surety bonds.

(f) The right is specifically reserved to the Secretary to increase the amount of bonds in his discretion.

§ 182.16 Rentals, minimum royalty, production royalty.

(a) An oil or gas lessee shall pay, in advance, beginning with the effective date of the lease, an annual rental of not less than $2 per acre or such other rate authorized by the Secretary. This rental shall not be credited on production royalty or prorated or refunded because of surrender or cancellation or for any other reason.

(b) If the royalty on production paid during any year aggregates less than $2.50 per acre, the lessee must pay the difference at the end of the lease year. On unitized leases, the minimum royalty shall be payable only on the participating acreage.

(c) Unless otherwise provided by the Secretary (or his authorized representative prior to the offering of land for oil and gas leases), a royalty of not less than 16⅔ per cent shall be paid on the value of all oil and gas, and products extracted therefrom from the land leased.

(d) During the period of supervision, "value" for the purpose of the lease may, in the discretion of the Secretary, be calculated on the basis of the highest price paid or offered at the time of production for a significant portion of the oil of the same gravity, gas, and/or natural gasoline, and/or all other hydrocarbon substances produced and sold from the field where the leased lands are situated, and the actual volume of the marketable product less the content of foreign substances as determined by the Oil and Gas Supervisor. The actual amount realized by the lessee from the sale of said products may, in the discretion of the Secretary, be deemed mere evidence of or conclusive evidence of such value.

(e) If the leased premises produce gas in excess of the lessee's requirements for the development and operation of said premises, gas shall be furnished by the lessee to any tribally-owned building or enterprise, at a rate not to exceed the price-less-royalty being received by a gas purchaser, and by means of a regulator installed, connected to the well and maintained by the lessee. *Provided*, That this requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that waste would not result. Gas furnished to the tribe under this section may be terminated only with the approval of the Superintendent.

§ 182.17 Manner of payments.

(a) All payments shall be paid to the Secretary or such other party as he may designate and shall be made at such time as provided in the advertisement, permit, or contract. When there is production, each payment shall be transmitted through the Supervisor, with a statement by the operator in duplicate, showing the specific contract payment that the remittance is intended to cover, identified by both Departmental Contract and other lease or contract number. Such statement shall identify each remittance by number, date, amount, name of each payee, and shall show the total amount paid and shall be supported by a copy of the purchaser's settlement or pipeline statement for each lease under which royalties are paid.

(b) Operators may make arrangements with the purchasers of oil and gas for the payment of the royalties as provided in the lease and regulations, but such arrangement, if made, shall not relieve the operator from responsibility should the purchaser fail or refuse to pay the royalties when due.

§ 182.18 Inspection of premises, books and accounts.

Operators shall agree to allow Indian mineral owners, their representatives or any authorized representative of the Secretary to enter, from time to time, all parts of the contracted premises for the purpose of inspection, and shall further agree to keep a full and correct account of all operations and make reports thereof, as required by the contracts and

regulations; and their books and records, showing manner of operations and persons interested, shall be open at all times for examination by the Secretary and the Indian mineral owner.

§ 182.19 Assignments, operating and development agreements, and overriding royalties.

(a) *Assignments.* Approved contracts hereafter approved, or any interest therein, may be assigned or transferred only with the approval of the Secretary. The assignee must be qualified to hold such contract under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof. An operator must assign either his entire interest in a contracted area or a legal subdivision (which may be a separate horizon) thereof, or an undivided interest in the whole lease or contracted area. *Provided*, That when an assignment covers only a legal subdivision of a contract area or covers interests in separate horizons such assignment shall be subject to both the consent of the Secretary and the Indian mineral owner. If a contract area is divided by the assignment of an entire interest in any part, each part shall be considered a separate contract, and the assignee shall be bound to comply with all the terms and conditions of the original contract. A fully executed copy of the assignment shall be filed with the Superintendent within 30 days after the date of the execution by all parties.

(b) *Overriding royalty.* Agreements creating overriding royalties or payments out of production shall not be considered as an assignment. Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Department of the Interior or any agency thereof shall not be required with respect thereto, but such agreements shall be subject to the condition that nothing in any such agreement shall be construed as modifying any of the obligations of the operator with the Indian mineral owner under his contract and the regulations in this Part, including requirements for Departmental approval before abandonment. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments. The existence of agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to paragraph (a) of this section. An agreement creating overriding royalties or payments out of production shall be suspended when the working interest income per active producing well is equal to or less than the operational cost of the well, as determined by the Superintendent.

(c) *Operating or development contracts.* The Superintendent is authorized to approve drilling contracts with a stipulation that such approval does not in any way bind the Department to approve subsequent assignments that may be provided for in said contracts. Approval merely authorizes entry on the lease or contracted area for the purpose of development work.

§ 182.20 Restrictions on operations, work-over and shut-in applications.

(a) The Secretary may impose such restrictions as in his judgment are necessary for the protection of Indian-owned natural resources.

(b) The Secretary may, under such terms and conditions as he may prescribe and after obtaining the consent of any Indian mineral owner affected, authorize suspension of operating and producing requirements whenever it is considered that marketing facilities are inadequate or economic conditions unsatisfactory. Such suspensions shall not extend beyond the ten-year primary term of tribal leases approved pursuant to the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396(a)–(g)). Applications by operators for relief from operating and producing requirements shall be filed in triplicate in the Office of the Supervisor and a copy thereof filed with the Superintendent. Complete information must be furnished showing the necessity for such relief. Suspension of operations and production shall not relieve the operator from the obligations of continued payment of annual rental or the minimum royalty. The operator shall pay as shut-in royalty an additional $2.50 per acre in advance for each annual period of suspension, provided that if the period of suspension is less than 12 months, the rate will be prorated. Said shut-in royalty shall not be recoverable out of royalties or otherwise from subsequent production.

(c) The Secretary may, after obtaining the consent of any Indian mineral owner affected, and under such terms and conditions as he may prescribe, authorize suspension of operating and producing whenever it is determined that reworking or drilling operations is in the best interests of the Indian mineral owner, *provided*, That such reworking or drilling operations are commenced within 60 days and thereafter conducted with reasonable diligence during the period of nonproduction. Any suspension under this paragraph shall not relieve the operator from liability for the payment of rental and minimum royalty or other contract payments due under the terms of the contract.

§ 182.21 Unitization, communization and well spacing.

For the conservation and proper utilization of natural resources the Secretary, subject to obtaining the prior consent of the tribe where the tribe is the mineral owner, may approve, recognize and require that contracted areas shall be subject to cooperative or unit agreements, communization or drilling agreements and well spacing or development programs. All applications and documents incident to such agreements shall be filed with the Supervisor and a copy of the application fully describing the lands and listing the contracted areas shall be filed with the Superintendent.

§ 182.22 Contracts for subsurface storage of oil or gas.

(a) The Secretary may approve, subject to obtaining the prior consent of the Indian mineral owners, storage contracts or modifications, amendments or extensions of oil and gas leases or other contracts, on tribal lands subject to lease or contract under the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a), and on allotted lands subject to lease or contract under the Act of March 3, 1909 (35 Stat. 783; 25 U.S.C. 396) to provide for subsurface storage of oil or gas, irrespective of the lands from which production is initially obtained. The storage contract or modification, amendment, or extension, shall provide for the payment of such storage fee or rental, or in lieu thereof, for a royalty or percentage payment other than that prescribed in the oil and gas production contract when such stored oil and gas is produced in conjunction with oil or gas not previously produced.

(b) The Secretary may approve, subject to obtaining the prior consent to the Indian mineral owners, a provision in an oil and gas contract, under which storage of oil and gas is authorized, for continuance of the contract at lease for the period of such storage use and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(c) Applications for subsurface storage of oil or gas shall be filed in triplicate with the oil and gas supervisor and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage, and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the Indian mineral owners and other parties in interest shall be submitted for approval of the Secretary to permit retention of five copies by the Department after approval.

§ 182.23 Termination and cancellation, enforcement of orders.

(a) Any lease or contract area on which there has been no drilling, exploration or surface disturbance activity shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the due date. If the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next office working day shall be deemed timely.

(b If the Supervisor determines that a permittee or operator subject to the regulations in this part has failed to comply with the regulations in this part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or drilling plan, or the orders of the Supervisor, and such noncompliance does not threaten immediate and serious damage to the environment, the resource or the deposit being developed, or other valuable mineral deposits or other resources, the oil and gas supervisor shall serve a notice of noncompliance upon the permittee or

operator by delivery in person or mailed to him at his last known address. Failure of the permittee or operator to take action in accordance with the notice of noncompliance within the time limits specified by the Supervisor or to initiate an appeal pursuant to Part 290 of Title 30 of the Code of Federal Regulations shall be grounds for suspension of operations subject to such notice by the Supervisor or his recommendations for the initiation of action for cancellation of the contract and forfeiture of any compliance bonds.

(c) The notice of noncompliance shall specify in what respect the operator has failed to comply with the provisions of applicable regulations, laws, terms of the drilling plan or contract, or the orders of the Supervisor, and shall specify the action which must be taken to correct such noncompliance and the time limits within which such action shall be taken. A written report shall be submitted by the permittee or operator to the Supervisor when such noncompliance has been corrected.

(d) If, in the judgment of the Secretary, a permittee or operator is conducting activities on lands subject to the provisions of this Part which fail to comply with the provisions of this Part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or drilling plan, or the orders of the Supervisor, and which threaten immediate and serious damage to the environment, the resource or deposit being mined, or other valuable mineral deposits or other resources, the Supervisor shall order the immediate cessation of such activities, without prior notice of noncompliance. Such order may be appealed as provided in Part 290 of Title 30 of the Code of Federal Regulations. Compliance with such order shall not be suspended by reason of the taking of an appeal, unless such suspension is ordered in writing by the official before whom such appeal is pending, and then only upon a written determination by such official that such suspension will not be detrimental to the Indian mineral owner or upon submission of a bond deemed adequate by both the Indian mineral owner and the Secretary to indemnify the Indian mineral owner from any resulting loss or damage.

(e) The Supervisor shall investigate all claims of the Indian mineral owner regarding permittee's or operator's failure to comply with the provisions of this Part, other applicable laws or regulations, the terms of the contract, the requirements of an approved exploration or drilling plan, or the orders of the Supervisor. The Supervisor shall consult with the Superintendent and the Indian mineral owner, where possible, prior to taking any action pursuant to this section.

(f) No provision in this section shall be interpreted as replacing or superseding any other remedies of the Indian mineral owner as set forth in the contract or available in law or equity.

(g) Termination for non-payment of rental and/or cancellation as provided in this section shall not relieve the permittee or contractor, or the sureties, from liabilities for payment of rental, other than rental referred to in paragraph (a) of this section, or other obligations under the contract.

§ 182.24 Fees.

Unless otherwise authorized by the Secretary, each permit, lease, sublease, or other contract, or assignment or surrender thereof, shall be accompanied by a filing fee of $25.

PART 183—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

4. It is proposed to amend Part 183:

a. By adding paragraph (k) and (l) to § 183.1 as follows:

§ 183.1 Definitions.

As used in this Part 183, terms shall have the meaning set forth in this section.

* * * * *

(k) "Oil well" means any well which produces one (1) barrel or more of crude petroleum oil for each 15,000 standard cubic feet of natural gas.

(l) "Gas well" means any well which:

(i) produces natural gas not associated with crude petroleum oil at the time of production or

(ii) produces more than 15,000 standard cubic feet of natural gas to each barrel of crude petroleum oil from the same producing formation.

b. By adding paragraph (f) to § 183.2 as follows:

* * * * *

(f) The Osage Tribal Council may utilize the following procedures among others, in entering into a mining lease. A contact may be entered into through competitive bidding as outlined in Sec. 183.2(b), negotiation, or a combination of both. The Osage Tribal Council may also request the Superintendent to undertake the preparation, advertisement and negotiation. The Superintendent may approve any such contract made by the Osage Tribal Council.

c. By revising paragraphs (a), (b), and (c) of § 183.6 to read as follows:

§ 183.6 Bonds.

Lessee shall furnish with each lease a corporate surety bond acceptable to the Superintendent as follows:

(a) A bond on Form D shall be filed with each lease submitted for approval. Such bond shall be in the penal sum of not less than $2,500 for each quarter section or fractional quarter section covered by said lease: *Provided, however,* That one bond in the penal sum of not less than $50,000 may be filed on Form G covering all leases on the Osage Mineral Estate not in excess of 10,240 acres to which Lessee is or may become a party.

(b) In lieu of the bonds required under paragraph (a) of this section, a bond in the penal sum of $150,000 may be filed on Form 5-5438 for full nationwide coverage of all leases, without geographic or acreage limitation, to which the Lessee is or may become a party.

(c) A bond on Form H shall be filed in the penal sum of not less than $2,500 covering a lease acquired through assignment where the assignee does not have a collective bond, or the corporate surety does not execute its consent to remain bound under the original bond given to secure the faithful performance of the terms and conditions of the lease.

* * * * *

d. By revising paragraphs (a), and (b) of § 183.9 to read as follows:

§ 183.9 Rental and drilling obligations.

(a) Oil leases, gas leases, and combination oil and gas leases. Unless lessee shall complete and place on production a well producing and selling oil and/or gas in paying quantities on the land embraced within the lease within 12 months from the date of approval of the lease, or as otherwise provided in the lease terms, or 12 months from the date the Superintendent consents to drilling on any restricted homestead selection, the lease shall terminate unless rental at the rate of not less than $1 per acre for an oil or gas lease, or not less than $2 per acre for a combination oil and gas lease, shall be paid before the end of the first year of the lease. The lease may also be held for the remainder of its primary term without drilling upon payment of the specified rental annually in advance, commencing with the second lease year. The lease shall terminate as of the due date of the rental unless such rental shall be received by the Superintendent, or shall have been mailed as indicated by postmark on or before said date. The completion of a well producing in paying quantities shall, for so long as such production continues, relieve Lessee from any further payment of rental, except that should such production cease during the primary term the lease may be continued only during the remaining primary term of the lease by payment of advance rental which shall commence on the next anniversary date of the lease. Rental shall be paid on the basis of a full year and no refund will be made of advance rental paid in compliance with the regulations in this part: *Provided,* That the Superintendent in his discretion may order further development of any leased acreage or separate horizon if, in his opinion, a prudent operator would conduct further development. If Lessee refuses to comply, the refusal will be considered a violation of the lease terms and said lease shall be subject to cancellation as to the acreage or horizon the further development of which was ordered: *Provided further,* That the Superintendent may impose restrictions as to time of drilling and rate of production from any well or wells when, in his judgment, such action may be necessary or proper for the protection of the natural resources of the leased land and the interests of the Osage Tribe. The Superintendent may consider, among other things, Federal and Oklahoma laws regulating either drilling or production. If a Lessee hols both an oil

lease and a gas lease covering the same acreage, such Lessee is subject to the provisions of this section as to both the oil lease and the gas lease.

(b) The Superintendent may, with the consent of and under terms approved by the Osage Tribal Council, grant an extension of the primary term of a lease on which the actual drilling of a well shall have commenced within the term thereof or for the purpose of enabling Lessee to obtain a market for his oil and/or gas production.

e. By revising § 183.10 to read as follows:

§ 183.10 Term of lease.

Leases issued hereunder shall be for a primary term as established by the Osage Tribal Council, approved by the Superintendent, and so stated in the notice of sale of such leases, and so long thereafter as the minerals specified are produced in paying quantities.

f. By revising paragraphs (a) and (b) of § 183.11 to read as follows:

§ 183.11 Royalty payments.

(a) *Royalty on oil*—(1) *Royalty rate.* Lessee shall pay or cause to be paid to the Superintendent, as royalty, the sum of not less than 16⅔ percent of the gross proceeds from sales after deducting the oil used by Lessee for development and operation purposes on the lease: *Provided*, That when the quantity of oil taken form all the producing wells on any quarter-section or fraction thereof, according to the public survey, during any calendar month is sufficient to average one hundred or more barrels per active producting well per day the royalty on such oil shall be not less than 20 percent. The Osage Tribal Council may, upon presentation of justifiable economic evidence by Lessee, agree to a revised royalty rate subject to approval by the Superintendent, applicable to additional oil produced from a lease or leases by enhanced recovery methods, which rate shall not be less than 12½ percent of the gross proceeds from sale of oil produced by enhanced recovery processes, other than gas injection, after deducting the oil used by Lessee for development and operating purposes on the lease or leases.

(2) Unless the Osage Tribal Council, with approval of the Secretary, shall elect to take the royalty in kind, payment shall be made at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the actual selling price, or the highest posted or offered price by a major purchaser in the Kansas-Oklahoma area whichever is higher on the day of the sale or removal. Where different prices are paid simultaneously for oil from a lease and the highest such price exceeds the higher of the aforementioned prices, then that price shall be the basis of royalty on all oil from said lease.

(3) Royalty in kind. Should Lessor, with approval of the Secretary, elect to take the royalty in kind, Lessee shall furnish free storage for royalty oil for a period not to exceed 60 days from date of production after notice of such election.

(b) *Royalty on gas*—(1) *Oil Lease.* All casinghead gas shall belong to the oil Lessee subject to any rights under existing gas leases. All casinghead gas removed from the lease from which it is produced shall be metered unless otherwise approved by the Superintendent and subject to a royalty of not less than 16⅔ percent of the market value of the gas and all products extracted therefrom, less a reasonable allowance for manufacture or processing. If oil Lessee supplies casinghead gas produced from one lease for operation and/or development of other leases, either his or others, a royalty of not less than 16⅔ percent shall be paid on the market value of all casinghead gas so used. All casinghead gas not utilized by the oil Lessee may, with the approval of the Superintendent, be utilized by the gas Lessee, subject to the prescribed royalty of not less than 16⅔ percent of the market value.

(2) *Gas lease.* Lessee shall pay a royalty of not less than 16⅔ percent of the market value of all natural gas and products extracted therefrom produced and sold from his lease. Natural gas used in the reasonable and prudent operation and development of said lease shall be exempted from royalty payment.

(3) Combination oil and gas lease. Lessee shall pay royalty as provided in (1) and (2) above.

* * * * *

g. By deleting the proviso at the end of paragraph (e) of § 183.18 so that it reads as follows:

§ 183.18 Information to be given surface owners prior to commencement of drilling operations.

* * * * *

(e) Where the surface owner or his representative is not a resident of or is not physically present in Osage County, then the Superintendent shall be so advised whereupon the Superintendent may authorize Lessee to proceed with operations.

* * * * *

h. By revising paragraphs (a) and (b) of § 183.19 to read as follows:

§ 183.19 Use of surface land.

(a) Lessee or his authorized representative shall have the right to use so much of the surface of the land within the Osage Mineral Estate as may be reasonable for operations and marketing. This includes but is not limited to the right to lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing, and the right-of-way for ingress and egress to any point of operations. If Lessee and surface owner are unable to agree as to the routing of pipelines, electric lines, etc., said route shall be set by the Superintendent. The right to use water for lease operations is set out in § 183.24. Lessee shall conduct his operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any nuisance to be maintained on the premises under his control.

(b) Before commencing a drilling operation, Lessee shall pay or tender to the surface owner commencement money in the amount of $25 per seismic shot hole and commencement money in the amount of $300 for each well, after which Lessee shall be entitled to immediate possession of the drilling site. Commencement money will not be required for the drilling of a well which was drilled under the original lease contract. A drilling site shall be held to the minimum area essential for operations and shall not exceed one and one-half acres in area unless authorized by the Superintendent. Commencement money shall be a credit toward the settlement of the total damages. Acceptance of commencement money by the surface owner does not in any way affect his right to compensation for damages as described in § 183.20, occasioned by the drilling and completion of the well for which it was paid. Since actual damage to the surface from operations cannot be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

* * * * *

h. By revising paragraphs (c) and (d) of § 183.20 to read as follows:

§ 183.20 Settlement of damages claimed.

* * * * *

(c) In settlement of damages on restricted land all sums due and payable shall be paid to the Superintendent for credit to the account of the Indian entitled thereto. The Superintendent will make the apportionment between the Indian landowner or owners and surface Lessee of record.

(d) Any person claiming an interest in any leased tract or in damages thereto, must furnish to the Superintendent a statement in writing showing said claimed interest. Failure to furnish such statement shall constitute a waiver of notice and estop said person from claiming any part of such damages after the same shall have been disbursed.

i. By revising § 183.44 to read as follows:

§ 183.44 Hearings and appeals.

Any person, firm, or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, pursuant to the regulations in this part, may file with the Superintendent within 30 days an application for modification or revocation of such decision or order. The Superintendent shall give notice of the time and place and conduct a hearing upon the application within 10 days after its receipt by him. If the applicant is not satisfied with the decision of the Superintendent, an appeal may be taken as provided in 25 CFR Part 2.

RAYMOND V. BUTLER,
Acting Commissioner of Indian Affairs.

[FR Doc.77-10017 Filed 4-4-77;8:45 am]

Bureau of Land Management

[43 CFR Part 2610]

CAREY ACT GRANTS

Proposed Regulations for Segregating and Patenting Public Lands

This proposed addition to the regulations contained in Title 43 of the Code of Federal Regulations is being made to specify the requirements and procedures for segregating and granting of desert lands to States under the provisions of the Act of August 18, 1894, as amended (43 U.S.C. 641), also known as the Carey Act.

The regulations pertaining to the Carey Act were removed from the Code of Federal Regulations in 1970, because no applications had been filed nor had any patents been granted in recent years. However, in 1970 the State of Idaho expressed an interest in obtaining land under the Carey Act and has filed a number of applications for segregation.

The proposed regulations are a complete revision of the previous regulations. They clarify a number of points, eliminate unnecessary requirements and forms, and require classification of the land prior to segregation. They provide up-to-date guidance for processing Carey Act applications and are in accordance with the Federal Land Policy and Management Act of 1976 and current Departmental policies and procedures.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

NOTE.—The Department of the Interior 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.

In accordance with section 310 of the Federal Land Policy and Management Act of 1976, public participation is invited in rulemaking. Interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Department of the Interior, Washington, D.C., on or before May 31, 1977.

Copies of comments, suggestions, or objections made pursuant to this notice will be available for public inspection at the foregoing address during regular working hours (7:45 a.m. to 4:15 p.m.).

It is therefore proposed to add 43 CFR Part 2610 as set forth below.

PART 2610—CAREY ACT GRANTS

Subpart 2610—Carey Act Grants, General

Sec.
2610.0-2 Objectives.
2610.0-3 Authority.
2610.0-4 Responsibilities.
2610.0-5 Definitions.
2610.0-7 Background.
2610.0-8 Character of lands subject to application.
2610.1 Segregation of lands.

Subpart 2611—Segregation Under the Carey Act—Procedures

Sec.
2611.1 Applications for segregation.
2611.2 Approval of map and plan and contract.
2611.3 Period of segregation.
2611.4 Rights-of-way over other public lands.

Subpart 2612—Issuance of Patents

2612.1 Lists for patents.
2612.2 Publication of lists for patents.
2612.3 Issuance of patents.

Subpart 2613—Preference Right of Entry Upon Restoration

2613.0-3 Authority.
2613.1 Allowance of filing of applications.
2613.2 Applications.
2613.3 Allowance of preference right.

AUTHORITY: Sec. 4 of the Act of August 18, 1894 (28 Stat. 422), as amended (43 U.S.C. 641), known as the Carey Act.

Subpart 2610—Carey Act Grants, General

§ 2610.02 Objectives.

The objective of section 4 of the Act of August 18, 1894 (28 Stat. 442), as amended (43 U.S.C. 641), known as the Carey Act, is to aid certain public land States in the reclamation of the desert lands therein, and the settlement, cultivation, and sale thereof in small tracts to actual settlers.

§ 2610.0-3 Authority.

(a) The Carey Act authorizes the Secretary of the Interior, with the approval of the President, to contract and agree to grant and patent to States, in which there are desert lands, not to exceed 1,000,000 acres of such lands to each State, under the conditions specified in the act. After a State's application for a grant has been approved by the Secretary, the lands are segregated from the public domain for a period of from 3 to 15 years, the State undertaking within that time to cause an adequate irrigation system to be constructed and a sufficient water supply to be made available for the reclamation of the lands by irrigation. The lands, when patented, are disposed of by the States to actual settlers. Entries are limited to 160 acres to each actual settler.

(b) The Act of June 11, 1896 (29 Stat. 434; 43 U.S.C. 642), authorizes a lien on the land for the cost of construction of the irrigation works, and permits the issuance of patents to States for particular tracts actually reclaimed without regard to settlement or cultivation.

(c) Section 3 of the Act of March 3, 1901 (31 Stat. 1188; 43 U.S.C. 641), authorizes an extension of the period of segregation for not exceeding 5 years.

(d) The Act of March 1, 1907 (34 Stat. 1056), extends the provisions of the law to the former Southern Ute Indian Reservation in Colorado.

(e) The Joint Resolution approved May 25, 1908 (35 Stat. 577), authorizes grants to the State of Idaho of an additional 1,000,000 acres.

(f) The Act of May 27, 1908 (35 Stat. 347; 43 U.S.C. 645), authorizes grants of an additional 1,000,000 acres to the State of Idaho and the State of Wyoming.

(g) The Act of February 18, 1909 (35 Stat. 638; 43 U.S.C. 646), extends the provisions of the Carey Act to the States of Arizona and New Mexico.

(h) The Act of February 24, 1909 (35 Stat. 644; 43 U.S.C. 647), extends the provisions of the Carey Act to the former Ute Indian Reservation in Colorado.

(i) The Act of February 16, 1911 (36 Stat. 913), extends the Carey Act to the former Fort Bridger Military Reservation in Wyoming.

(j) The Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523-252), permits the sale of surplus water by the United States Bureau of Reclamation for use upon Carey Act lands.

(k) The Act of March 4, 1911 (36 Stat. 1417; 43 U.S.C. 645), authorizes grants to the State of Nevada of an additional 1,000,000 acres.

(l) The Joint Resolution of August 21, 1911 (37 Stat. 38; 43 U.S.C. 645), authorizes grants to the State of Colorado of an additional 1,000,000 acres.

(m) The Act of February 14, 1920 (41 Stat. 407; 43 U.S.C. 644), relates to preference rights of Carey Act entrymen upon lands restored to the public domain from Carey Act segregations.

(n) The Act of January 6, 1921 (41 Stat. 1085; 43 U.S.C. 641), further amends the Carey Act by limiting the time within which the work of reclamation must be commenced to 6 years following approval of the application for segregation.

§ 2610.0-4 Responsibilities.

(a) The authority of the Secretary of the Interior to approve the application for segregation, including the map of the lands and the plan of irrigation, under the Act of August 18, 1894 (28 Stat. 422; 43 U.S.C. 641), and to approve extensions of time as provided under the act, as amended, has been delegated to the Director of the Bureau of Land Management and to State Directors of the Bureau of Land Management.

(b) Upon approval of the application for segregation, which includes the map of the land and the plan of irrigation, the grant contract must be signed by the Secretary of the Interior, or an officer authorized by him, and approved by the President.

§ 2610.0-5 Definitions.

As used in the regulations of this part:

(a) "Actual settler" means a person who establishes a bona fide residence on the land to the exclusion of a home elsewhere.

(b) "Cultivation" means tilling or otherwise preparing the land for seed, and keeping the ground in a state favorable for the growth of crops, and requires irrigation as an attendant act.

(c) "Desert lands" means unreclaimed lands which will not, without irrigation, produce any reasonably remunerative agricultural crop by usual means or methods of cultivation. This includes lands which will not, without irrigation, produce paying crops during a series of years, but on which crops can be successfully grown in alternate years by means

of the so-called dry-farming system. Lands which produce native grasses sufficient in quantity, if ungrazed by grazing animals, to make an ordinary crop of hay in usual seasons, are not desert lands. Lands which will produce an agricultural crop of any kind without irrigation in amount sufficient to make the cultivation reasonably remunerative are not desert. Lands containing sufficient moisture to produce a natural growth of trees are not to be classed as desert lands.

(d) "Irrigation" means the application of water to the land for the purpose of growing crops.

(e) "Ordinary agricultural crops" means any agricultural products to which the land under consideration is generally adapted, and which would return a fair reward for the expense of producing them.

(f) "Reclamation" means the establishment of structures for conducting water in adequate volume and quality to the land so as to render it available for distribution when needed for irrigation and cultivation.

(g) "Segregation" means the action under the Act of August 19, 1894 (39 Stat. 422; 43 U.S.C. 641), by which the lands are reserved from the public domain and closed to application or entry under the public land laws, including location under the mining laws.

(h) "Application for segregation" means an application for a grant contract under the Act of August 19, 1894 (39 Stat. 422; 43 U.S.C. 641), and includes the map, irrigation plan, list, contract, and petition for classification prescribed in Subpart 2611 of this chapter.

(i) "Water right" means the authority, whether by prior ownership, contract, purchase, or appropriation in accordance with State law, to use water on the land to be irrigated.

§ 2610.0–7 Background.

The Carey Act authorizes the Secretary of the Interior, with the approval of the President, to contract and agree to grant and patent to States, in which there are desert lands, not exceeding 1,000,000 acres of such lands to each State, as the State may cause to be irrigated, reclaimed, occupied, and not less than 20 acres of each 160-acre tract cultivated by actual settlers. A number of amendments allowed additional acreages for certain States. The following States were allowed 1,000,000 acres: Arizona, California, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, and Washington. The following States were allowed 2,000,000 acres: Colorado, Nevada, and Wyoming. Idaho was allowed 3,000,000 acres.

§ 2610.0–8 Character of lands subject to application.

(a) The lands must be unreclaimed desert lands capable of producing ordinary agricultural crops by irrigation.

(b) The lands must be nonmineral, except that lands withdrawn, classified, or valuable for coal, phosphate, nitrate, potash, sodium, sulphur, oil, gas, or asphaltic minerals may be applied for subject to a reservation of such mineral deposits, as explained in Subpart 2093 of this chapter.

(c) Lands embraced in mineral permits or leases, or in applications for such permits or leases, or classified, withdrawn, or reported as valuable for any leasable mineral, or lying within the geologic structure of a field are subject to the provisions of §§ 2093.0–3 through 2093.0–7 of this chapter.

§ 2610.1 Segregation of lands.

Lands covered by approved segregations under the Act of August 18, 1894, are not subject to location, entry or application under other laws while segregated. The segregation takes effect and the segregation period begins to run upon approval of the grant contract by the President.

Subpart 2611—Segregation Under the Carey Act—Procedures

§ 2611.1 Applications for segregation.

An application for segregation shall consist of the following:

(a) *Map and plan of irrigation.* (1) The State shall file a map of the lands proposed to be irrigated, which shall exhibit the plan for the contemplated irrigation works and the source of the water. The map and plan shall set forth or be accompanied by data showing that the plan will be sufficient to thoroughly irrigate and reclaim the land to raise ordinary agricultural crops. Such data cannot be fully prescribed, as it will depend upon the particular plan. The State Director may require the State to submit additional data concerning the specifics of the plan and its feasibility without rejecting the application.

(2) The map and plan must be on such material and of such dimensions as specified by the State Director and must be drawn to a scale not greater than 1,000 feet to 1 inch. A smaller scale is desirable if the necessary information can be clearly shown. The map and plan, in duplicate, must be filed in the State Office of the State in which the land is located. Each smallest legal subdivision (quarter quarter section) of the lands shall be clearly indicated on the map and plan. The map and plan must connect canels, pipelines, and reservoirs with public survey lines or corners, and with public survey corners wherever section or township lines are crossed by the proposed irrigation works, and must show whatever other data is needed to enable retracement of the layout of the proposed irrigation works on the ground.

(3) The map and plan shall bear certification statements (i) by the engineer who drew up the map and plan that the plan of irrigation submitted is accurately and fully represented in the map, plan, and any accompanying data, and that the system proposed is sufficient to thoroughly irrigate and reclaim the lands and prepare them to raise ordinary agricultural crops, and (ii) by the State official authorized to file the application that the lands are applied for subject to the provisions of Subpart 2093 of this chapter.

(b) *List of lands.* The map and plan shall be accompanied by a list of the lands desired, designated by legal subdivisions. The list shall be dated and verified by an official authorized by the State. Such official must file with the BLM State Office evidence of his authority to so act. When a township has not been subdivided, but its exteriors have been surveyed, the whole township may be designated (omitting, however, the sections to which the State may be entitled under its grant of school lands). When the records are in such condition that the proper notations may be made, a section or part of a section of unsurveyed land may be designated in the list; but no patent can issue thereon until the land has been surveyed.

(c) *Contract.* A grant contract in a form prescribed by the Director of the Bureau of Land Management, in duplicate, signed by the authorized State official, must also be filed. A carbon copy of the contractor will not be accepted. The person who signs the contract on behalf of the State must furnish evidence of his authority to do so. The contract shall obligate the State to all terms and conditions of the act and all specifications of the approved map and plan, and shall obligate the United States to issue patents to the State upon actual reclamation of the land according to the plan, as provided in Subpart 2612 of this chapter.

(d) *Petition for classification.* A petition for classification under Group 2400 of this chapter, in a form prescribed by the Director, Bureau of Land Management, must also be filed.

§ 2611.2 Approval of map and plan and contract.

(a) If the lands are classified under Group 2400 of this chapter for agricultural development under the Carey Act, the map and plan may be approved by the appropriate State Director of the Bureau of Land Management. The map and plan shall not be approved if it is determined that the State laws or regulations concerning disposal of the lands to actual settlers are contrary to the requirements and restrictions of the act.

(b) Upon approval of the map and plan, the grant contract may be signed by the Secretary of the Interior, or an officer in the Office of the Secretary who has been appointed by the President, by and with the advice and consent of the Senate, and who has been delegated the authority to sign the contract by the Secretary. As a condition to entering into the contract, the Secretary or his delegate may, in his discretion, require terms and conditions in the public interest other than those provided for in § 2166.1(c). If such terms and conditions have not been incorporated in the grant contract approved by the State, the new contract form shall be returned to the State for signing.

(c) The contract must be approved by the President.

(d) After the land has been classified for disposition under the Carey Act, the map and plan have been approved, and the contract signed and approved, the land may be entered by the State and its agents for reclamation.

§ 2611.3 Period of segregation.

(a) The States are allowed 10 years from the date of the approval of the contract by the President in which to cause the lands to be irrigated and reclaimed. If the State fails in this, the State Director may, in his discretion, extend the period for up to 5 years, or may restore the lands to the public domain at the end of the 10 years or any extension thereof. If actual construction of the reclamation works has not been commenced within 3 years after the segregation of the land or within such further period not exceeding 3 years as may be allowed for that purpose by the State Director, the State Director may, in his discretion, restore the lands to the public domain.

(b) All applications for extensions of the period of segregation must be submitted to the State Director. Such applications will be entertained only upon the showing of the happening of some event preventing compliance by the State with the requirements within the time allowed, which could not have been reasonably anticipated or guarded against, such as the destruction irrigation works by storms, floods, or other unavoidable casualties, unforeseen structural or physical difficulties encountered in the operations, or errors in surveying and locating needed ditches, canals, or pipelines.

§ 2611.4 Rights-of-way over other public lands.

When the canals, ditches, pipelines, or reservoirs required by the plan of irrigation will cross public lands not applied for by the State under the Carey Act, an application for right-of-way over such lands under the Act of October 21, 1976 (90 Stat. 2743), should be filed separately by the proposed constructor. Rights-of-way shall be approved simultaneously with the approval of the map and plan, but shall be conditioned on approval of the contract.

Subpart 2612—Issuance of Patents

§ 2612.1 Lists for patents.

When patents are desired for any lands that have been segregated, the State shall file in the BLM State Office a list of lands to be patented, with a certificate of the presiding officer of the State land board, or other officer of the State who may be charged with the duty of disposing of the lands which the State may obtain under the law, that the lands have been reclaimed according to the plan of irrigation, and that a permanent supply of ample water has been actually furnished to each tract in the list, sufficient to thoroughly irrigate and reclaim each 160-acre tract for the raising of ordinary agricultural crops. If there are portions which cannot be irrigated, the nature, extent, location, and area of such portions should be fully stated. If less than 5 acres of a smallest legal subdivision (quarter quarter section) can be irrigated, such legal subdivision must be relinquished, and shall be restored to the public domain as provided in a notice published in the FEDERAL REGISTER.

§ 2612.2 Publication of lists for patents.

(a) *Notice of lists.* When a list for patents is filed in the State Office, it shall be accompanied by a notice of the filing, in duplicate, prepared for the signature of the State Director, or his delegate, fully incorporating the list. This notice shall be published at the expense of the State once a week for 5 consecutive weeks, in a newspaper of established character and general circulation in the vicinity of the lands, to be designated by the State Director, as provided in Subpart 1824 of this chapter.

(b) *Proof of publication.* At the expiration of the period of publication, the State shall file in the State Office proof of publication and of payment for the same.

§ 2612.3 Issuance of patents.

Upon the receipt of proof of publication of the notice of the list for patents by the State Office, such action shall be taken in each case as the showing may require, and all tracts that are free from valid protest, and respecting which the law and regulations and grant contract have been complied with, shall be patented to the State.

Subpart 2613—Preference Right of Entry Upon Restoration

§ 2613.0–3 Authority.

The Act approved February 14, 1920 (41 Stat. 407; 43 U.S.C. 644), provides that upon restoration of Carey Act lands from segregation, the Secretary is authorized, in his discretion, to allow a preference right of entry under applicable agricultural land laws to any Carey Act entryman on any such lands which such person had entered under and pursuant to the State laws providing for the administration of the grant and upon which such person had established actual, bona fide residence or had made substantial and permanent improvements.

§ 2613.1 Allowance of filing of applications.

(a) *Status of lands under State laws.* Prior to the restoration of lands segregated under the Carey Act, the Bureau of Land Management shall ascertain from the proper State officials whether any entries have been allowed under the State Carey Act laws on any such lands, and if any such entries have been allowed, the status thereof and action taken by the State with reference thereto.

(b) *No entries under State laws.* If it is shown with reasonable certainty, either from the report of the State officers or by other available information, that there are no entries under State law, then the Act of February 14, 1920, shall be disregarded in the restoration of the lands. Lands shall be restored as provided in a notice published in the FEDERAL REGISTER.

(c) *Entries under State laws.* If it appears from the report of the State officials or otherwise that there are entries under the State law which may properly be the basis for preference rights under this act, in the order restoring the lands the authorized officer may, in his discretion, allow only the filing of applications to obtain a preference right under the Act of February 14, 1920: *Provided, however,* That no more than 90 days is allowed from the date of restoration for the filing of applications for preference rights.

§ 2613.2 Applications.

(a) Applications shall be on a form approved by the Director and shall set forth sufficient facts to show that the applicant is qualified under the act and these regulations. The application must be subscribed and sworn to before a notary public.

(b) Persons qualified. The Act of February 14, 1920, applies only to cases of entries in good faith in compliance with the requirements of State law, with a view to reclaiming the land and procuring title pursuant to the provisions of the Carey Act; the act does not apply to cases where persons have settled on or improved the segregated land, either with the approval of the State authorities or otherwise, not pursuant to State law or not in anticipation of reclaiming the lands and procuring title under the Carey Act but in anticipation of initiating some kind of a claim to the land on its restoration because of failure of the project or cancellation of the segregation.

(c) Persons not qualified. The Act of February 14, 1920, does not apply to cases where the applicant's entry has been canceled by the State or forfeited for failure to perfect the entry according to State law, unless such default is the result of conditions which culminated in the elimination of the lands from the project; the allowance of a subsequent entry for the same land by the State shall be presumptive evidence that the default was the fault of the State entryman whose entry was forfeited or canceled.

§ 2613.3 Allowance of preference right.

If a person's application is approved, such person shall be entitled to a preference right of entry if and when the lands are classified for such entry under the regulations found in Part 2400 of this chapter.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

MARCH 31, 1977.

[FR Doc.77-10084 Filed 3-31-77;3:26 pm]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 21002]

CABLE TELEVISION SERVICES

Applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In reply to a petition for extension of time, the Commission is granting a two-week extension of the date on which reply comments are due in this proceeding. This extension is intended to afford the petitioner the opportunity to present its position.

DATES: Reply Comments must be received on or before April 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Jacobs, Certificates of Compliance Division, Cable Television Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-254-3407)

Adopted: March 28, 1977.

Released: March 30, 1977.

Order. In the matter of amendment of Subparts B and C of Part 76, of the Commission's rules pertaining to applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships, Docket No. 21002, RM-2695, RM-2723.

1. Reply comments in this proceeding are due on or before April 1, 1977. The Philadelphia Community Cable Coalition (PCCC) and Citizens for Cable Awareness in Pennsylvania (CCAP) have jointly requested a two-month extension of that filing date. In support of their request, PCCC/CCAP have stated that extra time is needed because of the voluminous comments that have been filed and because of the unavailability and heavy workloads of the groups' personnel.

2. Comments in this proceeding were originally due on January 31, 1977, and reply comments on March 2, 1977.[1] Those dated were later extended to March 1 and April 1, 1977, respectively. The Commission has expressed its desire to complete this proceeding by June 30, 1977.[2] Although PCCC/CCAP have shown good cause for granting an extension, an additional two-month delay would unduly prolong the resolution of the important matters addressed herein. An extension of two weeks would appear to be more reasonable.

Accordingly, it is ordered, That the date for filing reply comments in the captioned proceeding is extended to April 15, 1977.

This action is taken by the Chief, Cable Television Bureau, pursuant to authority delegated by § 0.288(a) of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
JAMES R. HOBSON,
Chief, Cable Television Bureau.

[FR Doc.77-10054 Filed 4-4-77;8:45 am]

[1] See 42 FR 5708, January 31, 1977.

[2] Paragraph 36, Notice of Proposed Rule Making, FCC 76-1070, 63 FCC 2d____(1976).

[47 CFR Part 97]

[Docket No. 21033]

AMATEUR RADIO SERVICE

Licensing and Operation of Complex Systems Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time for filing reply comments in Docket 21033.

SUMMARY: The deadline for filing reply comments in Docket 21033 is extended from April 15, 1977 to April 29, 1977 to enable greater public participation in the rulemaking process.

DATE: Reply comments must be received by April 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Gregory M. Jones, Personal Radio Division, Federal Communications Commission, Washington, D.C. 20554, (202-632-7175).

Adopted: March 28, 1977.

Released: March 30, 1977.

In the matter of deregulation of Part 97 of the Commission's rules concerning the licensing and operation of complex systems of amateur radio stations and the modification of repeater sub-hands, Docket 21033, RM-2664, RM-2780.

1. The Chief, Safety and Special Radio Services Bureau has under consideration an extension of time for filing reply comments in the above-captioned proceeding. The present deadline for filing reply comments is April 15, 1977.

2. It appears that an additional two weeks in which to file reply comments would enable greater public participation in this proceeding and would not significantly delay action on the proposals contained in the notice of proposed rulemaking, 42 FR 2089, 1977. See 42 FR 5708, January 31, 1977.

3. *Accordingly, it is ordered,* Pursuant to §§ 0.331 and 1.46 of the Commission's rules, that the time for filing reply comments in Docket 21033 is extended to April 29, 1977.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.77-10055 Filed 4-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 396]

[Docket No. MC-48; Notice No. 77-5]

COMMERCIAL MOTOR VEHICLES

Inspection, Repair and Maintenance

• *Purpose.* This document proposes to amend Part 396 of the Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR Part 396, for purposes of reducing vehicle defect-related accidents caused by inadequate inspection and maintenance procedures. •

A complete revision of Part 396 of the FMCSR is being considered. Part 396 requires motor carriers who conduct operations in interstate or foreign commerce to inspect and maintain their equipment on a systematic basis. In particular, it provides that carriers must maintain prescribed records detailing the servicing, inspection, and repairs performed on each vehicle (§ 396.2), and that drivers must make a daily written report to employing carriers setting forth any defects or deficiencies in their vehicles that the drivers have encountered during the day's work (§ 396.7). Part 396 also contains recommended maintenance practices and forms for use by motor carriers (§ 396.9).

Proper maintenance of commercial motor vehicles is essential to safety of motor carrier operations. The Bureau is charged by law with assuring safe operations of motor carriers. The basic technique used to monitor the quality of vehicle maintenance and mechanical condition is roadside inspections of commercial motor vehicles during the course of their operations. In 1974 the Bureau of Motor Carrier Safety's (BMCS) field staff inspected 39,801 property-carrying vehicle units at roadside checkpoints in all sections of the country.

The results of these inspections do not demonstrate the efficacy of current maintenance practices of some members of the motor carrier industry. Some 21 percent of the vehicles selected for inspection in 1974 were found to be mechanically unsafe to the point where they were declared out of service by the inspector. These vehicles were not allowed to depart from the place of inspection until repairs to restore them to safe operating condition had been made. The proportion of selected vehicles that has been found unserviceable has not improved significantly in recent years. In 1971, the out-of-service rate was 23.8 percent. In 1972 and 1973, the out-of-service rate was 22.2 percent and 21.6 percent, respectively. The historical trend, in terms of the percentage of vehicles inspected that were placed out of service, indicates that carriers' vehicle inspection and maintenance practices leave substantial room for improvement.

During calendar year 1975, the BMCS received 1,403 accident reports from for-

hire carriers which indicated that one or more mechanical defects or failures were causative factors in the accidents. These accidents resulted in 77 fatalities, 1,293 injuries, and $12,900,000 in property damage. Faulty wheels, tires and brake systems constituted over 60 percent of the accidents involving mechanical defects. Since these defects rarely arise suddenly after dispatch as the result of external causes, the Bureau has concluded that a large percentage of the motor carrier accidents which are caused by defects or mechanical failures could have been prevented or had their consequences mitigated by proper vehicle inspection and maintenance practices.

Complaints to the Bureau by truck and bus drivers who allege that their employers are following poor maintenance practices continue to be commonplace. The most disturbing feature of the complaints is the frequent allegation by drivers that the carriers exhibit indifference to drivers' reports of unsafe mechanical conditions. Even if one assumes that a number of unjustified reports of this nature are made the fact remains that the driver is one of the best sources of information about the mechanical performance of vehicles operating on the highway, and simple prudence would seem to dictate that carriers should investigate these reports and take corrective action where warranted. Yet, the Bureau continues to receive a steadily increasing volume of complaints that drivers have repeatedly called mechanical defects to the attention of the employing carriers, and the carriers have failed to take any action in response to the reports.

On March 16, 1973, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the FEDERAL REGISTER (38 FR 7127) inviting comments on eight specific questions for improved inspection and maintenance procedures including pre-trip and post-trip inspections.

The ANPRM responded to a petition by the Professional Driver Council, Inc., (PROD) to amend § 396.7, which deals with the drivers' daily vehicle condition reports, so that the drivers' vehicle condition reports for the preceding 3 weeks or a complete vehicle maintenance log, or both, would have to be located on each vehicle at all times while it is being operated in interstate or foreign commerce. The maintenance log would contain a description of any mechanical repairs or maintenance work performed on the vehicle, the date when the repairs of work was performed, and the name of the mechanic who performed the work or made the repairs. In support of the petition, PROD says that drivers are presently unable to detect most safety defects by visual inspection before they are dispatched from their terminals. Requiring carriers to maintain a maintenance log in a place where a driver can examine it prior to dispatch will, according to the petition, make it possible for a driver to learn the true condition of his equipment before it is too late to do something about an unsafe vehicle.

The BMCS received over 80 responses to the ANPRM, from many facets of the trucking industry including drivers, owner-operators, union representatives, trucking associations, motor carriers, and insurance companies. Most of the responses contained little in the way of new data or facts, and many were critical of revising Part 396 in light of the lack of BMCS resources for enforcement of the FMCSR. The BMCS elected to further study the problem by entering into a research contract with the University of Michigan's Highway Safety Research Institute (HSRI). In the HSRI final report "Effect of Commercial Vehicle Systematic Preventive Maintenance on Specific Causes of Accidents," a definite relationship was identified between accident frequency and the degree of motor carrier preventive maintenance.[1]

The HSRI report contained several conclusions and recommendations designed to reduce highway accidents caused by vehicle mechanical defects. Pertinent conclusions were:

1. Interstate motor carrier vehicle inspection and preventive maintenance systems can reduce the accident rate on the highway.

2. Nearly 70 percent of the commercial vehicle defect accident cases reported involved brakes, tires, and wheel failures—all relatively visible components of the vehicles.

3. Commercial vehicle drivers who conduct a careful pre-trip inspection are less likely to become involved with a vehicle-defect caused accident than those drivers who do not conduct such inspections.

4. A major limitation to many State operated periodic motor vehicle inspection (PMVI) activities is that the intervals between inspections are much longer than the wearout period of many commercial vehicle components.

5. Maintenance practices used by the trucking industry can be characterized as "sophisticated," "adequate," and "breakdown." Carriers who practice the first two methods recognize the economic benefits resulting from keeping the rolling stock serviceable. Carriers using the "breakdown" maintenance practice, actually a repair system, use their system only when failure or breakdown of the vehicle occurs while in service.

6. The inspection practices of BMCS safety investigators are effective in identifying grossly defective vehicles on the highway.

7. Smaller and private companies—the occasional interstate trucker—generally have a poorer understanding of the FMCSR and have poorer maintenance practices.

Among the HSRI report recommendations, the following were most applicable to this proposed revision to Part 396:

1. Commercial vehicle drivers should be required to prepare written pre-trip vehicle inspection reports. A driver could accomplish this by either driving through a safety lane check, or by a careful walk-around the vehicle with a checklist. The written record should be carried on the vehicle and be capable of being audited.

2. The present post-trip driver inspection requirements found in § 396.7 provide a means of reporting defects observed during the trip, but should be strengthened. Driver walkaround, as in the pre-trip inspection, is recommended.

3. Inspection and maintenance records should be carried on-board the vehicle. The records could be in a form similar to the driver's log.

4. Educational safety information, and data from the roadside vehicle inspections conducted by BMCS field personnel, should be more fully developed and circulated by the BMCS, particularly to smaller firms. These firms are more apt to lack knowledge of BMCS Regulations and sound safety practices such as the kinds of defects which cause accidents and the need for pre-trip inspections.

Another source of information which reinforces the need for improved inspection and maintenance procedures for heavy trucks is the Fatal Accident Reporting System (FARS) sponsored by the National Highway Traffic Safety Administration. In this system, heavy trucks are defined as articulated vehicles or single unit trucks have a Gross Vehicle Weight Rating of at least 26,000 pounds.[2] The FARS data for 1975 show the following:

a. Heavy trucks were responsible for 7 percent of all fatalities, or 2,873 deaths.

b. Over 70 percent of the heavy trucks were less than 5 years old.

c. Of the 2,491 heavy trucks involved, 2,233 were two-unit vehicles.

d. Police reported 129 heavy truck defects (brakes, tires and wheels accounted for 93 of the defects).

The data and facts outlined above support the need for revising the requirements presently contained in Part 396. A summary of the changes contemplated follows:

PART 396—INSPECTION, REPAIR AND MAINTENANCE

§ 396.1—No change.

§ 396.3 (Presently § 396.2)—Primarily editorial changes except that a new requirement for retaining records on inspections of certain bus safety equipment is proposed.

§ 396.5 (Presently § 396.3)—Editorial changes only are proposed.

§ 396.7 (Presently § 396.4)—Several editorial changes are proposed. In addition, several specific vehicle components are identified which BMCS field personnel have been inspecting for many years, but which are not specifically required by Part 393: frames, springs, axles, wheels, rims, and steering mechanisms.

[1] Copies of this report are available for sale at $6 each from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161, under Accession No. PB-248379/AS.

[2] The FARS data sampling does not take into consideration whether the heavy trucks were being operated in interstate, intrastate or local operations.

§ 396.9 (Presently § 396.5)—Editorial changes only are proposed.

§ 396.11 (Presently § 396.6)—Editorial changes only are proposed.

§ 396.13 (Presently § 396.7)—It is proposed that drivers be required to prepare a written pre-trip vehicle inspection report in addition to the presently-required post-trip report. The pre-trip and post-trip reports may be combined on a single form. Copies of the reports for the past 30 days would be required to be carried on the vehicle. Prior to operation of any vehicle, motor carriers would be required to correct any safety-related deficiency noted on a pre-trip or post-trip report, or to determine that no correction is necessary.

§ 396.15 (Presently § 396.8)—The only change proposed is that written driver pre-trip and post-trip vehicle condition reports would be required for vehicles which are part of the shipment being delivered.

Finally, it is proposed that the present § 396.9, Recommended practices and forms, be deleted. It is felt that the majority of motor carriers have record-keeping systems which are highly tailored to individual needs, and that generalized forms would be of limited value.

The Director invites interested persons to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Such communications should refer to the docket number and the notice number appearing at the top of this document and should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Room 3401, Federal Highway Administration, U.S. Department of Transportation, Washington, D.C. 20590.

All comments received on or before July 29, 1977, will be considered by the Director of the BMCS before taking final action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date, for examination by interested persons in the docket room of the Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street SW., Washington, D.C.

It is hereby proposed to amend 49 CFR 396 effective April 1, 1978, to read as follows:

PART 396—INSPECTION, REPAIR AND MAINTENANCE

Sec.

396.1 Scope of the rules in this part.
396.3 Inspection, repair and maintenance.
396.5 Lubrication.
396.7 Unsafe operations forbidden.
396.9 Inspection of motor vehicles in operation.
396.11 Damaged vehicles, inspection.
396.13 Drivers vehicle condition reports.
396.15 Driveaway-towaway operation, inspections.

AUTHORITY: Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304, sec. 6, Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48; 49 CFR 389.4.

§ 396.1 Scope of the rules in this part.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, every motor carrier, its officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles shall comply and be conversant with the rules in this part.

(b) *Intracity operations.* The rules in this part do not apply to a driver or a vehicle wholly engaged in exempt intracity operations as defined in § 390.16 of this subchapter.

(c) *Lightweight mail trucks.* The rules in this part do not apply to a motor carrier or driver wholly engaged in transporting mail under contract with the U.S. Postal Service in motor vehicles which have a manufacturer's gross vehicle weight rating of 10,000 pounds or less.

§ 396.3 Inspection, repair and maintenance.

(a) Every motor carrier shall systematically inspect, repair and maintain or cause to be systematically inspected, repaired and maintained all motor vehicles subject to its control. Parts and accessories shall be in safe and proper operating condition. Pushout windows, emergency doors and warning lights in buses shall be inspected at least every 90 days.

(b) Systematic inspection, repair and maintenance records shall be maintained for each motor vehicle controlled by a motor carrier. These records shall be retained in the motor carrier's files for a period of 3 years, or 1 year after the motor vehicle leaves the motor carrier's control. The minimum records required are—

(1) An identification of the vehicle including make, serial number, number of tires including size and load rating and, if non-owned, the name of the person furnishing the vehicle;

(2) Records of inspection, repairs and maintenance indicating their date and nature;

(3) Lubrication records; and

(4) Records of tests conducted on pushout windows, emergency doors and warning lights on buses.

§ 396.5 Lubrication.

Every motor carrier shall insure that motor vehicles subject to its control are—

(a) Properly lubricated;

(b) Free of unnecessary accumulations of oil and grease; and

(c) Free of oil and grease leaks.

§ 396.7 Unsafe operations forbidden.

(a) No motor carrier shall permit or require a driver to drive, nor shall any driver drive, a motor vehicle in such condition that it would be so hazardous to operate as to be likely to cause an accident or a breakdown of the vheicle.

(b) If while any motor vehicle is being operated on a highway, it is discovered to be in an unsafe condition, it may be continued in operation only to the nearest place where repairs can safely be effected; such operations shall be conducted only if less hazardous to the public than to permit the vehicle to remain on the highway.

(c) Parts and accessories in addition to those specified in Part 393 of this subchapter shall be inspected, repaired and maintained in a safe operating condition. Such parts and accessories shall include but are not limited to, frame and frame assemblies, springs and spring hangers, axles and attaching parts, wheels and rims, and steering mechanisms.

§ 396.9 Inspection of motor vehicles in operation.

(a) *Personnel authorized to perform inspections.* Every special agent of the Federal Highway Administration (as defined in Appendix B to this Subchapter) is authorized and hereby ordered to enter upon and perform inspections of motor carriers' vehicles in operation.

(b) *Prescribed inspection report.* Form MCS 63, Driver-Equipment Compliance Check, shall be used to record results of motor vehicle inspections conducted by authorized employees.

(c) *Motor vehicles declared "out of service."* (1) Authorized employees shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading is so hazardous to operate as to be likely to cause an accident or a breakdown. Form MCS 64, "Out of Service Vehicle" sticker, shall be used to mark vehicles "out of service."

(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, "out of service" until all repairs required by the "out of service notice" on Form MCS 63 have been satisfactorily completed. The term operated as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an "out of service" vehicle shall meet the performance requirements of this subchapter.

(3) No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice" on Form MCS 63.

(4) The person completing the repairs required by the "out of service notice" shall sign the "Certification of Repairman" in accordance with the terms prescribed on Form MCS 63, entering the name of the shop or garage and the date and time the repairs were completed. If the driver completes the repairs, he shall sign and complete the "Certification of Repairman."

(d) *Motor carrier disposition of Form MCS 63.* (1) The driver of any motor vehicle receiving a Form MCS 63 shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver does

not arrive at a terminal or facility of the motor carrier operating the vehicle within twenty-four (24) hours he shall immediately mail the Form MCS 63 to the motor carrier.

(2) Motor carriers shall examine Form MCS 63. Violations or defects noted thereon shall be corrected.

(3) Within 15 days following the date of the inspection, the motor carrier shall—

(i) Complete the "Motor Carrier Certification of Action Taken" on Form MCS 63 in accordance with the terms prescribed thereon; and

(ii) Return Form MCS 63 to the Director, Regional Motor Carrier Safety Office of the Bureau of Motor Carrier Safety, Federal Highway Administration, at the address indicated upon Form MCS 63.

§ 396.11 Damaged vehicles, inspection.

No motor carrier shall permit or require a driver to drive, nor shall any driver drive a motor vehicle, which has been damaged in an accident or by other causes until inspection has been made by a person qualified to ascertain the nature and extent of the damage and the relationship of such damage to the safe operation of the motor vehicle. No motor vehicle shall be operated until it has been determined to be in safe operating condition.

§ 396.13 Driver vehicle condition reports.

(a) Every motor carrier shall require its drivers to report, and every driver shall prepare such a report in writing, which lists any defect or deficiency of the motor vehicle discovered by or reported to the driver. Such reports are to be prepared both prior to (pre-trip) and at the completion of (post-trip) each day's work or tour of duty for every vehicle operated. If no defect or deficiency is discovered, the report(s) shall so indicate.

(b) Prior to operating a vehicle, motor carriers shall repair any items listed in either a pre-trip or post-trip inspection report which would be likely to affect the safety of operation of the vehicle or result in its mechanical breakdown. Motor carriers shall certify on reports listing defects or deficiencies that each has been corrected or that correction is unnecessary.

(c) A copy of the pre-trip and post-trip vehicle condition reports shall be carried on board the vehicle for at least 30 days. Motor carriers shall retain copies of these reports in their files for at least 1 year.

§ 396.15 Driveaway-towaway operations, inspections.

Every motor carrier, with respect to motor vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part except that the maintenance records required by § 396.3 shall not be required for any vehicle which is part of the shipment being delivered. Before the beginning of any driveaway-towaway operation of motor vehicles in combination, the motor carrier shall make a careful inspection and test to ascertain that the tow-bar or saddle-mount connections are properly secured to the towed and towing vehicles, that they function adequately without cramping or binding of any of the parts, and that the towed motor vehicle follows substantially in the path of the towing vehicle without whipping or swerving. Every motor carrier shall maintain practices to insure that following completion of any trip in a driveaway-towaway operation of motor vehicles in combination, and before they are used again, the tow-bars and saddle-mounts are disassembled and inspected for worn, bent, cracked, broken, or missing parts. Before reuse, suitable repair or replacement shall be made of any defective parts and the devices shall be properly reassembled.

(Sec. 204, 49 Stat. 546, as amended (49 U.S.C. 304), Sec. 6, Public Law 89-670, 80 Stat. 937 (49 U.S.C. 1655); 49 CFR 1.48; 49 CFR 389.4).

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

FOR FURTHER INFORMATION CONTACT

Principal Program Person—Donnell W. Morrison, Chief, Vehicle Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-1700).

Principal Lawyer—Francis J. Mulcahy, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590 (202-426-0834).

Issued on March 31, 1977.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.77-10097 Filed 4-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Threatened Status and Critical Habitat for the Golden Coqui

The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 87 Stat. 884; hereinafter the Act), which would determine the golden coqui (*Eleutherodactylus jasperi*), a small, live-bearing frog recently discovered on Puerto Rico, to be a Threatened Species and which would determine Critical Habitat for that species.

The golden coqui is known only from a semicircular area, 10 km. in radius south of Cayey, Puerto Rico. The elevational range is from 700 to 850 meters. The critical factor determining presence of populations appears to be dense bromeliad growth, which in turn seems to be dependent on heavy dew produced by orographic uplift of air striking the mountain range. The species is found only in water-containing bromeliads of the genera *Vriesia*, *Hohenbergia* and *Guzmania*. Inhabited bromeliads have usually been found in clusters. A low incidence of golden coquis in isolated bromeliads suggests that dispersal distances are short.

BACKGROUND

Section 4(a) of the Act states:

General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the golden coqui are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Within the range of the golden coqui, there is great demand for high elevation land because temperatures are moderate and rainfall is much lower than at most other comparable elevations. The presence of dirt roads and the suitability of the land for pasture have promoted development to the summits well ahead of pavement construction.

The habitat is generally somewhat xeric and susceptible to fire damage. One scrub area searched in 1973 had golden coquis in bromeliads on the ground, in low trees, and on some large boulders. Re-examination in 1973, after a fire, revealed that only the bromeliads and their inhabitants on the boulders survived. Most of the known habitat is privately owned except for a small fraction which is primarily highway right of way. The conflict between uncontrolled human development and the continued existence of the golden coqui is clear.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The golden coqui has only recently been discovered and is currently known only to a few individuals; however, its unique reproductive adaptation and attractive coloration are likely to create a large demand for specimens for scientific, educational and display purposes. Similarly bright colored frogs from the tropics, *Amphodus auratus* from Trinidad and *Atelopus varius zeteki* from Panama, have suffered from extensive

collecting pressure because of their attractiveness.

3. *Disease or predation.* Unknown.

4. *The inadequacy of existing regulatory mechanisms.* There currently exist no regulations pertaining to the protection and conservation of this species.

5. *Other natural or manmade factors affecting its continued existence.* The specialized, obligate bromeliad-dwelling mode of existence employed by this species coupled with its low reproductive rate, apparent inability to disperse, and limited range have created a naturally precarious status.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", 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 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).

The areas delineated below do not necessarily include the entire Critical Habitat of the golden coqui, and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the golden coqui found within the areas delineated below.

Until the issuance of additional guidelines, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any actions which might reasonably be expected to affect Critical Habitat within the delineated areas.

CRITICAL HABITAT DETERMINATION

The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is proposed as Critical Habitat for the golden coqui (*Eleutherodactylus jasperi*). This proposal is based primarily on data supplied by George E. Drewry.

(1) Cerro Avispa—elevations above 700 meters on the south and southeastern slope of the mountain: from the northern junction of Highway 715 and an unnumbered dirt road southeast and southwest along Highway 715 to the southern junction with the same unnumbered dirt road and Highway 715, north and northeast along the unnumbered dirt road just below the southeast facing crest of Cerro Avispo to its junction with Highway 715.

(2) Monte el Gato—entire summit above 700 meters: from the junction of Highway 715 and the 700 meter contour interval west along Highway 715 to the junction of Highway 715 and an unnumbered road, north and northeast along this road to where it crosses the 700 meter contour interval, and east along the 700 meter contour interval to where it crosses Highway 715.

(3) Sierra de Cayey—elevations above 700 meters: southeast from the junction of Highways 738 and 15 along Highway 15 to a point .5 kilometer south of Benchmark 684.5, northeast from this point in a line to a point on Highway 7741 two kilometers south of the junction of Highways 738 and 7741, north and northwest along Highway 7741 to its junction with Highway 738, and northwest from the junction of Highways 7741 and 738 along Highway 738 to its junction with Highway 15.

Refer to 7.5 minute U.S.G.S. Topographical Map, Cayey, Puerto Rico, 1972.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below. Endangered Species regulations published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered Species. All of those prohibitions and exceptions also apply to any Threatened Species *unless* a Special Rule pertaining to that Threatened Species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered Species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of or salvaged in accordance with directions from the Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may posses, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

The determination set forth in these Proposed Rules and the proposal of Crit-

ical Habitat also would make the Golden Coqui eligible for the consideration provided by section 7 of the Act.

The Director is preparing, in consultation with the affected agencies, guidelines for Federal agencies for the application of section 7 of the Act. In the future, regulations will be published regarding section 7. Proposed regulations were issued on January 26, 1977 (42 FR 4868).

Regulations published in 50 CFR Part 17 provide for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Puerto Rico with respect to this proposal and request his comments and recommendations before making final determinations.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Golden Coqui;

(2) The location of and reasons why any habitat of the Golden Coqui should or should not be determined to be "Critical Habitat" as provided for by section 7 of the Act;

(3) Additional information concerning the range and distribution of the Golden Coqui.

Final promulgation of the regulations on the Golden Coqui will take into consideration the comments and any additional information received by the Director and such communications may lead him to adopt final regulations that differ from this proposal.

An Environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street, N.W., Washington, D.C. 20240, and may be examined 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 and other documents, preferably in triplicate, to Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received no later than June 6, 1977, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Suite 600, 1612 K Street NW., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973.

(16 U.S.C. 1531–1543; 87 Stat. 884.)

This proposed rulemaking was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

Dated: March 8, 1977.

Galen L. Buterbaugh,
Acting Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11 by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion of range where threatened or endangered			
	AMPHIBIANS						
Coqui, golden.	*Eleutherodactylus jasperi*...	NA	Puerto Rico.	Entire.....	T	.....	NA.
*	*	*	*	*	*		*

It is further proposed to amend 50 CFR Part 17; By amending proposed Subpart I of Part 17 [41 FR 55729; December 22, 1976] by adding new § 17.95 (d)(1) reading as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians*—(1) *Golden Coqui.* (i) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the Golden Coqui (*Eleutherodactylus jasperi*):

(A) Cerro Avispa—elevations above 700 meters on the south and southeastern slope of the mountain: from the northern junction of Highway 715 and an unnumbered dirt road southeast and southwest along Highway 715 to the southern junction with the same unnumbered dirt road and Highway 715, north and northeast along the unnumbered dirt road just below the southeast facing crest of Cerro Avispo to its junction with Highway 715.

(B) Monte el Gato—entire summit above 700 meters: from the junction of Highway 715 and the 700 meter contour interval west along Highway 715 to the junction of Highway 715 and an unnumbered road, north and northeast along this road to where it crosses the 700 meter contour interval, and east along the 700 meter contour interval to where it crosses Highway 715.



Proposed Critical Habitat for the Golden Coqui in Cerro and Monte el Gato.

(C) Sierra de Cayey-elevations above 700 meters: southeast from the junction of Highways 738 and 15 along Highway 15 to a point .5 kilometer south of Benchmark 684.5, northeast from this point in a line to a point on Highway 7741 two kilometers south of the junction of Highways 738 and 7741, north and northwest along Highway 7741 to its junction with Highway 738, and northwest from the junction of Highways 7741 and 738 along Highway 738 to its junction with Highway 15. Refer to 7.5 minute U.S.G.S. Topographical Map, Cayey, Puerto Rico, 1972.



PROPOSED CRITICAL HABITAT FOR THE GOLDEN COQUI IN SIERRA DE CAYEY

* * * * *

[FR Doc.77-9917 Filed 4-4-77;8:45 am]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for the Pine Barrens Treefrog in Florida

The Director, U.S. Fish and Wildlife Service (hereinafter, the Director and the Service, respectively), hereby issues a proposed rulemaking, pursuant to sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 87 Stat. 884; hereinafter the Act), which would determine the Pine Barrens Treefrog in Florida (*Hyla andersonii*) to be an Endangered species and which would determine Critical Habitat for the Florida populations of that species. These populations occur in Okaloosa County, Florida. Until 1972, populations were known from adjacent Walton County; these populations have now been extirpated.

BACKGROUND

Section 4(a) of the Act states:

General—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific, or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the Florida population of the Pine Barrens Treefrog are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Pine Barrens Treefrog is now known to exist as seven small populations in Okaloosa County, Florida. Four other populations, including those in Walton County, have been extirpated since the frog's discovery in 1970. These losses were due to development and land clearing for agricultural use. These Florida populations, isolated by over 750 kilometers from the nearest Pine Barrens Treefrog populations in South Carolina, are unique in their color pattern, mating calls, and body proportions. At present, their relationship with other isolated populations of the Pine Barrens Treefrog in North Carolina, South Carolina, and New Jersey, remains unclear. Unless measures are taken soon to protect the remaining seven populations which include less than 500 individuals, a unique member of the Florida Gulf Coast herpetofauna may be extirpated.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* The location of these populations is not generally known to the public, and there is no evidence of overutilization at present. If, however, the populations were to be discovered by collectors, serious reduction of the populations might occur.

3. *Disease or predation.* Not applicable for this species.

4. *The inadequacy of existing regulatory mechanisms.* Populations of the Pine Barrens Treefrog are protected by the Florida Game and Fresh Water Fish Commission against taking, possession, and transport of specimens. Addition to the Endangered and Threatened Wildlife list would provide additional discouragement to collectors, especially as regards prohibitions against interstate commerce.

5. *Other natural or manmade factors affecting its continued existence.* None.

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation", 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 program 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 Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of April 22, 1975, (40 FR 17764-17765).

The areas delineated below do not necessarily include the entire Critical Habitat of the Pine Barrens Treefrog in Florida and modifications to Critical Habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or modification of the Critical Habitat of the Pine Barrens Treefrog in Florida found within the areas delineated below.

Until the promulgation of section 7 regulations, all Federal departments and agencies should, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect Critical Habitat within the delineated areas. Consultation pursuant to section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

CRITICAL HABITAT DETERMINATION

Based upon literature reviews and conversation with Mr. D. Bruce Means, who has looked for populations throughout the Florida panhandle and conducted studies on remaining populations, Critical Habitat for the Florida Pine Barrens Treefrog includes the following areas (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species):

I. NW¼ Section 35 T4NR22W Okaloosa Co.

II. NE¼ Section 27 T4NR22W Okaloosa Co.

III. SW¼ Section 26 T5NR23W Okaloosa Co.

IV. NW¼ Section 34 T5NR23W Okaloosa Co.

V. NW¼ Section 32 T4NR22W Okaloosa Co.

VI. NW¼ Section 12 T4NR22W Okaloosa Co.

VII. NE¼ Section 11 T4NR22W Okaloosa Co.

EFFECT OF THE RULEMAKING

The effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below. Endangered Species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered species. All of those prohibitions and exceptions also apply to any Threatened species unless a Special Rule pertaining to that Threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to Endangered species, are found at § 17.21 of Title 50 and, for the convenience of the reader, are reprinted below:

§ 17.21 *Prohibitions.*

(a) except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner: the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from the Service.

"(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take Endangered Species, for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in: (i) the death or permanent disabling of the specimen; (ii) the removal of the specimen from the State where the taking occurred; (iii) the introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or (iv) the holding of the specimen in captivity for a period of more than 45 consecutive days."

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this subsection.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened Species under certain circumstances. Such permits involving Endangered Species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the Act, the Director will notify the Governor of Florida with respect to this proposal and request his comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective in the conservation of any Endangered or Threatened species as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the Pine Barrens Treefrog in Florida;

(2) The location of and reasons why any habitat of the Pine Barrens Treefrog in Florida should or should not be determined to be "Critical Habitat" as provided for by Section 7 of the Act;

(3) Additional information concerning the range and distribution of the Pine Barrens Treefrog in Florida.

Final promulgation of the regulations on the Pine Barrens Treefrog in Florida will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined 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 and other documents, preferably in triplicate, to Director (FWS/WPO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. All relevant comments and materials received no later than June 3, 1977, will be considered. Comments and materials received will be available for public inspection during normal business hours at the Service's Office in Room 514, 1717 H Street NW., Washington, D.C.

This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

This proposed rulemaking was prepared by Dr. C. Kenneth Dodd, Jr., Office of Endangered Species.

Dated: March 22, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed to amend § 17.11(i) by adding in alphabetical order the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

Species		Population	Range		Status	When listed	Special rules
Common name	Scientific name		Known distribution	Portion of range where threatened or endangered			
AMPHIBIAN							
* * *		*	*	*	*	*	*
Treefrog, pine barrens	*Hyla andersonii*	Florida	Florida	Entire	E	NA	NA

It is further proposed to amend 50 CFR Part 17

1. By adding new § 17.95(d)(2) reading as follows:

§ 17.95 Critical habitat—fish and wildlife.

(d) * * *

* * * * *

(2) Pine Barrens Treefrog (Florida population) (a) The following area (exclusive of those existing manmade structures or settlements which are not necessary to the survival or recovery of the species) is Critical Habitat for the Florida population of the Pine Barrens treefrog (*Hyla andersonii*):

I. NW¼ Section 35 T4NR22W Okaloosa Co.
II. NE¼ Section 27 T4NR22W Okaloosa Co.
III. SW¼ Section 26 T5NR23W Okaloosa Co.
IV. NW¼ Section 34 T5NR23W Okaloosa Co.
V. NW¼ Section 32 T4NR22W Okaloosa Co.
VI. NW¼ Section 12 T4NR22W Okaloosa Co.
VII. NE¼ Section 11 T4NR22W Okaloosa Co.



PROPOSED CRITICAL HABITAT FOR THE PINE BARRENS TREEFROG IN FLORIDA (OKALOOSA COUNTY).

[FR 77-9918 Filed 4-4-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

[40 CFR Part 1500]

PREPARATION OF ENVIRONMENTAL IMPACT STATEMENTS: GUIDELINES

Request for Comments

APRIL 1, 1977.

AGENCY: Council on Environmental Quality

ACTION: Request for Comment on Guideline Change

SUMMARY: This documents proposes to clarify CEQ's Guidelines to indicate that the environmental impact statement process applies to agency proposals for legislation, but inviting comment as to whether agency comments or reports on Congressional proposals should be required statements. This proposal is intended to avoid ambiguity and possible misinterpretation of when an environmental impact statement is required. The need for the rule has been made evident by the filing of a lawsuit on the subject.

DATES: Comments due May 5, 1977.

ADDRESSES: Comments to Nicholas C. Yost, General Counsel; Council on Environmental Quality; 722 Jackson Place, NW.; Washington, D.C. 20006.

CONTACT: Nicholas C. Yost; 202-382-6173.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Council on Environmental Quality intends to revise § 1500.5(a)(1) of its Guidelines for the Preparation of Environmental Impact Statements. Written comments and recommendations should be submitted to the General Counsel, Council on Environmenal Quality, 722 Jackson Place, NW., Washington, D.C. 20006. All comments and recommendations received on or before May 5, 1977 will be considered.

On March 21, 1977 an action was commenced in the United States District Court for the District of Columbia, *Wingfield* v. *OMB*. No. 77-0489, alleging, inter alia, that section 102(2)(C) of the National Environmental Policy Act requires agencies to prepare environmental impact statements on agency comments on proposed legislation pending in Congress. The plaintiffs rely in part on § 1500.5(a)(1) of the Council's Guidelines for the Preparation of Environmental Impact Statements in support of their claim.

The Council did not intend that § 1500.5(a)(1) be interpreted to require that agencies prepare EISs when they comment on legislation initiated by and pending before Congress. Indeed, neither NEPA nor this provision of the Guidelines has been interpreted to this effect in the past, and no EISs have ever been prepared in connection with Federal agency comments on Congressional proposal. In order to avoid any ambiguity and/or possible misinterpretation of this paragraph, however, the Council proposes to amend it.

The proposed revision would clarify the Guidelines to indicate that the EIS process applies to agency proposals for legislation, but not to agency comments or reports on Congressional proposals. In the latter situation, individual members of Congress or Congressional committees can request such information as they may need to assist them. The preparation of environmental impact statements on agency reports on Congressionally initiated legislation has not been found to be useful to the public or to agencies or Congressional decisionmaking. Moreover, legislation proposed by members of Congress frequently lies dormant or is modified so frequently that no real opportunity arises for the EIS process to work effectively. In contrast, when agencies develop legislative proposals, EIS procedures apply because there is an opportunity for agencies to study and incorporate environmental concerns in their planning and decisionmaking prior to the constraints of time and constant change which occur once a draft legislative proposal is introduced.

The Council is considering alternative approaches to resolving the current ambiguity. Approaches we are considering include are not limited to the following: The first approach would be to delete entirely any reference to agency reports on Congressionally initiated legislation. A second approach would be to apply the EIS process in those circumstances when agency involvement in the Congressional development of a legislative proposal is so extensive that the agency is in effect a co-proponent of the proposed legislation. In the latter situation, an EIS may be necessary. The Council solicits comments and recommendations on these alternatives.

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-10238 Filed 4-4-77;10:00 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

EXECUTED MEMORANDA OF AGREEMENT

Pursuant to § 800.6(a) of the Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the month of February 1977. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f, as amended, 90 Stat. 1320).

Middle Fork Pictograph-Petroglyph Panels and the Castle Rock Archeological Site, Power River, Wyoming, affected by construction of the Middle Fork Reservoir undertaken by the Bureau of Land Management, U.S. Department of the Interior (2/10/77).

Alfred Buffat Homestead, Knox County, Tennessee, affected by Tennessee Highway Project I-640 undertaken by the Federal Highway Administration, U.S. Department of Transportation (2/10/77).

Pennsylvania Canal, Delaware Division, Northampton County, Pennsylvania, affected by the construction of Interstate Route 78 undertaken by the Federal Highway Administration, U.S. Department of Transportation (2/10/77).

Historic Sites No. 1, No. 3, No. 4, Lehigh and Northampton Counties, Pennsylvania, affected by construction of Interstate Route 78 undertaken by the Federal Highway Administration, U.S. Department of Transportation (2/10/77).

Bellows Falls Armory, Rockingham, Vermont, affected by the Housing Assistance Payments Program undertaken by the U.S. Department of Housing and Urban Development (2/1/77).

Jackson Ward Historic District, Richmond, Virginia, affected by Housing Conservation Program for 1977 undertaken by the City of Richmond assisted by the U.S. Department of Housing and Urban Development (2/1/77).

The Memoranda are available for inspection at the Advisory Council offices, Suites 430 and 530, 1522 K Street, NW., Washington, D.C. 20005.

ROBERT M. UTLEY,
Deputy Executive Director, Advisory Council on Historic Preservation.

[FR Doc.77-10190 Filed 5-4-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Designation No. A467]

COLORADO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Colorado Counties as a result of drought and wind January 1 through December 31, 1976, in Douglas County and drought January 1, 1976, through February 28, 1977, and a severe windstorm February 23, 1977, in Lincoln County.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Richard D. Lamm that such designation be made.

Applications for emergency loans must be received by this Department no later than May 23, 1977, for physical losses and December 23, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 28th day of March, 1977.

FRANK W. NAYLOR, Jr.,
Acting Administrator, Farmers Home Administration.

[FR Doc.77-10105 Filed 4-4-77;8:45 am]

Forest Service

SPEARFISH DISTRICT GRAZING ADVISORY BOARD; BLACK HILLS NATIONAL FOREST

Meeting Cancellation

The Spearfish District Grazing Advisory Board meeting scheduled for April 15, 1977 is cancelled. This board has been terminated.

The Notice of this meeting was published on page 13570, FEDERAL REGISTER Volume 42, Number 48, Friday, March 11, 1977.

FRANK P. SMEDLEY,
Acting Forest Supervisor.

MARCH 28, 1977.

[FR Doc.77-10052 Filed 4-4-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 30616]

AMERICAN AIRLINES, INC., ET AL.

"Super-Saver" Discount Fares; Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on April 28, 1977, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Burton S. Kolko.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Economics will circulate its material on or before April 8, 1977, and the other parties on or before April 18, 1977. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., March 29, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-10098 Filed 4-4-77;8:45 am]

[Dockets Nos. 26368, 26369, 27415, 28292, 28294, 28597, 28830, 29213, 29216, 29228, 29229, 29247, 29856, 29998]

EASTERN AIR LINES, INC.

Enforcement Proceeding; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 25, 1977 at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue,

Washington, D.C. 20428, before the undersigned.

Dated at Washington, D.C., March 28, 1977.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc.77-10099 Filed 4-4-77;8:45 am]

[Docket Nos. 29123, 27813; Order 77-3-163]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding North/Central and Intra-Pacific Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1977.

By Order 76-12-85, December 15, 1976, the Board directed United States carriers to submit justification in support of Agreement C.A.B. 26257 which would establish fares over the North/Central Pacific from April 1, 1977 through November 30, 1977.[1] Pan American World Airways, Inc. (Pan American), the only U.S. IATA member providing service over the North/Central Pacific, has submitted the requested data as has Northwest Airlines, Inc. (Northwest), which is not a member of IATA. Trans International Airlines, Inc. (TIA) and World Airways, Inc. (World), two supplemental carriers, have jointly filed initial comments and comments in reply, as has the Puget Sound Traffic Association (PSTA).

In addition, Pan American has filed a petition for reconsideration of Order 77-1-60, January 11, 1977, which acted upon an earlier Agreement C.A.B. 26064, relating to North/Central Pacific fares through March 31, 1977. TIA and World have jointly filed an answer. Pan American's petition contests the Board's disapproval of first- and economy-class fare increases, as well as certain proposed 30/120 day excursion fares. Since its arguments apply equally to matters here before us in the instant agreement, we will consider them in that context.[2]

THE AGREEMENTS

When compared to fare levels in existing tariffs (See Attachment A),[3] Agreement C.A.B. 26257 would increase west coast/Honolulu first-class fares by approximately seven to 10 percent, and normal economy-class fares by approximately three to seven percent.[4] Normal fares from Alaska, however, would generally remain unchanged. Promotional fares would be increased by approximately two to 30 percent with the higher-rated 21-day excursion fares being subject to lesser increases and the lower-rated fares to greater increases. Except for discontinuation of individual inclusive-tour (IIT) fares and the affinity group-100 fare from Alaska, the structure would remain essentially unchanged. However, certain westbound 30/120-day excursion fares, now available only from Canada, would be extended to travel from San Francisco/Honolulu to Manila at the Vancouver level for San Francisco, and at the Vancouver level less $100 from Honolulu. Finally, the agreement would permit fully reclinable seats to be made available to first-class passengers in the upper deck of B-747 aircraft, upon payment of a "sleeper surcharge."

CARRIER JUSTIFICATIONS

For the forecast year ending March 1978, Pan American expects the agreement to produce additional revenue of $3.5 million, 1.2 percent above the forecast at "present" fares.[5] Using the revenue-offset methodology for treating cargo service, the carrier states that it sustained an operating loss of $6.3 million, resulting in a 0.49 percent return on investment (ROI) during the historical year ending September 1976. It forecasts an operating profit of $22.0 million and an ROI of 8.73 percent during the forecast period under "present" fares, and an operating profit of $25.4 million and an ROI of 9.74 percent under those proposed. These estimates are based upon a historical load factor of 44.8 percent, and forecast load factors of 50.0 percent and 49.1 percent under "present" and proposed fares, respectively. The improved load factors stem from an expected 3.7 percent increase in traffic (1.9 percent after application of an elasticity factor) coupled with a 7.0 percent cutback in available capacity. (See Attachment B which shows carrier results for the historical and forecast periods).

Pan American contends that the agreement addresses the concern which the Board has expressed with respect to the fare structure in the Pacific area by decreasing the spread between promotional and normal economy fares and by narrowing the disparity in yield between Alaska-Far East and U.S. west coast/Honolulu-Far East fares. The carrier also states that introduction of 30/120-day fares, now limited to Canadian originations, into the San Francisco/Honolulu-Manila markets was at the firm requirement of Philippine Air Lines, and that the "sleeper surcharge" was adopted to accommodate the strong position held by Japan Air Lines on this issue.

In its petition, Pan American contends that the Board's earlier disapproval of increased first-class fares in Order 77-1-60, solely because of their relationship to excess-baggage charges and without a finding that the increase was unreasonable, is not proper; that the carriers have complied with the Board's order in Docket 24869[6] to the best of their ability; that withholding revenue from U.S. carriers because of the failure of foreign governments to accept the Board's policy is unreasonable and arbitrary; and that in any event IATA has now adopted an agreement prohibiting use of increased first-class fares in the calculation of excess-baggage charges.[7] The carrier further maintains that the Board's refusal, in that order, to approve any increase in normal economy fares rests upon the Board's unwarranted assumption that the cost per-passenger is the same regardless of the type of fare used; that this assumption is erroneous since normal economy-fare traffic, in contrast to that moving on restricted promotional fares, incurs costs, some quantifiable and some not, which produce a total cost for that class of traffic well above average cost. These additional costs, it is contended, stem in part from the normal economy-fare passenger's unconditional access to seats, unlimited free stopovers, need for an expensive, instantaneous reservation/confirmation system, plus access to numerous other amenities not fully available to other types of traffic.

With respect to the Asia-originating 30/120-day excursion fares, which the Board disapproved, it is contended that they are required to protect the IATA carriers from illegal practices which cannot be adequately handled within IATA and which have continued in the absence of definitive governmental action. Pan American has submitted a profit-impact analysis purporting to show that the fare would improve its revenues by $2 million. It also claims that the westbound 30/120-day excursion fares, which it alleges were disapproved by the Board, were not required by C.P. Air as a result of Pan American's requirement for the Asia-originating excursion fares;[8] and that

---

[1] Agreement C.A.B. 26257, R-14, which deals with Japan-originating group 30/40 inclusive-tour fares has been disposed of by the Board in Order 77-3-77 March 14, 1977.

[2] The petition also discusses the Board's adjustments to Pan American's elasticity estimates but offers no arguments not previously considered. The Board has since stated its overall view on this matter in Order 77-2-32, February 4, 1977, page 3, and we need not restate those views herein.

[3] Appendix A and Attachment B filed as part of the original document.

[4] Agreement C.A.B. 26319 would establish an intra-Pacific fare structure for effect April 1, 1977 through March 31, 1978 and affects air transportation only insofar as transportation to/from Guam and American Samoa is concerned.

[5] "Present fares", as used by Pan American, means the higher fares proposed in C.A.B. 26064, not those in presently effective tariffs. Board action on C.A.B. 26064 was still pending at the time justification for the present agreement was being prepared and Pan American has used those proposed fares rather than effective fares in its projections.

[6] Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation, Order 76-3-81, served March 12, 1976.

[7] Agreement C.A.B. 26424, Docket 29123. Additionally, the carriers have recently filed with the Board a limited agreement (C.A.B. 26506) which establishes free baggage allowances and excess charges to/from the United States and its territories.

[8] In point of fact the Board did approve these fares which were specified for Canadian origins only, although it also urged their elimination from the structure in view of its disapproval of the corresponding eastbound fares. Moreover, in a letter dated January 25, 1977, C.P. Air states "the Board's understanding that C.P. Air's introduction of the 30/120 day excursion fares followed Pan American is correct." The carrier goes on to stress the competitive need for continuation of this fare from Canada, urges favorable consideration of normal fare increases, and contends that lack of a uniform commissions agreement and only partial approval of Agreement C.A.B. 26064 has damaged its revenues. C.P. Air's letter has been placed in the correspondence section of Dockets 27813 and 29123.

the carriers need to respond competitively to the westbound fare offered by C.P. Air or lose substantial interior U.S. traffic to that carrier.[9]

In its justification, Pan American restates arguments which it has previously made on the issue of common-faring Seattle with other U.S. west-coast cities,[10] and estimates a loss in revenue of $2 million were Seattle fares recalculated at the lower average fare per-mile applicable on direct routings from the California gateways, assuming continued common-faring and extension of the resultant reduction to U.S. interior points. Were Seattle de-common-fared completely and were fares to interior points based on the shortest operated mileage, Pan American estimates an additional $24 million loss in revenue. In either event, the IATA carriers would be under pressure to seek appropriate fare increases to recoup lost revenues.

Northwest states that the proposed fare increases will provide it with $6.7 million in additional revenue, 3.3 percent aboce that forecast at present fares for the year ending March 1978. The carrier states that it earned a $25.4 million operating profit and an ROI of 11.99 percent during the historical year ended September 1976, and that it anticipates an operating profit of $28.6 million and an ROI of 12.24 percent during the forecast period under present fares, and an operating profit of $33.4 million and ROI of 14.21 percent under the proposed fares. These estimates are based upon load factors of 51.3 percent in the historical period, and 54.8 percent during the forecast period under both present and proposed fares. The improved seat-factor appears to result from an anticipated 9.2 percent increase in traffic, offset slightly by a 2.2 percent increase in forecast capacity.

On the question of common-faring Seattle, Northwest argues that the Board should not act to de-common-fare these points without a complete formal investigation in view of the routing complexities and competitive considerations which are involved.

THIRD PARTY COMMENTS AND REPLIES

In their joint opposition to Pan American's petition for reconsideration and in their comments on this agreement, TIA and World maintain that Pan American has failed to show error in the Board's decision to disallow the proposed increase in normal economy fares, and recommend continued disallowance of normal economy fare increases until discount-fare levels are further increased. Both also contend that disapproval of the Asia-originating 30/120-day excursion fares was entirely consistent with past actions of the Board; that Pan American's profit-impact statement is untimely and questionable; and that the excursion fare should continue to be disapproved in the absence of adequate economic justification. Finally, the two supplementals characterize as insufficient the increases proposed in the affinity group-100 fares and request that the scheduled carriers be directed either to increase these fares to a compensatory level or to eliminate them from the structure.

Maintaining that it merely seeks application to Seattle of existing domestic common-fare policies which clearly preclude the practice absent special circumstances not yet demonstrated here, PSTA requests that any approval of the agreement be conditioned to remove undue prejudice to Seattle by requiring mileage-related fares to/from all U.S. west-coast gateways. PSTA restates arguments previously made and contends that, although explicitly placed on notice to justify Seattle common-faring, the carriers have submitted only a recast of previously refuted arguments;[11] that Pan American's estimated $2 to $24 million revenue loss is unsupported and represents its "worst-case" analysis; that under a variety of scenarios its revenues could be increased or its losses offset; that to the extent losses do occur, they can be offset by general fare increases; and that the public interest in relief of undue prejudice against Seattle must outweigh theoretical damage to Pan American's private interest.

Absent the requested conditioning of the agreement, PSTA urges institution of an expedited investigation of west coast-Hawaii/Far East/South Pacific common-faring. However, while it is willing to accept such an investigation, PSTA does not believe it necessary. In return for an immediate end to west coast-Far East common-faring, PSTA is willing to accept, without hearing, elimination of west coast-Hawaii/South Pacific common-faring, both of which favor Seattle. However, should the Board order an investigation, PSTA urges disapproval of the agreement on the ground that the carriers' justifications show irreconcilable contradictions. PSTA argues that Northwest's stated inability to show revenue by fare category does not square with its activity in several formal proceedings nor with its auditors' own sampling requirements used to estimate earned revenues; that while Northwest serves the high-yield Seattle-Tokyo market and forecasts a traffic mix with a greater percentage of normal fare traffic than does Pan American, its average yield is lower than that forecast by Pan American; and that in view of this and for other reasons dealing with commissions expenses,[12] Pan American's elasticity adjustment, the apparent end of rebating practices on sales from the United States, and reported illegal practices in Asia, suggests that various adjustments should be made in the carriers' economic data which would place them in an excess earnings posture.

FINDINGS

Upon full consideration of the agreement, the carriers' justification and replies thereto, and all other relevant matters, the Board has decided to approve the North/Central Pacific fare package with the exceptions noted below.

The Board has frequently expressed its concern that the normal economy fares are substantially in excess of the cost of providing this service and that, as a result, economy-class passenger bear the burden of supporting the carriage of below-cost, discount-fare traffic. Indeed, our concern has been sufficient to prompt initiation of a formal proceeding to examine, among other things, the relationship with normal economy fares should properly bear to cost on the basis of a fully-developed record. (Order 75-6-42, June 9, 1975). Although that investigation is limited to North Atlantic service, the evidence gathered there will, in our opinion, provide useful guidelines for evaluation of fares in other areas as well.

In view of the present differentiated North/Central Pacific fare structure, the question is raised whether it is reasonable to insist that normal economy fares be set at a level directly related to the cost of providing that service. This matter aside, the narrow question here is whether or not the proposed economy-class fares so exceed the cost of this service that approval cannot be justified. The fact of the matter is that the present normal economy fare for the longest operated west coast-Tokyo routing (Seattle-Tokyo via Honolulu) is approximately 18 percent above cost, and would be 26 percent above cost under the proposed fares. This routing is, of course, far longer than the more direct routings used by a majority of travelers and, accordingly, the average cost/price discrepancy is significantly greater than these relationships would indicate. For this reason, the Board concludes that a further increase in the normal economy fare level has not been substantiated. We reach the same conclusion with respect to the 21-day excursion fare which, over the same routing, today exceeds cost by five percent and with the proposed increase would result in a differential of somewhat more than 12 percent. Moreover, it should be pointed out that these comparisons are made against average cost and are, therefore, understated to the extent that excursion-fare passengers receive less in value of service than do those traveling at the normal economy fare. Accordingly, in view of the relationship between the proposed levels of fares and cost, and in view of the carriers' forecast composite ROI position, as detailed below, the

[9] The Canadian-originating 30/120-day excursion fares are presently available in tariffs from certain U.S. points by combination of fares over Canada.

[10] See Order 77-1-60, January 11, 1977.

[11] See Order 77-1-60, January 11, 1977.

[12] The Board is re-examining its policy with respect to uniform commission rates in IATA Agreements Concerning Agency Matters Uniform Commission Rates Agreements C.A.B. 25606, R-1 through R-4, Docket 28672, and presently is considering a carrier motion for interim approval of the IATA-agreed commission rates.

Board will disapprove the increases proposed in these two fare categories.[13]

As indicated, the agreement again incorporates a 30/120 day excursion fare for Asia-originating travel at discounts approaching 40 percent for the normal economy fare. This fare was initially filed on a unilateral basis by Pan American in early 976 for the alleged purpose of countering comparable and illegal competition in Asian markets. That filing, as well as several subsequently attempted, was not accepted by the Board, primarily due to the fact that we do not accept as adequate justification the need to "meet competition" which is not demonstrated by valid tariffs on file with the Boad.[14] The fares were later incorporated into an IATA agreement designed to close North/Central Pacific fares for a short interim period pending implementation of the agreement here before us. The Board again declined to approve the fares, not only on the basis previously articulated but also in view of Pan American's failure to provide any meaningful economic data in their support.

It seems clear that the proposed continuation of these fares reflects a continuation of the competitive situation in Asia which prompted their initial introduction. Were this the only argument advanced in their support, we would once again be disposed toward disapproval since, at the relatively steep discount involved, the fares are clearly inconsistant with the long-term structural improvement which the Board seeks to encourage.

On the other hand, Pan American has provided a profit impact analysis which indicates an annual profit improvement of $2 million over that to be expected were it not permitted to offer the Asia-originating excursion fares. The Board is not, of course, in a position to undertake a detailed verification of Pan American's estimate. Nor are we prepared to conclude that its opportunity for additional revenue and profiit would be less were it foreclosed from offering the fares, even accepting the competitive situation which allegedly continues with respect to sales in Asia. The Board certainly cannot condone the apparent circumstances which prompted the filing of these low and relatively unrestricted fares in the first place. On the other hand, Pan American has now provided data which indicate that, in the present environment, its profit potential will be enhanced despite the nature of the fares themselves and their inter-relationship with the overall North/Central Pacific structure. Finally, it must be noted that, while TIA and World lodged a complaint against the fares as being substantially below cost, no showing has been made that they will have a materially detrimental impact upon operations of the supplemental carriers in this area. Accordingly, albeit with some reluctance, the Board has decided to approve this facet of the agreement.[15]

In January of this year, the Board disapproved proposed increases in North/Central Pacific first-class fares (Order 77–1–60). Our disapproval was not based upon dissatisfaction with the fare level per se but, rather, rested essentially upon the fact that, at that time, most IATA carriers were continuing to use the first-class fare level as the basis for determining charges for excess-baggage—in direct contravention of the Board's decision in the "Baggage Allowance Tariff Rules in Overseas and Foreign Air Transportation Case," Docket 24869. Today, the situation has changed. The U.S. carriers now charge the rate prescribed by the Board for outbound travel from the United States and the extent to which they cannot do likewise for inbound travel is a matter beyond their control. Accordingly, and in consideration of the carriers' recent proposals to establish a "piece method" baggage system, the increased first-class fares will be approved.[16]

Our estimates of the carriers' forecast results are set forth in Attachment B. In summary, after adjusting Pan American's forecast to eliminate elasticity and anticipatory fuel costs, the carriers would earn a composite ROI of 13.16 percent. Adjustment in the carriers' revenues to reflect our disapproval of the normal economy and 21-day excursion fare increases, produces an 11.75 percent composite return.[17] While this return falls slightly short of the Board's 12-percent guideline, it should in our opinion be evaluated in the context of the relatively moderate load factors forecast by both U.S. carriers.[18]

PSTA again raises the argument that Seattle is discriminated against in relation to fares from other west coast points. We had earlier directed the carriers to respond fully to PSTA's position in their submission on this agreement. While, as indicated below, we believe that PSTA's argument must be heard, we have concluded that it should not affect our disposition of this IATA agreement. No IATA carrier presently holds authority to provide direct service between Seattle and points in the Far East. Pan American, the only U.S. carrier member of IATA serving the area, presently serves the Seattle market via connections with its wide-body service at either San Francisco or Los Angeles. The purpose of an IATA agreement is to establish fares for its members in a manner consistent with the authorized routings by which each must operate. In that context, we find no cause for disapproval of the alleged disparity between fares (on a per-mile basis) from Seattle and those from other west-coast gateways. In fact, it could be argued that the IATA agreement actually favors Seattle-Far East passengers who use the services of IATA carriers since (based upon the present west-coast-Tokyo normal economy fare) they pay a per-mile fare of 8.61 cents and 7.79 cents for routings via San Francisco and Los Angeles, respectively. These compare with higher per-mile fares of 9.75 cents and 9.15 cents paid by passengers using the direct route from the two respective California points.

Nevertheless, the Board is of the opinion that the thrust of PSTA's argument has merit. It is a fact that Northwest, which alone has direct non-stop service authority from Seattle to the Far East and which forecasts very favorable earnings in the upcoming year, generally files to match those fares agreed to in IATA. This quite clearly raises a question of whether or not travelers from Seattle are reaping appropriate benefits from Northwest's direct-route authority. For this reason, the Board intends to institute an investigation of the practices of common-faring in the North/Central Pacific area within sixty days, and intends that this exploration include fare relationships to the South Pacific as well.

Finally, the Board has decided to defer action on the new intra-Pacific fares package proposed by Agreement C.A.B. 26319. We understand that the carriers, at a special meeting of Traffic Conference 3 in Manila, have adopted an agreement which makes substantial modification in the intra-Pacific structure now before us. We anticipate receiving this agreement soon, and will consider both that agreement and Agreement C.A.B. 26319 as one package.

The Board, acting pursuant to sections 102, 204(a) and 412, of the Act, makes the following findings:

1. It is not found that the following resolutions, incorporated in Agreement C.A.B. 26257 as indicated, are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject, where applicable, to conditions previously imposed by the Board:

---

[13] These comparisons are based upon the cost of U.S.-carrier wide-body operations for the historical period, at a 50-percent load factor. While they account for dilution resulting from mileage circuitry and stopovers, they do not reflect dilution resulting from children's fares and pro-rates. However, as noted, most west coast-Tokyo flights are now operated on much more direct routings which results in lower economic costs. Therefore, we believe, on balance, that these two fares substantially exceed economic cost.

[14] See Orders 76–2–103 (February 26, 1976), 76–6–162 (June 24, 1976, 76–10–25 (October 5, 1976), and 77–1–60 (January 11, 1977).

[15] In a contrary action, the Board is herein disapproving the proposed extension to the San Francisco/Hawaii-Manila markets of the present Canada-originating, westbound 30/120-day excursion fares. We can find no reason to justify establishment of these fares at or below the Vancouver level as opposed to a level which reflects a combination of fares over a routing via Vancouver.

[16] In reaching our conclusion to now approve this increase, we note that two IATA agreements relating to baggage matters are now pending before the Board. See footnote six, supra.

[17] Our adjustment of Pan American's forecast revenues also reflects our earlier disapproval (Order 77–1–60) of certain normal economy-fare increases, which Pan American assumed to have been in effect in its forecasts under both "present" and proposed fares.

[18] We would point out that, aside from consideration of the carriers' return position, the normal economy and 21-day excursion fares would have been disapproved for lack of meaningful support.

Agreement C.A.B.	IATA No.	Title	Application
26257			
R-1	001b	North & Central Pacific Special Effectiveness Resolution (Tie-in)	3/1.
R-2	001z	Special Escape JT31 (North & Central Pacific) Agreement (New)	3/1.
R-3	002	Standard Revalidation Resolution	3/1. (N/C Pacific.)
R-4	014o	JT31 Construction Rule (Revalidating and Amending)	3/1. (N/C Pacific.)
R-5	015b	North & Central Pacific Proportional Fares—North America (Revalidating and Amending).	3/1.
R-6	022e	JT31 (North & Central Pacific) Adjustment Factors for Sales of Passenger Air Transportation (New).	3/1.
R-7	056	North & Central Pacific First Class Fares	3/1.
R-9	070pp	North & Central Pacific 120-Day Excursion Fares (EB) (Revalidating and Amending).	3/1.
R-12	076j	North & Central Pacific Affinity and/or Own Use Group Fares (Revalidating and Amending).	3/1.
R-13	084b	North & Central Pacific Group Inclusive Tour Fares (Revalidating and Amending).	3/1.
R-15	097	North & Central Pacific Special One Way Fares (Revalidating and Amending).	3/1.
R-16	102	Passenger Expenses en Route (Amending)	3/1. (N/C Pacific.)
R-17	250	Sleeper Surcharge (Amending)	3/1. (N/C Pacific.)

2. It is found that the following resolutions, incorporated in Agreement C.A.B. 26257 as indicated, are adverse to the public interest and in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26257:			
R-8	066	North & Central Pacific Economy Class Fares	3/1.
R-10	070qq	North & Central Pacific 120-Day Excursion Fares (WB) (Revalidating and Amending).	3/1.
R-11	070u	North & Central Pacific 21-Day Excursion Fares (Revalidating and Amending).	3/1.

Accordingly, it is ordered, That:

1. Those portions of Agreement C.A.B. 26257 set forth in finding paragraph one above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board;

2. Those portions of Agreement C.A.B. 26257 set forth in finding paragraph two above be and hereby are disapproved;

3. Except to the extent granted herein, the petition of Pan American World Airways, Inc. for reconsideration of Order 77-1-60, be and hereby is denied;

4. The carriers are hereby authorized to file tariffs implementing the approved portions of Agreement C.A.B. 26257 on not less than one day's notice for effectiveness not earlier than April 1, 1977. The authority granted in this paragraph expires May 1, 1977;

5. Tariffs implementing the approved portions of Agreement C.A.B. 26257 shall be marked to expire November 30, 1977; and

6. Action on Agreement C.A.B. 26319 be and hereby is deferred.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-9954 Filed 4-4-77;8:45 am]

[Doc. 29123; Order 77-3-58; Agreement C.A.B. 26517, R-1 through R-3]

TRAFFIC CONFERENCE 2 OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares Agreement

Issued under delegated authority March 29, 1977.

An agreement has been filed with the Board pursuant to Section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Taffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would increase by ten percent first-class and normal economy-class fares applicable on the following four sectors within the Middle East: Amman-Beirut, Amman-Cairo, Damascus-Cairo and Beirut-Cairo. In addition, creative fares between Cairo, on the one hand, and Amman and Beirut, on the other hand, also would be increased by ten percent. We will approve those portions of the agreement governing fares which are combinable with fares to/from United States points and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed on the balance of the agreement which governs noncombinable fares and thus has no application in air transportation.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in the agreement as indicated and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26517:			
R-1	052	TC2 First-Class Fares (Amending)	2 (within Middle East).
R-2	062	TC2 Economy-Class Fares (Amending)	2.

2. It is not found that the following resolution, incorporated in the agreement as indicated, affects air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
26517:			
R-3	072b	TC2 Creative Fares Except Europe (Amending)	2 (within Middle East).

Accordingly, *It is ordered* That:

1. Those portions of Agreement C.A.B. 26517, described in finding paragraph 1 above and which have indirect application in air transportation as defined by the Act, be and hereby are approved; and

2. Jurisdiction be and hereby is disclaimed with respect to that portion of Agreement C.A.B. 26517 described in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such a period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief Passenger and Cargo Rates Division Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-10101 Filed 4-4-77;8:45 am]

[Doc. 29964; Order 77-3-85]

POLSKIE LINIE LOTNICZE

Application for Renewal and Amendment of Foreign Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 15th day of March, 1977.

1. Ordering paragraph 5 on page 3 of Order 77-3-85, March 15, 1977, published at 42 FR 15357; March 21, 1977, should read: "This order shall be served on the Ambassador of Poland, Pan American Airways, Polskie Linie Lotnicze, and the Departments of State and Transportation."

2. In the specimen foreign air carrier permit attached to Order 77-3-85, footnote 1 on page 2 should be placed next to line 2 of the Period-Frequency table.

Dated: March 28, 1977.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-10100 Filed 4-4-77;8:45 am]

[Doc. 21866-9; Order 77-3-171]

UNITED AIR LINES, INC.

Domestic Passenger Fare Investigation; Phase 9

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 30th day of March, 1977.

Petition of United Air Lines, Inc. for modification of Orders 74-3-82 and 74-12-109, domestic passenger fare investigation, Phase 9 Fare Structure.

Acting on a petition of United Air Lines, Inc. (United) the Board, in Order 76-8-18, directed all scheduled certificated air carriers and other interested persons to show cause why ordering paragraph 2 of Order 74-12-109 [1] should not be amended to add, at the end of the paragraph, the following:

; and provided further that in implementing a Board-approved general fare increase, carriers may except particular markets to match competitor's fares.

The intent of such an amendment is essentially to permit carriers to derive to the maximum extent possible additional revenue from a general fare increase which has been subjected to the Board's ratemaking evaluation and found warranted, without being required to implement the increase simultaneously on a system wide basis. The situation which prompted United's petition arises from the fact that not all carriers propose a general fare increase (whether or not in the same amount) on the same date and that, accordingly, not all increases can be implemented on the same date (even though involving the same amount) due to the notice requirements of the statute. In its order to show cause, the Board also stated its intention (and solicited comments thereon) to treat such staggered tariff filings, for purposes of future evaluation of the industry's revenue need in computing the ratemaking rate of return on investment (ROI), as though all had become effective in all markets on the date the first filing was implemented.

Responses in support of the proposed amendment have been filed by Continental Air Lines, Inc. (Continental), the Puget Sound Traffic Association (PSTA) and Trans World Airlines, Inc. (TWA), Northwest Airlines, Inc. (Northwest) has filed an objection to the proposed amendment, and a response to that objection (urging favorable consideration of the amendment) has been filed by the original petitioner, United.

Continental contends that "the Board has no power to proscribe individual fare filings merely because they do not conform to * * * the Board's fare formula" and that it, therefore, has no objection to liberalization of the Board's policy as requested by United. Indeed, the carrier would go even further.[2] Continental does, however, object to the proposed treatment of staggered effective dates for ratemaking purposes. The carrier alleges that, as proposed, the adjustment to return on investment (ROI) "would force all carriers to implement general fare increases" proposed by others. The carrier further alleges that, in the past, the single consolidated date chosen was "not necessarily the earliest effective date but rather a date falling somewhere between the various effective dates," and that applying the actual dates for each carrier would not be unduly burdensome.

TWA "generally agrees with the Board's tentative findings", but alleges that a regulatory adjustment which assumes that all carriers file a general fare increase for effect on the same date (when it is known they do not always do so) is "unrealistic." The carrier also requests that "the Board modify its ratemaking methodology to permit cost projections to the midpoint of the tariff effective period."

PSTA states that its "only concern with the proposed amendment suggested is its possible impact on common-fared markets such as exist as a result of the commonfarings of West Coast cities to/from points in the northeastern portion of the United States." The respondent proposes that the amendment be expanded to include a further proviso; i.e., "*provided further* that this exception shall not be applied in common-fared markets if the result would be to produce higher fares to/from the nearer of the common-fared points than to/from the more distant of the common-fared points."

Northwest requests "that the Board not add the proposed language to its Phase 9 order" because it would "destroy the incentive of the more efficient carrier to hold the line on fares." The carrier urges the Board to uphold the status quo, alleging that public benefit would flow from affording a "more efficient" carrier an economic veto over a general fare increase among its "less efficient" competitors, or in the alternative forcing them into a noncompetitive position. Northwest also alleges that, in the event one

[1] The Board's Order and Opinion on Reconsideration in Phase 9 of the Domestic Passenger-Fare Investigation.

[2] Continental reiterates its long-standing position that the Board should remove the prohibition on individual fare filings altogether.

or more carriers does hold out against a general fare increase, the proposed amendment will encourage a chaotic situation in the area of joint fares by perpetuating intercarrier fare differentials. Finally, the carrier takes issue with the Board's proposed approach to the ROI adjustment, contending that it will prove "totally ineffective" in curbing the development of a two-tiered pricing structure since it would be an arbitrary adjustment pertinent only to an unrealistic regulatory world.

United's reply strongly favors implementation of the proposed amendment and observes that "neither Northwest nor any other party responded to the directive of the Board that any request for a hearing be accompanied by a statement of facts intended to be developed at a hearing." United further alleges that Northwest's "efficient"-carrier hypothesis is contrary to the Board's decision in the Domestic Passenger-Fare Investigation (DPFI), that the basic ratemaking approach be based upon industry-average cost. Taken to its logical conclusion, United argues, Northwest's proposal suggests that the Board abandon its DPFI findings with respect to average ratemaking cost and permit the most "efficient" carrier to dictate industry fare levels. United further contends that the proposed ROI adjustment "creates a negative incentive to carriers attempting to effectuate a two-tier pricing structure," and that under such a computation there can be no market cross-subsidization. Finally, United takes issue with the relevance of Northwest's allegations concerning joint fares, pointing out that "when a carrier is forced to wait to see if the Board will permit an ad hoc exemption from Phase 9 (of the DPFI) the problem of uncorrected joint fares is accentuated."

Upon consideration of the responses to our order to show cause, and essentially for the reasons tentatively stated in that order, the Board has decided to modify its decision in Phase 9 of the DPFI that carriers be required to implement a general fare increase on a systemwide basis. We adhere to the fundamental tenent that coach fares be established according to a formula which produces like fares for like distances. It could be argued that our decision here will compromise that basic ratemaking criterion; however, the deviation, which we envisage should be of short duration, is in our opinion justified by the competitive dislocations which sometimes arise as a result of the tariff-filing procedures and requirements.

Among the respondents, only Northwest opposes the proposed amendment per se. In essence, the carrier argues that ratemaking should be heavily, if not decisively, influenced by the most efficient carrier operating in a market. This is, of course, a very broad issue, going far beyond the question at hand, and one which was thoroughly explored in Phase 7 of the DPFI. Suffice it to say that in that proceeding the Board found that the appropriate basis for ratemaking purposes was the industry's average experience. Northwest has advanced no persuasive argument here to prompt a reassessment of that determination. Northwest also argues that by legitimizing intercarrier fare differentials the proposed amendment would also inadvertently make permanent a chaotic situation in joint fares, alleging that joint fares might, in some cases, be lower than the comparable nonstop fare. However, we are not aware of any simple or universally applicable principle that the fare structure must not, even occasionally or temporarily, result in anomalous side effects. In our opinion, the potential denial of needed and justified revenue improvement outweighs the relatively minor anomaly which could result from a rigid adherence to the present system.[3]

Having decided to provide an additional degree of flexibility in implementing a general fare increase, we turn to the question of how best to protect the general principle developed in Phase 9 that equal fares be prescribed for equal distances. It is most certainly not our intent that a bias toward higher fares result in selected markets. Specifically, our concern is that, without some type of safeguard, the burden of an increase in system revenue need might be concentrated in selected markets, rather than spread equally throughout the system. In our show cause order,[4] we stated our intention to preclude this possibility by treating a fare increase "as if it had been in effect for all carriers in all markets from the date implemented by even a single carrier." Most respondents expressed reservations about this procedure. However, none offered a remedy for the upward bias on future fare increases which would be introduced into the calculation of industrywide ROI by the revenue "shortfall" from carriers declining a previous increase. While we believe the carriers should be afforded the limited pricing flexibility herein being granted, we are equally convinced that the basic concept of Phase 9 must be protected.

Conceptually, the most straightforward and accurate means of accomplishing this objective would be to require carriers to report full-fare revenue by market. However, we would be most reluctant to impose such a burdensome requirement for what we anticipate will be a relatively moderate adjustment in the calculation of the industry's ROI.

The Board proposes to make the adjustment by splitting the annualization of an increase implemented during the base period into two parts—one being those markets in which the fare increase was initially implemented on the date proposed, the other including those markets in which the increase was not implemented or delayed for competitive reasons until a later effective date (the "foregone" markets). As an example, and assuming implementation of a 2.0-percent general increase halfway through the base period, a carrier may choose to postpone the increase for three months in markets accounting for 20 percent of its revenues. In such a situation, we intend to annualize a 0.4-percent increase, (20 percent x 2.0 percent) for nine months, and separately annualize a 1.6-percent increase (80 percent x 2.0 percent) for six months. There is admittedly a problem in segregating revenues between "foregone" and other markets. The methodology we intend to use is a "trade-off" against the burdensome reports which would be required for an exact analysis.[5] We will assume that the revenues in such markets equal total entity revenues in the same proportional relationship of revenue passenger-miles. An adjustment will be made to reflect length-of-haul differences, but only when the average length of haul in the "foregone" markets varies significantly from the average for the system as a whole. We readily concede that other factors (principally traffic mix) distort the relationship between revenue and revenue passenger-miles in any given market, and that our approach falls short of precision in this respect. Despite this fact, however, we believe that our compromise approach will produce reasonable accurate results, and that this modest accommodation to the desirability of accuracy is warranted in the interior of the minimal reporting requirements which it will entail.

In view of the considerations discussed above, we adopt the tentative findings and conclusions set forth in Order 76-8-18 and, in addition, will direct the reporting requirement described above.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered That: 1. Ordering paragraph 2 of Order 74-12-10 (Domestic Passenger-Fare Investigation—Phase 9) is hereby amended to add, at the end of the paragraph, the following:

; and *Provided, further,* That in implementing a Board-approved general fare increase, carriers may exempt particular markets to match competitors' fares. However, carriers availing themselves of the latter proviso will be required to file, in Docket 21866-9, a list of those markets in which the carrier foregoes a general domestic passenger-fare increase that it is adopting over the balance of its system.[6]

2. Copies of this order be served upon all scheduled certificated air carriers providing air transportation within the 48-contiguous States and the District of Columbia.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[3] See Orders 76-2-98, February 25, 1976, and 76-8-18, August 4, 1976 for a further discussion.

[4] Order 76-8-18, Ibid.

[5] The only report we will require is a list of "foregone" markets, by month, filed in this docket.

[6] For the purpose of this report, a market shall be included if the increase foregone spans a period of one-half or more of the total days of a month. The report will be due 15 days after the end of the month.

[FR Doc.77-10120 Filed 4-4-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR § 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary/Coordinator of Special Studies, Immediate Office of the Secretary, Office of the Secretary.

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

[FR Doc.77-10025 Filed 4-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Title Change in Noncareer Executive Assignment

By notice of November 9, 1976, FR Doc. 76-32774 the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment the position of Special Assistant to the Under Secretary. This is notice that the title of this position is now being changed to Executive Assistant to the Under Secretary, Office of the Secretary.

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

[FR Doc.77-10026 Filed 4-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 77-00054. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., P.O. Box 1000 Bullock Blvd., Socorro, New Mexico 87801. Article: (1000 pieces) Circular Waveguide, Model TE_{01} and (1025 each) Coupling sleeves. Manufacturer: Furukawa Electro Co. Ltd., Japan. Intended use of article: The article is intended to be used as part of the very Large Array Radio Telescope to transmit radio wavelength radiation received from extraterrestrial objects to recording apparatus. The study of this radiation enables astronomers to study the sources of energy, origin, and evolution of the universe.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article it intended to be used, is being manufactured in the United States. Reasons: The foreign articles which are custom-made provide (1) low loss of signal strength over the long transmission paths (21 kilometers) required by the Very Large Array Radio Telescope under construction by the applicant, (2) transmission of wide signal bandwidths, needed for handling very high data rates, (3) very low signal distortion (VSWR) and (4) elimination of the need for complex electronic amplifiers (repeaters) at 800 meters along the transmission line. The National Bureau of Standards (NBS) advises in its memorandum dated March 4, 1977 that the capabilities of the articles described above are perinent to the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-10043 Filed 4-4-77;8:45 am]

Economic Development Administration

ROBIN FOOTWEAR CORP.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A new petition by Robin Footwear Corporation, 208 North Division Street, Mount Union, Pennsylvania 17066, a producer of women's footwear, was accepted for filing on March 29, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and §§ 315.23 and 315.30 of the Adjustment Assistance Regulations for Firms and Communities (CFR 13 Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-10045 Filed 4-4-77;8:45 am]

VOGUE INDUSTRIES, INC.

Petition for a Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Vogue Industries, Inc., John Street, Lowell, Massachusetts 01852, a producer of stainless steel flatware, was accepted for filing on March 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the United States Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-10044 Filed 4-4-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC HERRING

Public Meeting

AGENCY: National Marine Fisheries Service.

ACTION: Public Meeting on Atlantic Herring.

SUMMARY: By authority of the Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801, the National Oceanic and Atmospheric Administration published on February 22, 1977 (42 FR 10496) a Preliminary Fishery Management Plan for the Atlantic Herring Fishery of the Northwestern Atlantic Ocean. The Plan was prepared in order to govern the taking of Atlantic herring by foreign vessels within the Fishery Conservation Zone of the United

States (sometimes called the 200 mile zone) created by the Act. The Plan was implemented by the Foreign Fishing Regulations (50 CFR 611) published on February 11, 1977 (42 FR 8813). Under the Plan and the Regulations, a directed fishery for Atlantic herring by foreign vessels will not take place until August 15, 1977.

The State of Maine and the New England Regional Fishery Management Council have requested that the record on the Plan and the Regulations regarding Atlantic herring be reopened and an additional hearing be held to receive additional scientific information and further testimony on the capacity of U.S. vessels to harvest Atlantic herring. The requests address the question whether the Atlantic herring allocations to foreign vessels are appropriate under the Act.

In view of the requests and the fact that directed fishing for Atlantic herring will not begin until August 15, the Department of Commerce has decided to reopen the record on the Atlantic Herring Plan and Regulations to receive comment and information on all aspects thereof.

DATES: The public may submit additional information and comments on the Atlantic Herring Plan and Regulations at a hearing to be held April 19, 1977, from 1 p.m.–5 p.m. and reconvening at 7 p.m. until approximately 11 p.m. The hearing will continue April 20 from 9:30 a.m. to approximately 5 p.m. The hearing will be held at the Holiday Inn, Route 1 North at the junction of Routes 1 and 128 at Peabody, Massachusetts. Written comments may be submitted at the hearing or to the Northeast Regional Director of the National Marine Fisheries Service which must be received no later than 4:30 p.m., April 20, 1977, at the following address:

ADDRESS: Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT:

Mr. William Gordon, telephone 617–281–3600, at the above address.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc.77–10216 Filed 4–4–77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE

Public Meetings

Notice is hereby given of meetings of the South Atlantic Fishery Management Council established by Section 302 and its Scientific and Statistical Committee established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (P.L. 94–265).

The South Atlantic Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the east coast of Florida, Georgia, North Carolina, and South Carolina. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public hearings. The Scientific and Statistical Committee will assist the Council in the development, collection, and evaluation of such statistical, biological, economic, social and other scientific information as is relevant to the Council's development and amendment of any fishery management plan.

The meeting of the Council will be held Tuesday through Thursday, April 26, 27 and 28, 1977, in the Federica Room, Ramada Inn, 3241 Glynn Avenue, U.S. 17 North, Brunswick, Georgia. The meeting of the Council will convene at 1:30 p.m. on April 26 and adjourn at about noon on April 28. The daily sessions will start at 9 a.m. and adjourn at 5 p.m., except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

PROPOSED AGENDA

1. Formalization of Council organization and administrative and technical procedures, with particular emphasis on fishery management plan development.
2. Development of timetable for Council action related to priority management, e.g., billfish, snapper-grouper complex and king and Spanish mackerel.
3. Report of Scientific and Statistical Committee.

The meeting of the Scientific and Statistical Committee will be held Tuesday through Thursday, April 26, 27, and 28, 1977, at the afore-mentioned facility. The committee will meet jointly with the Council on April 26 and 28 and separately from the Council at the same facility, on April 27. This session will convene at 9 a.m. and adjourn at approximately 5 p.m.

PROPOSED AGENDA FOR APRIL 27 SESSION

1. Election of Chairman.
2. Internal organizational matters.
3. Review of priority fishery management plans.
4. Other management business.

The meetings will be open to the public and there will be seating for a limited number of public members available on a first come, first served basis. Members of the public having in interest in specific items for discussion are also advised that agenda changes are at time made prior to the meetings. To receive information on changes, if any, made to the agendas, interested members of the public should contact on or about April 22, 1977:

Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, in care of National Marine Fisheries Service, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

At the discretion of the Council and committee, interested members of the public may be permitted to speak at times which will allow the orderly conduct of Council and Committee business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Ernest Premetz at the above address. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meetings.

Dated: March 25, 1977.

JACK W. GEHRINGER,
Deputy Director, National Marine Fisheries Service.

[FR Doc.77–10123 Filed 4–4–77;8:45 am]

PACIFIC FISHERY MANAGEMENT COUNCIL'S ANCHOVY ADVISORY PANEL

Public Meeting

Notice is hereby given of a meeting of the Pacific Fishery Management Council's Anchovy Advisory Panel, established under Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265).

The Pacific Council, established under Section 302 of the Act, has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the States of California, Oregon, and Washington. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on applications for foreign fishing, and conduct public meetings.

The Anchovy Advisory Panel, composed of persons who are either actually engaged in the harvest of, or are knowledgeable and interested in the conservation and management of the anchovy resource, assists the Council in the development or amendment of an anchovy fishery management plan.

The meeting will be held April 26, 1977, at the California Department of Fish and Game offices, 350 Golden Shore, Long Beach, California. The meeting will convene at 10 a.m. and adjourn at approximately 2:30 p.m.

Proposed Agenda:

1. Panel organization.
2. Review of work team progress to date.
3. Review of reports and documents related to anchovy management.
4. Inter-fishery aspects of anchovy management.

This meeting will be open to the public and there will be seating for approximately 25 members of the public on a first-come, first served basis.

Members of the public having an interest in specific items for discussion are advised that changes to the agenda are, at times, made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact by April 19, 1977:

Mr. Svein Fougner, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Telephone 213–548–2575.

At the discretion of the Panel, interested members of the public may be per-

mitted to speak at times which will allow the orderly conduct of business. Persons who wish to submit written statements should contact Mr. Fougner at the address given above. To receive due consideration and facilitate inclusion of these comments in the record of the meeting, typewritten statements should be received within 10 days after the close of the meeting.

Dated: March 25, 1977.

ROBERT J. AYERS,
Acting Assistant Director for Fisheries Management, F3.

[FR Doc.77-10124 Filed 4-4-77;8:45 am]

Office of the Secretary

"U.S. TECHNOLOGY POLICY," DRAFT STUDY

Request for Comments

In March 1976 the Office of the Assistant Secretary for Science and Technology undertook a study entitled "U.S. Technology Policy" which focuses on U.S. technology policy in its relationship to the Nation's economic welfare.

A first draft of this study has now been completed.

In order to assure maximum public participation in the development of this study this notice invites all interested persons to submit comments by April 30 on the draft study to the Assistant Secretary-designate for Science and Technology Jordan J. Baruch, Room 3862, U.S. Department of Commerce, Washington, D.C. 20230.

In order that interested persons may determine whether or not they desire to comment on the draft study there is set out below an Executive Summary.

Persons desiring a copy of the draft study can purchase a copy of it for $9.50 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, as Draft Report No. PB-263806. (This price includes first class mail shipment.)

Issued: March 31, 1977.

BETSY ANCKER-JOHNSON, Ph. D.,
Assistant Secretary for Science and Technology.

EXECUTIVE SUMMARY OF U.S. TECHNOLOGY POLICY

INTRODUCTION

This paper discusses U.S. technology policy in its relationship to the Nation's economic welfare and makes specific recommendations for an improved policy.

The goal of U.S. technology policy should be to maximize our capacity to develop and utilize technology for national purposes. Market economic criteria alone are not adequate for making social choices and for determining the national goals which technology policy should help achieve. Many non-economic factors are important in formulating a national technology policy, including the protection of the ecological system, the quality of employment, and the effects of technology on life styles. A comprehensive discussion of these important non-economic factors is outside the scope of this paper.

Since technology is a pervasive force throughout society, it is affected by a large variety of Government actions. In the context of this paper, U.S. technology policy is the sum of actions taken by the Federal Government affecting the production, diffusion, and utilization of technology. The elements comprising the policy lack unity and coherence. The pluralistic development of U.S. technology policy has resulted in a national technology enterprise with considerable strengths. But the fragmentation, incoherence and sometimes contradictory aspects of the various elements of the policy hold some disadvantages for the U.S., particularly in a world no longer dominated by U.S. technology.

BACKGROUND

Contributions of technology to U.S. economic development. It has been estimated that technological innovation was responsible for 45 percent of the Nation's economic growth between 1929 and 1969.

A comparison of technology-intensive manufacturing industries with other industries in the period 1957–1973 shows that:

Technology-intensive industries grew 45 percent faster;

Employment in technology-intensive industries grew 88 percent faster;

Productivity in technology-intensive industries grew 38 percent faster; and

The ratio of price to unit output increased 44 percent less in technology-intensive industries.

Disquieting trends. Recently, some disquieting trends have appeared in the Nation's inventiveness, entrepreneurship, productivity, and international trade:

The U.S. share of patents filed worldwide and the number of U.S. patents awarded to U.S. nationals has decreased in the last decade.

The number of innovative technology-based companies that are starting in the U.S. is much less than a few years ago.

The U.S. worldwide lead in productivity, measured as GNP per civilian employee, has narrowed by 50 percent since the 1950's, and current U.S. productivity growth is below its historical trend.

The Nation's large favorable balance of trade in products of R&D-intensive industries has come to depend primarily upon exports to developing countries and Canada.

We cannot establish definite relationships between the disquieting economic and technological trends, or even agree on how "disquieting" they are. Nevertheless, the trends are serious enough to require that U.S. technology policy be studied to identify weaknesses and opportunities for improvement. That study is the subject of this paper.

CONTRADICTORY ELEMENTS OF CURRENT DE FACTO POLICY

In this paper the elements of the current technology policy are discussed under the following headings:

Production of technology,

Diffusion and utilization of technology in the domestic economy, and

Diffusion and utilization of technology internationally for achieving foreign policy objectives.

The elements pertinent to each of these areas are set forth in terms of concerns and possible alternative remedial actions in the appendix to this summary. Many of the actions are not mutually exclusive.

Many of the elements are contradictory in their effects on innovation:

The innovation incentive of patent protection is undermined by compulsory licensing.

The support of long-range undirected basic research is called for at the same time that the "Mansfield Amendment" restricts DoD to mission-oriented research.

Government-industry cooperation in large R&D projects of national concern is promoted at the same time that Federal patent policy discourages this cooperation.

Cooperative industrial R&D on high risk, expensive projects to alleviate national problems is desired, but is discouraged by antitrust attitudes.

Technological innovation is called for at the same time that tax and regulatory barriers are erected to innovation.

The economic benefits of exporting technology-intensive products are desired at the same time that overly restrictive controls on exports are imposed.

RECOMMENDATIONS FOR AN IMPROVED NATIONAL TECHNOLOGY POLICY

A coherent national technology policy needs to be developed in order to maximize the U.S. capacity to develop and utilize technology to achieve national purposes. The solid definition of, and reasonable degree of continuity in, a consistent Federal technology policy would promote private sector investment in technological innovation.

Several of the actions discussed in the appendix of this summary are new to the U.S. and, in our opinion, necessary to the formulation of a coherent policy, while others can be implemented by continuation and/or straight-forward expansion of ongoing programs. We recommend that eight particular areas should receive priority attention in order to achieve the economic gains a coherent policy would foster:

Industrial Technology Analysis Office (Appendix D, I).[1] Every proposed national policy, whether or not obviously technology related, should be evaluated for its potential impact on technology. The means for such analyses are lacking. An industrial technology analysis office should be established immediately in the Department of Commerce. This office would evaluate proposed U.S. Government actions against the goal of U.S. technology policy to maximize the capacity to create and utilize technology for accomplishing national objectives. It would perform analyses of technico-economic indicators related to economic

[1] These references cite the relevant part of the full report.

and industrial growth and productivity; technological factors in foreign trade and direct foreign investment, including costs and benefits of technology transfer; resources (manpower, capital, etc.) applied to the generation and acquisition of technology; effectiveness of various governmental policies in promoting the Nation's technological health; legal, regulatory, institutional and other barriers to technological innovation; and social cost-benefits of currently debated or anticipated major technological developments.

Industrial R&D (Section III, A). Some types of industrial R&D of high potential social value are not being performed because the economic rewards to individual companies are not great enough and the risks and costs are too high. The Federal Government should investigate direct (grants, loans, etc.) and indirect (tax, regulation, etc.) means of promoting the needed technological innovation in the private sector.

Modification of regulatory inhibitions on innovation (Section IV, A, 1). The present regulatory climate contains unnecessary disincentives for technological innovation. Under the Office of Science and Technology Policy leadership, actions should be undertaken to strengthen the required data base, and to develop more appropriate mechanisms for deciding on acceptable risks and developing optimum regulatory strategies. Also, more adequate assessments of the probable impacts on technological innovation, as well as costs vs. benefits of such regulatory strategies, are needed.

Improving the climate for starting technology-based enterprises (Section IV, B). The U.S. economy is losing a traditional growth stimulus because the present tax and regulatory climate is not conducive to the start-up of new advanced-technology companies. The Departments of Commerce and Treasury should work with the Securities and Exchange Commission to investigate a variety of possible remedial actions.

Innovation information for state and local governments (Section IV, C, 2). The present scattered Federal Government pilot programs aimed at providing innovation information to state and local governments are not adequate to supply the needs and to capitalize on the potential for productivity increases in these sectors. The existing demonstration projects should be administratively consolidated and strengthened.

Export promotion of technology-intensive products (Section V, A). The economic benefits of technology-intensive products exported from the U.S. are being less and less fully realized. Additional foreign markets must be developed for nonmilitary technology products. This is especially necessary to create employment opportunities to compensate for those that may be lost if foreign military sales by U.S. aerospace and defense-related industries are reduced. The Government should work with industry to streamline further the various export control procedures and reporting requirements, to shorten the list of commercial products or technical data requiring specific permission to export, to continue reducing delays in the various export licensing processes, to improve efforts in market identification and analyses for technology-intensive products, to develop better Federal promotional practices, and to improve the relevant financing policies to be more competititive with foreign countries.

Export control of design and manufacturing technology (Section V, B). Export control involves the Departments of Commerce, State, Defense, as well as the Energy Research and Development Administration, NASA, the Nuclear Regulatory Commission, the National Security Council, and the Intelligence Community. A recent turnabout in Defense thinking, increased concern of the Congress, and new attitudes on arms exports and nuclear proliferation indicated by the Carter Administration have created the need and opportunity for a greatly improved policy. There is no satisfactory interagency means for addressing these issues, nor is consultation with industry any better. Both Commerce and Defense have elaborate committee structures that are foundering because top-level leadership is lacking. The Executive Office of the President, through the OSTP or the NSC, should assume leadership in developing an export control and technology transfer policy which better serves both U.S. national security and economic interests.

Technological support of less-developed countries (LDC's) (Section V, C). Technology issues relevant to LDC's have been receiving too low priority. An unsound policy in this field could have very large adverse impacts on the economy and on foreign relations. A U.N. Conference on Science and Technology for Development in 1979 requires the establishment of a U.S. policy which contributes to the progress of LDC's while being consistent with U.S. interests. The Departments of State and Commerce should work closely with industry to promote cooperation in industrial R&D and to assist technological infrastructure development in LDC's.

APPENDIX TO THE EXECUTIVE SUMMARY—SUMMARY OF CONCERNS GENERATED BY THE ELEMENTS OF CURRENT DE FACTO FEDERAL TECHNOLOGY POLICY AND POSSIBLE REMEDIAL ACTIONS

PRODUCTION OF TECHNOLOGY (SECTION III)

A. *Industrial R. & D.*

Concern: Industrial research of a generic and "overhead" nature needs to be performed, but because the near-term economic rewards are not enough and/or the risk is too great, the research is not being done. Similarly, much research with a large potential social return but small economic return is not being done.

Possible actions: Direct support—

(a) Establish a Department of Commerce (DoC) industrial R. & D. support program.

(b) Alternatively, DoC should participate in NSF's RANN Program.

(c) Establish a Federal institute for industrial R. & D.

(d) The Office of Science and Technology Policy (OSTP) should recommend and monitor the distribution of funds to individual Government agencies to support applied, mission-oriented R. & D. carried out by industrial firms in support of the agencies' programs and national needs and capable of commercialization.

Possible actions: Tax incentives—

(a) The Experimental Technology Incentives Program (ETIP) in cooperation with the Treasury Department should conduct experiments and studies in which tax breaks are examined for their effect on innovation (Congressional approval may be needed).

(b) Congress should consider the likely effect of tax changes on technological innovation.

The tax changes to be considered should include the following possibilities:

Increase substantially the tax investment credit for R. & D. plant from the present 10 percent to, e.g., 25 percent.

Increase tax depreciation allowances for R. & D. plant.

Provide new special tax credits or equivalent cash payments to industrial R. & D. performers. R. & D. would be defined in accordance with the Financial Accounting Standards Board concept or some other standard specifically designed for the purpose.

Trade the present tax credit for investment in plant and equipment (10 percent) for tax credit or equivalent cash payments for expenditures on industrial R. & D.

Provide new tax credits or equivalent cash payments for incremental industrial R. & D.

Provide new tax credits or equivalent cash payments for incremental R. & D. in chemicals and capital goods industries.

B. *Patent incentive*

Concern: The patent system is in danger of being eroded, so that the incentive it traditionally has provided for innovative product development is not being fully realized. Confidence in the patent system needs strengthening through the adoption of procedures to enhance the validity of patents.

Possible actions:

(a) The Department of Commerce should assume the lead role in developing an Administration position on patent revision legislation which is consistent with the needs of the patent system.

(b) The new Administration should adopt a position of selectively revising existing law and not continue support of the previously introduced comprehensive patent revision bills.

(c) The views of the Department of Commerce concerning patent law revision should be brought to the attention of Congress, whether or not they also become the Administration position.

C. Basic R. & D. support

Concern: Federal and private sector R. & D. programs are increasingly mission-oriented and do not provide an optimum level or mode of support for unfettered basic research.

Possible actions:

(a) OSTP should work with the various Federal agencies to determine an appropriate level, mode and distribution of support for basic R. & D., consistent with the economy's long-term need and its ability to support R. & D.—and make the level reasonably stable over time.

(b) The Administration should conduct a study of the impact of the "Mansfield Amendment" on basic R. & D. and, if found detrimental to the country's interest, propose that the "Mansfield Amendment" be repealed.

D. *Skilled scientific and technical manpower development*

Concern: Skilled manpower development for science and technology is too often out of phase and focus with demand.

Possible action: OSTP should develop the coordinated Government policies and programs which are necessary for a long-term supply of skilled S&T manpower, including blue collar craftsmen, with an appropriate occupational and skill mix.

Diffusion and Utilization of Technology in the Domestic Economy (Section IV)

A. *Reduction of regulatory and social barriers to innovation*

Modification of Regulatory Inhibitions on Innovation

Concern: Regulations which are based on inadequate knowledge or which are developed without sufficient analysis of their total impact may unnecessarily have an adverse effect on technological innovation.

Possible actions:

(a) Under OSTP leadership, determine and modify those regulations and existing policies which inhibit innovation.

(b) Establish in the Department of Commerce a unit to assess the impact of regulations on technological innovation.

(c) Base all future regulations on the outcomes of rigorous analyses of social cost-benefit ratios, and require rejustification of regulations on a regular basis.

Modification of Antitrust Laws To Permit Cooperative R. & D.

Concern: Some cooperative R. & D. leading to socially useful technological innovation may be inhibited by antitrust laws.

Possible actions:

(a) ETIP in cooperation with the Justice Department should conduct experiments and studies which test the effect of antitrust law relaxation on cooperative R. & D. to see if such relaxation will lead to socially desired innovation.

(b) Introduce legislation to relax antitrust restrictions on R. & D. cooperation by small firms but not large firms.

Credibility of Scientific Information

Concern: Procedures should be improved by which scientific information and (often disputed) interpretations, relevant to controversial governmental decisions, are placed before policy-makers and the general public.

Possible actions:

(a) Institute a "science court," in which impartial experts would examine data and direct adversary argumentation in order to determine the state of scientific information (separated from value judgments) bearing on major national issues.

(b) Adopt (a) on an experimental, time-limited basis.

(c) Work through existing institutions (professional societies, universities) to better sensitize and train scientists concerning maintenance of objectivity and integrity as "expert witnesses" on controversial issues.

Educational Publications

Concern: There is lacking a systematic effort to generate and distribute publications to inform the general public about the consequences of major technological developments and decisions.

Possible actions:

(a) Continue the present system under which individual Federal agencies prepare and distribute educational publications whenever they see a need to inform individual's about technological changes.

(b) Increase agency efforts for education and provide a central coordination.

(c) Reduce Government effort, and assume the task would be taken over by private publishers who are better at promoting sales of publications.

B. *Improving the climate for starting technology-based enterprises*

Concern: The climate for the start-up of new technology companies, including the contribution of tax and securities regulation, should be improved.

Possible actions:

(a) The Department of Commerce through ETIP should work with the Securities and Exchange Commission on analytical research and policy experiments to develop an efficient regulatory structure—one which provides both sufficient investor protection and sufficient access to equity capital for small technology-based firms. For instance, it appears that:

Rule 144 should be relaxed to increase the liquidity of both venture capitalists' portfolios and the markets for individual company's securities.

(b) The Department of Commerce should conduct studies with the Department of Treasury to determine the advisability of implementing the following measures, and submit recommendations to the President six months after initiation of the studies:

U.S. Government to provide guarantee for some portion (such as 50 percent) of loans granted by SBIC's or other financial institutions to new technology-based enterprises;

U.S. Government to provide more generous capital gains tax treatment to new technical enterprises;

U.S. Government to allow corporations, estates and trusts to invest in Subchapter S corporations and to receive benefits of Section 1244 stock;

IRS to allow "good will" to be written off in merger accounting before tax rather than after tax;

U.S. Government to provide for more favorable stock option incentives to founder and key personnel of new technical enterprises by (a) increasing the qualified options time from the current five to ten years, and (b) postponing the tax on income derived from the exercise of non-qualified options until the shares have been sold rather than paying the tax at the time the option is exercised;

IRS to make investments in new technology-based enterprises (by individuals, institutions and corporate entities) tax deductible until the investments are sold, analogous to certain real estate transactions;

IRS to provide for a graduated corporate income tax rate structure to benefit new technology-based enterprises; and

IRS to reduce or eliminate corporate tax on dividends.

(c) The Department of Commerce through the National Technical Information Service, in order to maximize the impact of available venture capital, should administer the funds for developing entrepreneurs presently administered by NSF/RANN. Some of these funds could be used to establish a nationwide system of small technical enterprise associates programs with engineering educational institutions patterned, for example, after MIT's Associates program. These programs would provide eligible enterprises with ad hoc advice on management, new product development, marketing and technical "trouble shooting" on a continuous, cost-free or subsidized basis.

(d) The Department of Commerce, working with the Securities and Exchange Commission and the Treasury Department, should conduct a forum for major investment institutions to discuss the potential and problems of investment in advanced-technology companies, particularly in the start-up and early growth stages, in order to generate more venture capital.

C. *Enhancement of diffusion of innovations*

Collecting, Organizing, and Disseminating Information

Concern: The existing network of public and private information activities for promoting technological innovation has significant weaknesses, contributing to slower-than-desired technology diffusion, with loss in productivity and national competitiveness.

Possible actions:

(a) The appropriations and staff of the National Technical Information Service (NTIS) should be increased to mount the necessary collection effort.

(b) Ensure use of NTIS services by other U.S. Government agencies.

(c) Expand the Government's information analysis activities.

(d) Create a unified, national industrial technology extension service.

Innovation Information for State and Local Governments.

Concern: There is need for an innovation information system to serve adequately state and local governments.

Possible actions:

(a) Create an information clearinghouse to collect, organize, and disseminate technological innovation information for state and local governments.

(b) Consolidate the existing field demonstration programs of various Federal agencies into a DoC program.

(c) Place high priority on the policy-making responsibilities of OSTP for effective transfer of Federally-developed technology to state and local governments.

(d) Provide categorical grants to the states to aid them in developing internal means to express their technological needs and work toward meeting them, drawing on any resources available.

Consumer Technology Information Services

Concern: Insufficient information on consumer products and services results in extensive economic loss, and prevents the potential of market forces for stimulating innovation from being realized.

Possible actions:

(a) Expand the Department of Commerce effort to provide consumer information services on product performance and product servicing, and increase the Department's consumer technical education focus.

(b) Proceed with existing consumer information efforts supplemented by the proposed National Voluntary Consumer Product Information Labeling Program.

Product Standards Generation

Concern: Lack of a clear cut, national product standards policy inhibits economic growth and disserves public interest.

Possible actions:

(a) Support the Purpose of Title I (National Standardization) of the Voluntary Standards and Accreditation Act of 1977 (S. 825), but with certain modifications.

(b) Prepare new legislation to establish a national policy for maximizing the effectiveness of the U.S. product standards effort, particularly that of the voluntary standards-setting community.

(c) Continue through the Interagency Committee on Standards Policy (ICSP) to

promote interagency cooperation and coordination with the private sector.

(d) Plan jointly with the private sector standards community (possibly through the ICSP) to identify present needs and their possible resolution.

Stimulation of Innovation Through Federal Procurement Policy

Concern: Federal procurement policy in its present form does not adequately stimulate technological innovation even though some improvement has been achieved recently.

Possible actions:

(a) Rely on ETIP experimentation with Federal procurement policy to foster policies favorable for innovation.

(b) Make creation and diffusion of innovations a more prominent objective of all Federal procurement policy.

Federal Patent Policy

Concern: The great variety of existing Federal patent policies with their emphasis on Government ownership of inventions is a hindrance to the commercialization of technology developed with Government funds.

Possible action: The Administration should introduce the draft bill developed by the Government Patent Policy Committee.

Funding of Commercialization of Selected Government Inventions

Concern: Most Government-owned inventions are not commercialized, indeed much Government-funded R. & D. is not exploited for patentable inventions, so that U.S. taxpayers do not obtain an adequate return on their investment in R. & D.

Possible actions:

(a) Continue the persent NTIS program alerting potential users to the existence of Government-owned inventions at present funding and staff level.

(b) Fund the commercialization of selected Government-owned inventions.

Diffusion and Utilization of Technology Internationally (Section V)

A. *Export promotion of technology-intensive products*

Concern: No integrated system presently exists either for determining U.S. and foreign barriers, in particular non-tariff barriers, to increased U.S. exports of technology-intensive products, or for formulating coordinated steps toward lowering those barriers, including rejection of any unnecessary proposed new controls, as well as removal of any unnecessary present ones which restrict the export of products.

Possible actions:

(a) Establish a policy board for export control, including the international transfer of technology per se. The board would be composed of the President's Science Advisor, Director of the National Security Council, Director of Defense Research and Engineering, Assistant Secretary of Commerce for Science and Technology, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, Deputy Administrator of the Energy Research and Development Administration (ERDA), Deputy Administrator of NASA, and the National Intelligence Officer for Economics of the Directorate of Central Intelligence, from among whom the President would appoint a chairman. The board would establish a working group composed of carefully selected individuals from the Government and private sector who would aid in developing positions on broad policy issues. In addition, the board would establish a set of joint Government/industry committees of experts encompassing all the technologies in the three major areas of export concern—military products, nuclear power, and commercial technology-intensive products. These committees would provide specific scientific and technical advice to the policy board regarding the products requiring validated licenses. The board would establish the technological guidelines for use by the agencies responsible for administering the controls. All existing Department of Defense (DoD) and Department of Commerce (DoC) committees, whose functions would be replaced by this single interagency board with its coordinated set of Government/industry advisory committees, would be abolished.

(b) Negotiate a shortened International Export Control Coordinating Committee (CoCom) List and a streamlined means for keeping it updated. Both a shorter current List and a systematic method for keeping it in step with technological advances would be expected to result from implementing (a).

(c) Develop new DoC program(s) to achieve, for selected industrial sectors, a sound assessment of the relative level internationally of technologies, and the direction and velocity of their progress toward applications in order to provide aid to industry in planning what products to export.

(d) Assist industry—particularly firms shifting from military-related to industrial, technology-intensive products—to achieve expanded export levels through improved market identification and analyses, better Federal promotional practices, and exposure of foreign governmental protective practices.

(e) Improve existing means by which Government and industry together can develop a more effective international trade strategy that accommodates the increasingly expanded emphasis on technology embodied in exportable products.

(f) Continue the efforts to simplify the various export licensing procedures of DoC, Department of State and National Regulatory Commission/ERDA and so lessen the delays encountered by exporters.

(g) Improve the financing policies of the Export-Import Bank.

B. *Export control of design and manufacturing technology*

Concern: No Government agency is responsible for the continuing assessment of foreign technology developments in non-communist countries. This omission contributes to present export controls inadequately protecting national security and economic interests that involve critical design and manufacturing technology.

Possible actions:

(a) Establish the interagency board described in A(a).

(b) Require DoD to provide a continuing technical assessment of its position vis-a-vis the U.S.S.R., or other potential adversaries, and identify for DoC those areas of commercial technology which it recommends for control to all foreign destinations. This would be accomplished in the course of the board's work if A(a) and B(a) are implemented.

(c) Establish within the Science and Technology Secretariat of DoC (See Appendix D, I) a capability for the analysis of technology developments in non-communist countries, based upon information available from Government and industry sources, to assess if more control of technology per se—particularly military-related technology which could become commercially significant—is advisable. This DoC activity could provide analyses to the interagency board described in A(a) and B(a).

(d) Determine the consequences of making all exports of U.S. "frontier" technology per se (i.e., data and know-how related to the design and/or production of specific militarily-significant products or processes) subject to Government approval (validated license) based on the potential impact on the balance of payments, employment opportunities, national security and the U.S. responsibility vis-a-vis the political, strategic, and economic interests of the international community.

C. *Technological support of less-developed countries (LDC's)*

Concern: A program of technological aid to LDC's needs to be developed which contributes to the progress of LDC's and is consistent with the economic needs of the U.S. free enterprise system.

Possible actions:

(a) Participate more actively in the international effort to develop a mutually agreeable "Code of Behavior" for multinational corporations and to encourage multinational corporations to invest in LDC's.

(b) Organize additional U.S./LDC joint commissions for mutually beneficial economic and technological collaboration.

(c) Organize consortia of developed countries to participate jointly in commission-type programs for economic and social development with specific LDC's.

(d) Work through the World Bank to plan and execute the industrial development of Third World countries.

(e) Expand the level of support for technological development in traditional ways.

(f) Promote mutually advantageous cooperation in industrial R&D not being pursued by U.S. private interests.

(g) Assist technological infrastructure development in LDC's.

D. *International product standards*

Concern: U.S. trade interests are likely to suffer unless the U.S. is more effective in development of international product standards.

Possible actions:

(a) Propose a joint Federal/private sector study to identify U.S. needs in the international standards area, assess existing measures to meet these needs, and prepare an action plan to meet unfulfilled needs.

(b) Support Title II (International Standardization) of the Voluntary Standards and Accreditation Act of 1977 (S. 825) but with certain modifications.

This draft study was prepared under the direction of: Betsy Ancker-Johnson, Assistant Secretary and David B. Chang, Deputy Assistant Secretary.

[FR Doc.77-10015 Filed 4-4-77;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

CORNING GLASS WORKS, INC.

Provisional Acceptance of Settlement Agreement

On March 24, 1977, the Consumer Products Safety Commission (Commission) issued a Notice of Violation and Assessment of Civil Penalty against Corning Glass Works, Inc. (Corning) charging Corning with knowing violation of section 19(a)(4) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2068(a)(4), in that Corning obtained information which reasonably supported the conclusion that the E-1210 coffee percolator, a consumer product which Corning manufactured and distributed in commerce, contained a defect which could create a substantial product hazard, and failed immediately to so inform

the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b) and 16 CFR Part 1115. The Commission's Notice of Violation and Assessment of Civil Penalty assessed a civil penalty against Corning in the amount of $400,000.

On March 24, 1977, Corning Glass Works, Inc., offered to settle the alleged violation for the amount of $325,000. The Consumer Product Safety Commission has provisionally accepted the settlement offer, subject to a 30 day public comment period. A copy of the Notice of Violation and Assessment of Civil Penalty and Corning's settlement offer are on file at the Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. and may be seen during working hours Monday through Friday.

Interested persons are invited to submit, on or before May 6, 1977, written comments regarding this settlement. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. during working hours Monday through Friday.

Dated: March 31, 1977.

SADYE E. DUNN,
Secretary.

[FR Doc.77-10048 Filed 4-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

JANNAF INTERAGENCY PROPULSION COMMITTEE

Closed Workshop

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a workshop on liquid propellants for gun applications will be held on Tuesday and Wednesday, May 3-4, 1977 at 9 a.m. in Building 328, U.S. Army Ballistic Research Laboratory, Aberdeen Proving Ground, Md. This workshop is sponsored by the Department of Defense Chemical Propulsion Advisory Committee (Combustion Working Group).

The Committee's primary responsibilities are to provide technical advice to the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. This workshop will address the physical and chemical properties of liquid propellants with specific emphasis on monopropellants as these properties relate to gun applications.

Under the provision of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), meetings may be closed to the public when they are concerned with matters listed in section 522(b) of Title 5, United States Code. One of the matters so listed is that specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy (5 U.S.C. 522(b)(1)).

Accordingly, this workshop will be closed to the public because matters concerned are related to the design and development of classified liquid propellant guns. However, those individuals who possess a personal security clearance of at least confidential and a certified need-to-know in the area of chemical gun propulsion may attend, provided they have notified the Workshop Coordinator in writing at least five (5) days prior to the workshop.

Members of the public who may wish to do so are invited to submit material in writing to the Workshop Coordinator concerning matters believed to be deserving of the Committee's attention. All communication regarding this workshop should be addressed to the Workshop Coordinator, Dr. Nathan Klein, DRDAR-BLP, U.S. Army Ballistic Research Laboratory, Aberdeen Proving Ground, Md. 21005.

NATHAN KLEIN,
Deflagration Physics Branch, Propulsion Division, Ballistic Research Laboratory.

[FR Doc.77-10016 Filed 4-4-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

PERSONAL USE RADIO ADVISORY COMMITTEE

Meeting

The next meeting of the Personal Use Radio Advisory Committee (PURAC) will be held Wednesday, April 20, 1977, and Thursday, April 21, 1977 at 10 a.m. at the FCC's offices at 2025 "M" Street NW., Washington, D.C. 20554.

Surveys of the coordinators heading up the eleven task areas indicated that no task area was ready to report to the full Committee, but many expressed a need for additional time to meet with their task contributors. Accordingly, the agenda for the two-day meeting will be eleven individual fact finding meetings the purposes of which are to progress towards formulation of task area reports. There will be no general meeting of the full Committee.

The schedule of meetings will be as follows:

April 20, 10 a.m.—Local Interference Problems, User Rule Compliance, Disseminating Information, Technical Standards, Part 95 Readability, Personal Use Radio Communications Needs, General Mobile Radio Service.

April 20, 1:30 p.m.—Electromagnetic Compatibility, User Rule Compliance, Operator Training Programs, Disseminating Information, Part 95 Readability, Public Safety Uses of Personal Radio, Equipment Theft.

April 21, 10 a.m.—Local Interference Problems, User Rule Compliance, Disseminating Information, Technical Standards, Part 95 Readability, Personal Use Radio Communications Needs, Equipment Theft.

April 21, 1:30 p.m.—Local Interference Problems, Electromagnetic Compatibility, Operator Training Programs, Technical Standards, Public Safety Uses of Radio, Personal Use Radio Communications Needs, General Mobile Radio Service.

There will be short administrative meetings among Task Coordinators and FCC Representatives at the following times: April 20, 9-10 a.m.; April 21, 9-10 a.m.; and April 21, 4-5 p.m.

Room assignments for each task area meeting and the administrative conferences can be obtained from the PURAC reception desk to be located in the lobby of 2025 "M" Street, NW, on both days of the meeting.

Meetings of PURAC are open to the public; however, facilities are extremely limited. Priority seating will be as follows:

1. Chairman and Secretary of PRAC.
2. Task Coordinators.
3. FCC Representatives.
4. PURAC Task Contributors.
5. Those PURAC members who have contacted the Task Coordinator expressing interest in attending.
6. Other PURAC members.
7. Observers.

Further information concerning this meeting of PURAC may be obtained from Mr. Robert Cassler, Room 5114, Federal Communications Commission, Washington, D.C. 20554 (202-634-6620).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-10053 Filed 4-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ELECTRIC UTILITIES ADVISORY COMMITTEE

Charter Amendment

This notice is to advise of a revision in the Charter of the Electric Utilities Advisory Committee to the Federal Energy Administration.

The Charter published in the August 27, 1976, issue of the FEDERAL REGISTER (41 FR 36253) is amended to add an additional subcommittee. Specifically, the Charter is hereby amended by revising Section B-9 to read as follows:

9. Subcommittees—The Electric Utilities Advisory Committee shall have two subcommittees as follows: (a) Executive Subcommittee; (b) Solar Electric Generation Subcommittee.

The objectives of these subcommittees are to make recommendations to the parent Committee with respect to matters concerning FEA plans and programs which are related to the responsibilities of the Electric Utilities Advisory Committee. The Subcommittees shall be comprised of such members of the parent Committee as may be determined by the Chairman of the parent Committee. All actions of the Subcommittees shall be consistent with the provisions of B-1 through B-11.

The above amendment is effective immediately.

Issued at Washington, D.C., on March 25, 1977.

JOHN F. O'LEARY,
Administrator.

[FR Doc.77-10046 Filed 3-31-77;2:03 pm]

ENVIRONMENTAL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the Environmental Advisory Committee will meet Friday, April 22, 1977, at 9 a.m., Room 5041, FEA Headquarters, 12th and Pennsylvania Avenue NW., Washington, D.C.

The Committee was established to provide advice and information to FEA concerning environmental aspects of FEA policies and programs.

The agenda for the meeting is as follows:

1. Federal Activities Relating to Greater Use of Co-generation.
2. Briefing on National Energy Plan—(a) Introductory Remarks by Mr. O'Leary; (b) Overview of Plan; (c) Energy Conservation Elements; energy pricing, mandatory measures, incentives; (d) Relationship of EAC Scenario Studies to Plan; (e) Supply Elements.
3. Organizational Questions Affecting EAC—(a) Role and Functions of EAC (within FEA); (b) Status Report on Energy Reorganization Effort; (c) Unresolved Organizational Questions of Interest to EAC; (d) Role and Functions of Advisory Committees Within Department of Energy.
4. Discussion with EAC "alumni"—(a) Charles Warren, Chairman, Council on Environmental Quality; (b) Barbara Heller, Special Assistant to the Secretary of the Interior; (c) Kathy Fletcher, White House Domestic Policy Staff; (d) Nicholas C. Yost, General Counsel, Council on Environmental Quality.
5. Development of EAC Comments Regarding National Energy Plan.
6. Discussion of EAC Subcommittee Activities—(a) Nuclear Policy; (b) Coal Policy; (c) Energy Conservation; (d) Non-attainment of Air Quality Standards; (e) OCS/Energy Facility Siting.

Subcommittees may meet informally in Washington the preceding evening, at the discretion of the subcommittee chairmen; the meetings will be open to the public. For further information on subcommittee activities, call Lois G. Weeks, Director, Advisory Committee Management, at (202) 566-9996.

The Committee meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or afer the meeting. Members of the public who wish to make oral statements should inform the Director, Advisory Committee Management, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on March 31, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-10047 Filed 3-31-77;2:04 pm]

FEDERAL POWER COMMISSION

[Docket No. RI77-46]

C. D. JACOBS

Petition for Special Relief

MARCH 29, 1977.

Take notice that on February 11, 1977, C. D. Jacobs, 1100 South Lakeside Drive, Lake Worth, Florida 33460, filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petitioner seeks authorization to charge a base rate of 62.85 cents per MCf for the sale of gas to Columbia Gas Transmission Corporation in consideration for the completion of remedial work on ten wells located in Pike County, Kentucky. Petitioner states he is presently receiving 29 cents per Mcf for the subject gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 12, 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 C.F.R. 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.77-10010 Filed 4-4-77;8:45 am]

[Docket No. ER77-243]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

MARCH 30, 1977.

Take notice that on March 14, 1977, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated January 1, 1977 between (1) CL&P, The Hartford Electric Light Company (HELCO) and Western Massachusetts Electric Company (WMECO) and (2) Templeton Municipal Lighting Plant (TMLP).

CL&P states that the Transmission Agreement provides for a transmission service to TMLP during the period from January 1, 1977 to October 31, 1977.

CL&P indicates that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the Northeast Utility system determined in accordance with § 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which TMLP is entitled to receive.

CL&P requests an effective date of January 1, 1977 for the Transmission Agreement.

HELCO and WMECO have filed certificates of concurrence in this docket.

CL&P states that copies of this rate schedule have been mailed or delivered to CL&P, Hartford, Connecticut, HELCO, Hartford, Connecticut, WMECO, West Springfield, Massachusetts and TMLP, Baldwinville, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 8, 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 proceedings. 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.77-10160 Filed 4-4-77;8:45 am]

[Docket No. CI77-332]

EL RAN INC., (OPERATOR), ET AL.

Application

MARCH 31, 1977.

Take notice that on March 11, 1977, El Ran Inc., (Operator), et al., (El Ran), 1603 Broadway, Lubbock, Texas, 79401, filed in Docket No. CI77-332 an application pursuant to section 7(c) of the Natural Gas Act for a limited term certificate of public convenience and necessity with pregranted abandonment to sell a quantity of residue gas covered under a two year term Gas Purchase Contract dated January 25, 1977, with El Paso Natural Gas Company (El Paso) produced from its Davis lease, located in the Levelland Field area, Hockley County, Texas, all as more fully set forth in the

application which is on file with the Commission and open to public inspection.

El Ran operates on behalf of W. W. Ranck and Ruth P. Samuel, who have entered into the above dated contract with El Paso. El Ran operates under a small producer certificate issued in Docket No. CS75-391. Pursuant to said contract, El Ran proposes to sell the residue gas to El Paso at the FPC Opinion No. 770, as amended, rate, for an initial term of two years with the option to terminate same on thirty days notice at the date of expiration. El Ran did not state in its application a reason for requesting a limited-term certificate.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

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.77-10161 Filed 4-4-77;8:45 am]

[Docket No. E77-82]

EMERGENCY NATURAL GAS ACT OF 1977

Emergency Order

On March 31, 1977, Panhandle Eastern Pipe Line Company (Panhandle) filed, pursuant to section 6 of the Emergency Natural Gas Act of 1977 (Act), Pub. L. 95-2 (91 Stat. 4 (1977)), a request for an order authorizing an emergency purchase of natural gas from Grayrock Corporation (Grayrock) at the Tolpers No. 1 well, Adams County, Colorado, as agent for its customer, Kokomo Gas and Fuel Company (Kokomo), through July 31, 1977.

Panhandle will purchase the subject volumes at a price of $2.25 per MMBtu. I find this price to be fair and equitable in accordance with Order No. 2.

Grayrock will deliver these volumes to Colorado Interstate Gas Company (CIG) which will deliver to Panhandle. Panhandle will receive these gas supplies from CIG and deliver them to Kokomo at existing delivery points. CIG will charge 17.35 cents per Mcf transported, and Panhandle will charge 20 cents per Mcf transported plus eight (8) percent of the volumes transported for compressor fuel.

Panhandle advises that Kokomo had advised that it is not serving any uses set forth in 18 CFR 2.78(a)(1) (iv)-(ix) and that the sale complies with Order No. 6. The approval of this sale is conditioned upon the submission of a sworn statement by Kokomo that the subject purchase complies with Order No. 6.

Pursuant to section 6(a) of the Act, I authorize Grayrock to sell gas to Panhandle as agent for Kokomo. Pursuant to section 6(c)(1) of the Act, I authorize CIG and Panhandle to transport this gas for Kokomo. Since the parties have agreed upon the transportation charges, I find no basis on which to fix other charges.

Kokomo shall submit weekly reports as required by Order No. 4.

This order is issued pursuant to the authority delegated to me by the President in Executive Order No. 11969 (February 2, 1977), and shall be served upon Panhandle, Grayrock, CIG and Kokomo. This order shall also be published in the FEDERAL REGISTER.

This order and authorization granted herein are 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.

MARCH 31, 1977.

[FR Doc.77-10159 Filed 4-4-77;8:45 am]

[Docket No. ER77-249]

KENTUCKY POWER CO.

Changes in Rates and Charges

MARCH 29, 1977.

Take notice that American Electric Power Service Corporation (AEP) on March 18, 1977 tendered for filing on behalf of its affiliate Kentucky Power Company (Kentucky Company), Modification No. 1 dated March 1, 1977 to the Interconnection Agreement dated May 14, 1963, between Kentucky Power Company and East Kentucky Power Cooperative, Inc. designated Kentucky Company rate schedule FPC No. 14.

AEP indicates that modification No. 1 replaces the existing Short Term Service Schedule E with a new updated version of that service. AEP also indicates that the modification provides for (1) an increase in the demand charge for Short Term Power from $0.30/kW-week to $0.60/kW-week, (2) reservation of Short Term Power from the system of a third party with a transmission charge of $0.15/kW-week and (3) a new initial rate schedule entitled "Limited Term Power" Service Schedule G with a demand charge rate of $3.25/kW-month and a transmission charge of $0.65/kW-month for third party transactions. AEP states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

Copies of the filing were served upon East Kentucky Power Cooperative, Inc. and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 13, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10008 Filed 4-4-77;8:45 am]

[Docket No. RI77-45]

JOSEPH P. MUELLER

Petition for Special Relief

MARCH 29, 1977.

Take notice that on March 14, 1977, Joseph P. Mueller (Mueller), 1010 Wilson Building, Corpus Christi, Texas 78401, filed a petition for special relief in Docket No. RI77-45 pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Mueller seeks authorization to charge $1.80 per Mcf for the sale of gas to United Gas Pipe Line Company from a well located in the Ramirena, N. (Pettus) Field, Line Oak County, Texas. Mueller states that he will be forced to plug and abandon the well if his request for rate relief is not granted.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 12, 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 be-

come 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 Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10009 Filed 4-4-77;8:45 am]

[Docket No. RI77-41]

PACIFIC STATES GAS & OIL, INC.

Petition for Special Relief

MARCH 29, 1977.

Take notice that on March 14, 1977, Pacific States Gas & Oil, Inc. (Petitioner), P.O. Box 67, Glenville, West Virginia 26351, filed a petition for special relief in Docket No. RI77-41, pursuant to Commission Order No. 481. Petitioner seeks a proposed rate of $1.42 per Mcf for gas sold to the Equitable Gas Company. Petitioner states that the requested increase will be used to recement the production string and hydrofracture the Benson Sand, thus obtaining additional production from the C. P. Snider 2A-5 well in Glenville Field, Gilmer County, West Virginia. The subject gas is currently being sold at the rate of $.6385 per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 12, 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.77-10011 Filed 4-4-77;8:45 am]

[Docket No. RI-77-42]

RELIABLE ENERGY, INC.

Petition for Special Relief

MARCH 29, 1977.

Take notice that on March 16, 1977, Reliable Energy, Inc., Securities Building, Billings, Montana filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Petition seeks authorization to charge $2.34 per Mcf for the sale of gas from the Martin No. 1 Well, Pleasant Ridge Field, Morgan County, Colorado. Petitioners recently have re-entered the well, which was originally drilled for oil in September, 1971 and was plugged and abandoned as a "dry hole". Petitioners plan to sell the gas to Colorado Interstate Gas Company, P.O. Box 749, Denver, Colorado. Petitioner states that this well's reserves equal 300,000 Mcf. Petitioner says it needs the special relief rate in order for it to install approximately 6 miles of 4" pipeline, condition the gas for hydrocarbon dew point and compress the gas for delivery into CIG's pipeline.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 12, 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.77-10012 Filed 4-4-77;8:45 am]

[Docket No. G-11854]

SUN OIL CO.

Application To Amend Certificate

MARCH 31, 1977.

Take notice that on December 27, 1976, Sun Oil Company (Sun), 2 Northpark East, P.O. Box 20, Dallas, Texas, 75221, filed in Docket No. G-11854 an application pursuant to section 7 of the Natural Gas Act to amend its certificate of public convenience and necessity for authorization to sell to El Paso Natural Gas Company (El Paso) certain casinghead gas from acreage in Noland and Coke Counties, Texas.

Sun filed on October 20, 1976, an application in Docket No. CI77-74, for permission and approval to abandon its sale of subject gas to Union Texas Petroleum, which is pursuant to a percentage-type contract dated May 1, 1967, as amended. The residue gas, after processing, is currently being resold to El Paso at the outlet of Union Texas' Perkin's Plant, Coke County, Texas. By letter dated August 31, 1976, Sun notified Union Texas that it is cancelling the May 1, 1967, contract, effective May 1, 1977.

Sun proposes to divert subject gas to Sun's Jameson Gasoline Plant for processing therein, with the volume of attributable surplus residue gas made available for purchase by El Paso at a rate of 53.0 cents per Mcf at 14.73 psia, plus tax reimbursement, subject to upward and downward Btu adjustment from a base of 1,000 and a gathering allowance of 1.5 cents. Concurrently with the application filed October 20, 1976, Sun submitted an agreement dated December 1, 1976, which provides for the sale of the gas to El Paso upon approval of Sun's application to abandon service to Union Texas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

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 to represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-10162 Filed 4-4-77;8:45 am]

FEDERAL RESERVE SYSTEM

D. H. BALDWIN CO.

Acquisition of Bank

D. H. Baldwin Company, Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire substantially all of the voting shares of Rifle Bank Agency, Inc., and its sole bank subsidiary, The First National Bank of Rifle, both located in Rifle, Colorado. 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)).

D. H. Baldwin Company is also engaged in the following nonbank activities: Underwriting life and casualty insurance and manufacturing and marketing musical instruments. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities

and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 26, 1977.

Board of Governors of the Federal Reserve System, March 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-10032 Filed 4-4-77;8:45 am]

SUMMIT HOME INSURANCE CO.

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Summit Home Insurance Company, Minneapolis, Minnesota, for a determination that Summit Home Insurance Company is not nor will be capable of controlling Colfax National Bank of Denver, Denver, Colorado.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than May 5, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, March 30, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-10033 Filed 4-4-77;8:45 am]

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review

RECEIPT OF REPORT PROPOSAL

Public Notice

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on March 30, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEA request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 25, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assitant Director, Regulatory Reports Review, United State General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of a revision to Form FEA-100A, Producers and Wholesale Purchaser-Resellers Monthly Report. This form is designed to provide summary data regarding product availability in inventory, product supply (production, imports, purchases and exchanges) and the demand on inventory and supply for the current month, the preceding month and the following. The revision to the form will consist of the addition of the product line "natural gasoline". This information is mandatory under 10 CFR 21, Subpart D & E, issued pursuant to the Federal Energy Administration Act of 1973 (Pub. L. 93-275) as amended by the Energy Policy and Conservation Act (Pub. L. 94-163). The estimated number of respondents is 250 and the estimated reporting burden for Form FEA-100A is approximately 8.4 hours a month per respondent.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77-10078 Filed 4-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0086]

SOURCE PLASMA (HUMAN)

Shipment Without License

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) gives notice that manufactures of Source Plasma (Human) who have not received a license or an approved amendment of a license by May 11, 1977, may no longer ship Source Plasma (Human) in interstate commerce.

EFFECTIVE DATE: May 11, 1977.

ADDRESSES: Written comments (identified with the FDA docket number) to: Office of the Hearing Clerk, RM. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Joe Holloway, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 6110 Executive Blvd., Rm. 190, Rockville, Md. 20852. (301-443-4626).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 12, 1976 (41 FR 10762), the Commissioner of Food and Drugs amended the Source Plasma (Human) regulations §§ 640.60 through 640.70 (21 CFR §§ 640.60 through 640.70) by redefining Source Plasma (Human) to include plasma collected by plasmapheresis intended for manufacturing noninjectable products. The effective date of the regulation was May 11, 1976.

In recognition of the time needed to review the applications or amendments, the Commissioner provided that Source Plasma (Human) intended for manufacturing noninjectable products could continue to be shipped in interstate commerce if an application or amendment was submitted prior to May 11, 1976, and the applicant was complying with the additional standards.

Since May 11, 1976, the Bureau of Biologics has reviewed approximately 150 applications and amendments. In addition to evaluating administrative and technical documents, on-site inspections of applicants' facilities and manufacturing methods have been conducted, as necessary, to assess compliance with the regulations. The Food and Drug Administration will complete its evaluations and make a final decision to approve or disapprove still-pending applications on or before May 11, 1977.

Therefore, the Commissioner hereby announces that effective May 11, 1977, Source Plasma (Human), as defined in 21 CFR 640.60 may no longer be shipped

in interstate commerce unless the manufacturer holds an approved license issued pursuant to section 351 of the Public Health Service Act (42 U.S.C. 262).

Dated: March 28, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-9880 Filed 4-4-77;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON NURSE TRAINING

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1977:

Name: National Advisory Council on Nurse Training.
Date and time: May 23-25, 1977, 10:30 a.m.
Place: Conference Room 4, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.
Open May 23, 10:30 a.m.-12:15 p.m.
Closed remainder of meeting.
Purpose: The Council advises the Secretary and Administrator, Health Resources Administration, concerning general regulations and policy matters arising in the administration of the Nurse Training Act of 1975. The Council also performs final review of grant applications for Federal assistance for nurse training grants, national research service awards, nurse practitioner grants, research project grants, and special projects for the improvement of nurse training, and makes recomendations to the Administrator, HRA.
Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meetings; discussion of future meeting dates; and administrative and staff reports. The remainder of the meeting will be closed to the public for the review of grant applications for Federal assistance in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. Code and the Determination by the Deputy Administrator, Health Resources Administration, pursuant to Public Law 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Mary S. Hill, Bureau of Health Manpower, Room 6C-08, Federal Building, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6985.

Agenda items are subject to change as priorities dictate.

Date: March 25, 1977.

CLIFFORD ALLEN,
Acting Associate Administrator for Operations and Management.

[FR Doc.77-10007 Filed 4-4-77;8:45 am]

Office of Education

ACCREDITATION AND INSTITUTIONAL ELIGIBILITY ADVISORY COMMITTEE

Public Meeting

AGENCY: Department of Health, Education, and Welfare, U.S. Office of Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the next public meeting of the Advisory Committee on Accreditation and Institutional Eligibility. It also describes the functions of the Committee. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2). This document is intended to notify the general public of their opportunity to attend.

DATES: April 20, 1977, 8:30 a.m. to 5 p.m., local time; and April 29, 9 a.m. to 5 p.m.

ADDRESS: Old Town Holiday Inn, 480 King Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202, (202-245-9873).

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is directed to:

1. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and designation of accrediting agencies and associations wishing to be designated as nationally recognized accrediting agencies and associations, and recommend desirable changes in criteria and procedures;

2. Review all current and future policies relating to the responsibility of the Commissioner for the recognition and listing of State agencies wishing to be designated as reliable authority as to the quality of public postsecondary vocational education, and of nurse education, and recommend desirable changes in criteria and procedures;

3. Review and advise the Commissioner of Education in the formation of all current and future policy relating to the matter of institutional eligibility;

4. Review the provisions of current legislation affecting Office of Education responsibility in the area of accreditation and institutional eligibility and suggest needed changes to the Commissioner of Education;

5. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition and designation of accrediting agencies and associations in accordance with legislative provisions, Presidential directives, or interagency agreements;

6. Review and recommend to the Commissioner of Education for designation as nationally recognized accrediting agencies and associations of reliable authority all applicant accrediting agencies and associations which meet criteria established under (5) above;

7. Develop and recommend to the Commissioner of Education criteria and procedures for the recognition, designation and listing of State agencies in accordance with statutory provisions, Executive Orders, or interagency agreements;

8. Review and recommend to the Commissioner of Education for designation as State agencies of reliable authority as to the quality of public postsecondary vocational education, and of nurse education, all applicant State agencies which meet criteria established under (7) above;

9. Develop, under the authority of the Vocational Education Act of 1963, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of private vocational training institutions which have no alternative route by which to establish eligibility for Federal funding programs;

10. Develop, under the authority of the Higher Education Act of 1965, as amended, and recommend for the approval of the Commissioner of Education, standards and criteria for specific categories of institutions of higher education, for which there is no recognized accrediting agency or association, in order to establish eligibility for participation in the student loan programs authorized by Title IV-B thereof;

11. Maintain a continuous review of Office of Education administrative practice, procedures and judgments relating to accreditation and institutional eligibility and advise the Commissioner of needed changes;

12. Keep within its purview the accreditation and approval process as it develops in all levels of education;

13. Advise the Commissioner of Education concerning the relations of the Office with accrediting agencies or associations, or other approval bodies as the Commissioner may request;

14. Advise the Commissioner of Education, pursuant to the Bureau of the Budget (Office of Management and Budget) policy dated December 23, 1954, regarding the award of degree-granting status to Federal agencies and institutions.

15. Not later than March 31 of each year, make an annual report of its activities, findings and recommendations.

The meeting on April 28 and 29, 1977, will be open to the public. This meeting will be held at the Old Town Holiday Inn, Alexandria, Virginia. The Committee will review:

Policy matters related to eligibility for Federal funding;
Policy matters related to the recognition of accrediting and State approval agencies;
Policy matters related to accreditation;
Elements of the Criteria for Recognition of National Accrediting Bodies and State Approval Agencies, including issues regarding the interpretation and implementation of the Criteria;
Policy issues pertaining to the administration of the Office of Education's eligibility system, as it is affected by the Education Amendments of 1976;
Policy issues pertaining to draft regulations in the area of eligibility; and
Advisory Committee operating procedures.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Division of Eligibility and Agency Evaluation, Bureau of Postsecondary Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on March 31, 1977.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc.77-10051 Filed 4-4-77;8:45 am]

Office of Human Development

REHABILITATION SERVICES ADMINISTRATION

Priorities and Closing Date for Receipt of Applications Regarding Vocational Rehabilitation Short-Term Training of Regional Scope

Notice is hereby given that pursuant to the authority contained in Section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 763), grants may be made to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, to assist in increasing the numbers of personnel trained in providing vocational rehabilitation services to handicaped individuals and in performing other functions necessary to the development of such services.

Applications for rehabilitation short-term training projects of Regional Scope must be submitted to the appropriate Regional Office of the Rehabilitation Services Administration by May 6, 1977.

Regulations governing rehabilitation short-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E of Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362), on November 25, 1975.

A. PURPOSE

Short-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed for improving the professional practice skills of vocational rehabilitation workers serving the physically and mentally disabled, especially those who are severely disabled.

B. ELIGIBLE APPLICANTS

Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. AVAILABLE FUNDS

An estimated $850,000 is available for rehabilitation short-term training of Regional scope in FY 1977. The amount of the individual grants is variable. In FY 1976 the 60 short-term training grants of Regional scope ranged from $1,800 to $71,500 with the median grant amounting to $11,700.

D. PURPOSE OF SHORT-TERM TRAINING OF REGIONAL SCOPE AND PROGRAM PRIORITIES

1. Short-term training of Regional scope includes workshops, institutes, seminars, or other short-term training courses designed for the direct training of employees of State vocational rehabilitation agencies or employees of cooperating vocational rehabilitation agencies or facilities, or other individuals with a special interest in the vocational rehabilitation of the physically and mentally disabled. Trainees participating within a Regional short-term training course are limited to those residing within a geographical Region designated by the Department of Health, Education, and Welfare.

2. In FY 1977 the following program priorities have been identified for short-term training of Regional scope:

REGION I

(a) Rehabilitation of the SSI-SSDI Client;
(b) Vocational Rehabilitation of the Industrially Injured;
(c) Expansion and Improvement of the Randolph-Sheppard Vending Facility Program;
(d) Improving the Management of the Rehabilitation Process;
(e) Assessing Regional rehabilitation training needs and evaluating the effectiveness of rehabilitation training;
(f) Program and Financial Planning;
(g) The Role of Motivation in the Rehabilitation Process;
(h) Cancer Rehabilitation;
(i) Consumer Involvement and Consultation in Policy Development for the State/Federal Vocational Rehabilitation Program; and
(j) The Utilization of Medical Consultants in the Rehabilitation Process.

REGION II

(a) Job Placement for the severely handicapped;
(b) Rehabilitation of the mentally retarded;
(c) Vocational Rehabilitation's Role in Implementation of Title V of the Rehabilitation Act of 1973;
(d) Rehabilitation of the SSI-SSDI Client;
(e) Implementation of the Randolph-Sheppard Act;
(f) Interagency Cooperation in the Rehabilitation of Severely Handicapped Youth;
(g) Vocational Rehabilitation of the Industrially Injured;
(h) Rehabilitation of the Mentally Ill; and
(i) Rehabilitation of the Deaf and Hard of Hearing.

REGION III

(a) Job Placement;
(b) Cancer Rehabilitation;
(c) Epilepsy Rehabilitation;
(d) Program Evaluation;
(e) Rehabilitation of the Homebound;
(f) Supervision; and
(g) Interdependence of Rehabilitation Facilities and State Agencies.

REGION IV

(a) The Use of Qualitative Measures in Program/Financial Management;
(b) Rehabilitation and Other Federal Programs Serving Handicapped Individuals;
(c) Consumer Involvement in the Rehabilitation Process;
(d) SSI/SSDI Vocational Rehabilitation;
(e) Program and Financial Management in Facility Operation;
(f) Improving Management Practices in State Rehabilitation Agencies;
(g) The Implementation of the Randolph-Sheppard Act;
(h) Utilization of Medical Consultation;
(i) Case Recording and Documentation;
(j) Deaf/Blind (Impact on Client and Counselor);
(k) Role of the Vocational Rehabilitation Agency in Developing Affirmative Action in Advocacy for the Handicapped;
(l) Regional Training Institute for the Industrially Injured;
(m) Advance Communication Training of the Deaf;
(n) Rehabilitation of the Mentally Retarded;
(o) Rehabilitation of the Mentally Ill; and
(p) Interpreter Training for the Deaf.

REGION V

(a) Identification of and Special Outreach Efforts to Underserved Severely Disabled Populations;
(b) Servicing Employer Needs As a Method of Developing Placement Opportunities for Severely Disabled Persons;
(c) Evaluation and Adjustment Services for Specific Severely Disabled Groups;
(d) Job Re-Engineering and Job Modification for the Severely Disabled;
(e) Labor-Management Relations in the State Vocational Rehabilitation Agency;
(f) Vocational Rehabilitation Service Delivery Alternatives for Urban Developments;
(g) Cancer Rehabilitation;
(h) End-stage Renal Disease;
(i) Rehabilitation of the Deaf and Hearing Impaired Persons;
(j) Cardiac Rehabilitation; and
(k) Rehabilitation of Persons with Cerebral Palsy.

REGION VI

(a) Rehabilitation of the Severely Disabled;
(b) Utilization of Rehabilitation Facilities; Regional Training Seminar on the Implementation of the Rehabilitation Act of 1973;
(c) Randolph-Sheppard Act;
(d) Affirmative Action Programs;
(e) Legal Concerns of the Rehabilitation Practitioner;
(f) Rehabilitation of the Homebound;
(g) Consumer Involvement and Policy Development Consultation;
(h) Mental Retardation;
(i) Removal of Architectural and Transportation Barriers;
(j) The Severely Disabled as a Priority Service Population;
(k) SSI/SSDI Programs; and
(l) Case Recording and Documentation.

REGION VII

(a) Rehabilitation of the SSI/SSDI Client;
(b) Program and Financial Management;
(c) Rehabilitation Facilities Specialists;
(d) Training the Trainers;
(e) Randolph-Sheppard Act;
(f) The Consumer and the Vocational Rehabilitation Program;
(g) Implementation of the Individualized Written Rehabilitation Program;
(h) Vocational Rehabilitation of the Industrially Injured; and
(i) Interagency Cooperation in the Rehabilitation of Severely Handicapped Youth.

REGION VIII

(a) Vocational Rehabilitation's Role in Implementation of Title V of the Rehabilitation Act of 1973, as amended;
(b) Vocational Rehabilitation's Role in Implementation of Title V, Section 501(e), "Un-

paid Federal Work Experience Program for Vocational Rehabilitation Clients (OJT), Rehabilitation Act of 1973, as amended;
(c) Program and Financial Management;
(d) Rehabilitation of the Blind and Visually Handicapped;
(e) Rehabilitation of the SSI/SSDI Client—"Casework Problems and Procedures" in the SSI/SSDI–VR Program;
(f) Understanding the Requirements and Guidelines in Preparation and Maintenance of Individualized Written Rehabilitation Program;
(g) Rehabilitation of the Deaf and Hard of Hearing, "Workshop on the Vocational Rehabilitation Program and Long-Term Training Program in Communicative Disorders";
(h) Program Evaluation and its Role Regarding the General Standards;
(i) Seminar for State Agency Facility Specialists, "Program and Fiscal Aspects of Discretionary Grants";
(j) Interagency cooperation between Rehabilitation Services and other Related Programs, i.e., Education: Adult Education and Vocational Education of Handicapped; Workmen's Compensation, CETA;
(k) Consumer Involvement and Consultation in Policy Development for the State/Federal Vocational Rehabilitation Program;
(l) Rehabilitation of Emotionally Disabled Individuals who have Learning Problems; and
(m) Improving State/Federal Vocational Rehabilitation Agency Communication with Directors of Long-Term Training Educational Projects in the Field of Rehabilitation Services.

REGION IX

(a) The Severely Disabled in a Workshop Setting;
(b) The Changing Role of Medical Consultants;
(c) Implementation of the Randolph-Sheppard Act;
(d) Vocational Rehabilitation of the Deaf-Blind Individual;
(e) An Expanded Role for the Rehabilitation Nurse;
(f) Cultural Factors in the Rehabilitation Process;
(g) Daily Living and Leisure Time Skills in Rehabilitation Services;
(h) Affirmative Action Training;
(i) Accessibility/Standards and the Severely Disabled; and
(j) New Patterns of Training in the Understanding of Severe Disability.

REGION X

(a) Case recording and case documentation requirements;
(b) Program and financial management requirements;
(c) SSI/SSDI program requirements;
(d) Rehabilitation of deaf and hearing impaired persons;
(e) Rehabilitation of persons with epilepsy;
(f) Implementation of the Randolph-Sheppard Act;
(g) Program Evaluation requirements;
(h) Interagency cooperation in the rehabilitation of the severely handicapped;
(i) Rehabilitation of spinal cord injured;
(j) Job placement for the severely handicapped; and
(k) Program evaluation in rehabilitation facilities.

E. APPLICATION REVIEW AND EVALUATION

Applications for the support of rehabilitation short-term training of Regional scope will be evaluated in terms of the following factors:

1. The relevance of the content of the proposed short-term training to the administratively established objectives of the public rehabilitation program, the objectives of the rehabilitation Act of 1973, as amended, and the FY 1977 priorities for rehabilitation short-term training;
2. The qualifications of the instructional staff;
3. The speed with which the training can be put to use by the persons proposed to be trained;
4. The reasonableness of the budget in relation to the proposed project;
5. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objctives;
6. The financial and other resources of the applicant for accomplishing the objectives of the training project and how much the applicant plans to contribute to the total cost of the project;
7. The criteria to be used for the selection of individuals to whom traineeships are to be awarded;
8. Evidence that the training facility is architecturally accessible to the handicapped;
9. Where appropriate, evidence of current accreditation by the designated accrediting agency;
10. The extent to which application instructions are adequately addressed, including both the narrative statement and budget justification;
11. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program; and
12. The evidence of a working relationship with an appropriate State vocational rehabilitation agency and other agencies providing vocational rehabilitation services.

G. PROGRAM INFORMATION AND APPLICATION FORMS

Program information, including specific FY 1977 short-term training plans for each Regional Office with a description of each priority training area and application forms may be obtained from:

REGION I

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203.

REGION II

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Building, 26 Federal Plaza, New York, New York 10007.

REGION III

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101.

REGION IV

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 50 7th Street NE., Room 358, Atlanta, Georgia 30323.

REGION V

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606.

REGION VI

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 1511 Bryan Street, Dallas, Texas 75201.

REGION VII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Kansas City, Missouri 64106.

REGION VIII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202.

REGION IX

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102.

REGION X

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Washington 98101.

H. APPLICATION SUBMITTAL

1. *Applications sent by mail.* Applications for the support of short-term training of Regional scope should be addressed to the appropriate Director, Office of Rehabilitation Services Administration. An application sent by mail will be considered to be received on time if:

(a) The application was sent by registered or certified mail not later than May 6, 1977 as evidenced by the U.S. Postal Service postmark, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the closing date in either the Department of Health, Education, and Welfare or the Office of Human Development mailrooms in a Regional Office. (In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare; or the Office of Human Development.)

2. *Hand delivered applications.* An application to be hand delivered must be taken to the appropriate Regional Office of the Director, Office of Rehabilitation Services. Hand delivered applications will be accepted during normal working hours. Applications will not be accepted after 5 p.m., on the closing date.

3. *Late submittals.* Grant applications received after the closing date will not be considered for review.

(29 U.S.C. 763.)

(Catalog of Federal Domestic Assitance Number 13.629, Rehabilitation Training.)

Dated: March 10, 1977.

JOSEPH A. MOTTOLA,
Acting Commissioner, Rehabilitation Services Administration.

[FR Doc.77-10091 Filed 4-4-77;8:45 am]

Office of the Secretary

BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on April 17, 1977 at 5 p.m. through April 18, 1977, at 4 p.m. at the Channel Inn, 650 Water Street, SW., Washington, D.C.

The Board of Advisors to the Fund was established to recommend to the Director of the Fund and the Assistant Secretary for Education priorities for funding and the approval or disapproval of grants and contracts of a given kind or over a designated amount under section 404 of the General Education Provisions Act.

The meeting will be for the sole purpose of discussing current program initiatives and dissemination activities, and considering and formulating advice to the Director of the Fund regarding the approval or disapproval of proposals submitted to the Fund under the Comprehensive Program.

The meeting on April 17 from 5 p.m. to 10 p.m. will be open to the public.

The meeting on April 18, from 9 a.m. to 4 p.m. will not be open to the public. This portion of the meeting will be for the sole purpose of reviewing and evaluating grant applications submitted to the Fund under the Comprehensive Program. It will involve discussion of project designs, personnel, and other information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. It has therefore been determined that closing this portion of the meeting is in accordance with 5 U.S.C. 552b(c)(6) and the policies of the Federal Advisory Committee Act.

A summary of the proceeding of the meeting and a roster of members may be obtained from the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue, SW., Room 3141, Washington, D.C. 20202, telephone 202-245-8091.

Signed at Washington, D.C., on April 1, 1977.

VIRGINIA B. SMITH,
Director, Fund for the Improvement of Postsecondary Education.

[FR Doc.77-10172 Filed 4-4-77;8:45 am]

Office of the Assistant Secretary for Health

PHARMACEUTICAL REIMBURSEMENT ADVISORY COMMITTEE

Request for Nomination of Members

In the FEDERAL REGISTER of November 10, 1975 (40 FR 52428) the Department of Health, Education, and Welfare requested nominations for membership on the Pharmaceutical Reimbursement Advisory Committee, an advisory committee under the Department's MAC program. The Committee consists of 15 members not in the full time employ of the United States. Members are selected to provide as full a range as possible of knowledge, experience, and judgment in the areas of pharmacy, pharmacology, medicine, pharmaceutical marketing, public health, and consumer affairs.

Members are selected for terms of two years except that eight of the initial members serve for one year. As of May 31, 1977 the one year terms of eight of the initial members will expire. In addition, another member for personal reasons had to resign for the remainder of his term which will expire May 31, 1978.

Any interested person may, therefore, nominate one or more qualified persons for membership to fill the eight new positions for two year terms, such terms to run from June 1, 1977 through May 31, 1979, and to fill the unexpired term of the retiree whose term will expire May 31, 1978. A complete curriculum vitae on the nominee must be included. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the Advisory Committee and appears to have no conflict of interest that would preclude committee membership.

Nominations shall be submitted to Dr. Carl T. DeMarco, Acting Executive Secretary, Pharmaceutical Reimbursement Advisory Committee, Office of Quality Standards, 5600 Fishers Lane, Rockville, Maryland 20857 no later than May 5, 1977.

Dated: March 29, 1977.

JAMES F. DICKSON III,
Acting Assistant Secretary for Health.

[FR Doc.77-10094 Filed 4-4-77;8:45 am]

Office of the Secretary

OFFICE OF PERSONNEL AND TRAINING

Statement of Organization, Functions, and Delegations of Authority

Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education and Welfare is amended to reflect the following changes in Section AMP "Office of Personnel and Training" (38 FR 34753, December 18, 1973, and 40 FR 11626, March 12, 1975:

Delete from Section AMP. 10 Organization—HEW Fellows Staff.

Delete from Section AMP. 20 Functions 4. HEW Fellows Staff.

Change Section AMP. 20 Functions to read as follows: 6. Office of Executive Manpower and Career Development. A. Formulates policies, develops and administers programs, and provides technical assistance to Principal Operating Components on activities related to recruitment, placement, utilization, development, retention, and separation of employees subject to the executive assignment system. Forecasts needs for executive positions and prepares justification for additional quota spaces; assures a continuing supply of well-qualified candidates for executive positions from DHEW and external sources; establishes and coordinates an executive development program for incumbents of executive positions; monitors and evaluates effectiveness of DHEW-wide executive and management development programs; promotes the concepts of equal opportunity for women and minorities in executive positions.

B. Develops and administers policies, procedures and standards, provides leadership, guidance, and support for the Department in all matters relating to the training and career-development of the entire workforce. Insures that all such activity is directly related to the fulfillment of program missions.

C. Administers the Department's Management Intern, College Intern, HEW Fellows, Inter-Department, and Intergovernmental Staff Exchange, and Cooperative Education Programs.

Dated: March 28, 1977.

JOHN D. YOUNG,
Assistant Secretary for Management and Budget.

[FR Doc.77-10096 Filed 4-4-77;8:45 am]

OFFICE OF THE REGIONAL DIRECTOR, REGION IV

Statement of Organization, Functions, and Delegation of Authority

Part A of the Statement of Organization, Functions, and Delegation of Authority of the Department of Health, Education, and Welfare, Office of the Secretary, Office of the Regional Director, Region IV, is amended to reflect the addition of Section AD4.20I (formerly numbered 1E84.20I), Office of the Assistant Regional Director for Intergovernmental Affairs and to delete the Section currently numbered 1E84.10M, Federal Regional Council Coordinator (40 FR 1540, January 8, 1975). The added Section reads as follows:

SECTION AD4.20I. Assistant Regional Director for Intergovernmental Affairs

1. Serves as a principal representative to the Regional Director and supervises a staff unit to help accomplish the Department's Intergovernmental technical

assistance and program coordination mission in the Region.

2. Serves as the Regional Director's representative in establishing and maintaining systematic contacts with the office of governors, Congressmen, State legislators, county executives and mayors. Recommends alternative methods for achieving goals and objectives, exercising priorities and implementing policies pertaining to relationships with State and local general purpose governments.

3. As a result of establishing a system for intergovernmental contacts, establishes and maintains a process for the identification of intergovernmental issues; refers these issues to the Regional Director, Assistant Regional Director, Planning and Evaluation (ARD/P&E), and the Regional POCs for proper analysis and resolution; and coordinates the dissemination of information on problems that have been resolved to State and local governments and representatives of private interest groups.

4. In cooperation with the ARD/P&E and POCs, coordinates and monitors procedures for securing timely State and local GPG review and comment on appropriate policies, legislation and regulations, keeps Regional Office and Headquarters Staff informed about major current developments concerning significant new human resources legislation and policies at the State and local levels.

5. Identifies, and brings to the attention of the ARD/P&E problems and issues in the States that may be amenable to DHEW evaluation efforts; facilitates, in coordination with the ARD/P&E, the dissemination of significant human resource evaluation, and monitoring findings to and from State and local governments.

6. Ensures that the Regional Office role in the implementation of DHEW policies, through such systems as OPS, is clearly spelled out to State and local general purpose governments. In cooperation with the ARD/P&E develops a process for disseminating information on operational objectives to State and local governments and special concerns groups. In cooperation with the ARD/P&E and POCs, attempts to ensure that State and local governments institute adequate mechanisms for implementing major common operational objectives. Provides for an exchange of information and interface with other Departments where interdepartmental efforts are required to implement policies.

7. Coordinates the planning and delivery of technical assistance to assist States and local general purpose government in the accomplishment of common program objectives.

8. Maintains liaison with ARD/P&E and POCs regarding implementation of a capacity building plan. Participates in the identification and assessment of the constraints which impede current and/or potential participants from developing effective delivery systems.

9. Participates from time to time in interagency or interdepartmental studies with responsibility for fact-finding, analysis, and making recommendations to top level policy making officials about National and intergovernmental program planning.

10. Provides guidance and staff support to the Federal Regional Council, in connection with operations and activities that require coordination with Federal, State and local governments. This includes responsibility for maximizing the Federal Regional Council's potential for improving the quality and effectiveness of intergovernmental operations. Coordinates Regional participation on the Federal Executive Board, its committees and task forces.

11. Has leadership responsibility for carrying out the Regional Office responsibilities for the CETA program. Administers and assures that the Regional of intergovernmental operations. Co-Office manpower work plan is being accomplished. Participates actively in the implementation of Departmental policy for CETA through the Regional Office Manpower Coordinator and Regional Agency program-related staff. Assures and identifies the inter-relationships of DHEW CETA activities with related Departmental initiatives such as capacity building and services integration.

12. Assures that DHEW resources are provided to special concerns groups including Indian Reservations. Develops and maintains systematic contact with Indian reservation tribal leaders, and the principal representatives of special concerns groups.

13. Insures regional office compliance with the National Environmental policy Act, National Historic Preservation Act, National Archeological Preservation Act, related laws, executive orders, regulations and guidelines. Recommends regional office policy and develops procedures to insure a coordinated and interdisciplinary approach to assist programs in the conduct of environmental analysis and preparation of documents for activities subject to the above-mentioned requirements in accordance with Departmental procedures. Identifies and advises the Regional Director as to a recommended course of action with respect to emerging environmental issues of concern to the Department and coordinates environmental reviews by regional program staff in response to other Federal agency requests for input. Apprises general purpose government, Federal Regional Councils, clearinghouses and other concerned organizations with respect to HEW NEPA requirements and proposed actions impacting on the community. Serves as the principal regional contact point with the Department's Chief Environmental Officer and notifies him of key issues and emerging problems on which the Secretary should be advised. Participates in and coordinates regional input to environmentally related interagency studies and task forces.

14. Manages External Affairs efforts with each of the Regional OS units and POCs through liaisons in each of these areas.

15. Serves as the consumer focal point in the Regional Office and as a source of information regarding consumer representation activities in Region IV, assuring that consumers will receive a prompt and substantive response to their inquiries.

16. Reviews Regional Advisory Committees in order to evaluate the scope and effectiveness of consumer representation.

17. Assures that consumer information is easily understandable, widely disseminated, and non-duplicative.

18. Establishes permanent liaisons with voluntary groups at the Regional level, to augment existing liaison with such groups at the National level, as a vehicle for improving citizens' information and participation in decisions on HEW-related issues and initiatives.

19. In conjunction with ARD/PA, maintains an updated system for disseminating information to citizens in Region IV while examining the efficacy of HEW methods for receiving and responding to feedback from these individuals.

20. Designs, utilizes, and tests new approaches to achieving interaction with the public.

21. Directs and carries out Legislative Liaison procedures in the Region so as to monitor and keep informed of State legislation impacting human resources.

22. Initiates and maintains contact with key State legislative officials in order to address legislative issues with the appropriate individuals when necessary.

23. Assures that notices of proposed Federal legislation and proposed rulemaking are reviewed and that Regional, State, and local governments are notified of these along with an indication of opportunities for comment and/or response.

24. Assures that an accurate Legislative Directory is maintained and published for Regional use.

25. Directs the coordination of the Appalachian Regional Commission Development and Investment Program with States and affected Regional Departmental POCs and Headquarters ARC.

26. Serves as the alternate representative for the Regional Director to the Federal Executive Board and assures the appropriate relationship and involvement of local and State governmental officials.

Dated: March 8, 1977.

THOMAS S. MCFEE,
Acting Assistant Secretary for Administration and Management.

[FR Doc.77-10095 Filed 4-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[SAC 079877]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Lands

MARCH 25, 1977.

Notice of a Bureau of Reclamation, U.S. Department of the Interior, application, Sacramento 079877, for withdrawal and reservation of lands for the planned facilities of the Auburn—Folsom South Unit of the Central Valley Project was published as FR Doc. 65–11539 on pages 13747 and 13748 of the issue for October 28, 1965. The applicant agency has cancelled its application insofar as it affects the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 15 N., R. 10 E.,
Section 27: Patented Small Tracts Lots 25 and 32.

The area described contains approximately 6.16 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, such lands at 10 a.m. on May 2, 1977, will be relieved of the segregative effect of the above mentioned application.

JOAN B. RUSSELL,
Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc.77–10060 Filed 4–4–77;8:45 am]

[NM 30090, 30210, 30211, 30212, 30213, 30214, 30215, and 30216]

NEW MEXICO

Applications

MARCH 28, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for nine 6⅝-inch and one 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,
Sec. 11, S½SE¼;
Sec. 12, N½SW¼ and SW¼SW¼;
Sec. 14, NW¼NE¼ and NW¼;
Sec. 15, S½NE¼, SW¼ and N½SE¼;
Sec. 20, NE¼NE¼;
Sec. 21, N½N½.
T. 17 S., R. 27 E.,
Sec. 31, lot 4.
T. 18 S., R. 27 E.,
Sec. 6, lots 4, 5, and 6.
T. 21 S., R. 27 E.,
Sec. 1, lot 13;
Sec. 2, lots 13, 14, 15, and 16;
Sec. 27, SW¼NW¼;
Sec. 28, E½NE¼.
T. 20 S., R. 28 E.,
Sec. 9, N½SW¼ and SE¼;
Sec. 10, N½S½;
Sec. 20, E½SW¼ and SW¼SW¼.
T. 18 S., R. 32 E.,
Sec. 34, SE¼SW¼.

These pipelines will convey natural gas across 8.176 miles of national resource lands in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Rosewell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–10058 Filed 4–4–77;8:45 am]

[NM 30239 and 30240]

NEW MEXICO

Applications

MARCH 28, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for one 4½-inch and one 6-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 S., R. 35 E.,
Sec. 12, W½E½;
Sec. 13, W½SE¼;
Sec. 24, W½E½;
Sec. 25, NW¼NE¼.
T. 26 S., R. 37 E.,
Sec. 24, N½NE¼.

These pipelines will convey natural gas across 2.897 miles of national resource lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77–10059 Filed 4–4–77;8:45 am]

[OR 6786]

OREGON

Order Providing for Opening of Lands Formerly in Powersite Classification No. 410

MARCH 28, 1977.

By Powersite Cancellation No. 301 of December 6, 1972 (37 FR 62621) as corrected January 31, 1973 (38 FR 2992) and by Powersite Cancellation No. 325 of February 5, 1975 (40 FR 6517) the U.S. Geological Survey cancelled Powersite Classification No. 410 of November 9, 1950, in its entirety.

1. The following described lands which were included in Powersite Classification No. 410 are not otherwise appropriated or withdrawn:

WILLAMETTE MERIDIAN

REVESTED OREGON AND CALIFORNIA RAILROAD GRANT LANDS

T. 39 S., R. 3 W.,
Sec. 2, NW¼SW¼;
Sec. 3 S½NE¼;
Sec. 9, SE¼SE¼;
Sec. 11, SW¼NE¼ and NE¼NW¼;
Sec. 15, W½NE¼, SE¼NE¼, W½W½SW¼, N½SE¼, and SW¼SE¼;
Sec. 21, E½E½;
Sec. 27, SE¼SW¼NW¼;
Sec. 33, W½NE¼;

Containing 770 acres.

LANDS WITHIN THE ROGUE RIVER NATIONAL FOREST

T. 39 S., R. 3 W.,
Sec. 28, N½NW¼NE¼, SW¼NE¼, and E½SW¼SE¼;

Containing 80 acres.

The areas described aggregate 850 acres in Jackson County.

The State of Oregon has not exercised the preference right of application for highway rights-of-way or material sites afforded it by Section 24 of the Federal Power Act.

2. At 10:00 a.m. on May 3, 1977, the national forest lands and revested Oregon and California Railroad Grant lands described above shall be open to such forms of appropriation as may by law be made of such lands, subject to valid existing rights and the provisions of existing withdrawals. The lands have been and remain open to applications and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; 30 U.S.C. 621).

3. Inquiries concerning this 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.77–10057 Filed 4–4–77;8:45 am]

Geological Survey

LESSEES AND OPERATORS OF INDIAN OIL AND GAS LEASES

Procedures for Reporting and Accounting for Royalties

Notice is hereby given that the Geological Survey has finalized its procedures and reporting forms for reporting and accounting for royalties and other compensation accruing to Indian oil and gas leases, except those on the Osage Reservation. This Notice also prescribes certain information which a lessee or operator must provide in support of reports and payments made to the Geological Survey.

On March 1, 1976, the Geological Survey published in the FEDERAL REGISTER (Vol. 41, No. 41, pp. 8802–8805) a Notice which set forth its proposed requirements for onshore Federal leases in respect to: (1) the submittal of Monthly Report(s) of Operations (Form 9–329), Monthly Report(s) of Sales and

Royalty (Form 9–361), and Rental and Royalty Remittance Advice(s) (Form 9–614–A); (2) the submittal of related supporting documentary evidence and Application(s) for the Establishment of Royalty Values (Form 9–1926); and (3) the procedures for remitting all payments to the Geological Survey. Said Notice solicited the submittal of written comments from interested parties by March 25, 1976. On March 24, 1976, the Geological Survey published in the FEDERAL REGISTER (Vol. 41, No. 58, p. 12235) a Notice extending the period for written comments to May 1, 1976.

Written and oral comments received by the Geological Survey were carefully considered in the preparation of the final NTL–1, whether received before or after May 1, 1976. Comments were received from 13 oil and gas companies and 1 oil and gas association. Even though the industry responses received represent only a small percentage of companies and individuals operating Federal and Indian oil and gas leases, those received were very comprehensive. Certain of the comments were adopted or essentially satisfied, and the Geological Survey made other changes on its own motion.

The final NTL–1, which was published in the FEDERAL REGISTER of January 25, 1977 (Vol. 42, No. 16, pp. 4596–4550), gave notice of the Geological Survey's intent to publish shortly in final form an NTL–1A which would address its requirements with respect to accounting procedures and reports for Indian oil and gas leases. NTL–1A follows the format and rationale of NTL–1, except where necessary to recognize certain inherent differences between Federal and Indian leases.

The requirements of NTL–1A should not be construed as requiring all rental payments due under Indian oil and gas leases to be submitted to the Geological Survey. However, advance rental payments for those leases which are in a producing status, as well as rentals for nonproducing leases which are committed to producing units, are to be submitted to the Geologicsal Survey. Thus, where rentals are now paid directly to the Bureau of Indian Affairs, a Tribe, or to individual Allottees, that practice should be continued unless notification is subsequently received that the lease account has been transferred to the jurisdiction of the Geological Survey.

All previous directives concerning the subject matter addressed by NTL–1A are superseded and canceled by this final NTL–1A to the extent that they conflict herewith. In other words, where a conflict exists, the provisions of this final NTL–1A will prevail.

The principal differences between NTL–1 (Onshore Federal) and NTL–1A (Indian) are:

Payments: Indian rental and royalty remittances must be made payable to a Tribe, an individual Allottee, or the Bureau of Indian Affairs, as applicable, even when the payment is submitted to the U.S. Geological Survey.

Remittance Advice (Form 9–614–A): Two copies of Form 9–614–A are required to be filed with each payment.

Overpayments: Overpayments of rentals and/or royalties generally may not be recovered by refunds. Overpayments may be recovered only by withholding payments from future accruals with the prior approval of the Tribe or the allottee involved.

Royalties on Gas Production: Royalties on gas production must be calculated by three methods each month with payment being made on the method that yields the greatest royalty revenue.

Reimbursement for Taxes Paid: There are instances where lessees and operators pay certain State and/or local taxes on behalf of the Indian lessor. Provision is made for the lessee or operator to recover these payments.

As with NTL–1, it is not feasible to implement all provisions of NTL–1A on or immediately following its effective date. Therefore, provisions have been included in NTL–1A to phase in the various requirements of the new procedures and the use of the revised reporting forms. During this phase-in period, lessees and operators will be furnished a supply of the new reporting forms and will be instructed in their proper use. Also, the system, as established by NTL–1A, will continue to be studied with the intent that modifications will be made in the requirements of NTL–1A, as warranted. The first such formal review will occur in December of 1977, and all concerned parties are invited and encouraged, prior to that time, to provide constructive comments concerning their practical experience with NTL–1A and the associated reporting forms.

The U.S. Geological Survey 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.

W. A. RADLINSKI,
Acting Director.

NOTICE TO LESSEES AND OPERATORS OF INDIAN OIL AND GAS LEASES (NTL–1A)

PROCEDURES FOR REPORTING AND ACCOUNTING FOR ROYALTIES

I. *General.* Pursuant to the regulations contained in Title 30 CFR Part 221 and the requirements of this Notice, operators of Indian (except Osage) oil and gas leases are required to timely file with the Area Oil and Gas Supervisor (Supervisor) the below defined sales agreements, operations reports, production and sales reports, supporting documentary evidence, remittance advices and royalty payments, and the other items required herein.

Item	Copies required by USGS[1]	Due date
Division orders	2	Within sixty (60) days following the date of first sales.
Sales Agreements/Contracts	1	Within sixty (60) days following the effective date of the contract or the date of first sales, whichever occurs first. Any amendment to an existing contract must be filed within sixty (60) days following the effective date of the amendment.
Monthly report of operations (form 9–329).	2	Due monthly with the first report submitted for the month in which the initial well on, or for the benefit of, a lease is commenced.
Monthly report of sales and royalty (form 9–361).	1	Due monthly with the first report submitted for the month in which the first well was completed for production on, or for the benefit of, a lease, even if no sales were made.
Purchaser's and gasoline plant statements.	1	Evidence to confirm the monthly sale of all lease products must be submitted monthly beginning with the month of first sales.
Rental and royalty remittance advice (form 9–614–A).	2	All payments made to the Geological Survey must continue to be submitted monthly beginning with the month of first sales accompanied by two copies of the remittance advice, form 9–614–A.
Application for establishment of royalty value (form 9–1926).	1	Within 4 mo after the effective date hereof for all leases in a producing status at that time or within sixty (60) days following the date of first sales, if after June 1, 1977.

[1] Unless otherwise specified by the supervisor.

Inquiries regarding the general requirements of this Notice may be directed to any Supervisor. However, specific questions concerning a particular reporting problem should be directed to the appropriate Supervisor having jurisdiction over the area in which the involved lease, unit area, or communitized tract is situated.

This Notice shall remain in effect until modified or revoked. However, it will be subject to periodic reviews, the first of which will be completed not later than January 1, 1978. Should any of the requirements prove to be inadequate, impractical, or unnecessary for the proper conduct of the Geological Survey's assigned responsibilities in this regard, the Notice will thereafter be revised accordingly.

II. *Division Orders, Sales Agreements, and Sales Contracts*—A. *Division Orders.* Where a division order is the means by which a sale is consummated of any product produced from, or for the benefit of, an Indian lease, each such division order, properly identified by Indian lease or contract number, must be furnished in duplicate to the Supervisor within sixty (60) days following the date of initial sales. A copy approved by the Supervisor will be returned to the operator. Division orders are approved as a proper means of distributing lease proceeds, and such approval is subject to the condition that nothing contained therein will be construed as affecting the relationship between the lessee (operator) and the Secretary of the Interior. Division orders submitted to the Supervisor need not be signed by working interest owners or other royalty owners under the lease or contract, since the Supervisor's approval is intended only to verify to the party making payment that the Indian royalty interest is correctly stated and to authorize transportation companies and purchasers to receive products from the leased lands.

The due date for royalty payments will be enforced even though a division order is incomplete and purchasers should be advised that nothing contained in a division order may in any way alter the royalty rate specified in a lease. Indian royalties must be released even though other monies are being held in suspense by a purchaser due to an incomplete division order or other irregularities. However, if a purchaser fails to

timely release Indian royalties, the operator shall be held responsible for making such payments by the due date.

B. *Sales Agreements/Contracts.* A copy of each agreement or contract for the disposal of leasehold products must be furnished to the Supervisor within sixty (60) days following the effective date of first sales. Any amendment to the contract must also be forwarded to the Supervisor within sixty (60) days following the effective date of the amendment. Any applicable rulings by the Federal Power Commission or the Federal Energy Administration which are incorporated in, or which affect the prices shown in a contract or amendment, must be cited. All agreements, contracts, supplemental amendments, and citations must identify, by Indian lease(s) or contract number(s), the Indian lease(s) affected or be accompanied by a transmittal letter which provides such information. If a contract, agreement, supplemental amendment, or citation does not apply to all production, wells, or zones on a given lease, that production and wells or zones to which it does apply must be specified.

Operators are advised that the price which the seller agrees to accept and the price which the buyer agrees to pay in any contract or other arrangement made for the sale or disposal of products from the leased lands shall not be construed as establishing a value that is binding on the Supervisor for royalty computation purposes.

III. *Gas and Associated Liquids Protection, Sales, and Royalty Requirements.*—The value of all produced gas and associated liquid hydrocarbons will be established by the Supervisor. Such value will be based on the Supervisor's estimated reasonable value of both the natural gas and its entrained liquid hydrocarbons with due consideration being given to the highest price paid for a part or for a majority of like quality production in the same field or area, to the price(s) received by the operator, to the Btu content of the gas, and to other relevant matters. Under no circumstances will the royalty value be computed on less than the gross proceeds accruing to the operator from the sale of such leasehold production. Gross proceeds include, but are not limited to, tax reimbursements and payments to the operator for gathering, measuring, compressing, dehydrating, or performing other services necessary to market the production. Likewise, no deduction will be allowed for the cost which an operator incurs by reason of placing the gas in a marketable condition as an operator is obligated to do so at no cost to the lessor.

The weighted average Btu content of all gas produced from, or for the benefit of, each Indian lease or contract must be shown on the Monthly Report of Operations (Form 9-329). The Btu content of the gas should also be shown monthly on the purchaser's statement (includes gas settlement and gasoline plant statements).

The Supervisor may adjust royalty values to reflect the Btu content of the gas regardless of whether the gas is sold on that basis. The Supervisor may also redetermine the value of the gas for royalty purposes at any subsequent date should such action be required to reflect the reasonable value of the gas and its entrained liquid hydrocarbons.

Unless and until the Supervisor has established that one of the following methods consistently yields the greatest royalty to the Indian lessor, lessees and operators shall compute royalty based on (1) the value of the wet gas produced from the lease adjusted for its Btu content, (2) the value of the separate components after processing and adjustment for the approved manufacturing allowance, and (3) the gross proceeds accruing to the operator. The method that yields the greatest royalty on a monthly basis each month will be reported as royalty due on Form 9-361. An equivalent payment must then be made and reported on the Remittance Advice (Form 9-614-A). When appropriate, the Supervisor may require the lessee or operator to submit supporting information substantiating all three methods of royalty computation.

If an operator is receiving an escalated gas price under the provisions of an interstate gas sales contract prior to the approval of said price by the Federal Power Commission, royalty must be based on such escalated price. If said price is subsequently disallowed or reduced by the Federal Power Commission, any overpayment may be recoverable as a credit against future rental and royalty accruals subject to the provisions of Section IX of this Notice.

Payments made by a gas purchaser pursuant to a contractual "take-or-pay" clause are subject to royalty under the terms of the lease agreement. The receipt of such monies by the operator and the subsequent recovery of "take-or-pay" gas by the purchaser must be reported and properly identified as such on Form 9-361. Any problems related to computation of such royalties should be referred to the Supervisor.

IV. *Crude oil and condensate production, sales, and royalty requirements.* Royalty is due on the value of all crude oil or condensate produced from, or for the benefit of, Indian oil and gas leases which is saved, except that which is consumed on, or for the benefit of, a lease for operational or developmental purposes or which is unavoidably lost through an Act of God. The Supervisor shall establish the value of crude oil and condensate production for which royalty or other compensation is due. The value so established will be based on the estimated value of the crude oil or condensate with due consideration given to the highest price paid for a part or for a majority of production of like quality in the same field or area, to the price received by the operator, to posted prices, and to other relevant matters. Under no circumstances will the value be computed on less than the gross proceeds accruing to the operator from the sale of leasehold production or on less than the highest price legally obtainable for production from the lease, unit participating area, or communitized tract. Deduction of transportation charges will not be allowed unless justified in writing and approved by the Supervisor. Generally, the deduction of transportation charges will not be allowed for a field or area in which there is a willing purchaser who would absorb such costs, and provided that the regulations of the Federal Energy Administration do not prohibit the operator from selling to said purchaser.

V. *Application for Establishment of Royalty Values.* A properly completed Application for the Establishment of Royalty Values on Form 9-1926 must be submitted to the Supervisor by August 1, 1977, for those leases in a producing status as of June 1, 1977. Separate applications must be filed by each operator and working interest owner who is responsible for the payment of royalty or other compensation. An operator may file a single application for its leases in the same field or area if they are subject to identical marketing arrangements. However, where upper and lower tier oil or different vintages of gas are involved, the application must be supplemented with appropriate information identifying the production subject to each tier or vintage. For those leases which achieve production after June 1, 1977, the application must be submitted within sixty (60) days following the date of first sales. Failure to file an accurate and complete application within the time allowed will result in the Supervisor establishing a royalty value equal to the highest price paid for like quality production in the field or area, assessing liquidated damages, or taking other appropriate action to bring about compliance.

In the interim period between the filing of an application and final action by the Supervisor, operators may submit payments based on the price(s) paid by their purchasers. The Supervisor will advise the operator by letter of the value(s) which have been established for royalty purposes and the effective date thereof. The difference, if any, between the approved value(s) and the value(s) upon which payments have been made shall be reconciled by the operator within sixty (60) days thereafter. This includes the submittal of amended reports and additional payments, as necessary. Any subsequent adjustments or amendments in the sales arrangements set forth in an Application for Establishment of Royalty Values must be reported promptly to the Supervisor.

VI. *Monthly Reporting and Payment Requirements General.* The production and sale or other disposition of all oil, condensate, gas, associated liquid hydrocarbons, and other byproducts produced from, or for the benefit of, Indian leases, and for which the Supervisor requires a separate accounting, must be reported individually on a monthly basis to the Supervisor, unless waived by the Supervisor as hereinafter provided.

Where an operator is solely responsible for the sale or disposition of all production, said operator will be held responsible for the timely submittal of operations reports, sales and royalty reports, remittance advices, and payments as well as for the submittal of purchaser(s) and gasoline plant statements and other supporting documentary evidence to substantiate the reported volume(s) and unit price(s) or value(s) of all production from the lease, unit participating area, or communitized tract.

In those instances where there are multiple operators under a single lease, each operator will be individually responsible for the timely submittal of the foregoing reports, documentary evidence, remittance advices, and payments for that portion of the lease which they operate.

In those joint venture projects (whether conducted on a lease basis or under the terms of an approved communitization or unitization agreement) where the operator sells or otherwise disposes of all production, but each working interest owner elects to make separate payments, the operator is responsible for the timely submittal of all reports and supporting documentary evidence which reflect the disposition of the total production and the value(s) or unit price(s) established by the Supervisory for such production. Each working interest owner, including the operator, will be held accountable for the timely submittal of remittance advices and payments for their proportionate share in the total production. However, in those situations where the operator and individual working interest owners in a joint venture project conducted on a lease basis elect to separately sell or dispose of their proportionate share in that production, the operator must timely submit the operations reports for the lease. Each working interest owner, including the operator, will be held responsible for the timely submittal of sales and royalty reports, supporting documentary evidence, remittance advices, and payments which reflect the disposition of their share in the total production from the lease, and the value(s) or unit price(s) established by the Supervisor for their proportionate share in such production. Where each working interest owner in a joint venture project conducted pursuant to a com-

munitization or unitization agreement elects to separtely sell or dispose of its proportionate share in that production, the reporting requirements for each such party are, with one exception, the same as those specified above in regard to individual reporting for joint venture projects conducted on a lease basis. That exception is that the individual Monthly Reports of Sales and Royalty (Form 9–361) must reflect the disposition of the total production from the communitized tract or unit participating area.

Beginning with the production month of April 1977, operators and working interest owners, as applicable, will be required to file for each lease, unit participating area, or communitized tract, for which they have reporting responsibilities, a package submittal which includes the Monthly Report of Sales and Royalty (Form 9–361), purchaser(s) and gasoline plant statements, and other supporting documentary evidence. The initial package report must be received by the Supervisor no later than June 10, 1977. Unless otherwise authorized in writing by the Supervisor, all subsequent package submittals must be received in the office of the Supervisor by the 10th day of the second month next following the production month. However, if said 10th day of the month falls on a nonwork day, the submittal shall be due not later than the last official working day prior thereto.

Beginning with the production month of April 1977, the Monthly Report of Operations (Form 9–329) must also be received by the 10th day of the second month next following the production month unless otherwise modified as specified above but need not accompany the Form 9–361 and its attachments.

Beginning with the production month of April 1977, all royalty payments submitted to the Geological Survey must be accompanied by duplicate copies of the Rental and Royalty Remittance Advice (Form 9–614–A) and must be received without exception in the office of the Supervisor by the last day of the month next following the production month or the next official working day thereafter if said last day occurs on a nonwork day. In the event that royalty payments are made directly to an Indian lessor, a Rental and Royalty Remittance Advice (Form 9–614–A) must be timely submitted to the Supervisor.

All reports, supporting documentary evidence, and payments must be identified by the appropriate Indian lease, unit, or communitization agreement contract number(s), and each report must be signed by an authorized person.

Beginning with the manually prepared data submitted for the production month of October 1977, the use of Forms 9–329, 9–361, and 9–614–A, as revised effective February 1976, will be mandatory.

Operators who currently furnish magnetic tape or key-punched card data to the specifications of the Conservation Division for direct input of charge and/or payment data into the Division's automated data processing system will be permitted to continue that practice; provided, however, that beginning with the production month of April 1977, all reports, including printouts of automated input, supporting documentary evidence, remittance advices, and applicable payments must be sumitted to the Supervisor in accordance with the schedule set out above.

Beginning with the production month of October 1977, operators having computer capability will be permitted to submit printouts in lieu of the revised Forms 9–329, 9–361, and 9–614–A provided that such printouts are identical in all respects to said forms.

The following is a detailed explanation of the required monthly items which are to be submitted.

A. *Monthly Report of Operations (Form 9–329).* A report covering the operations conducted on each well on a lease, unit area, unit participating area, or communitized tract must be filed by the operator each month in duplicate on Form 9–329 or an acceptable computer printout as above defined. This report must be furnished monthly beginning with the month in which the first well is commenced. All wells must be shown on the report until approved by the Geological Survey as plugged and abandoned.

Shut-in, temporarily abandoned, and other inoperative wells must be reported each month even though there may be no operations or production. A separate monthly report is required for each lease, unit area, unit participating area, or communitized tract. The report must be fully completed and provide a detailed breakdown of all production by well and the disposition of all production from the lease, unit participating area, or communitized tract.

Gas volumes shall be reported in MCF (1,000 cubic feet) at a pressure and temperature base of 14.73 psia and 60° F., unless otherwise directed in writing by the Supervisor.

Annual reports may be submitted for shut-in leases provided that prior approval is obtained from the Supervisor. When approved, annual reports must be filed on a lease-year basis and received by the Supervisor no later than 30 days following the end of the lease year. However, monthly reports must be commenced immediately whenever operations and/or production are resumed.

B. *Monthly Report of Sales and Royalty (Form 9–361).* A report on Form 9–361, or an acceptable computer printout as above defined, must be filed monthly, in accordance with the instructions set forth under the general requirements of this Section VI., by each responsible party beginning with the month in which the first well is completed. The initial report must also include those volumes of oil and gas produced during testing and completion operations which are subject to royalty or compensation.

These separate reports must reflect, by individual product, the disposition of the total production from the lease, unit participating area, or communitized tract which is subject to royalty or compensation and the value(s) or unit price(s) established by the Supervisor for each reporting party's proportionate share in such production.

Gas volumes shall be reported in MCF (1,000 cubic feet) at a pressure and temperature base of 14.73 psia and 60° F., unless otherwise directed in writing by the Supervisor.

Each report shall include only the disposition of products for the month being reported. Annual reports on a lease-year basis may be submitted for shut-in leases if prior approval is obtained from the Supervisor, provided that the report is received within thirty (30) days after the end of the lease year.

Leases whose royalty is based on a sliding or step scale rate are affected by the total production, well count, gravity, or number of days in the month, depending on the terms of the lease; accordingly, these items are essential for computing royalties and must be properly reported each month. The lease instrument sets forth the criteria for determining monthly the appropriate well count. Other information related to computing royalties for these leases may be obtained from the Supervisor.

The Supervisor will consider proposals for the submittal of magnetic tape or key-punched card data in lieu of Form 9–361, and may be contacted for more information regarding the Division's requirements for this type of reporting.

C. *Purchaser's Statements, Run Tickets, Tank Tables, and Gas Plant Statements.* All sales of crude oil, condensate, gas, associated liquid hydrocarbons, and other byproducts produced from, or for the benefit of, Indian oil and gas leases, and for which the Supervisor requires a separate accounting, should be confirmed by copies of appropriate purchaser, settlement, or gasoline plant statements properly identified by Indian lease or contract number. In situations where purchaser, settlement, or gasoline plant statements are not available or it is determined that such statements are insufficient to confirm reported volume(s) and value(s), the Supervisor may require that additional documentation be furnished. When required, run tickets, related tank tables, meter proving reports, pipeline run statements issued by common carrier pipelines, gas meter charts, check counterfoils, or other documents that confirm the operator's or working interest owner's reported volumes and receipts must be submitted.

Where purchaser, settlement, pipeline run, or gasoline plant statements are submitted the operator generally will not be requested to also submit run tickets and related tank tables, gas meter charts, or check counterfoils covering shipments shown on such statements, provided that (1) such documents, properly identified by Indian lease or contract number, must be submitted promptly when requested by the Supervisor and (2) all such documents are retained by the operator for a period of not less than six years. Tank tables shall be retained during the life of the tank and for six years thereafter.

D. *Payments.* The Geological Survey is responsible for maintaining the lease accounts of all producing Indian leases, all Indian leases committed to producing units or communitization agreements, and Indian leases which are subject to compensatory royalty assessments or underground storage agreements. Remittances under such leases for rental, or for production royalty, compensatory royalty, minimum royalty, royalty or compensation for lost oil or gas, or fees pursuant to a storage agreement must be made payable to the Bureau of Indian Affairs, the Tribe, or individual allottee, as applicable, even when the payment is submitted to the Geological Survey.

Indian leases generally provide for advance rental which is credited against royalty accruals during the year. Such rental payments, when submitted to the Geological Survey, must be received in the office of the Supervisor on or before the anniversary date of the lease. Operators are encouraged to file separate payments and remittance advices when submitting advance rentals to assure proper and timely credit to the lease account.

All payments submitted to the Geological Survey must be accompanied by duplicate copies of Rental and Rayalty Remittance Advice (Form 9–614–A) that identifies each Indian lease or contract number and, as applicable, the product, month of sale, and the amount attributable to each lease or contract.

The Supervisor will consider proposals for the submittal of magnetic tape or key-punched card data in lieu of the Rental and Royalty Remittance Advice (Form 9–614–A), and may be contacted for more information regarding the Division's requirements for this type of reporting.

VII. *Recovery of Taxes Paid on Behalf of Indian Lessors.* In those instances where the

royalty interest in production from an Indian oil and gas lease is properly subject to State and/or local taxes and the lessee or operator pays these taxes on behalf of the Indian lessor, the lessee or operator may recover said taxes by withholding from current payments an amount equal thereto. The right of recovery is subject to the prior approval of the Supervisor and the further requirement that the lessee or operator must submit legible and properly identified copies of all paid tax receipts that support the claim of taxes paid on behalf of the Indian lessor.

VIII. *Load Oil.* Any oil or other liquid hydrocarbons produced from, or for the benefit of, an Indian lease, and which is used for the treatment of a well on or off that lease, is defined as load oil. Royalty is due on all transfers of load oil whether the oil is used on the lease or otherwise, and must be accounted for on the monthly reports. Forms 9-329 and 9-361, as though a sale had occurred.

The value of any such load oil must be equal to the highest net price paid for any regular crude oil or other liquid hydrocarbon run of comparable gravity made from the lease, unit participating area, or communitized tract during the month of the transaction or the actual price received by the operator, whichever is greater.

Where royalty is paid at the time of transfer, a volume of crude oil or other liquid hydrocarbon equal to the volume of the load oil used in the treatment may be recovered and disposed of royalty-free, provided that such recovery is credited against the first production from the treated well. If an operator fails to request a credit against production immediately after treatment, no such royalty-free recovery will be allowed unless the operator presents evidence, acceptable to the Supervisor, that such delay is justified. The value of load oil recovered shall not exceed the average weighted price of all oil or other liquid hydrocarbons sold from the lease, unit participating area, or communitized tract during the month of recovery.

No credit or royalty will be allowed the operator for recovered load oil unless complete documentation is attached to the Monthly Report of Sales and Royalty (Form 9-361) to substantiate the use and recovery of such load oil. This documentation must include the following information:

A. For transfers between Indian leases: The Indian lease number from which the oil was produced; The Indian lease number to which the oil was transferred; The number and location of the well which was treated; The volume of oil used in the treatment; Acceptable evidence to substantiate the recovery of load oil for which a credit is sought.

B. For transfers to an Indian lease from a non-Indian source: The source from which the oil was obtained; The name and address of the seller; Date of purchase; Transporter; The Indian lease number to which the oil was transferred; The number and location of the well which was treated; The volume of oil used in the treatment; Acceptable evidence to substantiate the recovery of load oil for which a credit is sought.

C. Transfers of load oil from an Indian lease to a non-Indian lease are to be reported as a sale, and no subsequent credit will be allowed.

If the required information under item A or B hereof is contained in an affidavit prepared for submittal to the purchaser or to another Federal or State agency, a copy of said affidavit will normally meet the documentation requirements of the Geological Survey.

IX. *Overpayments.* Overpayments on Indian leases ordinarily cannot be recovered by refund. Recovery from future accruals may be accomplished as follows:

A. *Tribal Leases.* Overpayments may be recovered as a credit against future rental or royalty accruals due under the same lease or, with approval of the Tribe, accruals due under other tribal leases. Such credits may be made only with the prior authorization of the Supervisor.

In the event that current rental or royalty accruals are insufficient to recover an overpayment within a reasonable period of time, the lessee or operator may apply for a refund from the Tribe. Such a request should detail how and why the overpayment was inadvertently made and provide, as a minimum, information such as payment date(s), products involved, unit prices used in the original computation, corrected unit prices, and other pertinent data. A copy of each such request should be provided to the Supervisor.

B *Allotted Leases.* An overpayment may be recovered as a credit against future rental and royalty accruals only under the lease on which the operpayment was made. However, such credit allowances are subject to the prior approval of the Supervisor and to the further restriction that the recovery will be prorated over the period of time necessary to prevent an allottee's current monthly revenue being reduced by more than 50 percent.

In the event that current rental or royalty accruals are insufficient to recover an overpayment within a reasonable period of time, the lessee or operator may request a refund from the individual allottee(s) involved. The request should be filed with the Supervisor but addressed to the appropriate Area Director of the Bureau of Indian Affairs. The request should include data similar to that submitted in support of a requested refund made with respect to a tribal lease.

X. *Lease Account Adjustment.* An error on a Monthly Report of Sales and Royalty (Form 9-361) and/or a Rental and Royalty Remittance Advice (Form 9-614-A) requires special attention because of the problems that an adjustment, if not accounted for properly, may cause in reconciling a lease account when monthly royalty charges and payments do not agree.

In order that these problems may be substantially eliminated, it is required that the disposition of each month's production and the corresponding payments be reported separately and not combined with any other month's business. A separate Monthly Report of Sales and Royalty and/or Rental and Royalty Remittance Advice, identified as an "amended" report or advice, will be required to correct any erroneous entry shown on a previous month's report or advice. Amended reports must show the total entry, as corrected, not just the difference between that previously reported and what should have been reported. In other words, where previously reported data is to be corrected, a two-line entry will be required on the amended report or advice. One entry will show the information previously reported as a credit or negative entry and the second entry will show the corrected information as a debit or positive entry.

Unless otherwise directed in writing by the Supervisor, amended reports or advices may include corrections for more than one lease, unit participating area, or communitization tract and may also include corrections covering more than one month. No method different from that prescribed above may be used in making adjustments without the prior approval of the Supervisor.

XI. *Measurement and Storage Requirements.* All production from a lease, unit participating area, or communitized tract shall be gauged or measured according to methods approved by or acceptable to the Supervisor. However, the Supervisor's specific written approval must be obtained prior to installing an ACT meter, commingling production between leases or formations, or the use of common storage or off-lease facilities.

XII. *Statement of Account (Form 9-1424).* Lessees and operators will be provided a Statement of Account (Form 9-1424) recapitulating all transactions affecting each of their leases on a month-to-month basis.

Lessees and operators should review the Statement(s) of Account to ensure that royalty charges and payments are properly accounted for and that the lease account is correct. Any amount shown as owed must be promptly remitted unless there is an apparent error, in which event the discrepancy must be called immediately to the attention of the Supervisor.

XIII. *Noncompliance, Violations, and Assessment of Liquidated Damages.* Failure to submit properly completed reporting forms, supporting documentary evidence, remittance advices, or payments by the due dates will be considered as incidences of noncompliance and will result in the assessment of liquidated damages or other appropriate action being taken for each violation. When liquidated damages are assessed, the amount of the assessment will be determined in accordance with Title 30 CFR 221.

Dated: April 1, 1977.

Oil and Gas Supervisor.

RUSSELL G. WAYLAND,
Acting Chief,
Conservation Division.

[FR Doc.77-10002 Filed 4-4-77;8:45 am]

Office of Hearings and Appeals

[Docket No. M 77-134]

A B D & G COAL CO. INC.

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), A B D & G Coal Co., Inc., Route 1, Box 101, Lake City, Tennessee 37769, has filed a petition to modify the application of 30 CFR 77.1605, loading and haulage equipment; installations, to its No. 1 Mine, located in Anderson County, Tennessee.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that its haulroads are as safe as it is possible to make them and that installing guardrails or berms would lessen the safe condition of its roads for the following reasons:

a. Berms and guardrails would hamper snow removal and would result in the roads icing during winter months.

b. Berms and guardrails would create a drainage hazard. Proper drainage would be impossible to maintain and washouts and hazardous conditions would result in wet weather.

c. Guardrails would have to be installed on fill material. It would be almost impossible to build them on such material in an effective manner.

d. More than 80 percent of haulage time is spent on county and state roads

which are not as safe as Petitioner's haulroads.

2. For all these reasons, Petitioner feels its roads would be less safe if Petitioner is forced to install berms or guardrails.

REQUEST FOR HEARINGS OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10063 Filed 4-4-77;8:45 am]

[Docket No. M 77-141]

ALLIED COALS, INC.

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), Allied Coals, Inc., Box 447, Hindman, Kentucky 41822, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 2 Mine, located in Knott County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner states that the application of the regulation will result in a diminution of safety for the miners in the affected mine.

2. The average height of the seam of coal in the affected mine ranges between 37 and 50 inches. The seam height varies over short distances in the mine and frequently rolls.

3. The face equipment currently in use at the mine includes: 3 CX1 scoops; 2 Galis 300 roof bolters; one 15RB Joy cutter; 1 Owens coal drill; 2 AR 5 Elkhorn scoops. During the period of operation, sufficient safety hazards were created by use of canopies to warrant their removal. Some of the hazards created were:

(a) The operator's vision is severely impaired in that he cannot see over the top of the scoop. Operation of the scoop in this manner is hazardous to fellow workers as well as to the operator.

(b) Due to the close confinement caused by the canopy, the operator's head must extend beyond the protection of the canopy to see ahead of or behind the scoop and other equipment. This results in a danger of the operator being crushed between the canopy and rib.

(c) Ingress to and egress from the cab is so limited that the operator might be held captive preventing escape when such is clearly warranted. The operator could also be held captive for indefinite periods in case of machine malfunction or power failure.

4. Modification of the canopies has been considered by Petitioner but it, at the present time, is unaware of any means of modification to the canopies which could be made and utilized with the same degree of safety as complete removal of the canopies would insure.

5. No history of injury resulting from the use of the face equipment without protective canopies exists in the mine. The operators are under fully supported roof at all times, pursuant to an approved roof bolting plan.

6. Petitioner states that with respect to low-ceiling mines, the use of currently available canopies with mobile electrical face equipment severly diminishes rather than increases the overall safety of the miners. Further use of these canopies in the mine will inevitably cause injuries to the operators or other personnel.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc. 77-10064 Filed 4-4-77;8:45 am]

[Docket No. M 77-135]

CANNELTON INDUSTRIES, INC.

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), Cannelton Industries, Inc., P.O. Box 553, Charleston, West Virginia 25322 has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mines Nos. 4, 5, 8, and Mine Lady Dunn No. 105, located in Kanawha and Boone Counties, West Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner avers that the application of this standard to its mines will result in a diminution of safety to the miners in each mine, and in support thereof states:

a. *Mine Lady Dunn No. 105.* This mine employs approximately 212 employees and the mine workers are represented by Local Union No. 8843 of District 17 of the United Mine Workers of America. The mine currently produces, approximately, 900 tons of coal per day on two coal producing shifts with five operating sections. This mine is operating in two coal seams, the Powellton and the No. 2 Gas. The mining height in the Powellton seam is approximately 46 to 54 inches and the mining height in the No. 2 Gas seam is approximately 36 to 48 inches, although the mining height may vary in each seam as much as 12 inches depending upon mining conditions.

b. *Mine No. 8.* This mine employs approximately 132 employees and the mine workers are represented by Local Union 8843 of District 17 of the United Mine Workers of America. The mine currently produces approximately 1,100 tons of coal per day on two coal producing shifts with three operating sections. This mine is operating in the Eagle seam, with a mining height of approximately 42 to 44 inches, although the mining height may vary in such seam as much as 12 inches depending upon mining conditions.

c. *Mine No. 4.* This mine employs approximately 68 employees and the mine workers are represented by Local Union 1460 of District 17 of the United Mine Workers of America. The mine currently produces approximately 600 tons of coal per day on two coal producing shifts with two operating sections. This mine is operating in the No. 2 Gas seam, with a mining height of approximately 34 to 56 inches, although the mining height may vary in such seam as much as 12 inches depending upon mining conditions.

d. *Mine No. 5.* This mine employs approximately 29 employees represented by Local Union No. 1460 of District 17 of the United Mine Workers of America. The mine currently produces approximately 300 tons of coal per day on two coal producing shifts with one operating section. This mine is operating in the No. 2 Gas seam, with a mining height of approximately 34 to 56 inches, although the mining height may vary in such seam as much as 12 inches depending upon mining conditions.

e. This Petition for Modification relates to all electric face equipment being operated in all sections of the aforesaid mines of Petitioner.

f. Petitioner has been experimenting with canopies for its self-propelled electric face equipment as required by the provisions of 30 CFR 75.1710-1. However, in most instances, operators of such equipment have refused to operate such equipment on the ground that the operation of such equipment with a canopy increases hazards to personnel in the mines. Petitioner has continued to investigate the possibility of using canopies on its electric face equipment but has determined that compliance with 30 CFR 75.1710-1 at its mines will result in a diminution of safety to the miners because the operation of electric face equipment in each mine with a cab or canopy increases hazards to personnel. Such hazards include, but are not necessarily limited to, reduced vision of equipment operators, difficulty in reaching equipment controls and difficulty of getting into and out of such equipment.

g. No imminent danger is involved. The operation of electric face equipment with cabs or canopies will be more hazardous to the personnel in such mines

than operation of such equipment without cabs or canopies and will result in a diminution of safety to the miners in each mine.

h. Petitioner requests, in lieu of the mandatory safety standard, that it be permitted to continue the use of electric face equipment in each mine without cabs or canopies.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10065 Filed 4-4-77; 8:45 am]

[Docket No. M 77-127]

E AND S COAL CO.

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), E and S Coal Co., R.D. No. 2, Box 370-A, Pottsville, Pennsylvania 17901, has filed a petition to modify the application of 30 CFR 75.301, air quality, quantity and velocity, to its Mammoth Middle Slope Mine, located in Schuylkill County, Pennsylvania.

The substance of Petitioner's statement is as follows: 1. Petitioner requests 30 CFR 75.301 be modified for this anthracite mine to require, in part, that the minimum quantity of air reaching each working face be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

2. This petition requesting modification of 30 CFR 75.301 is submitted for the following reasons:

a. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine.

b. Ignition, explosion and mine fire history are nonexistent for the mine.

c. There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases.

d. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

e. Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners.

f. High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines.

g. Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. The Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

4. A copy of this petition will be posted at the mine by the operator.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10067 Filed 4-4-77;8:45 am]

[Docket No. M 77-142]

CLINCHFIELD COAL CO.

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), Clinchfield Coal Company, Dante, Virginia 24237, has filed a petition to modify the application of 30 CFR 75.-1710, cabs or canopies, to its Hurricane Mine, located in Russell County, Virginia.

The substance of Petitioner's statement is as follows:

1. Petitioner's mine has been in operation for approximately 7 years, with an additional life expectancy of 3 to 4 years. The mine is located in the Upper Tiller Seam and has a total of two units operating on a multiple shift operation. The mine employs approximately 70 workmen and is being operated with the following type equipment: two 120 Jeffrey continuous miners that are 44 inches in height; 4 Jeffrey Ram-type shuttle cars that are 43 to 44 inches in height; 2 Fletcher Dual-head roof bolting machines that are 37 to 41 inches in height.

2. Prior to this petition, Petitioner had been mining in a seam height of 6 to 9 feet, but it is now mining in a seam height of 55 inches (minimum).

3. All face equipment was equipped with cabs in an area where mining was conducted in seam heights ranging from 6 to 9 feet.

4. Petitioner's greatest problem in extending use of canopies has been operator acceptance, and it has been able to gain no significant experience with prototype canopies at the mine covered by this petition because of refusal of miners to operate the equipment.

5. This subjective reaction is predictable in situations of seams 60 inches in height and under, but is extremely difficult to deal with, because of the provisions of Article III, Section (i) of the National Bituminous Coal Wage Agreement of 1974, which allows individual miners to withdraw from conditions which they believe to be abnormal and dangerous by following certain procedures.

6. Petitioner submits that the application of the regulation will result in a diminution of safety and is impossible to apply.

7. Petitioner asserts that 30 CFR 75.1710-1 would result in a diminution of safety to its employees in that: A. Petitioner is constantly encountering undulations in the height of its coal seam.

B. As a result of the undulations in seam height the likelihood of jamming the canopy against the roof is increased. Moreover, safe clearance from the roof is not assured in that roof bolts have been and will continue to be sheared or dislodged, thereby creating a greater risk of roof fall and injury to employees than would exist otherwise.

C. Technology in the industry is not available to design and install canopies on existing equipment which will protect the operators in the conditions described above, insure vision and safe operations, and prevent the hazards described herein. Instead, results of attempts to do so have included the following:

(1) Cramped and awkward operator positions, created by the installation of cabs, put the operator in a strained position making it difficult for him to operate the controls safely and effectively and create a mental strain for the operator.

(2) Poor vision created by the installation of canopies, creates a major hazard in that the operator's vision is obstructed and limited because he cannot see the area in which he is traveling. This creates an additional hazard to any workman that might be traveling on foot. Due to the poor vision the operator has a tendency to lean outside of the canopy, which exposes him to the hazards of moving equipment, roof support and coal "ribs."

(3) Changes in conditions, after installation of canopies, caused by variations in seam height and undulations cause equipment clearance to be inadequate and cause collisions with the top, shearing roof bolts, damaging cross beams, destroying equipment and roof support.

D. In an effort to solve problems of equipment modification, Petitioner knows of consultations with the MESA Technical Support Center, which it believes to be considering the type of problems described herein. Petitioner does not know of results from such consultations. In addition, Petitioner, as is common in the industry, is in repeated and fre-

quent consultation with vendors on equipment problems, and knows that vendors with whom it has consulted are unable to solve the problems described herein.

E. Existence of the cab itself becomes a hazard in seams, or in portions of seams, in which the Petitioner operates because present equipment known to the Petitioner limits the paths of escape to an operator faced with a roof or rib fall in a confined space.

F. Much of the equipment used in these mines was not manufactured or designed for the installation of canopies and Petitioner has been unable to construct or purchase suitable canopies without encountering all of the foregoing problems.

G. In petitioning for modification of the mandatory standard herein, Petitioner is forced to request relief from all time limits set forth in 30 CFR 75.1710–1 as applied to date because of the variations described above within each mine. The standard prescribes time limits for use of canopies based upon maximum height within a mine. If the standard becomes immediately applicable throughout the mine, Petitioner is forced to install canopies in the lower reaches of coal before other coal mine operators in like situations. If the different time limits are to apply to the separate mining sections or other areas in the mines, then Petitioner is faced with a vague situation as mining uncovers new conditions and it is faced with little time to comply, or where compliance is impossible as described herein, its mine may be rendered worthless.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10066 Filed 4-4-77;8:45 am]

[Docket No. M 77-136]

FAITH COAL SALES, INC.

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), Faith Coal Sales, Inc., Box 69, Regina, Kentucky 41559, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 3 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipmnt is creating hazards to equipment operators because of the height and size of the equipment and rolls and dips in the coalbed.

2. Petitioner's haulage equipment consists of 3 S & S scoops, 1–D2 Acme roof bolting machine, 1–Long Airdox coal drill and a belt line.

3. The mine is in the Hazard No. 4 Seam and ranges from 46 to 55 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in a manner which prevents the canopies from getting against the roof and possibly destroying roof support. This only allows a small vertical operating compartment which limits the vision of the equipment operator and creates a hazard to him as well as to other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited and because of the position required to be seated in the decks, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10068 Filed 4-4-77;8:45 am]

[Docket No. M 77-143]

KAISER STEEL 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), Kaiser Steel Corporation, 300 Lakeside Drive, Oakland, California 94666 has filed a petition to modify the application of 30 CFR 75.326, air courses and belt haulage entries, to its Sunnyside No. 1 Mine, located in Sunnyside, Utah.

The substance of Petitioner's statement is as follows:

1. Petitioner seeks to modify the regulation to permit it to utilize, in lieu of separate and distinct passageways with the belt haulage entry separate from the entries used as intake and return air courses, a single entry separated into two separate compartments by a fireproof wall down the center with the return air coursed over the belt conveyor on the opposite side of the fire wall from the intake air course. This single split entry would be developed and maintained on the same plan as that approved by the Secretary for the entry for 18th Left, Sunnyside No. 1 Mine. See Exhibit A.[1] Upon the linkage of the proposed 14 Left entry with the longwall face and the existing 16 Left entry, compliance with 30 CFR 75.326 and 30 CFR 75.1704 would be achieved.

2. Petitioner believes that the alternate method will at all times guarantee no less than the same measure of protection as would be afforded by 30 CFR 75.326 and 75.1704. Specifically, the alternate method was approved on an experimental basis by the Secretary for two other entries and was successfully maintained. The construction of the fireproof wall down the center adequately separates the intake and return air and the presence of escape doors in the fire wall not more than 100 feet apart allows the miners alternative escape routes in the event of an emergency.

3. Petitioner further believes that application of the regulation would result in diminution of safety to miners in the affected mine. Specifically, the development of multiple entries along 14 Left would preclude the use of the longwall mining method because of the lack of a sufficiently wide face of coal. As a result, the room and pillar method would be required to feasibly extract the coal, which, because of the presence of a bad top due to a split in the coal seam, would be less safe than the longwall method.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10069 Filed 4-4-77;8:45 am]

[Docket No. M77-144]

KAISER STEEL 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), Kaiser Steel Corporation, 300 Lakeside Drive, Oakland, California 94666 has filed a petition to modify the application of 30 CFR 75.1704, escapeways, to its Sunnyside Mine No. 1, located in Sunnyside, Utah.

[1] Exhibit A is available for inspection at the address listed in the last paragraph of this notice.

The substance of Petitioner's statement is as follows:

1. Petitioner seeks to modify the regulation to permit it to utilize, in lieu of separate and distinct passageways with the belt haulage entry separate from the entries used as intake and return air courses, a single entry separated into two separate compartments by a fireproof wall down the center with the return air coursed over the belt conveyor on the opposite side of the fire wall from the intake air course. This single split entry would be developed and maintained on the same plan as that approved by the Secretary for the entry for 18th Left, Sunnyside No. 1 Mine. See Exhibit A.[1] Upon the linkage of the proposed 14 Left entry with the longwall face and the existing 16 Left entry, compliance with 30 CFR 75.326 and 30 CFR 75.1704 would be achieved.

2. Petitioner believes that the alternate method will at all times guarantee no less than the same measure of protection as would be afforded by 30 CFR 75.326 and 75.1704. Specifically, the alternate method was approved on an experimental basis by the Secretary for two other entries and was successfully maintained. The construction of the fireproof wall down the center adequately separates the intake and return air and the presence of escape doors in the fire wall not more than 100 feet apart allows the miners alternative escape routes in the event of an emergency.

3. Petitioner further believes that application of the regulation would result in diminution of safety to miners in the affected mine. Specifically, the development of multiple entries along 14 Left would preclude the use of the longwall mining method because of the lack of a sufficiently wide face of coal. As a result, the room and pillar method would be required to feasibly extract the coal, which, because of the presence of a bad top due to a split in the coal seam, would be less safe than the longwall method.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10070 Filed 4-4-77;8:45 am]

[1] Exhibit A is available for inspection at the address listed in the last paragraph of this notice.

[Docket No. M 77-137]

KYANCO COALS, INC.

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), Kyanco Coals, Inc., Box 447, Hindman, Kentucky 41822, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 1 Mine, located in Knott County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner requests modification of the mandatory safety standard for the reason that the application of such standard will result in diminution of safety for the miners in the affected mine.

2. The average height of the seam of coal in the affected mine ranges between 37 and 50 inches. The seam height varies over short distances in the mine and there are frequent rolls.

3. The face equipment currently in use at the mine includes: 3 Galis shuttle cars; 2 Galis 300 roof bolters; 1 Long Airdox coal drill; one 11RU Joy cutting machine; one 202 Jeffery loader; one 16RB Joy cutter; and 1 Kersey scoop. During the period of operation, sufficient safety hazards were created by use of canopies to warrent their removal. Some of the hazards created were:

(a) The operator's vision is severely impaired in that he cannot see over the top of the equipment. Operation of the equipment in this manner is hazardous to fellow workers as well as to the operator as he strains to see.

(b) Due to the close confinement of the canopy, the operator's head must extend beyond the protection of the canopy in order to see ahead or behind of the equipment. This results in a danger of him being crushed between the canopy and rib.

(c) Ingress to and egress from the cab is so limited that the operator might be held captive preventing escape when such is warranted. The operator could also be held captive for indefinite periods in case of machine malfunction or power failure.

4. Modification of the canopies has been considered by Petitioner but it is, at the present time, unaware of any means of modification to the canopies which could be made and utilized with the same degree of safety as complete removal of the canopies would insure.

5. No history of injury from the use of the face equipment without protective canopies exists in the mine. The operators are under fully supported roof at all times, pursuant to an approved roof bolting plan.

6. Petitioner states that with respect to low-ceiling mines, the use of currently available canopies with mobile electrical face equipment severely diminishes rather than increases the overall safety of the miners, and that further use of these canopies in the mine will cause injuries to the operators or other personnel.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10071 Filed 4-4-77;8:45 am]

[Docket No. M 77-138]

PHYLLIS COAL CO.

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), Phyllis Coal Company, P.O. Box 87, Harold, Kentucky 41635, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Mine No. 10, located in Floyd County, Kentucky.

The substance of Petitioner's statement is as follows:

1. After several months of operation in its mine, Petitioner feels that its mobile mining equipment cannot be operated in a safe manner with canopies installed.

2. There are several reasons why Petitioner cannot use canopies safely. These are as follows:

(A) The passageways have irregularities on both bottom and top surfaces causing height variations.

(B) The average coal seam height is 44 inches. The roof support system reduces this to an opening height of 40 inches.

(C) All equipment is of the rubber tire type that requires high ground clearance. This greatly reduces the operator's space.

(D) The operator's vision is restricted because he must ride bent over with a field of vision of about 45 degrees. This often results in collisions and it is impossible to tram a machine around a corner safely.

(E) The canopy causes the operator great discomfort. He must ride in a cramped, bent over position with his head lower than his shoulders. This causes both physical and mental strain

resulting in slow reaction time, bad judgment, and short tempers.

(F) The canopy poses a threat to the roof control system because roof bolts and crossbars are constantly being knocked loose. Often posts, telephone lines, and power lines are torn down because the operator can not see them.

(G) The mine ventilation is often disrupted because the canopies destroy ventilation curtains as the machine passes under them.

3. Petitioner cannot operate its machines safely with canopies installed.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10072 Filed 4-4-77;8:45 am]

[Docket No. M 77-139]

PROSPECT COAL CO.

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), Prospect Coal Company, Route 1, Box 219, Elkhorn City, Kentucky 41522, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its No. 3 Mine, located in Pike County, Kentucky.

The substance of Petitioner's statement is as follows:

1. Petitioner feels that the installation of canopies on its equipment is creating a hazard to the equipment operators.

2. Petitioner's equipment consists of 2 tractors, 1 loading machine, 1 roof bolt machine and 1 cutting machine.

3. The mine is in the Peach Orchard Seam and ranges from 42 to 48 inches in height. The coal seam has consistent ascending and descending grades creating dips in the coalbed. As a result of these dips, the canopies have to be installed in such a manner as to prevent the canopies from getting against the roof and possibly destroying roof support. This only allows a 23-inch vertical operating compartment thus limiting the vision of the equipment operators and creating a hazard to them as well as to the other employees in the mine.

4. Petitioner feels that since the equipment operator's vision is limited because of the position required in order to be seated in the decks, the installation of canopies could be a contributing factor in any accidents which may arise.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10073 Filed 4-4-77;8:45 am]

[Docket No. M 77-140]

ROCHESTER AND PITTSBURGH COAL CO.

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), Rochester and Pittsburgh Coal Co., 1730 K St., NW., Washington, D.C. 20006, has filed a petition to modify the application of 30 CFR 75.1710, cabs or canopies, to its Emile No. 4 Mine, located in Armstrong County, Pennsylvania.

The substance of Petitioner's statement is a follows:

1. Petitioner asserts that the installation of canopies on its electric face equipment, including shuttle cars, in its mine will create a hazard to personnel operating such equipment as well as to other workers. The mining height of the mine is 36 to 39 inches.

2. The coal seams in Petitioner's mine undulate, resulting in ascending and descending grades.

3. Roof conditions in Petitioner's mine frequently vary, requiring extra supports, cross beams, etc. This reduces overhead clearance.

4. Due to the type of coal mined and the seam heights, Petitioner does not experience rib falls or rib rolls.

5. Petitioner does not encounter face falls or face rolls in its mine because of the type of continuous mining machines used and seam conditions.

6. Operators of face equipment, including shuttle car operators, are under a MESA approved plan for permanently supported roof at all times. These supports consist of roof bolts and/or crossbars of wood or steel and such roof support is considered satisfactory for all other face employees, including helpers on face equipment.

7. Equipment in one of Petitioner's subsidiary company mines, having similar seam heights, was unusable with canopies installed.

8. Petitioner's newly purchased low coal equipment, factory equipped with MESA approved canopies, are not usable due to seam heights.

9. Petitioner believes that an application of the mandatory standard will result in a diminution of safety to miners for the following reasons:

(a) The installation of canopies on equipment purchase prior to the Act for Petitioner's Jane Nos. 1 and 2 Mines (with even higher mining heights) severely limits the operators' vision, thereby endangering operators and other workers. The same problem will occur at this mine if Petitioner is required to install canopies on its equipment.

(b) Petitioner has had a canopy rejected by the Pennsylvania Department of Environmental Resources.

(c) Operators of canopied equipment have complained of cramped conditions which induce fatigue and of an impairment of alertness and safety. In addition, the inconvenience to operators has induced them to operate equipment from outside, thereby exposing them and fellow workers to further hazard.

(d) Because of reduced vision, operators have and may continue to lean out of the cab while it is in motion, thereby exposing themselves to danger.

(e) In traveling over undulating surfaces, the operators strike their heads on the top of the canopy. Other injuries have occurred involving the use of canopies.

(f) Equipment with canopies in one of Petitioner's mines, having approximately the same seam height as Emile No. 4, sheared off roof bolts and created hazardous roof conditions.

10. MESA's Technical Support Group has been unable to provide Petitioner with suggestions or methods to alleviate the hazards referred to above.

11. Petitioner is willing to install canopies, when same are available which do not diminish safety, and to obtain replacement equipment which does not diminish safety if the same is available.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before May 5, 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.

MARCH 29, 1977.

[FR Doc.77-10074 Filed 4-4-77;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the prop-

erties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation 36 CFR Part 800.

WILLIAM J. MURTAGH,
Chief, Office of Archeology and Historic Preservation.

The folowing properties have been added to the National Register since March 1, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ARKANSAS

Washington County

Prairie Grove vicinity, *Borden House*, NE of Prairie Grove on U.S. 62 (3-17-77).

CALIFORNIA

Fresno County

Wilsonia vicinity, *Gamlin Cabin*, NW of Wilsonia (3-8-77).

Mariposa County

Curry Village, *Le Conte Memorial Lodge*, Yosemite Valley, Yellowstone National Park (3-8-77).
Yosemite National Park, *Ahwahnee Hotel*, Yosemite Valley (2-15-77).

San Francisco County

San Francisco vicinity, *Farallone Islands*, 28 mi. W of San Francisco (3-8-77).

San Mato County

Pescadero vicinity, *Pigeon Point Lighthouse*, S of Pescadero at Pigeon Point off CA 1 (3-8-77) HABS.

Santa Clara County

San Jose, *Roberto-Sunol Adobe*, 770 Lincoln Ave. (3-17-77).

Tulare County

Lone Pine vicinity, *Smithsonian Institution Shelter*, W of Lone Pine on Sequoia National Park (3-8-77).
Three Rivers vicinity, *Squatter's Cabin*, NE of Three Rivers (3-8-77).
Three Rivers vicinity, *Tharp's Log*, NE of Three Rivers (3-8-77).

Tuolumne County

Lee Vining vicinity, *McCauley Cabin*, W of Lee Vining at Tuolumne Meadows (3-8-77).

COLORADO

Chafee County

Buena Vista vicinity, *Vicksburg Mining Camp*, 15 mi. NW of Buena Vista on SR 390 (3-8-77).

Mofat County

White-Indian Contact Site, Brown's Park (3-8-77).

LOUISIANA

West Feliciana Parish

Weyakoke vicinity, *Live Oak*, 1.3 mi. S of Weyakoke (3-11-77) HABS.

MAINE

Cumberland County

Portland, *Greenough, Byron, Block*, Free and Middle Sts. (3-10-77).

Sagadahoc County

Georgetown vicinity, *Seguin Island Light Station*, S of Georgetown (3-8-77).

MARYLAND

Montgomery County

Bethesda, *Bethesda Naval Hospital Tower*, 8901 Wisconsin Ave. (3-8-77).

MASSACHUSETTS

Plymouth County

Duxbury vicinity, *Plymouth Light Station*, SE of Duxbury at Gurnet Point (3-8-77).

MICHIGAN

Keweenaw County

Isle Royale National Park, *Edisen Fishery*, Rock Harbor (3-8-77).
Isle Royale National Park, *Rock Harbor Lighthouse*, Rock Harbor (3-8-77).

MINNESOTA

Ramsey County

St. Paul, *C.S.P.S. Hall*, 381-383 Michigan St. (2-17-77).

NEW MEXICO

Eddy County

Carlsbad vicinity, *Painted Grotto*, SW of Carlsbad off U.S. 62/180 in Carlsbad Caverns National Park (3-8-77).

NORTH CAROLINA

Buncombe County

Asheville, *Zealandia*, 40 Vance Gap Rd. (3-14-77).

OREGON

Clackamas County

Canby vicinity, *Barlow, William, House*, SW of Canby, 24670 U.S. 99E (2-15-77).

Jackson County

Medford vicinity, *Bybee, William, House*, 883 Old Stage Rd. (2-15-77) HABS.

Lake County

Lakeview, *Post and King Saloon*, N. 2nd and E Sts. (3-17-77).

Multnomah County

Portland, *Barber Block*, 532-538 SE Grand Ave. (2-15-77).
Portland, *Hamilton Building*, 529 S.W. 3rd Ave. (3-17-77).
Portland, *Poulsen, Johan, House*, 3040 SE McLoughlin Blvd. (3-14-77).

Washington County

Hillsboro vicinity, *Imbrie Farm*, NE of Hillsboro off U.S. 26 (2-15-77).

Yamhill County

Lafayette vicinity, *Mattey, Joseph, House*, W of Lafayette at jct of Mattey Lane and Rutherford Rd. (2-15-77).

PENNSYLVANIA

Philadelphia County

Philadelphia, *Bellevue Stratford Hotel*, 200 S. Broad St. (3-24-77) HABS.

WISCONSIN

Ashland County

Bayfield vicinity, *Apostle Islands Lighthouses*, N and E of Bayfield on Michigan, Raspberry, Outer, Sand, and Devils Islands (3-8-77) (also in Bayfield County).

Bayfield County

Apostle Islands Lighthouses. Reference see Ashland County.

WYOMING

Natrona County

Casper vicinity, *Martin's Cove*, W of Casper (3-8-77).

* * * * *

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

CONNECTICUT

Hartford County

East Granby, *Old Newgate Prison*, Newgate Rd. (10-15-70) NHL; G.

New London County

North Stonington vicinity, *Miner, Samuel, House*, N of North Stonington off CT 2 on Hewitt Rd. (6-18-76) (county correction).

COLORADO

Teller County

Cripple Creek, *Cripple Creek Historic District* (10-15-66) NHL.

DISTRICT OF COLUMBIA

Washington

Arts Club of Washington (Cleveland Abbe House), 2017 I St., NW. (3-24-69) NHL; HABS.

Executive Office Building (State, War, and Navy Building), Pennsylvania Ave. and 17th St., NW. (6-4-69) NHL; HABS.

Renwick Museum, 17th and Pennsylvania Ave., NW. (3-24-69) NHL; HABS.

FLORIDA

Monroe County

Key West, *Fort Zachary Taylor*, U.S. Naval Station (3-11-71) NHL.

Sumter County

Bushnell vicinity, *Dade Battlefield Historic Memorial*, 1 mi. W of Bushnell off U.S. 301 (4-12-72) NHL.

HAWAII

Maui County

Ualapue, *Hokukano-Ualapue Complex*, on HI 45 (10-15-66) NHL (county correction).

IOWA

Johnson County

Iowa City, *Close House*, 538 S. Gilbert St. (5-31-74).

KENTUCKY

Garrard County

Lancaster, *Boyle-Robertson-Letcher House*, 106 W. Maple St. (4-14-75).

LOUISIANA

Orleans Parish

New Orleans, *Isaacs-Williams Mansion, (Milton H. Latter Memorial Library)*, 5120 St. Charles Ave. (10-21-76).

MASSACHUSETTS

Norfolk County

Brookline, *Minot, George R., House*, 71 Sears Rd. (1-7-76) NHL (county correction).

* * * * *

The following properties have been demolished and therefore removed from the National Register of Historic Places.

CALIFORNIA

Napa County

Napa, *Behlow Building*, 2nd and Brown Sts.

NEW YORK

Niagara County

Niagara Falls, *Shredded Wheat Office Building*, 430 Buffalo Ave.

OHIO

Franklin County

Columbus, *Union Station Entrance*, 348 N. High St.

* * * * *

The following properties were omitted from the February 1, 1977, listing of properties in the FEDERAL REGISTER.

KENTUCKY

Kenton County

Covington, *Covington and Cincinnati Suspension Bridge*, spans Ohio River between Covington, KY and Cincinnati OH (5-15-75) NHL (also in Hamilton County, OH).

MASSACHUSETTS

Middlesex County

Wayland vicinity, *Old Town Bridge*, N of Wayland on MA 27 (5-2-75).

NEW YORK

Orange County

Delaware and Hudson Canal (11-24-68) NHL; HAER (also in Sullivan and Ulster Counties and Pike and Wayne Counties, PA).

* * * * *

Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I-459-4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, *Dr. Williams Home*, AL project RF-98(7).

ALASKA

Nome Division

Little Diomede Island, *Iyapana, John, House.*

Sitka Division

Crab Bay, *Crab Bay Petroglyph.*

ARIZONA

Apache County

Grand Canyon National Park, *Old Post Office.*

Conconino County

Gray Mountain Site, (AR-02-020-046).
House Rock Springs, Upper Houserock Valley.
Paria Plateau Archeological District.

Graham County

Foote Wash—No name Wash Archeological District.

Maricopa County

Cave Creek Archeological District.
Glendale vicinity, *Cave Creek Dam*
New River Dams Archeological District.
Site T:4:6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir States NA 13,257 and NA 13,258.*

Navajo County

Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Convento Site.*

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, Southern Pacific Depot.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49-3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County

Woodsford vicinity, *Archeological Site 4-Alp-105.*

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calavras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.
Muir Hut, King's Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction Project.

Humbolt County

Eureka, Eureka Historic District.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*
Lake Cahuilla, *Lot 1.*
Lake Cahuilla, *Lot 5.*

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The 20-Mule Team Borax Wagon Road (also in Kern and San Francisco counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Simi Valley, *Archeological Site Ven-341.*
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 490, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites
CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.

Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County

Archeological Site CA-MNO-684.

Monterey County

Big Sur, *Point Sur Light Station.*
Pacific Grove, *Point Pinos Light Station.*

Napa County

Archeological Sites 4-Nap-14, 4-Nap-261. Napa River Flood Control Project.

Plumas County

Mineral, *Hay Barn and Cook's Cabin, Drakesbad (Sifford Family) Guest House*, Lassen Volcanic National Park.
Mineral, *Summit Lake Ranger Station*, Lassen Volcanic National Park.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, *Tower Bridge*, M St. over Sacramento River (also in Yolo County).

San Bernardino County

Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Inland, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Twin Peaks Tunnel.*

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Hillsborough, *Point Montara Light Station.*

Santa Barbara County

Santa Barbara, *Site SBa-1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Mineral, *Comfort Station*, Lassen Volcanic National Park.
Mineral, *Park Entrance Station and Residence*, Lassen Volcanic National Park.
Mineral, *Park Naturalist's Residence*, Lassen Volcanic National Park.
Mineral, *Warner Valley Ranger Station*, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Petaluma, *Ferrell Home*, 500 E. Washington St.
Santa Rosa, *Santa Rosa Post Office.*

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Yuba County

Site 4-Yub-S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, *Beaver Meadows Maintenance Area*, Rocky Mountain National Park utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Pueblo County

Pueblo, *Pueblo Federal Building (U.S. Post Office)*, 5th and Main Sts.

CONNECTICUT

Fairfield County

Bridgeport Harbor, *Bridgeport Canal Barges.*
Norwalk, *Washington Street—S. Main Street Area.*

Hartford County

Farmington, *Gridley-Parsons-Staples Homestead*, Rte. 4, Farmington Ave.
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
Southington, *Lewis, Sally, House*, 500 N. Main St.

New London County

New London, *Buckingham Memorial Building*, 307 Main St.
New London, *Washington Street Historic District*, project 103-159.
New London, *Williams Memorial Institute Building*, 110 Broad St.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SE between 4th and 6th Sts SE
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station.*

Collier County

Marco Island, *Archeological Sites on Marco Island.*

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, *516 Ott Street.*
Savannah, *908 Wheaton Street.*
Savannah, *914 Wheaton Street.*
Savannah, *920 Wheaton Street.*
Savannah, *828 Wheaton Street.*
Savannah, *930 Wheaton Street.*
Skidaway Island, *Priest's Landing Mounds.*

Chatooga County

Archeological Sites in area of Structure 1-M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area.*

Fulton County

Atlanta, *Downtown Atlanta Historic District*, beginning at jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Hall County

Odd Fellows Building (Chamblee).

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F-117-1 (7).
Augusta, *Blanche Mill.*
Augusta, *Enterprise Mill.*
Augusta, *Green Street.*

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*
Kwalakakwa Bay, *Kona Field System*

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15*, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp.*

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding.*
Lewiston, *Fix Building*, 211–213 Main St.
Lewiston, *Lower Snake River Archeological District*
Lewiston, *Moxley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Bureau County

I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County

Archeological Site 11–RI–337, East Moline, Mississippi and Rock Rivers.

Scott County

Naples vicinity, *Naples-Castle Site*, SW of Naples.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County

Mitchell, *Riley School.*

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.
Indianapolis vicinity, *Garfield Park Pagoda*, 2 mi S of Indianapolis in Garfield Park.

Monroe County

Bloomington, *Carnegie Library.*

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, *Pollard, Maier, House.*

Vanderburgh County

Evansville, *Riverside Neighborhood.*

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Jefferson County

Archeological Sites: Section 2, SW Jefferson County Local Protection Project.

Johnson County

Fishtrap United Methodist Church.

Lawrence County

Fort Ancient Archeological Site.

Lee County

Beattyville, Lee County Courthouse, Main St.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish

Baton Rouge, *Spanish Town*, Baton Rouge.

Orleans Parish

New Orleans, *Casey, Kate, House*, 932–934 Howard.
New Orleans, *Central City District.*
New Orleans, *Cordes, John, House*, 3027–3029 Royal St., Square 170.
New Orleans, *Deyron, Dr. J. A., House*, 3087 Royal St., Square 170.
New Orleans, *Dunn, Andrew Jackson, House*, 928–930 Calliope St., Square 119.
New Orleans, *Duyer, James, House*, 933–935 Galenne St., Square 119.
New Orleans, *Gasquet, William, Houses*, 1128–1130 Constance St., Square 119.
New Orleans, *Hart, James S., House*, 615 Erato St., Square 71.
New Orleans, *I-Sea Storage and Transfer Company Building*, 2201 Clio St., Square 348.
New Orleans, *Jahucke Building*, 814 Howard Ave., Square 237.
New Orleans, *Lee Circle and Lee Monument*, St. Charles Ave. at Howard Ave.
New Orleans, *Maginnis Cotton Mills*, 1054 Constance St., Square 120.
New Orleans, *McDowall, Robert, House*, 1119–1121 Constance St., Square 130.
New Orleans, *McLaughlin, M. A., House*, 1122–1126 Constance St., Square 119.
New Orleans, *McLeod, Euphenia Napir, House*, 1523–1525 Calliope St., Square 183.
New Orleans, *Murray, Thomas, House*, 1131 S. Rampart St., Square 290.
New Orleans, *Old Firehouse*, 1045 Magazine St., Square 158.
New Orleans, *Peyton, William H., House*, 1135 S. Rampart St., Square 290.
New Orleans, *Roper, George W., House*, 1032 St. Charles Ave., Square 183.
New Orleans, *St. John the Baptist Church*, 1139 Dryedes St., Square 277.
New Orleans, *Saulet, Marie Theresa, House*, 1218–1222 Annunciation St., Square 100.
New Orleans, *Schwegmann, G. A., House* 3044 Royal St., Square 142.
New Orleans, *Sincer, Louis, House*, 1061 Camp St., Square 183.
New Orleans, *Sporl, C. J., House*, 3015 Royal St., Square 142.
New Orleans, *Talen, Aaldemar Appollonius, Studio-House*, 1029 Calliope St., Square 137.
New Orleans, *Temple Sinai*, 1032 Ceroudelet St., Square 215.
New Orleans, *Verret, Theodore, House*, 1216 Annunciation St., Square 109.
New Orleans, *Tourae, Nicholas, House*, 1169 Tchoupitoulas St., Square 71.
New Orleans, *Zangel, Frederick, House*, 1118 Constance St., Square 119.

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Ft. Polk, *Site 16 VN 18.*

MARYLAND

Allegany County

Flintstone vicinity, *Martin Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore (independent city)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
Mount Calvary Church Historic District, Biddle St., Madison Ave., N. Eutaw St.

Baltimore County

Fayette Street Methodist Episcopal Church, 745 West Fayette St.

Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Old Western Police Station (Old Pine Street Station).
Ridgely's Delight Historic District.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.
St. Paul's Cemetery, Union Block, Fremont Ave.

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station*.
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light, area.
Truro, *Highland House*, Cape Cod Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185-193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190-196 High St.
Holyoke, *Steamer Company No. 3*.

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, *Shaw Site (Sites 4, 5, and 6)*, Upper Quaboag River Watershed project.
North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.
Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, *Morgan Park Historic District*.

Winona County

Winona, *Second Street Commercial Block*.

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House*.

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Greene County

Springfield, *Landers Theater*, 311 East Walnut St.

Henry County

La Due, *Batschelett House*, near Harry S Truman Dam and Reservoir.
Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Big Horn County

Fort Smith *Big Horn Canal Headgate*.

Carbon County

Hardin *Pretty Creek Site (Hough Creek Site)* Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District*.

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge*.
Valentine vicinity, *Newman Brothers House*.

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669, 26EK1672*.

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex*.
Lovelock vicinity, *Lovelock Chinese Settlement Site*.

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Hillsborough County

Amoskaag Millyard Complex.
Smyth Tower.

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
O'Neill House (Cocheco Co. Housing).
Public Market (Morrill Block).
Trella House (Dover Manufacturing Co. Housing).
Veteran's Building (Central Fire House).
Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District*.
Trenton, *Lamberton Interceptor*.
West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

New Burnswick, *Delaware and Raritan Canal*, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Warren County

Oxford Industrial District, Oxford Township.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Cites SCSPA 1—8*.

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37*.

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site*.
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office.*
New York, *North Brothers Island Light Station,* in center of East River.

Broome County

Mill Site at Site 7–A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site,* Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk.*
Loomis Archeological Site, South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station,* in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House,* Northern Blvd.
Long Island, *Seafood Park Archeological Site.*

New York County

New York, *Harlem Courthouse,* 170 E. 121st St.
New York, *New York Cancer Hospital (Towers Nursing Home),* 2 W. 106th St.

Onondaga County

Palmer Lane Midden (Baldwinsville/Seneca Knolls Sewage Treatment Plant).

Orange County

Port Jervis, *Church Street School,* 55 Church St.
Port Jervis, *Farnum, Samuel, House,* 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.
Musico Motors Building, W. First and W. Seneca Sts.

Otsego County

Swart-Wilcox House

Queens County

Fort Totten Officers' Club.

Richmond County

New York, *Romer Shoal Light Station,* located in lower bay area of New York Harbor.
Staten Island, *U.S. Coast Guard Base, St. George.*

Saratoga County

Saratoga Springs, *Yaddo House and Gardens, District.*
Satatoga Springs, *Yaddo House and Gardens,* Saratoga Springs Historic District.
Schuylerville, *Archeological Site,* Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District,* between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point,* Oakwood Beach Project.

Suffolk County

Janesport vicinity, *East End Site.*
Janesport vicinity, *Hallock's Pond Site*
New York, *Fire Island Light Station,* U.S. Coast Guard Station.
New York, *Little Gull Island Light Station,* off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station,* off Orient Point, Long Island.
New York, *Race Rock Light Station,* S. of Fishers Island, 10 mi. N. of Orient Point.
Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station,* middle of Hudson River.
New York, *Rondout North Dike Light,* center of Hudson River at Jct. of Rondout Creek and Hudson River.
New York, *Saugerties Light Station,* Hudson River.
Wildmere and Cliffhouse Resort Hotels (Minnewaska Acquisition Project), towns of Gardiner and Rochester.

Washington County

Greenwich, *Palmer Mill (Old Mill),* Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station,* lower SW portion of Long Island Sound.
Yonkers, *Women's Institute Building.*
Yorktown, *Yorktown Railroad Station.*

NORTH CAROLINA

Alamance County

Burlington, *Clapp's Mill and Dam Site* (also in Guilford County).
Burlington, *Faust Mill* (also in Guilford County).
Burlington, *Low House* (also in Guilford County).
Burlington, *Southern Railway Passenger Depot,* NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston,* Moore St.

Caswell County

Archeological Sites CS–12, County Line Creek Watershed Project (also in Rockingham County).
Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks,* 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light,* Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Adams County

Wrightsville vicinity, *Grimes Site (33 AD 39),* Killen Electric Generating Station.
Wrightsville vicinity, *Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.*

Astabula County

Astabula, *West Fifth Street Bridge,* over Astabula River.

Clermont County

Neville vicinity, *Maynard House,* 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR–S.R.–571–0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House),* 5.5 mi. NW of Williamsport.

Richland County

Mansfield, *Ritter, William, House,* 181 S. Main.

Seneca County

Tiffin, *Old U.S. Post Office,* 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, CR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, *Shafer Mound,* S of New Burlington Rd.
Harveysburg, *E. L. Anderlee Mound,* S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, *Thorne House,* 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.
Fort Sill, *Camp Comanche Site,* E range on Cache Creek.
Fort Sill, *Chief's Knoll, Post Cemetery,* N of

Haskell County

Keota vincinity, *Otter Creek Archeological Site,* SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site,* NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District,* 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel,* 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, *Four Mile Canyon Area (Oregon Trail),* 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Olex School, Ghost Camp Reservoir area.
Steel Trus Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Lighthouse.*
Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901–1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller Mill*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant, *Union Canal*, Blue Marsh Lake Project area.

Butler County

Butler, *Bonnie Brook Archeological Site.*

Chester County

Charlestown, *Nesspor House (Thomas Davis House)*, State Rd.
Charlestown, *Pickering Creek Ice Dam*, State Rd.
Lock Aerie.
Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).
Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank Bldg.*, 13 N. Main St.

Lancaster County

Bainbridge Township, *Haldeman Mansion.*

Lehigh County

Colesville vicinity, *Site 1: Farmhouse, barn, and outbuildings*, I–78.
Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Fazon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, I–78.
Site 4: Farmhouse, barn, and outbuildings, I–78.

Philadelphia County

Philadelphia, *Bridge on "I" Street, over* Tacony Creek.
Philadelphia, *Courthouse and Post Office*, 9th St., between Chestnut and Market Sts.
Philadelphia, *New Forest Theatre*, 1108–1114 Walnut St.
Philadelphia, *Poth, Frederick, House*, 216 N. 33rd St.
Philadelphia, *Tremont Mills*, Wigonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Somerset Township, *Wright No. 22 Covered Bridge.*

RHODE ISLAND

Providence County

Providence, *Woonesquatucket Bridge.*
Woonsocket, *Club Marquette Building (St. Anne's Gymnasium)*, Cumberland St.

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Davidson County

Nashville, *Ancient Indian Village and Burial Ground*, section 203(b).

Trousdale County

Dixon Springs, *McGee House.*

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carola Vela House)*, 601 Zaragosa St.

UTAH

Emery County

Site ML–2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Windham County

Rockingham, *Bellow Falls Armory*, 72 Westminster St., Bellows Falls.

Windsor County

Windsor, *Post Office Building.*

VIRGINIA

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell

WASHINGTON

Benton County

Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Callam County

Cape Alava vicinity, *White Rock Village Archeological Site, S o, Cape Alava.*
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *Home of the Good Shepherd.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*

Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station.*

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1209 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

Fond du Lac County

Fond du Lac, Aetna Station No. 5, 193 N Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office.*

WYOMING

Albany County

Woods Landing vicinity, *Boswell Ranch*, WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, *Cantonment Reno.*
Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.77-9927 Filed 4-4-77;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 March 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 (10 days after publication).

JERRY L. ROGERS,
Chief, Office of Archeology and Hsitoric Preservation.

CALIFORNIA

Alameda County

Alameda, *Alameda High School*, 2200 Central Ave.

Los Angeles County

Pearland vicinity, *Little Rock Creek Dam*, 4.5 mi. S of Pearland off CA 138.

San Mateo County

San Gregorio, *San Gregorio House*, Old Stage Rd.

Ventura County

Ventura, *Dudley House*, 4085 Telegraph Rd.

GEORGIA

Butts County

Jackson, *Carmichael, J. R., House*, 149 McDonough Rd.

Catoosa County

Ringgold, *Whitman-Anderson House*, 309 Tennessee St.

Fulton County

Atlanta, *DeGive's Grand Opera House*, 157 Peachtree St., NE.
Atlanta, *Rose, Rufus M., House*, 537 Peachtree St.
Atlanta, *Western and Atlantic Railroad Zero Milepost*, Central Ave. between Wall St. and Railroad Ave.

Stewart County

Lumpkin vicinity, *West Hill*, S of Lumpkin on U.S. 27.

INDIANA

Carroll County

Lockport, *Burris House and Potawatomi Spring*, Towpath Rd.

IOWA

Washington County

Washington, *Washington County Hospital*, S. 4th Ave. and Clara Barton.

KENTUCKY

Boyle County

Danville vicinity, *Cambus-Kenneth*, 3 mi. NW of Danville off U.S. 127.

Hancock County

Lewisport vicinity, *Pate, Samuel, House*, 3 mi. E of Lewisport on KY 334.

Hardin County

West Point, *Young, James, House and Inn*, 109 Elm St.

Jefferson County

Louisville, *Old U.S. Customs House and Post Office*, 300 W. Liberty St.

Meade County

Rhodelia vicinity, *St. Theresa Roman Catholic Church*, 3 mi. NW of Rhodelia on KY 144.

Simpson County

Franklin, *Goodnight House*, 201 S. Main St.

MARYLAND

Montgomery County

Bethesda, *Bethesda Meetinghouse*, 9400 Wisconsin Ave.

NEW YORK

New York County

New York, *Old St. Patrick's Cathedral Complex*, Mott and Prince Sts.

PENNSYLVANIA

Berks County

Leesport, *Leesport Lock House*, Wall St.

Bucks County

Newtown, *Half-Moon Inn*, 101–105 Court St.

Chester County

Marshallton, *Marshallton Inn*, W. Strasburg Rd.

Wayne County

Bethany, *Wilmont Mansion*, Wayne and Sugar Sts.

TENNESSEE

Davidson County

Nashville, *Church of the Assumption*, 1227 7th Ave. N.

Shelby County

Memphis, *Orpheum Theatre*, 197 S. Main St.

Washington County

Limestone, *Gillespie, Col. George, House*, off U.S. 411.

TEXAS

Andrews County

Andrews vicinity, *Andrews Lake Sites*, SE of Andrews.

DeWitt County

Cuero vicinity, *Cuero Hydroelectric Plant*, 2 mi. N. of Cuero on Guadalupe River.

Galveston County

Galveston, *Galveston Seawall*, Seawall Blvd.

Harris County

Houston, *Old Sixth Ward Historic District*, bounded by W. Capitol, Union St., Washington and Houston Aves., and Glenwood Cemetery.

Navarro County

Corsicana, *Corsicana Oil Field Discovery Well*, 400 block S. 12th St.

UTAH

Salt Lake County

Salt Lake City, *Independent Order of Odd Fellows Hall*, 41 Post Office Pl.
Salt Lake City, *McCornick Building*, 10 W. 100 South.

Utah County

Payson, *Dixon, Christopher F. Jr., House*, 248 N. Main St.
Provo, *Eggertsen, Simon P. Sr., House*, 390 S. 500 West.

WASHINGTON

Benton County

Prosser vicinity, *Glade Creek Site*, SE of Prosser.

Grant County

Soap Lake vicinity, *Mesa 36*, E of Soap Lake.

Jefferson County

Chimacum vicinity, *Kuhn Spit Archeological Site*, N of Chimacum.

King County

Seattle, *Merrill, R. D., House*, 919 Harvard Ave. E.

Kittitas County

Thorp, *Thorp Mill*, Thorp Highway off U.S. 10/97.

Klickitat County

Goldendale, *Newell, Charles, House*, 114 Sentinel St.

Spokane County

Spokane, *Empire State Building*, W. 901 Riverside.

Yakima County

Sawyer, *Sawyer, W. P., House*, U.S. 12.
Sawyer vicinity, *Matoon Cabin*, S of Sawyer on U.S. 12.

[FR Doc.77-9761 Filed 4-4-77;8:45 am]

Office of the Secretary

ADMINISTRATOR, SOUTHWESTERN POWER ADMINISTRATION

Adjustment of Salary

Pursuant to the provisions of the new Executive Schedule Pay Raise, CSC Bulletin 534-3, dated February 28, 1977, the salary of the Administrator, Southwestern Power Administration is adjusted to $47,500 per annum, effective on the first day of the first pay period which begins on or after February 20, 1977.

CECIL D. ANDRUS,
Secretary.

MARCH 28, 1977.

[FR Doc. 77-10062 Filed 4-4-77;8:45 am]

[Int DES 77-13]

EAST GILLETTE MINE

Availability of Draft 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 impact statement on the proposed East Gillette surface coal mining operation by the Kerr-McGee Corporation in Campbell County, Wyoming. The draft statement assesses the environmental impacts of the lessee's plan for the surface mining of federally owned coal and the concurrent reclamation and revegetation of surface lands. The proposed action is on Federal coal leases W-311810, and W-312311, and W-313668, T. 50 N., R. 71 W., 6th Prin. Mer.

The draft environmental statement is available for public review in the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Bldg., Denver, CO 80202; the U.S. Geological Survey Library, Bldg. 25, Denver Federal Center, Denver, CO 80225; the U.S. Geological Survey Library, Room 4A100, USGS National Center, Reston, VA 22092; the Converse County Library, 300 Walnut St., Douglas, WY 82633; the George Amos Memorial Library, 412 South Gillette Ave., Gillette, WY 82716; the Library of Natrona County, 307 East Second, Casper, WY 82601; and the State Library, State of Wyoming, Supreme Court Bldg., Cheyenne, WY 82002.

A limited number of copies are available from the United States Geological Survey, National Center, Mailstop 760, Reston, VA 22092; and, over the counter only, from the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, CO.

The Department will accept written comments on the draft statement for a period of 45 days subsequent to the date of this notice, and will consider any comments received in preparing the final environmental statement on this proposal. Written comments should be addressed to Director, United States Geological Survey, National Center (Mailstop 108) Reston, VA 22092.

The proposed mining and reclamation plan assessed in this statement was one of the mining proposals identified in the preparation of the regional analysis (Part I) of the Department's final environmental statement, FES 74-55, entitled "Proposed Development of Coal Resources in the Eastern Powder River Coal Basin of Wyoming," which was filed with the Council on Environmental Quality on October 18, 1974. Public hearings on the draft of the FES 74-55 statement were held as follows: June 24-25, 1974, at Cheyenne, Wyoming; June 26, 1974, at Casper, Wyoming; and June 27-28, 1974, at Gillette, Wyoming.

Public hearings on this draft will be held on May 3, 1977, at the Campbell County High School auditorium, 1000 Camel Drive, Gillette, Wyo. Hearings will begin at 1 p.m. and 7 p.m. and will continue until all present have spoken.

Dated: March 31, 1977.

STANLEY D. DOREMUS,
Secretary of the Interior.

[FR Doc.77-10079 Filed 4-4-77;8:45 am]

OWRT PROCUREMENT ACTIONS

Notice of Requirement for Legal Review

Notice is hereby given that pursuant to Interior Procurement Regulations 14-1.352 the following OWRT procurement related documents will require review by the Department of the Interior Solicitor prior to issuance:

a. Invitation for Bids and Requests for Proposals expected to exceed $200,000.00

b. One of each type of Grant and supporting files (i.e. Allotments, Matching Grants and Title II)

c. Proposed contracts, including modifications thereto and supporting files, that exceed $200,000.00

d. Cooperative agreements and memorandums of understanding

e. Novation Agreements

f. Protests

g. Mistakes-in-bids

h. Show cause and cure letters

i. Letter contracts

j. Notice of proposed termination for default or convenience

k. Final decisions under the dispute clause

l. Any other document regardless of dollar amount when legal review or advice is desired.

The Chief, Contracts and Grants Management Division OWRT, with the written concurrence of the Assistant Solicitor for Procurement, Department of the Interior is authorized to modify the legal review plan as deemed appropriate.

For additional information contact: George J. Mehallesu, Chief, Contracts and Grants Management, OWRT, the Department of the Interior, Washington, D.C. 20240. Telephone: 202-343-6992.

CHRIS FARRAND,
Acting Assistant Secretary of the Interior.

MARCH 30, 1977.

[FR Doc.77-10061 Filed 4-4-77;8:45 am]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Joint Board Advisory Committee on Actuarial Examinations

ADVISORY COMMITTEE ANNUAL REVIEW

Request for Public Comment

In compliance with the President's letter to the Office of Management and Budget of February 25, 1977, with Office of Management and Budget Circular A-63, Transmittal Memorandum No. 5, March 7, 1977, and with Section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the Joint Board is conducting its annual review of the Joint Board Advisory Committee on Actuarial Examinations ("the Committee"). The Committee's purpose is to assist the Joint Board in fulfilling its responsibility, imposed by 29 U.S.C. 1242(a), to insure that persons enrolled to perform actuarial services with respect to plans to which the Employee Retirement Income Security Act of 1974 applies meet certain standards and qualifications. The specific functions performed by the Committee in this connection are:

1. Recommendation of topics and questions for inclusion on the Joint Board's examinations in actuarial mathematics and methodology,

2. Recommendations regarding the adequacy for enrollment purposes of other actuarial examinations, and

3. Recommendations regarding whether particular university and college programs in actuarial mathematics will demonstrate the education and training required for enrollment.

The Joint Board's annual review of the Committee is set forth in proposed form below. Interested persons may participate in this review process by submitting written data, views and arguments to the Joint Board for the Enrollment of Actuaries, c/o Department of the Treasury, Washington, D.C. 20220. In addition, because of the press of time, comments may be hand-delivered to the Executive Director, Joint Board for the Enrollment of Actuaries, Room 1523, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. Comments received on or before April 13, 1977 will be considered in the process of the Joint Board's review of the Committee.

Dated: March 31, 1977.

ROWLAND E. CROSS,
Chairman, Joint Board for the Enrollment of Actuaries.

JUSTIFICATION STATEMENT

1. COMMITTEE FUNCTION

The Joint Board for the Enrollment of Actuaries is responsible for the enrollment of individuals who wish to perform actuarial services with respect to plans to which the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, applies. The standards and qualifications for enrollment, as set forth in 29 U.S.C. 1242(a)(1), include education and training in actuarial mathematics and methodology as evidenced by:

1. A degree in actuarial mathematics or its equivalent from an accredited college or university.

2. Successful completion of an examination in actuarial mathematics and methodology to be given by the Joint Board, or

3. Successful completion of other actuarial examinations deemed adequate by the Joint Board.

The Committee renders assistance to the Joint Board in the Joint Board's fulfillment of its responsibility to administer examinations in actuarial mathematics and methodology to individuals wishing to demonstrate that they satisfy the standards and qualifications required for enrollment. Specifically, the Committee considers topics and questions appropriately covered by and included in the Joint Board's examinations and will recommend topics and questions for inclusion in future examinations. In addition, the Committee reviews other actuarial examinations offered by actuarial organizations and will make recommendations regarding the adequacy of such other examinations to demonstrate the education and training required for enrollment. The Committee also reviews university and college programs in actuarial mathematics for the purpose of recommending to the Joint Board those programs which will meet the requirement for enrollment of education and training.

2. NEED FOR CONTINUATION OF THE COMMITTEE

The considerations which justified the Committee's creation continue. It should be noted that the Committee's charter was not filed with the appropriate Congressional committees until December 2, 1976, and that the Committee did not, therefore, exist prior to that date. The Committee has had only four meetings and has not yet submitted a report. It has not had sufficient time to develop and pretest topics and questions for the Joint Board's examinations and, consequently, is not yet prepared to make recommendations.

The Joint Board for the Enrollment of Actuaries is comprised of five individuals, each of whom has other, full-time government positions. In accordance with its by-laws, only three of the Joint Board members are actuaries. Further, staff provided the Joint Board is minimal. While the Director of Practice (Office of the Secretary, Department of the Treasury) serves as the Joint Board's Executive Director, he has no actuarial expertise at his disposal. Finally, from their experience in writing actuarial examinations which were administered to those individuals who applied for enrollment prior to January 1, 1976, the actuarial members of the Joint Board have determined that their fulfillment of the entire responsibility for design of those examinations entails too great a sacrifice of their other governmental responsibilities. Accordingly, the Joint Board wishes to use the technical expertise of an advisory committee of actuaries outside the government to assist it in writing future examinations.

The Joint Board has neither created nor used an advisory committee other than the Committee discussed herein. Consequently, the Committee's efforts do not duplicate the work of another advisory committee within the agency. As far as the Joint Board is aware, it is the only Federal agency responsible for writing actuarial examinations or setting other criteria to determine actuaries' qualifications. Theerfore, the Joint Board does not believe that the work of its Committee is duplicated elsewhere in the Federal Government.

In adition, other means to fulfill the responsibilities of the Committee are not feasible. Public hearings are not the kind of forum in which sophisticated tests of actuarial knowledge can be developed and tested. Further, breaches of the security necesary for prospective examination materials are unavoidable in the context of public hearings. The Joint Board considered the possibility of obtaining examination materials from consultants in the educational testing field. However, it determined that consulting firms do not have the expertise to provide examination questions in the highly specialized area of actuarial education.

Because of the Committee's short existence and the fact that it has not yet submitted reports, recomendations or other information to the Joint Board, the relationship of the cost of the Committee to its reports, etc. cannot be ascertained at this time.

3. BALANCED MEMBERSHIP

Section 5(c) of the Federal Advisory Committee Act, Pub. L. 92–463, requires that, to the extent the requirement is applicable, the membership of the advisory committee shall be fairly balanced in terms of the points of view represented and the functions the advisory committee performs. In attempting to insure maximum practicable representation on the Committe of points of view regarding the Joint Board's examination extant in the community of actuaries, the Joint Board published an invitation to submit application for Committee membership in the FEDERAL REGISTER and through a press release.

Several considerations affected the Joint Board's judgment in achieving balanced representation. The Committee's purposes are such that it must be comprised, to the extent possible, of persons experienced in actuarial education. In addition, because the Committee works on examinations to be taken by applicants for enrollement, consideration for membership could not be given anyone not enrolled. It is clearly inappropriate for examination condidates to participate in writing parts of the examination which they are to take. Those applicants for membership who were considered, qualified for enrollment under the regulations governing enrollment before January 1, 1976. The Joint Board believes that the method by which individuals satisfied the education or examination requirement for enrollment as actuaries under those regulations (20 CFR 901.12) will be a significant influence on their perspectives on future Joint Board examinations. That requirement was satisfied in any one of the following ways:

1. Successful completion of an examination in actuarial mathematics and methodology administered by the Joint Board;

2. Certain classes of membership in actuarial organizations attained by proctored examination;

3. A bachelor's or higher degree from an accredited college or university granted after satisfactory completion of a course of study in actuarial science; or a bachelor's or higher degree from an accredited college or university granted after successful completion of a course of study in which the major area of concentration was mathematics, statistics or computer science, but only if the applicant has also successfully completed courses in life contingencies of a prescribed number of hours given by accredited schools.

Of the eight members of the Committee, one satisfied the education or examination requirement by successful completion of the Joint Board's examination, five by organization membership, and two by bachelor's or higher degrees in actuarial mathematics and methodology. It should be noted that three different actuarial organizations are represented by the five members who qualified for enrollment in that fashion. Further, the work experience of the Committee's members is comprised of employment by consulting firms (4), university (1), insurance companies (2), and manufacturing company (1).

Because the Committee does not consider policy other than that discussed above, the Joint Board is of the view that representation of consumer and other public interest groups on the Committee is not warranted. The possibility of breaches of security with respect to prospective examination materials also underlies this view.

[FR Doc.77-10030 Filed 4-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated February 4, 1977, and published in the FEDERAL REGISTER on February 11, 1977; (41 FR 8725), Merck

& Co., Inc., Dept. A, Bldg. No. 19, Merck Chemical Manufacturing Division, Lincoln Avenue, Rahway, N.J. 07065, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug:	Schedule
Apomorphine	II
Codeine	II
Ethylmorphine	II
Hydrocodone	II
Morphine	II
Thebaine	II
Cocaine	II
Anileridine	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: March 28, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-10040 Filed 4-4-77;8:45]

MANUFACTURE OF CONTROLLED SUBSTANCES

Registration

By Notice dated February 16, 1977, and published in the FEDERAL REGISTER on February 23, 1977; (41 FR 10745), the following manufacturers made application to the Drug Enforcement Administration to be registered as bulk manufacturers of the basic class of controlled substances listed below:

Mallinckrodt Inc., Mallinckrodt and Second Streets, St. Louis, MO 63147 (1/24/77):

Drugs:	Schedule
Codeine	II
Dihydrocodeine	II
Oxycodone	II
Diphenoxylate	II
Hydrocodone	II
Pethidine-inter. B	II
Methadone	II
Morphine	II
Thebaine	II
Opium extracts	II
Opium fluid extracts	II
Opium tinctures	II
Opium powders	II
Opium granulated	II
Methadone-inter	II

M.B.H. Chemical Corporation, 377 Crane Street, Orange, NJ 07051 (1/5/77):

Drug:	Schedule
Methylphenidate	II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and 21 CFR 1301.54(e), the Acting Deputy Administrator hereby orders that the applications submitted by each of the above firms for registration as bulk manufacturers of the basic class of controlled substances listed therein are granted.

Dated: March 29, 1977.

DONALD E. MILLER,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.77-10041 Filed 4-4-77;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

ADAMS ELECTRONIC WORKERS ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 11, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 11, 1977.

The petitions filed in this case are 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 15th day of March 1977.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Adams Electronics (A.I.W.)	Bangor, Mich.	Feb. 16, 1977	Feb. 14, 1977	TA-W-1,803	Circuit boards, coils, and components for color TV.
Louis Cantor & Son (ILG WU).	Egg Harbor, N.J.	Mar. 14, 1977	Feb. 26, 1977	TA-W-1,804	Ladies' coats.
Gulf Piper (workers)	Corpus Christi, Tex.	Mar. 10, 1977	Mar. 4, 1977	TA-W-1,805	Catching and selling of shrimp.
Manhattan Hosiery (workers).	Aquadilla, P.R.	Mar. 14, 1977	Mar. 2, 1977	TA-W-1,806	Panty hose.
Messinger Bearing Co. (U.S.A.)	Philadelphia, Pa.	Mar. 10, 1977	Feb. 15, 1977	TA-W-1,807	Speciality bearings.
R. & F. Manufacturing, Inc. (company).	South River, N.J.	Mar. 14, 1977	Mar. 4, 1977	TA-W-1,808	Ladies' slacks and skirts.
L. E. Smith Glass Co. (American Flint Glass Workers' Union of North America).	Mount Pleasant, Pa.	Feb. 25, 1977	Feb. 22, 1977	TA-W-1,809	Handcrafted glassware.
Stride "Rite Manufacturing Co. (workers).	Lawrence, Mass.	Feb. 28, 1977	Feb. 25, 1977	TA-W-1,810	Children's shoes.
Terex Division, General Motors (UAW).	Hudson, Ohio	Mar. 14, 1977	Mar. 11, 1977	TA-W-1,811	Off-the-road equipment.
Tyson Bearing Co. (U.S.A.)	Massillon, Ohio.	Mar. 10, 1977	Mar. 9, 1977	TA-W-1,812	Tapered bearings.
Doug & Neil Yeaman (workers).	Aransas Pass, Tex.	Mar. 14, 1977	Mar. 10, 1977	TA-W-1,813	Catching and selling of shrimp.

[FR Doc.77-9847 Filed 4-4-77;8:45 am]

[TA-W-1352]

AIRWAY 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-1352: 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 and

former workers producing hydraulic fittings at the Olivet, Michigan plant of Airway Manufacturing Company.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 866). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Airway Manufacturing 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 the first three criteria have been met, but criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at the Olivet plant declined 11 percent in the last half of 1975 compared to the same period in 1974. Average employment declined 19 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual sales by the Olivet plant decreased 15 percent in value in 1975 compared to 1974. Sales decreased 18 percent in the first three quarters of 1976 compared to the first three quarters of 1975.

Production data was not made available.

INCREASED IMPORTS

Airway produces threaded and flanged hydraulic fittings. Hydraulic fittings are not separately identified in the import statistics. They are included in the various categories of steel pipe fittings. All hydraulic fittings under the various categories of steel pipe fittings are somewhat like or directly competitive with each other. However, hydraulic fittings contained in the category of "carbon and stainless steel forged flanges; and forged steel threaded and socket weld fittings" are most like those produced by Airway. Therefore, import data is presented for both the best available statistics on articles considered competitive with hydraulic fittings and the best available statistics on articles most like those produced at the Airway plant.

Imports of all steel pipe fittings increased from 75.0 million pounds in 1971 to 79.9 million pounds in 1972 then decreased to 64.8 million pounds in 1973. Imports increased to 114.1 million pounds in 1974 and further increased to 185.9 million pounds in 1975. In the first 9 months of 1976 imports decreased 39.7 percent in quantity compared to the like period in 1975, from 147.4 million pounds to 88.9 million pounds.

The ratio of imports to domestic production of all steel pipe fittings increased from 21.4 percent in 1971 to 45.3 percent in 1975. In the first 9 months of 1976 the ratio of imports to domestic production of all steel pipe fittings increased to 48.2 percent from 45.3 percent in the first 9 months of 1975.

Imports of carbon and stainless steel forged flanges; and forged steel threaded and socket weld fittings and unions increased from 28.8 million pounds in 1971 to 30.7 million pounds in 1972, then decreased to 21.6 million pounds in 1973. Imports increased to 57.2 million pounds in 1974 and further increased to 123.8 million pounds in 1975. In the first 9 months of 1976 imports decreased 46.7 percent compared to the first 9 months of 1975, from 98.4 million pounds to 52.4 million pounds.

The ratio of imports to domestic production of carbon and stainless steel forged flanges; and forged steel threaded and socket weld fittings and unions increased from 14.7 percent in 1971 to 16.1 percent in 1972, then decreased to 12.3 percent in 1973. The import to production ratio increased to 29.2 percent in 1974 and further increased to 61.8 percent in 1975. The ratio decreased from 62.4 percent in the first 9 months of 1975 to 58.6 percent in the first 9 months of 1976. The import penetration ratio in the first 9 months of 1976 was 119 percent greater than the average of the import penetration ratios for the years 1971 through 1975.

CONTRIBUTED IMPORTANTLY

The Office of Trade Adjustment Assistance contacted customers of Airway to determine if they had switched from the hydraulic fittings made at the Olivet plant to imports. None of the customers reported buying any imported hydraulic fittings.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hydraulic fittings produced at the Olivet, Michigan plant of Airway Manufacturing Company did not contribute importantly to the total or partial separation of workers at the plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9963 Filed 4-4-77;8:45 am]

AMERACE CORP., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 11, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 11, 1977.

The petitions filed in this case are 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 22nd day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Amerace Corp., ESNA Division (UAW).	Union, N.J.	Mar. 21, 1977	Mar. 18, 1977	TA-W-1,843	Stainless steel, monel, and aluminum nuts.
Loci Charles Sportswear (ILGWU).	Luzerne, Pa.	Mar. 22, 1977	Mar. 16, 1977	TA-W-1,844	Dresses.
Connellsville Sportswear Co. (A.C.T.W.U.).	Connellsville, Pa.	Mar. 21, 1977	Mar. 18, 1977	TA-W-1,845	Men's slacks.
CTS Corp. (UAW)	Elkhart, Ind.	do	Mar. 16, 1977	TA-W-1,846	Electronic and electromechanical components.
Harris Composition Systems Div. (Company).	Winchester, Va.	do	do	TA-W-1,847	Typesetting matrices.
International Shoe Co. (workers).	St. Louis, Mo.	do	Feb. 17, 1977	TA-W-1,848	Ladies', men's, and juvenile shoes.
Jonart Manufacturing (ILGWU).	Wilkes-Barre, Pa.	Mar. 22, 1977	do	TA-W-1,849	Dresses.
Karen Manufacturing (ILGWU).	Sweet Valley, Pa.	do	Mar. 15, 1977	TA-W-1,850	Do.
Kenneth Manufacturing Co. (ILGWU).	Wilkes-Barre, Pa.	Mar. 22, 1977	Mar. 15, 1977	TA-W-1, 851	Do.
Kingston Fashions (ILGWU).	Kingston, Pa.	do	do	TA-W-1, 852	Do.
L.A. Dress (ILGWU)	Wilkes-Barre, Pa.	do	do	TA-W-1, 853	Do.
LBJ Garment (ILGWU)	Larksville, Pa.	do	do	TA-W-1, 854	Do.
Leslie Fashions (ILGWU)	Plains, Pa.	do	Mar. 16, 1977	TA-W-1, 856	Do.
Leslie Fay (ILGWU)	Wilkes-Barre, Pa.	do	do	TA-W-1, 856	Do.
Littzi Fashions (ILGWU)	Pringle, Pa.	do	do	TA-W-1, 857	Do.
Lyndwood Fashions (ILGWU).	Wilkes-Barre, Pa.	do	do	TA-W-1, 858	Sportswear.
Maner Sportswear (ILGWU).	Sugar Notch, Pa.	do	do	TA-W-1, 859	Dresses.
Michèle Sportswear (ILGWU).	Dallas, Pa.	do	do	TA-W-1, 860	Sportswear.
Parson Fashions (ILGWU)	Parsons, Pa.	Mar. 22, 1977	Mar. 17, 1977	TA-W-1,861	Dresses.
Penn State Belt & Buckle (ILGWU).	Wilkes-Barre, Pa.	do	Mar. 16, 1977	TA-W-1,862	Belts and buckles.
Plains Blouse (ILGWU)	Plains, Pa.	do	do	TA-W-1,863	Blouses.
Plymouth Dress (ILGWU)	Nanticoke, Pa.	do	Mar. 15, 1977	TA-W-1,864	Dresses.
Do	Plymouth, Pa.	do	do	TA-W-1,865	Do.
R. & K. Apparel (ILGWU)	do	do	do	TA-W-1,866	Do.
Riverside Novelty Printers, Inc. (Machine Printers & Engravers Association).	Paterson, N.J.	Mar. 21, 1977	Mar. 16, 1977	TA-W-1,867	Textile printing on fabrics.
Walk-Over/John E. Lucey Division (workers).	Bridgewater, Mass.	do	Mar. 18, 1977	TA-W-1,868	Men's dress shoes.

[FR Doc.77-9848 Filed 4-4-77;8:45 am]

[TA-W-1560]

BERMAN MANUFACTURING COMPANY, 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-1560: investigation regarding certification of eligibility to apply for worker assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 10, 1977 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 engaged in employment related to the production of women's slacks, jackets, vests, skirts, and blouses at the Berman Manufacturing Company, Inc., South River, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on January 25, 1977 (42 FR 4555). No public hearing was requested, and none was held.

The information upon which the determination was made was obtained principally from officials of the Berman Manufacturing Company, Inc., 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 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 revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Berman Manufacturing Company, Inc. decreased 4 percent from 1974 to 1975, and decreased another 4 percent from 1975 to 1976.

Average weekly hours worked by production workers at the Berman Manufacturing Company, Inc. increased 1 percent from 1974 to 1975 and decreased 13 percent from 1975 to 1976.

Average employment of salaried workers at Berman Manufacturing Company, Inc. remained constant from 1974 to 1975, then decreased 25 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Berman Manufacturing Company, Inc. decreased 17 percent in value from 1974 to 1975, and 17 percent from 1975 to 1976.

Production of the Berman Manufacturing Company, Inc. increased 3 percent in quantity from 1974 to 1975, and decreased 26 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's slacks and shorts decreased absolutely from 1972 to 1973 and from 1973 to 1974, then increased 13 percent from 1974 to 1975 and 10 percent from 1975 to 1976. The ratio of imports to domestic production increased from 30.3 percent in 1974 to 32.1 percent in 1975.

Imports of women's, misses', and children's coats and jackets increased absolutely from 1972 to 1973, decreased from 1973 to 1974, then increased 3 percent from 1974 to 1975 and 48 percent from 1975 to 1976. The ratio of imports to domestic production increased from 30.9 percent in 1974 to 31.1 percent in 1975.

Imports of women's, misses', and children's skirts decreased absolutely from 1972 to 1973 and from 1973 to 1974, then increased 100 percent from 1974 to 1975 and 54 percent from 1975 to 1976. The ratio of imports to domestic production increased from 4.9 percent in 1974 to 8.3 percent in 1975.

Imports of women's, misses' and children's blouses and shirts increased absolutely in each year compared to the previous year from 1973 through 1976. Imports increased 27 percent absolutely from 1974 to 1975 and 16 percent, from 1975 to 1976. The ratio of imports to domestic production increased from 56.0 percent in 1974 to 65.0 percent in 1975.

CONTRIBUTED IMPORTANTLY

One of Berman Manufacturing Company, Inc.'s customers accounts for 90 percent of Berman's sales. This customer indicated that they decreased the number of garments they contracted out to be sewn and pressed at the Berman Manufacturing Company, Inc. due to a decline in their sales, which they attribute to a switch on the part of their customers from domestic women's sportswear to imported women's sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's slacks, jackets, vests, skirts, and blouses at the Berman Manufacturing Company, Inc., South River, New Jersey contributed importantly to the total or partial separation of the workers at that plant. In accord-

ance with the provisions of the Act, I make the following certification:

All workers at the Berman Manufacturing Company, Inc., South River, New Jersey, who became totally or partially separated from employment on or after December 23, 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 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9964 Filed 4-4-77;8:45 am]

[TA-W-1,269]

BONNIE FASHIONS CO.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In FR Doc. 76-35795 appearing at page 53554 in the FEDERAL REGISTER of December 7, 1976, the date of the petition, appearing on page 53554, is corrected in the 22nd and 23rd lines from the bottom of the 1st column to read "October 18, 1976."

Signed at Washington, D.C., this 24th day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.77-9965 Filed 4-4-77;8:45 am]

BRONCO BILL II WORKERS ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm 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.

Petitioners meeting these eligibility requirements 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. The investigations 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.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations 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 April 11, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 11, 1977.

The petitions filed in this case are 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 21st day of March 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bonco Bill II (workers)	Port Isabel, Tex.	Mar. 18, 1977	Mar. 14, 1977	TA-W-1,838	Catching and selling of shrimp.
Classic Trim, Inc. (ILGWU)	New York, N.Y.	Mar. 17, 1977	do	TA-W-1,814	Textile trimmings, novelty stiches, tucking, smocking, and pleatings.
Coastal Ice & Fuel (workers)	Brownsville, Tex.	Mar. 15, 1977	Mar. 6, 1977	TA-W-1,815	Catching and selling of shrimp.
Hyde Park Foundry & Machine Co. (USA)	Hyde Park, Pa.	Mar. 17, 1977	Feb. 18, 1977	TA-W-1,816	Grey iron rolls.
International Shoe Co. (workers)	Belle, Mo	Mar. 15, 1977	Mar. 8, 1977	TA-W-1,817	Women's shoes.
Optel Corp., (workers)	Princeton, N.J.	Mar. 16, 1977	Mar. 14, 1977	TA-W-1,819	Electronic digital watches.
Plymouth Tube Co. (USA)	Dunkirk, N.Y.	Mar. 15, 1978	Mar. 1, 1977	TA-W-1,820	High specialty stainless tubing.
R. M. Fashions (ILGWU)	Wilkes-Barre, Pa.	Mar. 18, 1978	Mar. 15, 1977	TA-W-1,821	Dresses.
Ricky Fashions (ILGWU)	do	do	Mar. 16, 1977	TA-W-1,822	Do.
Ronnie Dress (ILGWU)	Shickshinny, Pa.	do	do	TA-W-1,823	Do.
Rosemarie Dress No. 2 (ILGWU).	Wilkes-Barre, Pa.	do	Mar. 15, 1977	TA-W-1,824	Do.
Rosmar Manufacturing (ILGWU).	do	do	Mar. 16, 1977	TA-W-1,825	Sportswear.
Roxanne Fashions (ILGWU).	Plymouth, Pa.	do	do	TA-W-1,826	Dresses.
San Sue Frocks (ILGWU)	Nanticoke, Pa.	do	Mar. 15, 1977	TA-W-1,827	Do.
Sea Isle Sportswear (ILGWU).	Glen Lyon, Pa.	do	Mar. 16, 1977	TA-W-1,828	Sportswear.
Do	Wilkes-Barre, Pa.	do	do	TA-W-1,829	Do.
Sea Life Ice & Fuel (workers)	Brownsville, Tex.	Mar. 15, 1977	Mar. 6, 1977	TA-W-1,830	Catching and selling of shrimp.
Sharmat, Inc. (ILGWU)	Luzerne, Pa.	Mar. 18, 1977	Mar. 16, 1977	TA-W-1,831	Dresses.
Sharon Lee Apparel Co. (ILGWU).	Plains, Pa.	do	do	TA-W-1,818	Do.
Slocum Dress (ILGWU)	Luzerne, Pa.	do	do	TA-W-1,832	Do.
Stanley Manufacturing (ILGWU).	Wilkes-Barre, Pa.	do	do	TA-W-1,833	Women's apparel.
Steimar Manufacturing (ILGWU).	do	do	do	TA-W-1,834	Sportswear.
Tina Dress (ILGWU)	do	do	Mar. 15, 1977	TA-W-1,835	Women's pantsuits.
Val Sportswear (ILGWU)	do	do	Mar. 16, 1977	TA-W-1,836	Dresses.
Valley Fashions (ILGWU)	Kingston, Pa.	do	do	TA-W-1,837	Do.
West Side Mfg. (ILGWU)	Luzerne, Pa.	do	do	TA-W-1,839	Do.
Whitinsville Spinning Ring Co. (workers).	Whitinsville, Mass.	Feb. 23, 1977	Feb. 18, 1977	TA-W-1,840	Textile spinning and twister rings for cotton and wool spinning.
Wilkes-Barre Apparel Co., Inc. (ILGWU).	Wilkes-Barre, Pa.	Mar. 18, 1977	Mar. 16, 1977	TA-W-1,841	Dresses.
Do	Noxen, Pa.	do	do	TA-W-1,842	Do.

[FR Doc.77-9846 Filed 4-4-77;8:45 am]

[TA-W-1405]

ELECTRALLOY CORP.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1405: 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 14, 1976 in response to a worker petition received on December 14, 1976 which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless steel ingots at the Electralloy Corporation in Oil City, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 877). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Electralloy Corp., its customers, the U.S. Department of Commerce, the U.S. Interna-

tional 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.

Without regard to whether any of the other criteria have been met, the investigation has revealed that criterion (3) has not been met.

FINDINGS OF THE INVESTIGATION

Electralloy Corporation produces stainless steel ingots for the specialty steel industry. Electralloy was previously investigated and denied on May 24, 1976 (see TA-W-760) because imports of stainless ingots, blooms, billets, slabs, castings and sheet bars were declining and customers of Electralloy did not purchase imports. The Department's investigation has revealed that imports of stainless ingots, blooms, billets, slabs, castings and sheet bars are still declining.

The tonnage volume of imports of stainless steel ingots, blooms, billets, slabs, castings and sheet bars declined 30.3 percent from 1972 to 1973 and increased 43.5 percent from 1973 to 1974. Imports of stainless steel ingots, blooms, billets, slabs, castings and sheet bars declined 39.3 percent from 1974 to 1975 and further declined 64.9 percent from 1975 to 1976. The ratio of imports to domestic shipments of stainless steel ingots, blooms, billets, slabs, castings and sheet bars declined from 27.4 percent in 1972 to 15.6 percent in 1973. The ratio increased to 17.8 percent in 1974, then decreased to 13.1 percent in 1975 and 4.9 percent in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that articles like or directly competitive with stainless steel ingots produced at the Electralloy Corporation in Oil City, Pennsylvania are not being imported in increased quantities, either absolute or relative to domestic production; as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9966 Filed 4-4-77;8:45 am]

[TA-W-1526]

ELECTRO MOTIVE CORP.

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-1526: 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 28, 1976 in response to a worker petition received on December 28, 1976 which was filed by the Communication Workers of America on behalf of workers and former workers producing capacitors at Electro Motive Corporation, Florence, South Carolina.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3371). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Electro Motive Corporation and 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 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 all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Employment in the Mica Division declined 9.3 percent in the last four weeks of 1976. Employment in the Trimmer Division declined in each quarter of 1976 compared to the previous quarters. Employment in the fourth quarter of 1976, in the Trimmer Division, was 18.9 percent lower than in the first quarter of 1976. Employment in the Film Division declined 9.9 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total shipments of fixed mica and film capacitors which includes subassemblies imported from Electro Motive's Haiti plant increased from 1975 to 1976. Shipments of mica capacitors from Haiti increased 93.1 percent from 1975 to 1976. Shipments of film capacitors from Haiti increased 156.3 percent in the last nine months of 1976 compared to the same period in 1975. Adjusted shipments, discounting Haiti production, of fixed mica and film capacitors decreased 23.9 percent and 19.7 percent, respectively from 1975 to 1976.

Production of variable capacitors (padders and trimmers) began in Florence in mid 1975. Production declined in each quarter from the second quarter of 1976 through the fourth quarter of 1976 compared to the previous quarter. Production declines in those three quarters were 21.2 percent, 8.0 percent, and 24.0 percent, respectively.

INCREASED IMPORTS

Imports, by value, of paper and film capacitors increased 89.2 percent from 1975 to 1976. Imports, by value, of mica capacitors increased 4.0 percent from 1975 to 1976. Imports, by value, of variable capacitors increased 37.0 percent from 1975 to 1976.

CONTRIBUTED IMPORTANTLY

Operations at Electro Motive's plant in Haiti have been increasing in recent months. Production equipment has been transferred from Florence, South Carolina to Haiti, and subassembly production of mica and film capacitors has been increasingly transferred offshore.

With the initial transfer of operations to Haiti and increased capacitor sales due to the offshore production, the work load at the Florence plant (in 1976) was temporarily increased. As subassembly operations are further increased and more operations are transferred to Haiti, labor requirements in Florence are necessarily reduced. With the transfer of machinery to Haiti, a smaller number of the manual functions required in making capacitors are being performed at the Florence plant. Although development, testing, finishing and shipping operations continue to be conducted in Florence, South Carolina, the total labor force at that plant has been scaled down as a result of increased offshore production. While current employment levels reflect the transfer of subassembly operations to Haiti, there exists a threat of further employment displacement since other operations are scheduled to be transferred in the future.

Trimmer Division employees have been directly affected by increased imports of variable capacitors. Customers of Electro Motive stated that imports have ex-

erted a great influence in the capacitor market in recent years. Customers indicated that their purchases of imported capacitors, bought either directly or indirectly, increased from 1975 to 1976. Customer orders from Electro Motive that were reduced were replaced by imported capacitors.

CONCLUSION

After careful review of the fact obtained in the investigation, I conclude that increases of imports like or directly competitive with mica, film and variable capacitors produced at Electro Motive Corporation, Florence, South Carolina contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certifications:

"All workers at the Mica Division, Electro Motive Corporation, Florence, South Carolina who became totally or partially separated from employment on or after December 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."; and "All workers at the Film Division, the Trimmer Division and all plant-wide personnel of Electro Motive Corporation, Florence, South Carolina separated from employment on or after December 2, 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 24th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9967 Filed 4-4-77;8:45 am]

[TA-W-1188]

JEFF RICHARD, 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-1188: 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 19, 1976 in response to a worker petition received on October 19, 1976 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing girls' slacks at Hatboro, Pennsylvania; Philadelphia, Pennsylvania and the New York, New York facilities of Jeff Richard, Inc.

The Notice of investigation was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48812). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jeff Richard, Inc., 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 (2) has not been met with respect to girls' slacks, coveralls, jumpers, or skirts.

FINDINGS OF THE INVESTIGATION

The petitioning group of workers were engaged in employment related to the production of girls' slacks, coveralls, jumpers and skirts at the Hatboro and Philadelphia, Pennsylvania production facilities. Girls' slacks accounted for 80 percent of production in 1976. Production workers are used interchangeably in the production of girls' slacks, coveralls, jumpers and skirts.

Sales by Jeff Richard, Inc. increased 2.3 percent in value and 8.1 percent in quantity in the fourth quarter of 1975 compared to the like quarter in 1974 and increased 42.4 percent in value and 20.3 percent in quantity in 1976 compared to 1975. Sales equal production.

CONCLUSION

It is concluded that sales of girls' slacks, coveralls, jumpers and skirts produced at the Hatboro, Pennsylvania; the Berkley Street, Philadelphia, Pennsylvania and the 112 W 34th Street, New York, New York facilities of Jeff Richards, Inc., have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9971 Filed 4-4-77;8:45 am]

[TA-W-1323]

LADISH CO.

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1323: investigation regarding 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 and former workers producing valves and fittings at the Cynthiana, Kentucky plant of Ladish Company, Kentucky Division.

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 principally from officials of Ladish 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 although the first (3) criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of workers at the Cynthiana, Kentucky plant declined 20.1 percent in the first 11 months of 1976 compared to the first 11 months of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of valves by the Cynthiana, Kentucky plant decreased 6.4 percent in quantity in the first 11 months of 1976 compared to the first 11 months of 1975. Sales of fittings by the Cynthiana, Kentucky plant decreased 27.0 percent in quantity in the first 11 months of 1976 compared to the first 11 months of 1975.

Production of valves at the Cynthiana, Kentucky plant decreased 16.0 percent in quantity in the first 11 months of 1976 compared to the first 11 months

of 1975. Production of fittings at the Cynthiana, Kentucky plant decreased 52.8 percent in quantity in the first 11 months of 1976 compared to the first 11 months of 1975.

INCREASED IMPORTS

Imports of valves, all hand-operated and check, increased each year between 1971 and 1975, from $30.3 million in 1971 to $114.5 million in 1975. Imports decreased 2.8 percent in the first 9 months of 1976 compared to the like period of 1975, from $89.8 million to $87.3 million.

Imports of steel pipe fittings increased from 75.0 million pounds in 1971 to 79.9 million pounds in 1972 then decreased to 64.8 million pounds in 1973. Imports increased in 1974 to 114.1 million pounds and increased again in 1975 to 185.9 million pounds. Imports decreased 39.7 percent in the first 9 months of 1976 compared to the like period of 1975, from 147.4 million pounds to 88.9 million pounds. The ratio of imports to domestic production of steel pipe fittings increased from 45.3 percent in the first 9 months of 1975 to 48.2 percent in the first 9 months of 1976.

CONTRIBUTED IMPORTANTLY

Most customers of the Cynthiana plant of Ladish Company that were surveyed indicated that they did not purchase imported valves or fittings. None of the customers had decreased purchases from Ladish and switched to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with valves and fittings produced at the Cynthiana, Kentucky plant of Ladish Company, Kentucky Division did not contribute importantly to the total or partial separation or workers at the plant as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9968 Filed 4-4-77;8:45 am]

[TA-W-1578]

NATIONAL 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 result of TA-W-1578: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 9, 1977 in response to a worker petition received on January 9, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel triplex pumps, slush pumps, converters and cranes, at the Gainesville, Texas plant of National Supply Company, a division of Armco Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5454). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of National Supply Company, the United Steelworkers of America, U.S. Customs officials and industry sources.

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 imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased 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 (3) has not been met.

Evidence developed in the Department's investigation reveals that there are no known imports of steel triplex pumps, slush pumps, converters and cranes, commonly called pumping systems, like or directly competitive with pumping systems produced by the Gainesville, Texas plant of National Supply Company.

CONCLUSION

After careful review of the facts obtained in the investigation, I concluded that imports of steel triplex pumps, slush pumps, converters and cranes like or directly competitive with those produced at the Gainesville, Texas plant of National Supply Company have not increased as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9969 Filed 4-4-77;8:45 am]

[TA-W-1267]

ROYAL TYPEWRITER 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-1267: 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 15, 1976 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing typewriters at the Royal Typewriter Company, Hartford, Connecticut, a division of Litton Industries. During the course of the investigation it was established that since 1973 all workers in the Manufacturing and Engineering Division of the Royal Typewriter Company, Hartford, Connecticut, have been engaged in employment related to the product development, assembly, and refurbishment of electrostatic photocopiers and text editing typewriter systems and to the refurbishment of console bond photocopiers.

The notice of investigation was published in the FEDERAL REGISTER on December 3, 1976 (41 FR 53096). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Royal Typewriter 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 sginificant 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 with respect to photocopiers criteria (1), (2), and (4) have not been met and that with respect to editing typewriters criteria (1) and (3) have not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employees in the Manufacturing and Engineering Division of the Royal Typewriter Company, Hartford, Connecticut work on photocopiers and text editing typewriter systems. The average number of production workers in the Manufacturing and Engineering Division declined 25 percent from 1973 to 1974 and increased by 58 percent from 1974 to 1975 and by 30 percent from 1975 to

1976. Total division employment decreased 28 percent from 1973 to 1974 and rose by 19 percent from 1974 to 1975 and by 22 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Unit production of new, desktop, electrostatic copiers at Hartford declined by 75 percent from 1973 to 1974 and increased by 106 percent from 1974 to 1975 and 89 percent from 1975 to 1976. Unit production of new, console, electrostatic copiers decreased by 65 percent from 1973 to 1974 and by 86 percent from 1974 to 1975. Production of console electrostatic copiers ceased completely in April 1975. Unit production of new text editing typewriter systems increased 902 percent from 1974 to 1975 and decreased 84 percent from 1975 to 1976. Production of text editing typewriter systems began in August 1974 and ceased in June 1976.

INCREASED IMPORTS

The dollar value of domestic production and imports of photocopy equipment, including electrostatic and bond copiers, increased annually from 1972 through 1976. Imports rose from $86.4 million in 1975 to $117.9 million in 1976. The ratio of imports to domestic production rose from 3.9 percent in 1975 to 5.0 percent in 1976.

Imports of editing typewriters are negligible, comprising less than one percent of domestic production during 1975 and 1976. Imports declined from 11,479 units valued at $7.1 million in 1974 to 3,124 units valued at $4.2 million in 1975 and increased to 3,722 units valued at $5.0 million in 1976. Domestic production increased annually from $383.2 million in 1974 to $608.3 million in 1976. The ratio of the dollar value of imports compared to the dollar value of domestic production declined from 1.9 percent in 1974 to .8 percent in 1975 and remained unchanged at .8 percent in 1976.

CONTINUED IMPORTANTLY

Following the transfer of its typewriter production to overseas company plants in 1972, Royal shifted its manufacturing operations at Hartford into the photocopier market and later expanded into the word processing market. Since mid-1975 workers in the Manufacturing and Engineering Division at Hartford have assembled and refurbished desktops electrostatic copiers and text editing typewriter systems and have refurbished older models of Royal's imported console bond copier.

Customers who leased or bought copiers from the Royal Typewriter Company had not shifted fro mRoyal's electrostatic copiers to imported electrostatic copiers in 1976. Most of the customers contacted had selected Royal based on competitive bids and had made long term rental arrangements with Royal. Customers indicated that Royal was generally price competitive in the electrostatic copier and bond copier markets and that Royal offered good maintenance and repair services through its regional offices in the U.S.

Unit imports by Royal of new console bond copiers declined annually from 1974 through 1976. Company imports of desktop bond copiers, which began in October 1975, rose in units from 1975 to 1976. In 1976, unit imports of desktop bond copiers amounted to less than 15 percent of the number of new desktop electrostatic copiers made at Hartford.
had not shifted from Royal's electrostatic

Unit production of desktop electrostatic copiers, which accounted for about 65 percent of total hours worked in 1976, increased 89 percent from 1975 to 1976. Refurbishing activities on electrostatic copiers were expanded in late 1975 to include refurbishing of older model console bond copiers. Refurbishing operations at Hartford accounted for about 30 percent of total hours worked in 1976.

The increased production and the expanded refurbishing activities in the Manufacturing and Engineering Division caused total division employment to rise annually from 1974 through 1976. Quarterly employment increased steadily from the fourth quarter of 1974 through the second quarter of 1976. The division layoffs which occurred in mid-1976 were attributable primarily to a company-wide reorganization instituted by the new company president. Declines in division employment since mid-1976 were due to normal attrition and a company-wide hiring freeze.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the photocopy equipment and text editing typewriter systems produced in the Manufacturing and Engineering Division of the Royal Typewriter Company, Hartford, Connecticut did not contribute importantly to the total or partial separation of the workers at such plant.

Signed at Washington, D.C. this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9972 Filed 4-4-77;8:45 am]

[TA-W-1520]

RUBBER CORPORATION OF ARKANSAS

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-1520: 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 27, 1976 in response to a worker petition received on December 27, 1976 which was filed on behalf of workers and former workers producing rubber/canvas footwear at the DeQueen, Arkansas plant of the Rubber Corporation of Arkansas.

The notice of investigation was published in the FEDERAL REGISTER on January 18, 1977 (42 FR 3379). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Rubber Corporation of Arkansas, 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 four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers employed at the Rubber Corporation of Arkansas declined 5.1 percent in 1975 compared to 1974 and 32.9 percent in 1976 compared to 1975.

The average number of salaried workers employed at the Rubber Corporation of Arkansas remained constant in 1975 compared to 1974 and then declined 6.7 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of rubber/canvas footwear by the Rubber Corporation of Arkansas declined 4.7 percent in 1975 compared to 1974 and 44.5 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of rubber/canvas footwear declined absolutely and relatively in 1972 compared to 1971 and then increased absolutely and relatively in 1973 compared to 1972. Imports increased absolutely and relatively in 1974 compared to 1973 and then decreased absolutely and relatively in 1975 compared to 1974. Imports of rubber/canvas footwear increased 17.5 percent in the first nine months of 1976 compared to the same period in 1975. The ratios of imports to domestic production and consumption increased from 18.3 percent and 15.5 percent, respectively, in the first nine months of 1975 to 25.4 percent and 20.2 percent, respectively, in the first nine months of 1976.

Imports of athletic footwear increased absolutely and relatively in 1972 com-

pared to 1971 and then increased absolutely but declined relatively in 1973 compared to 1972. Imports increased absolutely and relatively in 1974 compared to 1973 and in 1975 compared to 1974. Imports of athletic footwear increased 118.6 percent in the first nine months of 1976 compared to the first nine months of 1975. The ratios of imports to domestic production and consumption increased from 203.9 percent and 67.1 percent respectively, in the first nine months of 1975, to 333.3 percent and 76.9 percent, respectively, in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Customers of the Rubber Corporation of Arkansas indicated that they have switched purchases from the Rubber Corporation of Arkansas to imported sport-style (athletic) shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the rubber/canvas footwear produced by the DeQueen, Arkansas plant of the Rubber Corporation of Arkansas 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 DeQueen, Arkansas plant of the Rubber Corporation of Arkansas who became totally or partially separated from employment on or after December 6, 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 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9973 Filed 4-4-77;8:45 am]

[TA-W-1577]

UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA

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-1577: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 7, 1977 in response to a worker petition received on January 7, 1977 which was filed on behalf of workers and former workers of the United Automobile, Aerospace and Agriculture Implement Workers of America, Local No. 72, Kenosha, Wisconsin.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5456). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of American Motors Corporation Local No. 72, U.A.W. 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.

If any of the above criteria is not satisfied, a negative determination must be made.

Local No. 72, U.A.W. 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 are 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 American Motors Corporation, i.e., a firm which produces an article, namely automobiles 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 Driveaway, Incorporated (TA-W-393, 41 FR 12749).

Local No. 72, United Automobile, Aerospace and Agriculture Implement Workers of America represents the workers at American Motors Corporation, Kenosha, Wisconsin. The petition was filed on behalf of two secretaries employed at the Financial and Recording Office at the Local No. 72, U.A.W. Their job responsibilities included collecting monthly union dues, recording all changes of each member's status, maintaining membership grievance records and taking minutes at all meetings.

The secretaries' jobs were confined to union business. The secretaries were employed by Local No. 72, U.A.W. and were at no time under the employ or supervision of American Motors Corporation. The union employees were not responsible for performing any tasks for American Motors Corporation.

Salaries were paid by Local No. 72 and no salary benefits were received from American Motors Corporation. American Motors has no power or authority over employees of the union. The president of Local No. 72, U.A.W. has the power to hire and lay off 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 No. 72, United Automobile, Aerospace and Agricultural Implement Workers of America, Kenosha, Wisconsin are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974, and that the American Motors Corporation cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 25th day of March, 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9974 Filed 4-4-77;8:45 am]

[TA-W-1291]

UNITED STATES METALS REFINING 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-1291: 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 17, 1976 in response to a worker petition received on that date which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Carteret, New Jersey plant of United States Metals Refining Company.

The notice of investigation was published in the FEDERAL REGISTER (41 FR 53097) on December 3, 1976. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Metals Refining Company, its customers, the U.S. Department of the Interior, industry analysis 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 revealed that although the first (3) criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 10 percent in 1975 compared to 1974, then decreased 15 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of refined copper decreased in quantity 15 percent in 1975 compared to 1974, then increased 44 percent (estimated) in 1976 compared to 1975. Company production of refined copper increased 4 percent in 1974 compared to 1973, decreased 21 percent in 1975 compared to 1974, then decreased 11 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of refined copper increased absolutely and relative to domestic production each year from 1972 through 1974 compared to the previous year. These imports decreased 53 percent in 1975 compared to 1974, then increased 291 percent in the first 9 months of 1976 compared to the like period of 1975. The ratio of imports to domestic production decreased from 14.6 percent in 1974 to 8.2 percent in 1975, then increased from 6.0 percent in the first 9 months of 1975 to 22.6 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

Declines in production, sales, and employment are due *in part* to a shortage of scrap feed material for electrolytic copper refining operations.

United States Metals Refining Company sells much of its refined copper to the Commodities Exchange. Increased imports of refined copper therefore would affect company sales in value as prices drop, but would not affect company sales in quantity.

Consumer customers who were surveyed, representing approximately 65 percent of U.S. Metals Refining Company's sales in value in 1976, stated that they have not switched purchases from U.S. Metals Refining Company to imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports like or directly competitive with refined copper produced at the Carteret, New Jersey plant of United States Metals Refining Company did not contribute importantly to the total or partial separation of the workers of that plant.

Signed at Washington, D.C. this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9975 Filed 4-4-77;8:45 am]

[TA-W-1317]

WILLIAM POWELL 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-1317: 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 and former workers producing industrial valves at the Cincinnati, Ohio plants of William Powell Manufacturing Company.

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 William Powell Manufacturing 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 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 Plant No. 1 (Springrove Avenue) declined 2.2 percent in the first eleven months of 1976 compared to the same period in 1975. The average number of production workers declined 12.6 percent in the last quarter of 1975 compared to the same quarter one year earlier.

The average number of production workers at Plant No. 2 (Colerain Street) increased 4.8 percent in the first eleven months of 1976 compared to the same period in 1975. The average number of production workers increased 1.5 percent in the last quarter of 1975 compared to the same quarter one year earlier.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant No. 1 (Springrove Avenue) produces valves three inches or less in diameter. Sales of valves produced at Plant No. 1 declined 9.3 percent in value during the first eleven months of 1976 compared to the same period in 1975.

Sales declined .2 percent in value in the last quarter of 1975 compared to the same period one year earlier.

Plant No. 2 (Colerain Street) produces valves three inches or more in diameter. Sales of valves produced at Plant No. 2 increased 14.0 percent in value in the first eleven months of 1976 compared to the same period in 1975. Sales declined 2.6 percent in value in the last quarter of 1975 compared to the same quarter one year earlier.

Production of valves at Plant No. 1 increased 11.9 percent in quantity in the first eleven months of 1976 compared to the like period in 1975.

Production of valves at Plant No. 2 declined 26.8 percent in quantity in the first eleven months of 1976 compared to the like period in 1975. Production declined 2.5 percent in quantity in the last quarter of 1975 compared to the same quarter one year earlier.

INCREASED IMPORTS

Imports of valves and similar devices in terms of value increased each year from $56.5 million in 1971 to $165.1 million in 1975. Imports further increased from $127.6 million in the first nine months of 1975 to $134.2 million in the first nine months of 1976.

The ratio of imports to domestic production increased from 4.0 percent in 1974 to 4.7 percent in 1975. The ratio of imports to domestic production decreased from 4.9 percent in the first nine months of 1975 to 4.5 percent in the first nine months of 1976.

CONTRIBUTED IMPORTANTLY

Customers of William Powell Company indicated that they did not shift purchases from William Powell to imported sources. Some customers who reduced purchases from William Powell indicated that lack of new construction starts reduced the demand for the type of valves made by William Powell. Some customers indicated that they shifted purchases to other domestic manufacturers whose valves were priced lower than the valves made by William Powell.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the valves produced at Plant No. 1 (Springgrove Avenue) and Plant No. 2 (Colerain Street) of William Powell Manufacturing Company in Cincinnati, Ohio did not contribute importantly to the total or partial separations of workers at the plants as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 24th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9970 Filed 4-4-77;8:45 am]

[TA-W-1249]

WORCESTER CONTROLS 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-1249; investigation regarding certification of eligibility to apply for 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 by the United Steelworkers of America on behalf of workers and former workers producing ball valves and actuators at the West Boylston, Massachusetts plant of Worcester Controls Corporation.

The notice of investigation was published in the FEDERAL REGISTER on November 23, 1976 (41 FR 51635). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Worcester Controls Corporation, 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 although the first three criteria have been met, the fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of hourly production workers declined 16.4 percent from 1975 to 1976. Average quarterly employment declined 27.0 percent during the last quarter of 1975 and declined 23.8 percent, 23.4 percent, and 17.1 percent, respectively, during the first three quarters of 1976, as compared to the corresponding quarters of previous years. Employment increased 3.1 percent during the fourth quarter of 1976, as compared to the same quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The dollar value of total sales declined 25.9 percent, 16.9 percent and 5.0 percent, respectively, during the last quarter of 1975 and the first two quarters of 1976, as compared to the corresponding quarters of previous years. Sales increased 6.6 and 36.7 percent, respectively, during the last two quarters of 1976, as compared to the same quarters of 1975. Production, in terms of units produced declined 22.9 percent from 1974 to 1975 and then declined 3.9 percent from 1975 to 1976. Production declined 34.4 percent, 22.0 percent and 5.6 percent respectively, during the last quarter of 1975 and the first two quarters of 1976, as compared to the corresponding quarters of previous years. Production increased 3.3 percent and 17.5 percent, respectively during the last two quarters of 1976, compared to the same quarters of 1975.

INCREASED IMPORTS

Imports of valves and similar devices increased both absolutely and relatively from 1971 to 1975. During the first nine months of 1976, imports increased 5.2 percent, as compared to the first nine months of 1975. During the same period domestic production increased 12.6 percent. The ratios of imports to domestic production and consumption decreased from 4.9 percent and 5.3 percent, respectively, in the January-September period of 1975 to 4.5 percent and 5.0 percent, respectively, in the same period of 1976. Worcester Controls Corporation imports ball valves, actuators and component parts from corporate facilities located in England. Imports of the above items increased 142.8 percent from 1974 to 1975 and then declined 34.5 percent from 1975 to 1976.

Most imports of valves and similar devises into the U.S. are primarily of the less highly sophisticated, mass produced type. Worcester Controls Corporation manufactures high quality, high priced, specialized valves.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that customers of Worcester Controls have not switched to purchases of imported ball valves and actuators. Customers surveyed indicated that ball valves and actuators manufactured by Worcester Controls are of high quality and that the firm has an established reputation as being one of the leading manufacturers in the field. They attribute their reduced purchases to the general downturn in the economy.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ball valves and actuators produced at the West Boylston, Massachusetts plant of Worcester Controls Corporation have not contributed importantly to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 25th day of March 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-9976 Filed 4-4-77;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 March 29, 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

NATIONAL SCIENCE FOUNDATION

Survey of Research and Development in Small Companies, single time, small R. & D.-performing companies, Gaylord Worden, 395-4730.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Political Risk Insurance Market Survey, OPIC-65, single time, individuals, Gaylord Worden, 395-4730.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, Directory Survey of Criminal Justice Agencies, CJ-37, 38, 39, 40, single time, public criminal justice agencies, Ellett, C. A., 395-5867.

DEPARTMENT OF LABOR

Employment and Training Administration, title VI, Economic Stimulus TWX Report, ETA-3, weekly, State and local agencies, Housing, Veterans and Labor Division, Lowry, R. L., 395-3532.

REVISIONS

VETERANS ADMINISTRATION

Application (Medical) for Reinstatement-Life Insurance/Disability Income Prov., 29-352, on occasion, insured veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, custom work rates, annually, custom operators and farmers, Gaylord Worden, 395-4730.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, study of needs and capabilities of county law enforcement agencies, single time, sheriffs and county police departments, Ellett, C.A., 395-5867.

EXTENSIONS

SMALL BUSINESS ADMINISTRATION

Technology Utilization Program—Evaluation Survey, SBA-941, annually, small businesses, Marsha Traynham, 395-4529.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

Qualifications Inquiry—Administrative, Scientific and Technical, Clerical, AEC 581 A, on occasion, personal references listed by job candidate, Marsha Traynham, 395-4529.

DEPARTMENT OF COMMERCE

Bureau of Census, Inventory Valuation Wholesale Establishments (supplement), BUS-231(W), BUS-231(L), BUS-231(I), annually, wholesale firms, Laverne V. Collins, 395-5867.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, request for approval of loan correspondent as mortgagee, 2001-D, on occassion, mortgage companies, Housing, Veterans and Labor Division, 395-3532.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 77-10151 Filed 4-4-77;8:45 am]

LABOR ADVISORY COMMITTEE ON STATISTICS

Notice of Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Labor Advisory Committee on Statistics to be held in Room 10103, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on Tuesday, May 10, 1977 at 2 p.m.

The purpose of the meeting is to obtain advice on the content of several important Federal statistical programs and on possible improvements in Federal statistical programs. The meeting will be open to public observation and participation.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-10152 Filed 4-4-77;8:45 am]

POSTAL RATE COMMISSION

[Order No. 156 Docket No. RM77-5]

RULES OF PRACTICE AND PROCEDURE

Order Granting Rule 22 Waiver and Deferring Rulemaking Proceeding

MARCH 29, 1977.

On February 18, 1977, the United States Postal Service (Postal Service or Service) filed a "Petition to Initiate Rulemaking" for the purpose of amending § 54(f)(2) of the Commission's rules of practice (39 CFR 3001.54(f)(2)) which defines the test period in rate proceedings. The Postal Service requested that the test year be defined so that it is not limited to a fiscal year. On February 24, 1977 (42 FR 12102, March 2, 1977), the Commission issued a notice indicating that it intended to treat the Service's petition as a request for waiver pursuant to rule 22 (39 CFR 3001.22) and requested comments.[1]

Comments have been filed by the Postal Service, the OOC, United Parcel Service (UPS), and the Association of American Publishers (AAP).[2] With the exception of AAP, all the parties support (albeit with qualifications) the Commission's proposal and suggest that the waiver be granted. Upon review of all the comments filed, the Commission has decided to grant the relief requested by the Service in the form of a one-time waiver for the next rate case.

OPPOSITION OF AAP

In its comments AAP states that the Service's petition be denied and that no waiver be granted. In support of its position the following arguments are made: (1) The statute and the analogous case law do not recognize the use of such "novel and doubtful ratemaking procedures"; (2) The contemplated test period is too future to permit accurate cost estimates; (3) Adoption of the Service's proposal will leave a "gap in the continuum of information" so as not to permit verification of future cost estimates; (4) The lack of adjustments taken at the end of the fiscal year may distort the data; and (5) the possibility of distortion will complicate and protract the ratemaking proceedings.

At the outset we would note that AAP misreads the Service's petition. The Service has not proposed that the test period begin more than 12 months in the future. In fact its petition specifically disavows that such a change in rule 54 (f)(2) is contemplated.[3] Accordingly, the argument that the proposal would result in more speculative cost estimates because the test period is too far in the future is totally without merit since the Service would be under the same 12 month limitation that has been in existence since 1973 when the rules were adopted. The test period still cannot begin more than 12 months subsequent to the filing date of the formal request.[4]

AAP cites no cases to buttress its statement that the instant proposal involves "novel and doubtful ratemaking procedures." There is nothing novel or doubtful about recognizing the importance of a forward-looking test year.[5] We find nothing in 39 U.S.C. 3621 which requires the use of a fiscal year as the test period. In fact, we believe the self-sufficiency standard of section 3621 requires a certain flexibility in choosing the test period. The courts have consistently approved this type of flexibility as long as the resultant rates are reasonable.[6]

The argument that the proposal will leave a "gap in the continuum of information" has been answered by the Postal Service in its reply comments. There the Service represents that it will supply the requisite cost data for all periods from the base year[7] to the test year as required by rule 54(f)(1).

AAP's observations concerning year-end adjustments and the possibility of delay and controversy are also not very compelling. As the Service points out in its reply, year-end adjustments can be accommodated to the non-fiscal year format. With respect to delay and controversy, every rate case is replete with the potential for such, and we cannot let this stand in the way of the discharge of our statutory functions. As we have in the past, we will deal with these matters as they arise. We believe there is less likelihood of delay and controversy if we settle the ground rules before a case is filed, rather than treat the problem on an ad hoc basis as AAP appears to suggest.

UPS AND OOC COMMENTS

While supporting a waiver of rule 54(f)(2), UPS and OOC would attach certain conditions to it. UPS requests that actual costs and volumes for the

[1] In a separate order, the Commission also designated the Assistant General Counsel, Litigation as the Officer of the Commission (OOC).

[2] The Postal Service also filed reply comments.

[3] See Postal Service Petition to Initiate Rulemaking, p. 2; see also Postal Service Reply Comments, p. 9.

[4] It might be observed that there exists the potential for a possible violation of 39 U.S.C. 3641(b) and 3621 if temporary or permanent rates were implemented prior to the beginning of the test year. However, this is a matter for the Governors and not the Commission since the Governors have unilateral authority to implement both permanent and temporary rates. 39 U.S.C. 3625, 3641(a). See also Docket No. R71-1, PRC Order No. 25 (January 6, 1972); *DMAA v. USPS*, 458 F.2d 813 (D.C. Cir. 1972).

[5] See PRC Op. R76-1, App. B.

[6] See, e.g., *FPC v. Hope Natural Gas*, 320 U.S. 591, 602 (1944); *American Public Power Association v. FPC*, 522 F.2d 142 (D.C. Cir. 1975).

[7] We discuss later what base year data should actually be submitted. See pp. 5-7, infra.

non-fiscal year be developed and filed with the Commission upon completion of the test year, whether or not the record in the rate case in question is still open. In rule 54(n), as amended, the Commission requires reconciliation of cost and volume estimates in the case after the case in question. Whether or not we should require a reconciliation prior to that time is a question we need not decide at this time. Since we intend to address this entire matter again in a rulemaking proceeding sometime in the near future, we can decide then what additional data, if any, is needed, to evaluate a potential change in the test year rule.

Both OOC and UPS indicate that the Service should file additional data comparable to the non-fiscal test year data that will be supplied. OOC argues that the Service should file estimated data for the hybrid year in between the base and test years. To use the example offered by OOC, if the Postal Service chose to file a request on May 1, 1977, utilizing the base year of FY 1976 and a test year consisting of part FY 1978 and part of FY 1979, it is argued that the Service should also supply the estimated data for part of FY 1977 and part of FY 1978. According to OOC, test year estimates could be better tracked with such a procedure.

UPS, on the other hand, "assumes" that the Service will submit actual revenue data for years comparable to the non-fiscal test year selected by the Service. Stated differently, UPS expects that base year revenues will be put into a hybrid year format.

The Postal Service opposes both suggestions primarily on the basis of undue burden. With respect to the OOC position, the Service states that "multiple" test years would not aid any kind of reasonable tracing process and would delay the filing of a case for months. In response to UPS, the Service states that construction of hybrid base periods would be time consuming and very expensive. In addition, it is contended that hybrid base years will not be comparable with information now on file with the Commission, thus making time series and other serial analyses very difficult.

As an alternative to these approaches, the Service makes the following proposal. First, it would file estimated costs for FY 1977 and as a separate submission give its best estimate of expenses for the period from the end of FY 1977 to the beginning of the non-fiscal test period—approximately six months in duration. At the time the President's Budget is compiled, probably in the fall of 1977, the Service would file its most recent cost and revenue data for FY 1978.

We believe the Service's proposal is a reasonable solution to the problem of tracing the changes in costs and revenue from the base year to the test year. All gaps in time and financial data from FY 1976 to the test year will be filled in and the cost development for each successive period can be compared.[8]

However, the Commission is not persuaded that some type of hybrid base year data is not necessary in addition to the fiscal year data that will be supplied. At present, our rules are constructed so that base and test years are both developed on the basis of fiscal year data. Without some actual historical data presented on a nonfiscal year basis for comparison purposes, we will not be able to fully explore the reasonableness of a nonfiscal year approach, which is admittedly experimental at this stage. Consequently, as a condition to a grant of the waiver we will require the Service to file nonfiscal base year data, which is comparable to the proposed test year (i.e., each would begin with the same postal quarter).

In conditioning our grant of the waiver we are also mindful of the potential burden on the Service as well as the potential delay involved. Therefore, the Service will have 2 months from the date it files its rate case to submit the data in question.[9] In addition, we will give the Service an opportunity to file a petition for reconsideration of this requirement if it wishes to demonstrate that the burden involved outweighs the benefit that might accrue. Such a petition should be filed concurrently with the Service's next rate change request. Other parties may also file additional comments on this one point in order to more fully explore this matter. The Commission will provide for the filing of such comments and for replies to the Service's petition for reconsideration (if one is filed), by further order to be issued shortly after the next rate request is filed.

The other conditions suggested by OOC and UPS either will be met voluntarily[10] by the Service or are not appropriate at this time. UPS states that the requirement of rule 54 (g), (k)(2) and (k)(3) (39 CFR 3001.54 (g), (k)(2), (k)(3)) should be observed in future proceedings in terms of a nonfiscal period. These rules concern the filing of actual accrued costs. To the extent we are requiring such a filing in this case, this request has been granted. With respect to future proceedings, as stated earlier, we will address this matter in a later rulemaking.[11]

Conclusion

It appears that the requirements for a rule 22 waiver of section 54(f)(2) of our rules have been met. Such a waiver will not unduly prejudice the interests of other participants and is consistent with the public interest as well as the Commission's expeditious discharge of its responsibilities under the Act. We find that the self-sufficiency standard of 39 U.S.C. 3621, the potential for rate stability, and the Service's inability to impose temporary rates 100 days after a rate filing all require this action.

Therefore, the Commission orders:

(1) The Postal Service is granted a one-time waiver of 39 CFR 3001.54(f)(2) so as to permit the filing of test year data on a non-fiscal year basis.

(2) The Postal Service shall also file additional base year data on a non-fiscal year basis within 2 months after its rate filing, as explained elsewhere in this order.

(3) The rulemaking requested by the Service is deferred until further notice.

By the Commission.[12]

David F. Harris,
Secretary.

Commissioner Saponaro, Concurring in Part and Dissenting in Part

I concur in granting the Postal Service a waiver of the fiscal year test period requirement of sections 54(f)(2), et al. of the rules of practice and procedure.

In agreeing with this waiver, however, I dissent to the Commission's failure also to require the Postal Service's "non-fiscal year" test period to begin not more than ten (vice twelve) months from the filing date of its formal request. Such a change would then conform our Rules, as now being waived, to the statute, as amended.[13]

In other words, the present statute, as amended, coupled with the "non-fiscal year" test period granted by this order, without changing the start of the test period from twelve months to ten months after the filing, can give rise to the collection of rate revenues, either temporary or permanent, prior to the incurrence of the test year costs. (See 39 U.S.C. 3621, 3624(c)(1), 3641(a)-(c), as amended)

Although note 1 at page 3 of this order acknowledges, in part, my concern, it casts the problem as one of jurisdiction and, thus, fails to come to grips with our responsibilities under the statute, as amended. What is in issue here is conforming the beginning of the "non-fiscal year" test period to our responsibility to decide a case within a ten month timeframe. The issue—whether you assume a ten month recommended decision, or not—is not to alert the Governors to their possible inability to implement either permanent or temporary rates because the test period will not commence for another two months.

[FR Doc.77-10019 Filed 4-4-77;8:45 am]

[8] We would expect that Transition Quarter data will also be supplied so as to avoid any information gaps and hereby aid in the expedition of the rate case by providing such information concurrently with the rate request.

[9] Ideally, the hybrid base year would consist of part FY 1976 and Part FY 1977 so as to make available the most recent actual data. If this is not possible, we would consider accepting part FY 1975 and part FY 1976, but this seems less desirable. In any case, we expect the Service to make a good faith effort to comply. See 39 U.S.C. 3624(c)(2), as amended.

[10] The Service states that four consolidated quarters will be used, and not any random 12-month period.

[11] This also applies to the question of certifying the supporting historical data as required by 39 CFR 3001.54(q), as amended.

[12] Commissioner Saponaro concurring in part and dissenting in part, separate statement attached hereto.

[13] 39 U.S.C. 101 et seq., as amended by the "Postal Reorganization Amendments of 1976", Pub. L. No. 94-421, 90 Stat. 1303 (Sept. 24, 1976).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19970; 70-5992]

ALLEGHENY POWER SYSTEM, INC., ET AL.

Proposed Issuance and Sale of Common Stock by Subsidiary Companies to Holding Company and Proposed Amendment of Charter of Subsidiary To increase Authorized Shares of Common Stock

MARCH 30, 1977.

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, New York 10022; Monongahela Power Company, 1310 Fairmont Avenue, Fairmont, Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Company, Cabin Hill, Greensburg, Pennsylvania 15601.

Notice is hereby given that Allegheny Power System, Inc. ("APS"), a registered holding company, and three of its public-utility subsidiary companies, Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("PE"), and West Penn Power Company ("West Penn"), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10, and 12 thereof and Rule 50(a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

PE, West Penn, and Monongahela propose to issue and sell common stock to APS from time to time prior to December 31, 1977, and APS proposes to acquire such common stock in amounts and for a consideration not to exceed those set forth below:

	Maximum number of shares	Cash consideration
Monongahela: Common stock—$50 par	400,000	$20,000,000
PE: Common stock—no par	1,500,000	20,000,000
West Penn: Common stock—no par	1,500,000	30,000,000

The net proceeds of the issuance and sale of the common stock by Monongahela, PE, and West Penn will be used by each of them for their construction programs and for other corporate purposes. For the year 1977, construction expenditures are estimated at $81 million in the case of Monongahela, $88 million in the case of PE, and $139 million in the case of West Penn. All of the presently outstanding common stock of Monongahela, PE, and West Penn is owned by APS.

APS proposes to obtain the additional funds necessary to purchase the aforesaid common stock of Monongahela, PE, and West Penn from internal cash generation, short-term borrowings (See File No. 70-5809), and the issuance and sale of such other securities as may be authorized. As of March 1, 1977, APS had no short-term borrowings and no commercial paper outstanding.

PE proposes to amend its charter to increase the number of shares of common stock which it is authorized to issue from 6,000,000 shares to 6,875,000 shares.

It is estimated that total expenses, including legal fees, to be incurred by APS, Monongahela, PE, and West Penn will not exceed $5,500. It is stated that the West Virginia Public Service Commission, the Ohio Public Utilities Commission, the Virginia State Corporation Commission, the Pennsylvania Public Utility Commission, and the Maryland Public Service Commission have jurisdiction over the proposed transactions. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 25, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-10031 Filed 4-4-77;8:45 am]

[Release No. 19964; 70-5991]

COLUMBIA GAS SYSTEM, INC. ET AL.

Proposed Intrasystem Financing

MARCH 28, 1977.

In the Matter of the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of New York, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of Ohio, Inc., 99 North Front Street, Columbus, Ohio 43215; Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314; Columbia Gulf Transmission Company, 3805 West Alabama Avenue, Houston, Texas 77027; Columbia Hydrocarbon Corporation, Columbia Coal Gasification Corporation, the Inland Gas Company, Inc., 340-17th Street, Ashland, Kentucky 41101; Columbia Gas Development Corporation, Columbia LNG Corporation, Columbia Gas Development of Canada Ltd., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company and Columbia Gas of West Virginia, Inc. ("Columbia of West Virginia"), Columbia Gas of Kentucky, Inc. ("Columbia of Kentucky"), Columbia Gas of Virginia, Inc. ("Columbia of Virginia"), Columbia Gas of Pennsylvania, Inc. ("Columbia of Pennsylvania"), Columbia Gas of New York, Inc. ("Columbia of New York"), Columbia Gas of Maryland, Inc. ("Columbia of Maryland"), Columbia Gas of Ohio, Inc. ("Columbia of Ohio"), Columbia Gas Transmission Corporation ("Transmission") Columbia Gulf Transmission Company ("Gulf Transmission"), Columbia Hydrocarbon Corporation ("Hydrocarbon"), Columbia Coal Gassification Corporation ("Coal Gassification"), The Inland Gas Company, Inc. ("Inland"), Columbia Gas Development Corporation ("Development U.S."), Columbia LNG Corporation ("Columbia LNG") and Columbia Gas Development of Canada, Ltd. ("Development Canada"), all of which are wholly-owned subsidiaries of Columbia, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(b), 9, 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50(a)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below for a complete statement of the proposed transactions.

The estimated expenditures by Columbia's subsidiaries for construction programs and gas supply projects for 1977 are as follows:

	Gross additions	Net salvage and noncash items	Net capital expenditures
Columbia of Kentucky	$1,120,000	($10,000)	$1,148,000
Columbia of Ohio	14,392,000	385,000	14,007,000
Columbia of Maryland	829,000	86,000	743,000
Columbia of New York	1,255,000		1,255,000
Columbia of Pennsylvania	7,290,000	1,106,000	6,184,000
Columbia of Virginia	956,000	(8,000)	964,000
Columbia of West Virginia	4,384,000	639,000	3,745,000
Transmission	88,628,000	12,411,000	76,217,000
Gulf Transmission	62,875,000	4,250,000	58,625,000
Development United States	85,920,000	2,301,000	83,579,000
Development Canada	15,652,000		15,652,000
Columbia LNG	25,370,000	9,870,000	15,500,000
Hydrocarbon	2,338,000	40,000	2,298,000
Inland	4,514,000	318,000	4,196,000
Coal Gasification	22,857,000	482,000	22,375,000
Totals	338,409,000	31,951,000	306,458,000

Certain subsidiaries plan to finance a part of their capital expenditure programs and other corporate needs with funds generated from internal sources and to finance the balance prior to April 1, 1978, through their issuance and sale to Columbia of Common stock, and unsecured Installment Promissory Notes ("Installment Notes") up to the amounts indicated:

	Equity			Installment notes aggregate amount	Total
	Number of shares	Par value	Aggregate amount		
Columbia of Kentucky				$400,000	$400,000
Columbia of Ohio				7,300,000	7,300,000
Columbia of Maryland				400,000	400,000
Columbia of New York				800,000	800,000
Columbia of Pennsylvania				5,100,000	5,100,000
Columbia of Virginia				700,000	700,000
Columbia of West Virginia	200,000	$25	$5,000,000		5,000,000
Gulf Transmission				18,000,000	18,000,000
Development United States				45,000,000	45,000,000
Development Canada	800,000	25	20,000,000		20,000,000
Columbia LNG				55,000,000	55,000,000
Hydrocarbon				1,500,000	1,500,000
Inland				2,300,000	2,300,000
Coal Gasification	528,000	25	13,450,000	13,450,000	26,900,000
Totals			38,450,000	149,950,000	188,400,000

The Installment Notes will be nonregistered and dated the date of their issue. The principal amounts will be due in twenty equal annual installments on March 31st of each of the years 1979 to 1998, inclusive (except for Coal Gasification). The Installment Notes issued by Coal Gasification in amounts of up to $13,450,000 will be due in equal annual installments on each March 31st commencing the fifth year after the date of issuance. Interest on all notes will accrue from the date of issuance and is to be paid semi-annually in accordance with the provisions of said note on the unpaid principal thereof until fully paid. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures or preferred stock prior to the issuance of said Installment Notes, decreased by an amount necessary in order that the interest rate be a multiple of 1/10 of 1 percent. Columbia sold $75,000,000 principal amount of debentures on May 19, 1976 (HCAR No. 19518), at a cost of money of 9.327 percent, and may sell additional long-term securities during the financing period. The Installament Notes to be issued initially will, therefore, bear an interest rate of 9.3 percent and Installment Notes to be issued subsequent to Columbia's future financings will carry an interest rate related to the last such sale of securities prior to the issuance of said Notes. None of the Installment Notes will be purchased by Columbia subsequent to March 31, 1978.

Columbia also proposes to advance on open account to certain subsidiaries, and have outstanding from time to time as needed, up to $322,000,000 to finance the purchase by such subsidiaries of underground storage gas inventories and miscellaneous other inventories and for short-term seasonal purposes. Substantially all of such advances are expected to be taken down by December 31, 1977, however, a portion of such advances may be taken down during the period January 1, 1978, through May 31, 1978. All such advances are to be repaid on or before May 31, 1978.

Two subsidiary companies, Transmission and Columbia of Pennsylvania, operate facilities for the underground storage of natural gas and, during the offpeak seasonal periods, purchase gas for storage in such underground facilities to be held in storage until the following winter when it is withdrawn from storage and sold. Certain other subsidiaries are included in a winter service tariff provision under which such companies prepay the commodity portion of the service for storage inventory gas during the summer months, against which prepayments, the commodity charge would be credited for winter deliveries. The subsidiaries also have additional cash requirements to finance normal seasonal growth in miscellaneous operating and maintenance supplies, inventories and for other short-term seasonal requirements. Columbia states that the most economical method of financing these inventories and other short-term seasonal requirements of subsidiary companies is for Columbia to provide such funds on a short-term basis to its subsidiaries; borrowings are to be made as needed during the summer months and to be repaid during the winter from the proceeds of the sale of gas.

The advances to be made by Columbia with respect to each subsidiary will be limited to the following maximum aggregate principal amounts:

Columbia of Ohio	$70,700,000
Columbia of West Virginia	18,000,000
Columbia of Kentucky	8,100,000
Columbia of Virginia	2,700,000
Columbia of Pennsylvania	17,900,000
Columbia of Maryland	600,000
Columbia of New York	3,000,000
Transmission	150,000,000
Hydrocarbon	6,000,000
Columbia LNG	45,000,000
Total	322,000,000

The open account advances will initially bear interest at the minimum commercial lending rate in effect from time to time at Morgan Guaranty Trust Company of New York. Interest charges to the subsidiaries will be adjusted, after the storage financing period, to the effective interest cost Columbia achieves on its short-term borrowing for this purpose.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,000. It is stated that authorization for the sale of securities is required from the various state public utility regulatory commissions for Columbia of Kentucky, Columbia of Ohio, Columbia of New York, Columbia of Pennsylvania, Columbia of Virginia and Columbia of West Virginia.

It is further stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is stated that the issuance of the Installment Notes and common stock by subsidiaries is excepted from the competitive bidding requirements of Rule 50 by reason of paragraph (a) (3) thereof since the acquisition by Columbia of the Installment Notes and common stock will have been approved by this Commission pursuant to Section 10 of the Act. It is further requested that the applicants be authorized to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

Notice is further given that any interested person may, not later than April 21, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the isues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such re-

quest should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporation Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-9978 Filed 4-4-77;8:45 am]

[File No.: 2-23763 (22-3905)]

MARYLAND NATIONAL BANK

Application and Opportunity for Hearing

MARCH 31, 1977.

Notice is hereby given that Maryland National Bank (the "Bank") has filed an application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of the Bank under three trust agreements, each securing a proposed issue of pollution control bonds to be issued by a political subdivision of the State of Maryland for the benefit of Baltimore Gas and Electric Company (the "Company"), will not disqualify the Bank from continuing to act as trustee under an indenture dated as of August 1, 1965 with the Company, pertainin gto its issue of 4⅝ percent Sinking Fund Debentures due August 1, 1990 (the "1965 Indenture"), which Indenture is qualified under the Act. The three issues of pollution control bonds hereinabove referred to are proposed to be issued by the following political subdivisions of the State of Maryland and are presently expected to be authorized not to exceed the following amounts:

Political subdivision:	*Maximum authorized amount*
Anne Arundel County, Md	$6,000,000
Baltimore County, Md	5,00,000
Mayor and City Council of Baltimore	10,000,000

Each of the foregoing political subdivisions is hereinafter referred to as an "Issuer" and the pollution control bonds to be issued by an Issuer are hereinafter referred to as the "Proposed Bonds."

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of such Section provides that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereof, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under both indentures.

The Bank alleges that:

(1) As of March 1, 1977, there were outstanding under the 1965 Indenture $23,400,000 principal amount of 4⅝ percent Debentures due 1990.

(2) The Company is not in default under the 1965 Indenture.

(3) The Proposed Bonds will be limited obligations of the Issuer payable solely from and secured by a pledge of the revenue derived from payments which will be made pursuant to a loan agreement to be entered into between the Issuer and the Company (the "Loan Agreement") which will provide for the lending of the proceeds of the sale of the Proposed Bonds to the Company to finance the acquisition, construction, installation and equipping of certain pollution control facilities at certain of the Company's plants located within the geographic boundaries of the Issuer. The Proposed Bonds will not constitute general obligations of the Issuer nor an indebtedness or change against the general credit or taxing powers of the Issuer. The Proposed Bonds will be issued as term or as term and serial obligations.

Pursuant to the Loan Agreement, the Company will deliver to the Issuer certain of its First Refunding Mortgage Bonds in an aggregate principal amount equal to the aggregate principal amount of the Proposed Bonds to evidence and secure the Company's obligation to repay the loan. The First Refunding Mortgage Bonds will be issued under the Indenture of Mortgage or Deed of Trust dated February 1, 1919 between the Company and Bankers Trust Company, New York, New York, as trustee, as supplemented and amended, including a supplemental indenture to be dated as of the date the Proposed Bonds are issued.

The Proposed Bonds will be issued under a bond authorization resolution to be adopted by the Issuer which will include provisions constituting a trust agreement between the Issuer and a corporate trustee for the benefit of bondholders (the "Trust Agreement"). Payment of the principal of, the interest on and any redemption premium with respect to the Proposed Bonds will be secured by an assignment by the Issuer to the trustee, for the benefit of the holders of the Proposed Bonds, of the Loan Agreement and the rights of the Issuer thereunder including the evidence of the obligation of the Company to repay the loan evidenced thereby and the interest thereon. By virtue of section 304(a)(4)(B) of the Act, the Trust Agreement is not required to be qualified under the Act.

Maturity dates, interest rates and other details of the Proposed Bonds will be determined by resolutions to be adopted by the Issuer. Maturities and call dates of the Proposed Bonds will coincide in all respects with the Company's payment schedule under the Loan Agreement.

The purpose of the issuance and sale of the Proposed Bonds will be to finance part or all of certain pollution control facilities at certain of the Company's plants located within the geographic boundaries of the Issuer through a loan of the proceeds of sales to the Company under the terms and conditions set forth in the Loan Agreement in order to control, reduce and abate pollution of the environment of the State of Maryland and of the Issuer and thus to protect natural resources, to encourage economic development and to protect the health, welfare and safety of the citizens of the State of Maryland and the Issuer.

(4) The participation by the Bank as trustee under one, two or all three of the Trust Agreements, each securing a separate issue of the Proposed Bonds, would not create a conflict of interest under the provisions of section 310(b)(1) resulting in the Bank being disqualified from continuing to act as trustee under the 1965 Indenture.

The Bank has waived notice of hearing, hearing and any and all rights to specify procedures under the rules of practice of the Securities and Exchange Commission.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at 1100 L Street NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than April 18, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-10089 Filed 4-4-77;8:45 am]

DEPARTMENT OF STATE

[Public Notice 533]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Availability of Report of the International Working Group on Radioactivity Objective for the Great Lakes Water Quality Agreement

The Department of State hereby gives notice that the report of the joint Canada-United States Working Group on Radioactivity Objective for the Great Lakes Water Quality Agreement is available for review and comment. This report, which is presently under review by both governments, was prepared under the terms of the Agreement on Great Lakes Water Quality, signed April 15, 1972.

The next of the report, together with the text of a dissenting opinion on the report's recommendation by the State of Minnesota, follows below.

Interested persons may submit their comments in writing to the Office of International Activities, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, on or before June 1, 1977. All comments received will be considered prior to completion of the review by the U.S. Government.

Dated: March 25, 1977.

DONALD R. KING,
Director, Office of Environmental Affairs.

REFINED RADIOACTIVITY OBJECTIVE FOR THE GREAT LAKES WATER QUALITY AGREEMENT

SUMMARY

This document represents the joint recommendations of U.S. and Canadian advisory groups on a radioactivity objective to preserve the water quality of the Great Lakes. The objective is in terms of a dose equivalent to ICRP Reference Man from a standard annual intake of the Great Lakes water. The recommended objective for the general water quality in the Great Lakes is that level of radioactivity which results in a whole body dose equivalent not exceeding one millirem. Release of radioactive materials shall be as low as reasonably achievable and controlled by specified actions at defined levels.

The Canada-United States Great Lakes Water Quality Agreement specified radioactivity as a constituent of water for which there should be an agreed Water Quality Objective. The relevant statements in the Agreement are as follows:

Annex 1, Section 1(h) states: "Radioactivity should be kept to the lowest practicable level. In any event, discharges should be controlled to the extent necessary to prevent harmful effects on health."

Annex 1, Section 7(b) further states: "for radioactivity, the objectives shall be considered in the light of the recommendations of the International Commission on Radiation Protection."

Further, this section requires the parties to consult for the purpose of considering "refined objectives for radioactivity".

Subsequently, advisory groups were formed in Canada and in the United States to consider the technical aspects involved in developing such "refined objectives". The present report was developed following extensive consultation between the two groups.

To restore and enhance water quality in the Great Lakes System, as called for in the Agreement, it is necessary to limit the quantity of radioactive materials introduced due to activities of the United States of America and Canada. An acceptable quality for water in the system can best be maintained by a vigorous application of appropriate control measures. These controls should be applied to radioactive effluents from point sources as well as run-off, drainage, and seepage from non-point sources, including aerial deposition.

The Radioactivity Objective for the Great Lakes Basin is based principally on three criteria: (1) Introduction of radioactive materials into System Waters should be permitted only when it results from socially beneficial activities.

(2) The concentration of radioactivity in the System Waters and in biota should not constitute an unacceptable health risk on either a long-term or short-term basis.

(3) Since the ingestion of any amount of radioactivity may involve some risk, additional controls should be instituted until their cost is incommensurate with any further reduction in potential health risks.

In keeping with these criteria, several recommendations have been agreed to. These recommendations refer to an Ambient Water Quality Objective, the control of radioactive releases, a defined hierarchy of Action Levels and the surveillance of Lake Waters. None of the proposed levels, including particularly the lowest, should be interpreted as necessarily defining an acceptable dose to the population using System Waters. The acceptability of any dose level depends on whether the three criteria given above are being met in a responsible manner. It is further proposed that these objectives be reviewed at least every five years to consider any necessary changes and to determine if they continue to reflect "as low as reasonably achievable".

AMBIENT WATER QUALITY

It is necessary to specify an ambient water quality level for the Lakes as a whole so that contributions from all sources including aerial deposition are taken into account. This water quality level is expressed in terms of the total equivalent dose to ICRP Reference Man integrated over 50 years. (TED_{50}). It is proposed that water quality outside of any Source Control Area, as defined herein, shall not result in a TED_{50} greater than one millirem to the whole body from daily ingestion of 2.2 liters of Lake water for one year. Therefore, even for lifetime (50 years) ingestion, the annual dose rate will not exceed 1 millirem per year. The total equivalent dose to a single organ or tissue shall be in proportion to the dose limit recommended by the ICRP for that tissue. Because levels in the lakes may fluctuate as a result of uncontrollable releases, such as fallout from weapon testing, it is further recommended that the one millirem value be reviewed at least every five years to ensure that the contribution from these uncontrollable releases does not constitute an unreasonable proportion of the dose.

CONTROL OF RELEASE OF RADIOACTIVE MATERIALS

Dumping of radioactive wastes or other radioactive material into waters of the Great Lakes system is prohibited. Dumping is defined as any deliberate disposal of packaged or unpackaged wastes or other matter from vessels, platforms or other man-made structures into the System Waters, but dumping does not include the release of effluents that are permitted by the responsible regulatory bodies.

Both the concentrations and quantities of radioactive materials released into the Great Lakes System shall be controlled to the extent necessary to protect public health and the environment. Releases of radioactive materials from each operation or type of operation should be controlled so as to conform with the ICRP recommendation that "all doses be kept as low as is reasonably achievable economic and social considerations being taken into account". (ICRP Pub. 22 1973).

Effluents should be controlled by the regulatory bodies having jurisdiction, taking into account the cost of further reductions, the efficacy of available additional control measures, and the significance of the potential reduction in public health risk associated with further discharge limitations.

A graded scale of actions for each identifiable source shall be implemented based on annual average measurements of the TED_{50} in water monitored at the periphery of each source control area, in accordance with the action conditions given below in Table I.

TABLE I.—*Action conditions*

Condition	Action required	Action level TED_{50} (mrem)
A	Periodic confirmatory monitoring.	Less than 1.
B	Source investigation and corrective action if releases are not as low as reasonably achievable.	Between 1 and 5.
C	Corrective action by responsible regulatory authorities.	In excess of 5.

Action levels are to be calculated in accordance with the dose models used by the ICRP.

The annual average shall be based on the average value of at least 4 measurements in a year. Since there is a relatively high probability of sampling error, measurements should be verified before action is taken.

When the concentrations of radionuclides in the water correspond to Condition A, no corrective action is indicated. However, periodic monitoring is required to confirm that the condition does not change.

When the concentrations of radionuclides in the water correspond to Condition B, an investigation must be conducted to identify the source and the cause. If this investigation demonstrates that releases are as low as reasonably achievable no further action is necessary; otherwise, corrective action shall be taken.

Concentrations of radionuclides in the water corresponding to Condition C probably reflect a failure of effluent controls and are unacceptable on a continuing basis. The responsible regulatory authorities shall determine appropriate corrective actions to minimize the public health risk.

SURVEILLANCE

Adequate periodic monitoring of System Waters, sediment, and the appropriate food organisms contained therein should be provided for those radionuclides likely to be present in measurable concentrations. Such monitoring should be conducted under the direction of the responsible Federal, State, and Provincial jurisdictions and reported to the International Joint Commission. The nuclides and food organisms investigated,

and sampling locations and frequency should take into account the known effluent sources and particular nuclides released.

The monitoring reports should include calculations of the TED_{50} to ICRP Reference Man from standard annual intake of the water since this is the parameter to be used in determining the applicable Action Condition. At present it is not necessary to determine explicitly the dose equivalents due to the intake of food harvested from the Lakes as they are relatively insignificant.

DEFINITIONS

1. *Total Equivalent Dose* (TED_{50}). For the purpose of this report, the total equivalent dose to a particular organ, tissue or the whole body is the cumulated dose equivalent over 50 years resulting from the daily ingestion of 2.2 liters of lake water for one year.

where:

$TED_{50} = \Sigma_i D_{50,i} Q_i N_i$ rem,

$D_{50,i}$ = total absorbed dose integrated over a period of 50 years after intake of the radionuclide "i",

Q_i = quality factor,

N_i = product of all other modifying factors.

ICRP report No. 10 [1] lists the dosimetric data, including the TED_{50}, for a number of radionuclides.

2. *Reference Man:* For the purpose of this report, Reference Man refers to the definitions and parameters for adult males outlined in ICRP Report 23.[2]

3. *Source Control Area:* It is proposed that the "source control area" be defined as follows: "The source control area shall be bounded by a distance of 1 km radius from the point of release or, in those cases where the release point is to a narrow channel or river, the boundary shall be a point 1 km downstream from the source."

It is further proposed that the operator of a facility can request a larger source control area subject to the approval of the regulatory authorities and similarly these authorities may require a more restrictive area from an operator.

4. *Ambient Water:* The water in the Great Lakes System outside the source control areas.

MINNESOTA POSITION AS PRESENTED TO THE AD HOC GROUP IN SEPTEMBER, 1974

An ad hoc Radioactivity Objective Committee has been formed to refine the radioactivity objectives of the Great Lakes Water Quality Agreement pursuant to Annex I, § 7(b).

Annex I to the agreement requires that "Radioactivity should be controlled to the extent necessary to prevent harmful affects on health." It is universally accepted by responsible bodies that radiation damage is a linear effect, that is, that radiation produces detrimental effects down to the lowest levels. The State of Minnesota believes that the linear theory of radiation damage and the Annex I requirement of preventing "harmful effects on health" require that any refinement of objectives for radioactivity in the Great Lakes allow no additional discharge of radioactivity to the Great Lakes.

Annex I, § 7(b) also requires that the refined objective for radioactivity * * * shall be considered in the light of the recommendations of the International Commission or Radiation Protection." The ICRP dose limits are recommended as upper limits. Allowing no additional discharge of radioactive waste to the Great Lakes will meet the ICRP limits. Consequently, our position has properly taken into account the position of the ICRP.

Minnesota further believes that any refinements of the radioactivity objectives should be consistent with the 1972 Federal Water Pollution Control Act Amendments. This would require that existing facilities provide the best practicable treatment by 1977, the best available treatment by 1983, and a goal of zero discharge by 1985.

[FR Doc.77-10075 Filed 4-4-77;8:45 am]

Agency for International Development

ADVISORY COMMITTEE ON VOLUNTARY FOREIGN AID

Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on April 25, 1977, from 9 a.m. to 5 p.m., in Room 1107, New State Building, 21st and Virginia Avenue NW., Washington, D.C.

The purpose of the meeting is to formulate recommendations for the Administrator concerning (1) the size, composition and membership of the Committee, and (2) to review the status of plans for the expanded registry and to consider such other matters related to the foreign assistance advisory concerns of the Committee as may be appropriate.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee and to the extent time available for the meeting permits. Written statements may be filed before or after the meeting.

Mr. Allan Furman will be the A.I.D. representative at the meeting. Information concerning the meeting may be obtained from Mr. Robert S. McClusky, Telephone: AC202-632-1892. Persons desiring to attend the meeting should enter the New State Building through the Diplomatic Entrance, 22nd and C Streets.

Dated: March 29, 1977.

ALLEN R. FURMAN,
Acting Assistant Administrator for Population and Humanitarian Assistance.

[FR Doc.77-10038 Filed 4-4-77;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

WRENCHES, PLIERS, SCREWDRIVERS, AND METAL-CUTTING SNIPS AND SHEARS FROM JAPAN

Antidumping Duties

AGENCY: United States Custom Service, Treasury.

ACTION: Notice of petition filed by American manufacturer, producer or wholesaler.

SUMMARY: This notice is to advise the public that a petition has been filed by an American manufacturer requesting that antidumping duties be assessed with regard to wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan. Interested persons are invited to comment on this action.

EFFECTIVE DATE: This notice is effective on April 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Lublinski, Classification and Valve Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-2938).

On March 15, 1977, a petition was received in proper form, pursuant to section 516(a) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (19 U.S.C. 1516(a)), from counsel acting on behalf of certain American manufacturers and wholesalers of wrenches, pliers, screwdrivers and metal-cutting snips and shears (including bolt cutters), among other things, asserting that a finding of dumping be issued and antidumping duties be assessed on those entries of the above-mentioned hand tools from Japan where it has been determined that sales were being made at prices less than the foreign market (or constructed) value, within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.). As a result of a negative determination of injury rendered by the International Trade Commission on October 21, 1974 (39 FR 38133), a finding of dumping was not made in this matter, and therefore merchandise of the class or kind in question was not subject to appraisement under the Antidumping Act.

The petition requested the following relief:

1. The Secretary of the Treasury or his delegate should conclude that the Tariff Commission (now "International Trade Commission;" hereinafter "Commission") erred, as a matter of law, when it concluded that an industry in the United States was not being injured or likely to be injured or prevented from being established by reason of imports of wrenches, pliers, screwdrivers and metal-cutting snips and shears from Japan sold at less than fair value ("LTFV");

2. The Secretary of the Treasury or his delegate should publish a finding of dumping with respect to wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan forthwith;

3. Appropriate Customs officers should make Antidumping Act appraisements (foreign market (or constructed) value and purchase (or exporter's sales) price) for every entry of wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan where it has been determined that the foreign market (or constructed) value exceeds the purchase (or exporter's sales) price.

4. Appropriate Customs officers should assess antidumping duties on those entries of wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan where it has been determined that the foreign market (or constructed) value exceeds the purchase (or exporter's sales) price.

In accordance with the provisions of § 175.21(a) of the Customs Regulations

---

[1] ICRP Pub. 10, 1968 Report of Committee IV, Pergamon Press.

[2] ICRP Pub. 23, 1975 Report of the Task Group on Reference Man, Pergamon Press.

(19 CFR 175.21(a)), notice is hereby given that a domestic producer has filed a petition requesting that antidumping duties be assessed with regard to wrenches, pliers, screwdrivers, and metal-cutting snips and shears from Japan. Before a decision is made with regard to this petition, consideration will be given to any relevant data, views or arguments submitted in writing. Submission should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than April 12, 1977.

Written submissions will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)), at the Classification and Value Division, Headquarters, United State Customs Service, Washington, D.C., during regular business hours.

VERNON D. ACREE,
Commissioner of Customs.

MARCH 30, 1977.

[FR Doc.77-10050 Filed 4-4-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 361]

ASSIGNMENT OF HEARINGS

MARCH 31, 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 71459 (Sub-No. 55), O. N. C. Freight Systems, now assigned April 12, 1977, is amended as follows: April 12 through 22 at San Francisco, Calif. at the Sir Francis Drake Hotel, Cypress Room & Sutter Streets, May 10 through May 13, at Grand Junction, Colo. at the Holiday Inn, 755 Horizon Drive and May 16 through May 20 at Pueblo, Colo. at the Ramada Inn, 2001 Hudson, Interstate Highway 25 and U.S. Highway 50 East.

MC 119974 Sub 61, L. C. L. Transit Company now being assigned June 14, 1977 (9 days) at Chicago, Illinois in a hearing room to be later designated.

MC 115826 Sub 263, W. J. Digby, Inc. now being assigned June 7, 1977 (14 days) at Seattle, Washington in a hearing room to be later designated.

FF-361 (Sub-1), Crest-Mayflower International, Inc., now assigned May 4, 1977 at Chicago, Illinois, is cancelled and transferred to Modified Procedure.

MC 106373 (Sub-35), The Service Transport Co., now being assigned June 1, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135235 Sub 5, Loma Cartage, Inc. now being assigned June 6, 1977 (1 week) at Chicago, Illinois in a hearing room to be later designated.

MC 127187 Sub 16, Floyd Duenow, Inc. now being assigned June 20, 1977 (1 week) at Minneapolis, Minnesota in a hearing room to be later designated.

MC 117940 Sub No. 187, Nationwide Carriers, Inc. now being assigned June 16, 1977 (2 days) at Minneapolis, Minnesota in a hearing room to be later designated.

MC 136786 Sub 103, Robco Transportation, Inc. now being assigned June 15, 1977 (1 day) at Minneapolis, Minnesota in a hearing room to be later designated.

MC 133490 Sub 11, Lee's Trucking, Inc. now being assigned June 14, 1977 (1 day) at Minneapolis, Minnesota in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10110 Filed 4-4-77;8:45 am]

[I.C.C. Order No. 27; S.O. No. 1252]

CONSOLIDATED RAIL CORP.

Rerouting or Diversion of Traffic

In the opinion of Joel E. Burns, Agent, the Consolidated Rail Corporation is unable to transport traffic routed via its car ferry between Norfolk, Virginia, and Cape Charles, Virginia, because of discontinuance of ferry service.

It is ordered, That (a) *Rerouting traffic.* The Consolidated Rail Corporation being unable to transport traffic routed via its car ferry between Norfolk, Virginia, and Cape Charles, Virginia, because of discontinuance of ferry service that line and its connections are hereby authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 2 p.m., March 24, 1977.

(g) Expiration date: This order shall expire at 11:59 p.m., May 31, 1977, unless otherwise modified, changed or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 24, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-10116 Filed 4-4-77;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 131, Amdt. 2]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Upon further consideration of Exemption No. 131 issued February 8, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 131 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire April 30, 1977.

This amendment shall become effective March 31, 1977.

Issued at Washington, D.C., March 28, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-10112 Filed 4-4-77;8:45 am]

[Rule 19, Ex Parte No. 241, 6th Rev. Exemption No. 123]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, that railroads named herein own numerous plain flat cars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain flat cars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FM", and having less than 200,000 lbs. carrying ca-

pacity, and bearing reporting marks assigned to railroads named below, shall be exempted from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka and Santa Fe Railway Company, Reporting Marks: ATSF
Missouri-Kansas-Texas Railroad Company, Reporting Marks: BKTY-MKT-MKTT
Missouri Pacific Railroad Company, Reporting Marks: C&EI-CEI-MP-TP [1]
Southern Railway Company, Reporting Marks: AEC-CG-NS-SOU-TA&G

Effective April 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 28, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-10113 Filed 4-4-77;8:45 am]

[Rule 19; Ex Parte No. 241, Corrected Exemption No. 104, Amdt. 6]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Upon further consideration of Corrected Exemption No. 104 issued October 7, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Corrected Exemption No. 104 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire August 31, 1977.

This amendment shall become effective March 31, 1977.

Issued at Washington, D.C., March 24, 1977.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[FR Doc.77-10114 Filed 4-4-77;8:45 am]

[Rule 19; Ex Parte No. 241; Exemption No. 135]

EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

It appearing, that The Alaska Railroad owns numerous plain flat cars; that under present conditions, there is virtually no demand for these cars on the line of the car owner; that return of these cars to the car owner would result in their being stored idle on its line; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain flat cars described in the Official Railway Equipment Register, I.C.C.–R.E.R. No. 402, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FM", bearing reporting marks assigned to The Alaska Railroad and identified below, shall be exempted from the provisions of Car Service Rules 1(a), 2(a) and 2(b).

The Alaska Railroad, Reporting Marks: ARR, Series 12900–12999 only.

Effective April 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, DC., March 25, 1977.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-10115 Filed 4-4-77;8:45 am]

[Notice No. 42]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 24, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 50069 (Sub-No. 520 TA), filed March 14, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Ave., Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Propane*, in bulk, in shipper-owned trailers, from Hastings, W. Va., to points in Pennsylvania, for 180 days. Supporting shipper: Robinson L. P. Gas Company, R. D. No. 1 Beaver Grade Road, Coraopolis, Pa. 15108. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 107002 (Sub-No. 498 TA), filed March 14, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: Edward M. Regan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insecticides*, liquid, in bulk, in tank vehicles, from Becker, Miss., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Tennessee and Texas, for 180 days. Supporting shipper: United States Steel Corporation, USS Agri-Chemicals Division, 233 Peachtree St., N.E., Atlanta, Ga. 30303. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 E. Amite Bldg., Jackson, Miss. 39201.

No. MC 107496 (Sub-No. 1070 TA), filed March 15, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid wood preservatives*, in bulk, in tank vehicles, from (1) Valparaiso, Ind., to Minneapolis, Minn.; Prairie du Chien, Wis.; Munising, Schoolcraft and St. Clair, Mich.; Washington Court House, Columbus and Orrville, Ohio; W. Elizabeth, Pa., and Henry, Tenn.; and (2) Bonham and Bryan, Tex., to Valparaiso, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Koppers Company, Inc., 850 Koppers Bldg., Pittsburgh, Pa. 15219. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 109028 (Sub-No. 15 TA), filed March 14, 1977. Applicant: S & W TRANSFER, INC., 1050 E. Bay St., Milwaukee, Wis. 53207. Aplicant's representative: Wm. P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products and lubricating oils*, in containers, from the plantsite and warehouse facilities of Mobil Oil Corporation, located at or near Cicero, Ill., to points in the Upper Peninsula of Michigan; and (2) Empty containers for petroleum products and lubricating oils, from points in the Upper Peninsula of Michigan, to Chicago, Ill. Restriction: Restricted to the transportation of shipments under a continuing contract with Mobil Oil Corporation, for 180 days. Supporting Shipper: Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522,

[1] Southern Pacific Transportation Company deleted.

Dallas, Tex. 75206. Send protests to: Gail Daugherty, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 109124 (Sub-No. 25 TA), filed March 15, 1977. Applicant: SENTLE TRUCKING CORPORATION, Box 7850, Toledo, Ohio 43619. Applicant's representative: James M. Burtch, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, limestone products and refractory materials*, from the plantsite of The J. E. Baker Company, located at or near Millersville (Sandusky County), Ohio, to Chicago, Ill.; Gary, Ind.; Flat Rock, Jackson, Taylor, Trenton, Warren and River Rouge, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The J. E. Baker Company, 232 E. Market St., York, Pa. 17405. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 110988 (Sub-No. 338 TA), filed March 15, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Giltedge Bldg., Neenah, Wis. 54911. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sulphate or liquid alum*, in bulk, in tank vehicles, from Wisconsin Rapids, Wis., to Des Moines and Waterloo, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Chemical Corporation, P.O. Box 1057R, Morristown, N.J. 07960. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Bldg., and Courthouse, 517 E. Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 111309 (Sub-No. 8TA), filed March 14, 1977. Applicant: NEWPORT TRUCKING CORP., c/o Franklin Swersky, Suite 1803, 744 Broad St., Newark, N.J. 07102. Applicant's representative: A. David Millner, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flavoring syrup and compounds* (except in bulk), from Long Island City, N.J., to the following points: Bristol, Fairfield, Windsor, Conn.; Wilmingotn, Del.; Annapolis, Baltimore, Cheverly, Havre DeGrace, Salisbury, Md.: Allston, Ayer, Cambridge, Mass.; Asbury Park, Atlantic City, Pennsauken, Teterboro, N.J.; Batavia, Buffalo, Cicero, Geneva, Memands (Albany), Newburgh, North Tonowanda, Rochester, Schenectady, Syracuse, N.Y.; Charlotte, Durham, Elkins, Fayetteville, Greensboro, Greenville, Hickory, Lumberton, New Bern, Raleigh, Rocky Mount, Wilmington, Winston Salem, Goldsboro, Kinston, Littleton, Roxboro, Selma, N.C.; Geistown, Mt. Pleasant, McKees Rock, Newville, Philadelphia, Pa.; Charleston, Cheraw, Columbia, Conway, Florence, Greenville, Spartanburg, S.C.; Charlottesville, Danville, Hollins, Lynchburg, Marion, Petersburg, Newport News, Norfolk, Va., under a continuing contract with Pepsi Cola Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pepsi Cola Company, Purchase, N.Y. 10577. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111401 (Sub-No. 482 TA), filed March 9, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *N-Pentane*, in bulk, in tank vehicles, from Shreveport, La., to Brownsville, Tex., in foreign commerce only, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Atlas Processing Company, P.O. Box 9389, Shreveport, La. 71109. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 11365 (Sub-No. 214 TA), filed March 14, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 N. Broadway, Muncie, Ind. 47303. Applicant's representative: Daniel C. Sullivan, 327 S. LaSalle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), from Union City and Humboldt, Tenn., to points in New York, New Jersey, Massachusetts, Connecticut, Rhode Island, Maryland, Michigan, Indiana, Ohio, Pennsylvania and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Reelfoot Packing Company, Reelfoot Ave., P.O. Box 689, Union City, Tenn. 38261. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 W. Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 115311 (Sub-No. 212TA), filed March 14, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Kim G. Meyer, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertisting matter*, from Belleville, Ill., to points in Alabama, Mississippi, Louisiana and Texas; and (2) *Empty malt beverage containers, malt beverage pallets, dunnage, damaged, refused, and rejected shipments of malt beverages*, from points in Alabama, Mississippi, Louisiana and Texas, to Belleville, Ill., for 180 days. Supporting shipper: Carling National Breweries, Inc., 3720 Dillon St., Baltimore, Md. 21224. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peach tree St., N.W., Room 546, Atlanta, Ga. 30309.

No. MC 120978 (Sub-No. 15TA), filed March 14, 1977. Applicant: REINHART MAYER, doing business as MAYER TRUCK LINE, 1203 S. Riverside Drive, Jamestown, N. Dak. 58401. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer ingredients*, from Clara City and Gluek, Minn., to points in North Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Cargill, Incorporated, Boc 9300, P.M.D. No. 20, Minneapolis, Minn. 55440. Martrex, Inc., 7701 Arboretum Blvd., Chanhassen, Minn. 55317. Send protests to: Ronald R. Mau, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127459 (Sub-No. 2TA), filed March 14, 1977. Applicant: ROBERT L. EMERY, R.D. No. 1, Brookville, Pa. 15825. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from the facilities of Robert L. Emery, at Brookville, Jefferson County, Pa., to Dunkirk, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A.R.G. Corporation, R.D. No. 1, DuBois, Pa. 15801. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 133966 (Sub-No. 48TA), filed March 14, 1977. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk), from Manistee, Mich., to points in Pennsylvania, New York and New Jersey, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hardy Salt Company, P.O. Drawer 449, St. Louis, Mo. 63166. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission,

314 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 138469 (Sub-No. 41TA), filed March 14, 1977. Applicant: DONCO CARRIERS, INC., 641 N. Meridian, P.O. Box 75354, Oklahoma City, Okla. 73107. Applicant's representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from the facilities of Bunte Candies, Inc., at Oklahoma City, Okla., to points in Alabama, Florida, Georgia, North Carolina, Ohio, Pennsylvania, South Carolina, Virginia and West Virginia, for 180 days. Supporting shipper: Bunte Candies, Inc., 129 E. California, Oklahoma City, Okla. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 139193 (Sub-No. 59TA), filed March 14, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52d St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K St., NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and liquid commodities in bulk), from the plantsite and storage facilities of John Morrell & Co., Sioux Falls, S. Dak., to points in Nebraska on and west of U.S. Highway 183, and points in Wyoming, under a continuing contract with John Morrell & Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Company, 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139193 (Sub-No. 60TA), filed March 14, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52d St., North, P.O. Box 1356, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K St. NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides, skins and tannery products), from Sioux City and Estherville, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia; and *such commodities* as are used by meat packers in the conduct of their business (except commodities in bulk, in tank vehicles and hides, skins and tannery products), from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia and the District of Columbia, to Sioux City and Estherville, Iowa, under a continuing contract with John Morrell & Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 140029 (Sub-No. 6TA), filed March 15, 1977. Applicant: CLIFFORD H. HALL, INC., Pearl St., Bliss, N.Y. 14024. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court St., Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bran*, in bulk, from the bulk loading facility of The Pillsbury Company, at Buffalo, N.Y., to Mansfield, Middlebury Center, Westfield, Wellsboro, Knoxville and Wysox, Pa., restricted to traffic destined to the facilities of Agway, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Agway, Inc., Feed Division, Box 1333, Syracuse, N.Y. 13201. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 W. Huron St., Buffalo, N.Y. 14202.

No. MC 140153 (Sub-No. 2TA), filed March 9, 1977. Applicant: JOE BRAND, INC., 601 N. Portland, P.O. Box 82461, Oklahoma City, Okla. 73108. Applicant's representative: Rufus H. Lawson, 106 Bixler Bldg., 2400 Northwest 23d St., Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, in packages and/or containers, in refrigerated equipment, from the plantsite of Wilsey-Bennett Company of Oklahoma, Inc., located in Oklahoma City, Okla., to points in North Carolina, South Carolina and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Wilsey-Bennett Company of Oklahoma, Inc., 3949 NW. 36th St., Oklahoma City, Okla. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 140267 (Sub-No. 3TA), filed March 14, 1977. Applicant: R. A. TRANSPORTATION, INC., 115 Jacobus Ave., South Kearny, N.J. 07032. Applicant's representative: S. Michael Richards, 44 North Ave., P.O. Box 14580, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bags, from Buffalo and Lockport, N.Y., and Martel, Ohio, to Baltimore, and Jessup, Md., under a continuing contract with Frank A. Serio and Sons, Inc., for 180 days. Supporting shipper: Frank A. Serio and Sons, Inc., 250 Dickman St., Baltimore, Md. 21230. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 140665 (Sub-No. 8TA), filed March 11, 1977. Applicant: PRIME, INC., Route 1, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies* (except commodities because of their size and weight require the use of special equipment), from Dover and Ashtabula, Ohio; Waverly and Pittsburgh, Pa.; Worth, Chicago Heights and Chicago, Ill.; Florence, S.C.; Sykesville, Md.; Kokomo, Ind., and St. Paul, Minn., to points in Arizona, California, Colorado, New Mexico, Utah, Nevada, Wyoming, Montana, Idaho, Oregon and Washington, for 180 days. Supporting shipper: Weldmatic Corporation, 300 Market St., Oakland, Calif. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141197 (Sub-No. 16TA), filed March 14, 1977. Applicant: FLEMING-BABCOCK, INC., 4106 Mattox Road, Riverside, Mo. 64150. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 W. 11th St., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Nowata, Craig, Ottawa, Delaware, Rogers and Mayes Counties, Okla., to the Kansas City Commercial Zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Tri-Con, Ltd., 2211 S. May Ave., Oklahoma City, Okla. City Power & Light Department, 21500 E. Truman Road, Independence, Mo. 64056. Custom Coal, 900 Walnut, Kansas City, Mo. 64106. Associated Products Co., 5005 N. Pennsylvania, Suite 105, Oklahoma City, Okla. 73112. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 141914 (Sub-No. 7TA), filed March 14, 1977. Applicant: FRANKS & SON, INC., P.O. Box 108A, Route 1, Big Cabin, Okla. 74332. Applicant's representative: Gary Brasel, Mezzanine Floor, Beacon Bldg., Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maple syrup* products, from the International Border, at or near Trout River, N.Y., to Chicago, Ill.,

and Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Canada Starch Co., Ltd., 1 Place du Commerce, Nuns' Island, Verdun, Quebec H3E 1A7. Send protests to Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 NW. Third St., Oklahoma City, Okla. 73102.

No. MC 141921 (Sub-No. 5TA), filed March 11, 1977. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03103. Applicant's representative: Daniel McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides skin, and commodities in bulk), from the plantsite and warehouse facilities of the Morgan Colorado Beef Company, at or near Fort Morgan, Colo., to points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, Delaware and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Morgan Colorado Beef Company, P.O. Box 437, Fort Morgan, Colo. 80701. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 425 Federal Bldg., 55 Pleasant St., Concord, N.H. 03301.

No. MC 142965 (Sub-No. 1TA), filed March 14, 1977. Applicant: RC CORPORATION, 100 California Ave., Reno, Nev. 89509. Applicant's representative: Robert J. Smeath (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer, wine, alcoholic beverages and related items*, from points in Los Angeles, San Francisco, San Mateo, Napa, Sonoma, Santa Rosa, Sacramento, San Joaquin, Fresno and Alameda Counties, Calif., on the one hand, to Reno, Nev., on the other, under a continuing contract with Luce and Son, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Luce and Son, Inc., 670 E. 6th St., Reno, Nev. 89502. Send protests to: W. J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 705 N. Plaza St., Carson City, Nev. 89701.

No. MC 143031 (Sub-No. 1TA), filed March 10, 1977. Applicant: LLOYD PAUL MURPHY, JAMES EDWARD MURPHY, TIMOTHY PAUL MURPHY AND ERNEST STEWART MURPHY, doing business as, MURPHY & SONS, Route 2, Box 139, Spring City, Tenn. 37381. Applicant's representative: Harlan Dodson, III, P.O. Box 2524, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *New furniture, furniture parts*, crated and uncrated, *materials and supplies* to be used by La-Z-Boy Chair Company, in manufacturing new furniture (except commodities in bulk). Restriction: The operations are limited to a transportation service to be performed, under a continuing contract with La-Z-Boy Chair Company; and (b)(1) from the plantsites and storage facilities of La-Z-Boy Chair Company, at or near Dayton, Tenn., to points in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina and Virginia; and (b)(2) from dealers of, customers of, plantsites and facilities of, and suppliers of La-Z-Boy Chair Company in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina and Virginia, to the plantsites and facilities of La-Z-Boy Chair Company, at or near Dayton, Tenn., and at or near Florence, S.C., under a continuing contract with La-Z-Boy Chair Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: La-Z-Boy Chair Company, P.O. Box 191, Walnut Grove Road, Dayton, Tenn. 37321. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, Tenn. 37203.

No. MC 143035 TA, filed March 15, 1977. Applicant: GUNDY H. ROBERTS AND MARY T. ROBERTS doing business as, GUNDY's TRANSFER & STORAGE, 301 Gundy's Lane, Enterprise, Ala. 36330. Applicant's representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Barbour, Coffee, Covington, Dale, Henry, Houston, Geneva and Pike Counties, Ala., restricted to the transportation of traffic having a prior or subsequent movement, in container, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization of unpacking, uncrating, or decontainerization of such traffic, for 180 days. Supporting shipper: Sunpak Movers, Inc., 100 W. Harrison Plaza, Seattle, Wash. 98119. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 143037 TA, filed March 15, 1977. Applicant: JERRY E. TILLER, doing business as T & T TRUCKING, 6632 E. Parlier Ave., Fowler, Calif. 93625. Applicant's representative: Edward L. Fanucchi, 2409 Merced St., Suite 3, Fresno, Calif. 93721. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil shortening, shortening meat fat, imitation cheese*, made from vegetable oils, margarine, liquid salad/cooking oil, salad dressing, lard, vegetable oil, and animal fat blend, table sauces, and cheese, from Shipper's plant in Fresno County, Calif., to Shipper's warehouse in Phoenix, Maricopa County, Ariz., and to other consignees at various destinations within the state of Arizona, under a continuing contract with Anderson Clayton Foods, 3390 S. Chestnut Ave., Fresno, Calif. 93725. Send protests to: Claud W. Reeves, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 143038 TA, filed March 14, 1977. Applicant: BAY AREA CARTAGE COMPANY, 801 Maritime St., Oakland, Calif. 94607. Applicant's representative: Floyd L. Farano, 2555 E. Chapman Ave., Fullerton, Calif. 92631. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as described by the Commission, between points in San Francisco, San Mateo, Contra Costa, Alameda, Santa Clara, Marin, Sonoma Counties, Calif., for 180 days. Supporting shipper: U.S. Department of Defense, Office of The Judge Advocate General, Department of The Army, Washington, D.C. 20310. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 500, San Francisco, Calif. 94105.

No. MC 143039 TA, filed March 14, 1977. Applicant: FREDERICO C. SEAMAN, doing business as SEAMAN TRUCKING, 1548 Melrose Ave., Chula Vista, Calif. 92011. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and street sweeping brushes or brooms and parts and accessories therefor*, between Pomona, Calif., and the port of entry between Pomona, Calif., and the port of entry between the United States and the Republic of Mexico, at or near San Ysidro, Calif. Applicant intends to interline at the port of entry with Mexican carrier, for 180 days. Supporting shipper: Merit Products de Mexico S. A. De C. V., Centro Ind. Las Brisas, 2 da. Secc. LOC No. 5, La Mesa, Tijuana, Baja, CA Republic of Mexico. Protests to: Linda H. Spyher, District Supervisor, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 N. Los Angeles, Calif. 90012.

No. MC 143040 TA, filed March 15, 1977. Applicant: SPRINGER VAN LINES, INC., 1212 W. Fairmont, Tempe, Ariz. 85282. Applicant's representative: William A. Booth, 606 S. Olive St., Suite 825, Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Arizona, restricted to the transportation of traffic having prior or subsequent movement in interstate or foreign commerce, further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization or unpack-

ing, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper: U.S. Department of Defense, Department of The Army, Washington, D.C. 20310. Send Protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10111 Filed 4-4-77;8:45 am]

[Notice No. 45]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 30, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 11722 (Sub-No. 53 TA), filed March 22, 1977. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Wash. 98953. Applicant's representative: Douglas A. Wilson, 303 E. D St., Yakima, Wash 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm supplies, limited to coir yarn, hop cloth, sisal, steel wire and paper twine*, restricted to traffic having a prior movement by water, from ports of entry at Seattle and Tacoma, Wash., and Portland, Oreg., to Yakima and Benton Counties, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hop Growers Supply Company, Inc., P.O. Box 325, Toppenish, Wash. 98948. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 33970 (Sub-No. 17 TA), filed March 11, 1977. Applicant: GEORGE HILDEBRANDT, INC., R.D. 2, Hudson, N.Y. 12534. Applicant's representative: Neil D. Breslin, Twin Towers—1111, 99 Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from White Marsh, Md., to points in New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Watkins Salt Company, Watkins Glen, N.Y. Send protests to: Robert A. Radler, District Supervisor, 518 Federal Bldg., P.O. Box 1167, Albany, N.Y. 12201.

No. MC 45893 (Sub-No. 13TA), filed March 21, 1977. Applicant: ROSS TRUCK LINES, INC., 1010 N. Pearl, P.O. Box 249, Paola, Kans. 66071. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Bldg., Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Welda, Kans., on the one hand, and Wolf Creek Generating Station and/or construction site located approximately 3 miles west of New Strawn, Kans., on the other, in connection with carrier's presently authorized operations, from Welda, Kans., over U.S. 169 to its intersection with Kansas Highway 57; thence westerly over Kansas Highway No. 57 to its intersection with U.S. Highway No. 75; thence north over said U.S. Highway No. 75 to New Strawn, Kans.; and thence west over County roads to the Wolf Creek Generating Station and or construction site, and return over the same route, serving no intermediate points; from Welda, Kans., westerly over County roads to Burlington, Kans.; thence north on U.S. Highway 75 to New Strawn, Kans.; and thence west over County roads to the Wolf Creek Generating Station and/or construction site, and return over the same route, serving no intermediate points, as an alternate route for operating convenience of the carrier. Applicant intends to tack and interline at Kansas City, Mo., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kansas Gas and Electric, P.O. Box 309, Burlington, Kans. 66839. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans 66603.

No. MC 52704 (Sub-No. 140TA), filed March 17, 1977. Applicant: GLENN MCCLENDON TRUCKING COMPANY, INC., P.O. Drawer "H", Opelika Hwy., LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., N.W., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and glass containers*, for food and beverages, from the warehouse facilities utilized by Laurens Glass Company, at or near Bernice, La., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Laurens Glass Company, P.O. Box 9, Laurens, S.C. 29360. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 61396 (Sub-No. 327TA), filed March 21, 1977. Applicant: HERMAN BROS., INC., 2565 St. Marys Ave., P.O. Box 189, Omaha, Nebr. 68101. Applicant's representative: John E. Smith, II (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, from the plantsite of ConAgra, Inc., at Fremont, Nebr., to points in Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Edward S. Duncza, Supervisor of Fleet Operations, ConAgra, Inc., 200 Kiewit Plaza, Omaha, Nebr. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 63871 (Sub-No. 3 TA), filed March 21, 1977. Applicant: ANDREWS & PIERCE INC., 1431 Bedford St., P.O. Box 97, North Abington, Mass. 02351. Applicant's representative: James E. Mahoney, 84 State St., Boston, Mass. 02109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, in containers; (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of malt beverages; and (3) *Empty glass bottles*, not exceeding one gallon capacity; (1) from South Volney, N.Y., to points in Massachusetts and Rhode Island; (2) from points in Massachusetts and Rhode Island, to South Volney, N.Y.; and (3) from Milford, Mass., to South Volney, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Miller Brewing Company, 4000 W. State St., Milwaukee, Wis. 53201. (2) Foster Forbes

Co., Division of National Can Co., National St., Milford, Mass. 01757. Send protests to: D. W. Hammons, District Supervisor, Interstate Commerce Commission, 150 Causeway St., Room 501, Boston, Mass. 02114.

No. MC 82492 (Sub-No. 146 TA), filed March 22, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodites in bulk), as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Hygrade Food Products, at or near Storm Lake and Cherokee, Iowa, to points in Indiana and Ohio, for 180 days. Supporting shipper: Hygrade Food Products Corporation, Detroit, Mich. 48219. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 83539 (Sub-No. 455TA), filed March 18, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 W. Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), from the plantsite of Ford Motor Company, at Romeo, Mich., to points in the United States, east of Montana, Wyoming, Colorado and New Mexico (except Michigan), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Company, Ford Tractor Operations, 2500 E. Maple, Troy, Mich. 48084. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 94597 (Sub-No. 1TA), filed March 21, 1977. Applicant: HENRY LAMBERT TRUCKING CO., INC., 101 First Ave., N.E., Minneapolis, Minn. 55413. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crude vermiculite ore*, in bulk, in dump vehicles, from points in the Chicago, Ill., Commercial Zone, to Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Vermiculite Co., 52 Executive Park So., Atlanta, Ga. 30329. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 98952 (Sub-No. 43 TA), filed March 21, 1977. Applicant: GENERAL TRANSFER COMPANY, 2880 N. Woodford St., P.O. Box 2203, Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 E. Capitol Ave., Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products*, from the plantsite of Charms Company, at or near Covington, Tenn., to points in Michigan, Wisconsin, Minnesota, Missouri, Kentucky, Indiana, Iowa and Illinois, restricted to the transportation of shipments moving in vehicles equipped with mechanical refrigeration, for 180 days. Supporting shipper: George McQueeney, Traffic Manager, Charms Company, Halls Mills Road, Freehold, N.J. 07728. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commision, P.O. Box 2418, Springfield, Ill 62705.

No. MC 106748 (Sub-No. 11 TA), filed March 21, 1977. Applicant GODDARD'S TRANSPORTATION, INC., Box 185, Fair Haven, Vt. 05743. Applicant's representatitve: John P. Monte, 61 Summer St., Barre, Vt. 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground limestone slurries*, from Tutland County and New Haven Junction, Vt., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island and Vermont and Canadian Provinces of Quebec and Ontario, for 180 days. Supporting shipper: Vermont Marble Co. & White Pigment Corp., Proctor, Vt. 05765. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 110563 (Sub-No. 197TA) (Correction), filed February 28, 1977, published in the FEDERAL REGISTER issue of March 15, 1977, and republished as corrected this issue. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, 113 N. Ohio Ave., Ohio Bldg., Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal briquettes and related advertising materials*, from Marion, Ohio, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Great Lakes Carbon Corporation, 299 Park Ave., New York, N.Y. 10017. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604. The purpose of this republication is to correct the territorial description in this proceeding.

No. MC 112617 (Sub-No. 361TA), filed March 22, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, Ky. 40219. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Memphis, Tenn., to points in Indiana, Kentucky, Illinois, Ohio, West Virginia, Pennsylvania and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Tommy Childress, President, Sealand Chemicals, Inc., P.O. Box 1182, Henderson Ky. 42420. Send protests to: Elbert Brown, Jr., District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, Ky. 40202.

No. MC 116073 (Sub-No. 349TA), filed March 22, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles (except travel trailers), *and buildings*, complete or in sections, from the plantsites of Champion Home Builders Company, at or near Dinuba and Lindsay, Calif.; Lake City and Oneco, Fla.; Ellaville and Woodbury, Ga.; Monroe, Ind.; Dryden, Mich.; Central City and York, Nebr.; Lillington, N.C.; Claysburg, Pa.; Kanona, Richfield Springs and Sangerfield, N.Y.; Buffalo, Commerce, Honey Grove and Wills Point, Tex.; Henry, Tenn.; and Mount Jackson, Va.; and points in their commercial zones, to points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper: Champion Home Builders Company, 5573 North St., Dryden, Mich. 48428. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 350TA), filed March 22, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, *and buildings*, complete or in sections (except travel trailers), from Nappanee, Ind., to points in the United States, including Alaska, for 180 days.

Supporting shipper: Monarch Commercial Structures, R.R. No. 3, Box 325A, Nappanee, Ind. 46550. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116073 (Sub-No. 351TA), filed March 22, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Ave., P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles (except travel trailers); and (2) *Buildings*, complete or in sections, from the plantsites of Guerdon Industries, Inc., located at or near Alexander City and Russellville, Ala.; Beebe, Cabot and Manila, Ark.; Ocala, Fla.; Waycross, Ga.; Manhattan, Kans.; Vicksburg, Miss.; and Gering, Nebr.; and points within their commercial zones; to points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shipper: Guerdon Industries, Inc., P.O. Box 1259, Louisville, Ky. 40201. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116763 (Sub-No. 373TA), filed March 22, 1977. Applicant: CARL SUBLER TRUCKING, North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrapping paper, printing paper and pulpboard*, from the plantsite, warehouse and storage facilities of Union Camp Corporation, located at or near Franklin, Va., to points in Illinois, Indiana, Kentucky, Michigan and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Camp Corporation, 1600 Valley Road, Wayne, N.J. 07470. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 119531 (Sub-No. 162TA), filed March 21, 1977. Applicant: SUN EXPRESS, INC., P.O. Box 1031, 3893 Market St., NE., Warren, Ohio 44484. Applicant's representative: Paul F. Berry, 275 E. State St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel and tin containers*, from the plantsite of Vulcan Containers, Steel Pail Division, West Chicago, Ill., to points in Michigan, Missouri, Indiana, Kentucky, Ohio, Pennsylvania and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcan Containers, Steel Pail Division, 1700 Western Drive, West Chicago, Ill. 60185. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 E. Ninth St., Cleveland, Ohio 44199.

No. MC 119789 (Sub-No. 331TA), file March 18, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from Plymouth, Wis., to points in Connecticut, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Virginia and the District of Columbia, for 180 days. Supporting shipper: Borden Foods Division, Borden, Inc., 180 E. Broad St., Columbus, Ohio 43215. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce St., Room 13C12, Dallas, Tex. 75242.

No. MC 123797 (Sub-No. 4TA), filed March 21, 1977. Applicant: ATLANTIC INTERSTATE MESSENGERS, INC., 201 Henry St., Stamford, Conn. 06904. Applicant's representative: Doyle Cloud, 5100 Poplar Ave., Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, limited to shipments weighing not more than 2,000 pounds, from one consignor to one consignee at one location, at any one time, in messenger service, restricted to vehicles classified by the DOT & ICC as being a light weight vehicle per Title 49, Section 390.17 for pick-up and delivery. NOTE.—Automobile-type equipment is to be used; (a) Between points in Connecticut, Massachusetts, Maine, Rhode Island and New York south of Interstate 84; (b) between New Jersey and Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island and Vermont; and (c) between points in Part A, on the one hand, and, on the other, points in Delaware, the District of Columbia, Maryland, Maine, New Hampshire, Pennsylvania and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 16 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High St., Room 324, Hartford, Conn. 06101.

No. MC 124771 (Sub-No. 44 TA), filed March 21, 1977. Applicant: BECKER CORPORATION, P.O. Box 1050, 2643 W. Central, El Dorado, Kans. 67042. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions* (except petroleum products), in bulk, in tank vehicles, from the facilities of Agrico Chemical Company, at or near Indianola, Nebr., to points in Colorado and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 124939 (Sub-No. 12 TA), filed March 22, 1977. Applicant: FOOD HAUL, INC., 1215 W. Mount St., Rear, P.O. Box 23394, Columbus, Ohio 43224. Applicant's representative: Paul F. Berry, 275 E. State St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bakery products;* and (2) *Merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses; (1) from the facilities of The Kroger Co., at Columbus, Ohio, to Dallas and Houston, Tex.; and (2) from the facilities of The Kroger Co., at Cincinnati, Ohio, to Dallas and Houston, Tex., under a continuing contract with The Kroger Co., of Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Kroger Co., 1014 Vine St., Cincinnati, Ohio 45201. Send protests to: Frank L. Galvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Blvd., Columbus, Ohio 43215.

No. MC 126716 (Sub-No. 3 TA), filed March 18, 1977. Applicant: WESTON TRUCKING COMPANY, doing business as WESTON TRUCKING, 111 "C" St., Encinitas, Calif. 92024. Applicant's representative: William D. Taylor, 100 Pine St., San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rocket motors and igniter assemblies* for rocket motors, having prior or subsequent movement by air, between Los Angeles International Airport, at Los Angeles, Calif., on the one hand, and, on the other, San Diego, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: American Airlines, International Airport, San Diego, Calif. 92101. Send protests to: Linda H. Sypher, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 N. Los Angeles St., Los Angeles, Calif. 90012.

No. MC 127524 (Sub-No. 13 TA), filed March 18, 1977. Applicant: QUADREL BROS. TRUCKING COMPANY, INC., 1603 Hart St., Rahway, N.J. 07065. Applicant's representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muratic acid*, in bulk, from Baltimore, Md., to Velvidere and Nutley, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hoffman-La Roche, 340 Kingsland St., Nutley, N.J. 07110. Send protests to: Robert E. Johnston,

District Supervisor, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 136553 (Sub-No. 46 TA), filed March 21, 1977. Applicant: ART PAPE TRANSFER, INC., 1080 E. 12th St., Dubuque, Iowa 52001. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pesticides* (except in bulk), from Streator, Ill., to points in Iowa and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Smith-Douglass Division of Borden Chemical, Borden, Inc., P.O .Box 419, Norfolk, Va. 23501. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 136796 (Sub-No. 2 TA), filed March 18, 1977. Applicant: CHARLES OTTO, doing business as OTTO TRANSFER, 417 E. Elm St., Delano, Minn. 55328. Applicant's representative: John B. Van de North, Jr., 4610 IDS Center, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation products* (except in bulk), from Rockford, Minn., to points in Colorado, Montana, Wyoming, Kansas, Nebraska, Missouri, Michigan, Wisconsin, Iowa, North Dakota, South Dakota, Kentucky, Indiana and Illinois (except points in Cook County), under a continuing contract with Minnesota Diversified Products, Inc., for 180 days. Supporting shipper: Minnesota Diversified Products, Inc., 2281 Hampden Ave., St. Paul, Minn. 55114. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 138635 (Sub-No. 36TA), filed March 21, 1977. Applicant: CAROLINA WESTERN EXPRESS, INC., 1511 K St., NW., Suite 712, Washington, D.C. 20005. Applicant's representative: Eric Meierhoefer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in Pennsylvania and Maryland, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Columbia Foods, Inc., Division of Iowa Beef Processors, Inc., Box 926, Pasco, Wash. 99301. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 139193 (Sub-No. 63TA), filed March 21, 1977. Applicant: ROBERTS & OAKE, INC., 527 E. 52nd St., North, Sioux Falls, S. Dak. 57101. Applicant's representative: Jacob P. Billig, Suite 300, 2033 K St., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except liquid commodities in bulk), from the facilities of John Morrell & Co., at Shreveport, La., to Birmingham, Dothan, Mobile and Montgomery, Ala.; Hialeah, Jacksonville, Miami, Panama City, Pensacola, Plant City, Pompano Beach and Tampa, Fla.; Atlanta Augusta, Ft. McPherson and Quitman, Ga.; Chicago, Elmhurst and Geneseo, Ill.; Estherville, Iowa; Arkansas City, Emporia and Kansas City, Kans.; Louisville, Ky.; Baltimore and Landover, Md.; Boston, Mass.; Detroit and Livonia, Mich.; St. Paul, Minn; Biloxi, Gulfport, Jackson and Tupelo, Miss.; Kansas City and St. Louis, Mo.; Elizabeth, Florence, South Kearney and Woodbridge, N.J.; Cortland, Mt. Kisco, New York, Syracuse and Waterford, N.Y.; Charlotte, N.C.; Columbus and Salem, Ohio; Philadelphia and Pittsburgh, Pa.; Charleston, S.C.; Knoxville, Memphis, Nashville and Whites Creek, Tenn.; Hampton, Mechanicsville, Richmond, Roanoke and Salem, Va.; Eau Claire and Milwaukee, Wis.; and points in Arkansas, Louisiana and Texas; Ft. Bragg and Raleigh, N.C.; Oklahoma City, Okla.; Cincinnati, Cleveland, Ohio; and *Such commodities* as are used by meat packers in the conduct of their business (except liquid commodities in bulk), from the destination points above to the facilities of John Morrell & Co., at Shreveport, La., under a continuing contract with John Morrell & Co., of Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 S. LaSalle St., Chicago, Ill. 60604. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369 Federal Bldg., Pierre, S. Dak. 57501.

No. MC 139495 (Sub-No. 214 TA), filed March 21, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 E. 8th St., Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St., NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toilet preparations, buffing and polishing compounds, sweetening compounds, and foodstuffs* (except commodites in bulk, in tank vehicles), from the facilities of Alberto-Culver Company, located at or near Melrose Park, Ill., to points in Union, Essex, Hudson, Bergen and Middlesex Counties, N.J., for 180 days. Supporting shipper: Alberto-Culver Company, 2525 Armitage Ave., Melrose Park, Ill. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Suite 101 Litwin Bldg., Wichita, Kans. 67202.

No. MC 140829 (Sub-No. 44 TA), filed March 21, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and/or warehouse facilities utilized by Anderson Clayton Foods, at or near Jacksonville, Ill., to Baltimore, Md.; Boston, Mass.; Secaucus, N.J.; and Philadelphia, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Denny Glassmeyer, Traffic Manager, Anderson Clayton Foods, P.O. Box 6165, Dallas, Tex. 75222. Send Protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 141773 (Sub-No. 2 TA), filed March 22, 1977. Applicant: THERMO TRANSPORT, INC., 156 E. Market St., Indianapolis, Ind. 46204. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from the plantsites and warehouse facilities of Jones & Laughlin Steel Corporation, at Indianapolis, Ind.; Aliquippa, Pa.; Youngstown and Louisville, Ohio, to Portland, Milwaukee, Salem and Eugene, Oreg.; San Francisco, Fresno, Kingsburg, Tulare, Cucamonga, Chatsworth, Irving, Pacoima, San Diego, Gustine, Covina, San Jose, Santa Clara, Bakersfield, Emeryville and Oakland, Wash.; Seattle, Tacoma and Vancouver Wash.; Lake Havasu City, Phoenix and Tucson, Ariz., under a continuing contract with Jones & Laughlin Steel Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jones & Laughlin Steel Corporation, 1600 W. Carso St., Pittsburgh, Pa. 15263. Send protests to: William Ennis, District Supervisor, Interstate Commerce Commission, Federal Bldg., and U.S. Courthouse, 46 E. Ohio St., Room 429, Indianapolis, Ind. 46204.

No. MC 141998 (Sub-No. 1 TA), filed March 21, 1977. Applicant: NORMAN C. DRENNEN, doing business as DRENNEN TRUCKING, P.O. Box 31, Braddyville, Iowa 51631. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, dirt, rock, hot mix and crushed limestone* (except in bulk, in tank vehicles), between points in

Adams, Fremont, Mills, Montgomery, Page, Taylor, and Union Counties, Iowa; points in Cass and Sarpy Counties, Nebr.; and points in Atchison, Holt and Nodaway Counties, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 6 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 N. 14th St., Omaha, Nebr. 68102.

No. MC 143008 TA (Correction), filed March 7, 1977, published in the FEDERAL REGISTER issue of March 24, 1977, and republished as corrected this issue. Applicant: ITG TRUCKING COMPANY, INC., 249 Copeland St., Jacksonville, Fla. 32203. Applicant's representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, Fla. 33202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles* distributed by meat packinghouses (except commodities in bulk), between Jacksonville, Fla., on the one hand, and, on the other, points in Alabama, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and Washington, under a continuing contract with Jones-Chambliss Co., Henry's Hickory House, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Jones-Chambliss Co., Henry's Hickory House, 2135 Forest St., Jacksonville, Fla. 33204. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 W. Bay St., Jacksonville, Fla. 32202. The purpose of this republication is to correct the territorial description.

No. MC 142812TA (Amendment), filed January 12, 1977, published in the FEDERAL REGISTER issue of January 28, 1977, and republished as amended this issue. Applicant: DONNA LEE GOODNER, doing business as THE TRUCKEE STAGE COMPANY, P.O. Box 775, Truckee, Calif. 95734. Applicant's representative: Donna Lee Goodner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transport: *Passengers and their baggage, including recreational equipment;* Route (1) Commencing at Stateline, Nev., over and along U.S. Highway 50 to the junction of Nevada Highway 28, thence over and along Nevada Highway 28 to the Nevada-California State line (Crystal Bay, Nev.), thence via California Highway 28 to California Highway 89 (Tahoe City), thence via that highway south to Granlibakken Road, to Granlibakken Ski Resort, thence return to California Highway 89, north to Alpine Meadows Road, to Alpine Meadows Ski Resort, thence return to California Highway 89, north to Sqaw Valley Road, to Squaw Valley Ski Resort, thence return to California 89, north to Truckee, Calif., returning over the same route; Alternate Route: Commencing at Stateline, Nev., over and along U.S. Highway 50 to junction of Nevada Highway 28, thence over and along Nevada Highway 28 to the Nevada-California State line (Crystal Bay, Nev.), thence via California Highway 28 to the junction of California Highway 267, thence via California Highway 267 to Northstar Ski Resort, thence return to California Highway 267, north to the Truckee-Tahoe Airport, thence return to California Highway 267, north to Truckee, Calif., returning over the same route.

Route (2) Commencing at Incline Village, Nev., over and along Nevada Highway 28 to the Nevada-California State line (Crystal Bay, Nev.), thence via California Highway 28 to the junction of California Highway 267, thence via California Highway 267 to Northstar Ski Resort, thence return to California Highway 267 to the junction of California Highway 28 and via California Highway 28 to California Highway 89 (Tahoe City), and via that Highway north to Alpine Meadows Road, to Alpine Meadows Road, to Alpine Meadows Ski Resort, thence return to California Highway 89, north to Squaw Valley Road, to Squaw Valley Ski Resort, returning over the same route; Charter and special operations, between Stateline, Nev., on the one hand, and, on the other, points in Placer and Nevada Counties, Calif. (Tahoe Donner Ski Resort, Donner Lake, Prosser Lakeview Estates and Sierra Meadows, Calif.), for 180 days. Supporting shipper: Squaw Valley Ski Corporation, P.O. Box 2007, Olympic Valley, Calif. 95730. Send protests to: District Supervisor Huetig, Interstate Commerce Commission, 203 Federal Bldg., 705 N. Plaza St., Carson City, Nev. 89701.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-10117 Filed 4-4-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Consumer Product Safety Commission	1
Federal Election Commission	2
Federal Home Loan Bank Board	3
Federal Maritime Commission	5
Federal Reserve System	4

1

AGENCY HOLDING THE MEETING: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 14898, March 17, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 24, 1977.

CHANGES IN THE MEETING: The Commission, at its March 24, 1977, meeting decided to amend the agenda for that meeting and consider in a closed session a settlement offer from Corning Glass Works in a substantial product hazard "timeliness" case. In making this change, the Commission determined that Agency business required consideration of the matter without seven days advance notice. A copy of the notice of closed meeting and the General Counsel's certification of that decision are on file in the Office of the Secretary. Also, a copy of the proposed settlement will be published in the FEDERAL REGISTER on April 5, 1977.

CONTACT PERSON FOR MORE INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Consumer Product Safety Commission, Suite 300, 1111–18th St., NW., Washington, D.C. 20207, telephone (202) 634–7700.

[S–86–77 Filed 4–1–77;10:03 am]

2

AGENCY HOLDING THE MEETING: Federal Election Commission.

LOCATION: 1325 K Street, NW., Washington, D.C. 20463.

DATE AND TIME: Thursday, April 7, 1977, 10 a.m.

PORTION OF THE MEETING OPEN TO THE PUBLIC:

I. Future Meetings:
II. Correction and Approval of Minutes—March 24, 1977.
III. Advisory Opinion Response 1977–9.
IV. Promulgation of Regulations.
V. Policy: (A) Policy on Executive Assistant Signing Documents; (B) Invitation Policy.
VI. Budget Execution Report.
VII. Audit Procedures.
VIII. Presentation of Proposed Commission Internal Management Control and Program Development System.

PORTION OF THE MEETING CLOSED TO THE PUBLIC:

IX. Executive Session: (A) Compliance; (B) Personnel.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone 202–52–34065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–81–77 filed 3–31–77;1:59 pm]

3

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

[No. 7]

MARCH 31, 1977.

Pursuant to the Government in the Sunshine Act of 1976, 5 U.S.C. 552b(e)(1) and (3), announcement is made of a Board meeting to be held on April 7, 1977, at 9:30 a.m., at 320 First Street, NW., in room 630, at which the following agency business will be conducted:

Satellite Office Application, Biscayne Federal Savings and Loan Association, Miami, Florida.

Application for Permission to Change Office Location, Sunshine State Federal Savings and Loan Association, Plant City, Florida.

Application for Insurance of Accounts and Bank Membership, Sentinel Savings and Loan Association, Richlands, Virginia.

Remote Service Unit Application, TMS Project, Lincoln, Nebraska.

Branch Office Application, Minnesota Federal Savings and Loan Association, St. Paul, Minnesota.

Branch Office Application, Home Federal Savings and Loan Association of San Diego, San Diego, California.

Branch Office Application, Axia Federal Savings and Loan Association, Rahway, New Jersey.

The Federal Home Loan Bank Board,

RONALD A. SNIDER,
Assistant Secretary.

[S–82–77 Filed 3–31–77;2:33 pm]

4

AGENCY HOLDING THE MEETING: Federal Reserve System.

ADDITION OF PREVIOUSLY ANNOUNCED AGENDA ITEM

The Board of Governors has previously announced a meeting to be held on Monday, April 4, 1977, which will be closed to public observation under exemption(s) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). One of the items announced for inclusion at that meeting was consideration of any agenda items carried forward from a previous meeting. The purpose of this announcement is to inform the public that the following such item, postponed from Friday, April 1, 1977, will be considered at this meeting:

Draft testimony to be presented before the Senate Committee on Banking, Housing and Urban Affairs regarding the 1977 budget for the Federal Reserve System.

The previously announced closed items for the April 4, 1977 meeting are:

Issues regarding electronic funds transfer systems in preparation for anticipated testimony before the Congress. This matter was originally scheduled at a meeting on April 1, 1977.

Consideration of the appointment of a Federal Reserve Bank director. This matter was originally scheduled at a meeting on March 16, 1977.

The meeting will be held at 10 a.m. in the Board's offices at 20th Street and Constitution Avenue NW., Washington, D.C. Information may be obtained from Mr. Joseph R. Coyne, Assistant to the Board, at (202) 452–3204.

Board of Governors of the Federal Reserve System, March 31, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S–84–77 Filed 3–31–77;4:37 pm]

5

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

FEDERAL REGISTER CITATION of PREVIOUS ANNOUNCEMENT: 42 FR 16056; March 24, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 30, 1977 2:00 p.m.

CHANGES IN THE MEETING: Time of meeting changed to 3:30 p.m.

[S–85–77 Filed 4–1–77;9:42 am]

federal register

TUESDAY, APRIL 5, 1977

PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-2789]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Perry, Georgia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Perry, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, P.O. Drawer A, Perry, Georgia 31069.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor James O. McKinley, City Hall, P.O. Drawer A, Perry, Georgia 31069. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Indian Creek	Interstate 75	293
	U.S. Highway 41	292
Bay Creek	Valley Dr	297
Tributary 1	Main St.[1]	316
	do.[2]	311
	Tucker Rd.[1]	302
	do.[2]	292
Tributary 2	Perimeter Dr	319
	Ball St.[1]	312
	do.[2]	301
Tributary 4	Central of Georgia RR.[1]	328
	do.[2]	309
Tributary 5	Elko Rd	287
Tributary 6	Tucker Rd	346
	Scatterfield Rd	290

[1] Upstream side.
[2] Downstream side.

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

Issued: March 17, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9279 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2822]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Stratford, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Stratford, Connecticut.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 2725 Main Street, Stratford, Connecticut 06497.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Bern Ewert, Town Hall, 2725 Main Street, Stratford, Connecticut 06497. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year flood Elevations for selection locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bruce Branch	Hollister Ave	11
	I-95	13
	Stratford Ave	14
	Penn Central RR	22
	Barnum Ave. and Sage Ave.	28
	Boston Ave	31
	Clover Ave	44
	Benjamin St	51
	Light St	60
	Broadbridge Ave	78
	Andrew St	84
	Greenfield Ave	91
	Albright Ave	93
	Nichols Ave	95
	Quail St	98
	Spring St	99
Long Branch	Broad St	11
	Ferry Blvd	11
	Fill Rd	13
	Penn Central RR	18
	Longbrook Ave	19
	Hurd Ave	19
Tanners Branch	Broadbridge Ave	20
	Catherine St	26
Pumpkin Ground Branch	Route 110	61
	Whippoorwill Lane	76
	Chapel St	80
	Merritt Parkway	102
	Circle Dr	170
	Beaver Dam Rd	170

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9298 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2823]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Woodbury, Connecticut

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Woodbury, Connecticut.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at Town Hall, P.O. Box 369, Woodbury, Connecticut 06798.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mrs. Marin Shealy, Town Hall, P.O. Box 369, Woodbury, Connecticut 06798. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pomperaug River	Pomperang Rd	237
	Route 317	243
	Judson Ave	257
Nonewang River	Route 47	261
	Route 6	272
	Minortown Rd. (extension).	346
	Mill Rd	371
	Route 6	401
	Route 61	446
	Pumping station road	460
Weekeepeemee River.	Jacks Bridge Rd	264
	Route 47	284
	Paper mill road	338
	Route 132	367
	Clohees Trail	438
Sprain Brook	Route 47	302
	Hazel Plain Rd	358
	Route 47	397
	do	418
	Ski area road	439
	Route 47	461
Hessoky Brook	Route 317	262
	Transylvania Rd	285

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9297 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2824]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Valdosta, Georgia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Valdosta, Georgia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, P.O. Box 1125, Valdosta, Georgia 31601.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Gil Harbin, City Hall, P.O. Box 1125, Valdosta, Georgia 31601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dukes Bay Canal west of Patterson St.	St. Augustine Rd	193
	Myddleton Rd	192
	Georgia Southern & Florida RR.	192
	do	191
	Bay St	191
Dukes Bay Canal east of Patterson St.	Cypress St	206
	Georgia Southern & Florida RR.	206
	Hill Ave	205
	Seaboard Coastline RR.	204
	Georgia Southern & Florida RR.	203
	Lake Park Rd	193
	Troupe St	193
	Lee St	192
	Wisenbaker Lane	191
One Mile Branch	Lakeland Ave	200
	Park Ave	200
	Vallotton Dr	196
	Lee St	195
	Ashley St	193
	Iola Dr	189
	Williams St	189
	Patterson St	180
	Oak St	179
	Sustella Dr	171
	Wainright Dr	162
	Lankford Dr. or Melody Lane.	160
	Edgewood St	157
	West Gordon St	157
	Georgia Southern & Florida RR.	154
Two Mile Branch	Bemiss Rd	218
	Seymour St	213
	University Dr	199
	North Ashley St	195
	Patterson St	185
	Oak St	181
	Berkley Dr	156
	Jerry Jones Rd	148
Sugar Creek	3d Ave	190
	2d Ave	188
	West St	186
	Lamar St	175
	Hightower St	167
	Georgia Southern & Florida RR.	167
	Baytree Rd	145
	Georgia Southern & Florida RR.	140
	Gornto Rd	133
Withlacoochee River.	Georgia Southern & Florida RR.	133
	Interstate 75	133

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

Issued: March 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9296 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2825]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Rockville, Montgomery County, Maryland

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Rockville, Montgomery County, Maryland.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board at City Hall, Maryland at Vinson Street, Rockville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor William E. Hanna, Jr., City Hall, Maryland at Vinson Street, Rockville, Maryland. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cabin John Creek	Downstream corporate limits.	312
	Wheel of Fortune Rd.	312
	Leverton Rd.	338
	Edmonston Dr.	348
	Monroe St.	367
Rock Creek tributary No. 1.	Downstream corporate limit.	288
	Wainwright Ave.	307
	Halpine Rd.	337
Rock Creek tributary No. 2.	Downstream corporate limit.	299
	Atlantic Ave.	310
	Midway Ave.	320
	Ardennes Ave.	327
	Landbrook Pl. (extended).	338
Watts Branch tributary No. 3.	Nelson St.	372
	Madison St. (extended).	386
	Manakee St.	407
Cabin John Creek tributary No. 4.	Leverton Rd (extended).	345
	Edmonston Dr.	369
	Brice Rd.	375
	Jefferson St. (extended).	389
	Rockville Pike.	399
Rock Creek tributary No. 5.	Norbeck Rd.	368
	First St.	374
	Upstream culvert.	380

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

Issued: March 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9295 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2826]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of River Rouge, Michigan

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of River Rouge, Michigan.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 10600 Jefferson West, River Rouge, Michigan 48218.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John F. McEwan, City Hall, 10600 Jefferson West, River Rouge, Michigan 48218. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Detroit River	Belanger Park Rd. area.	577
Rouge River	Con Rail R.R.	577
	Jefferson Ave.	577
	D.T. & I. R.R.	577
Short Cut Canal	do.	577

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9294 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2827]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Tunica, Mississippi

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Tunica, Mississippi.

These base flood elevations are the basis for the flood plain management

measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measure required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Box 395, Tunica, Mississippi 38676.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Ellis E. Koonce, Town Hall, Box 395, Tunica, Mississippi 38676. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stream 1	Upstream Harris St.	192
	Downstream Harris St.	191
	2d South St. West	191
	Fairyland Ave.	188
Stream 2	East side of the intersection of 4th North St. and Hospital St.	190

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

Issued: March 7, 197.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-9293 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2828]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Ellisburg, Jefferson County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ellisburg, Jefferson County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Ellisburg, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. William Fulkerson, Town Supervisor, Town Hall, Ellisburg, New York 13636. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Bear Creek	Milk plant road	570
	Con Rail	591
	Wardwell settlement road.	617
	U.S. Route No. 11	618
	East corporate limits	700
Sandy Creek	North corporate limits.	528
	Mathers Mills Rd	482
	Route No. 289	442
	Barney Rd. (extended).	388
	Route No. 193	301
Skinner Creek	South corporate limits.	249
Lake Ontario	Northwest corporate limits.	251
	Jefferson Park Rd	251
	Montario Rd.	251
	Renshaw Bay Rd	249

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal
Insurance Administrator.

[FR Doc.77-9292 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2829]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Richland, Oswego County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Richland, Oswego County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Clerk's Office, Courthouse, Pulaski, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Arthur Hilliker, Supervisor of the Town of Richland, Box 29, Pulaski, New York 13142. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake Ontario.....	Southernmost town boundary.	253
	Ramona Beach Rd...	252
	Southern limit of Selkirk Shores State Park.	253
	Northern limit of Selkirk Shores State Park.	253
	Mouth of Salmon River.	252
	Mouth of Deer Creek...	252
	Northernmost town boundary.	253
Salmon River.....	Mouth at Lake Ontario.	252
	N.Y. State Route 3....	257
	Maltby Rd. (extended).	265
	Downstream village of Pulaski corporate boundary.	382
	Upstream village of Pulaski corporate boundary.	391
	Penn-Central R.R.....	396
	Lehigh Rd.....	421
	Western town boundary.	440

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9291 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2830]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of South Dayton, Cattaraugus County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968, (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of South Dayton, Cattaraugus County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Hall, Park Street, South Dayton, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Robert L. Killock, Cherry Street, South Dayton, New York 14138. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum 1929
West Branch of Conewango Creek.	Downstream corporate limit.	1,290
	2d Ave. (extended).....	1,291
	2d St. (extended).....	1,292
	Upstream corporate limit.	1,294

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9290 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2831]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Village of Wilson, Niagara County, New York

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Wilson, Niagara County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Hall on the Bulletin Board, 375 Lake Street, Wilson, New York.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Ms. Jean Seefeldt, Village Clerk of Wilson, 375 Lake Street, Wilson, New York 14172. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
East Branch of Twelvemile Creek.	Lake Rd.....	256
	Youngtown Rd.....	259
	Upstream study limit.	294

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

Issued: March 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9289 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2832]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Beulah, North Dakota

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood

Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Beulah, North Dakota.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Beulah, North Dakota 58523.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Wilmer Wiedrich, City Hall, Beulah, North Dakota 58523. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East tributary, Knife River.	Private bridge	1,791
	Second St. North	1,789
	First St. North	1,784
	Main St.	1,780
	Burlington Northern RR.	1,778
West tributary, Knife River.	North Dakota State Highway 49.	1,809
	2d St. North	1,795
	1st St. North	1,792
	4th Ave. West	1,791
	Main St.	1,787
	N.P. Street	1,784
	Burlington Northern RR.	1,780
Knife River	Burlington Northern RR. siding.	1,782
	North Dakota State Highway 49.	1,781

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9288 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2833]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Borough of Port Royal, Juniata County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Port Royal, Juniata County, Pennsylvania.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain mangement requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Juniata Valley National Bank, Port Royal Office, Port Royal, Pennsylvania.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor John Longenecker, Port Royal, Pennsylvania 17082. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Juniata River	Southeast corporate limits.	438
	Milford St. (extended).	438
	North corporate limits.	439
Tuscarora Creek	Con Rail	438
	Confluence with Licking Creek.	438
Licking Creek	Northwest corporate limits.	438

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9287 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2834]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Grand Strand Flood District Horry County, South Carolina

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Grand Strand Flood District, Horry County, South Carolina.

These base flood elevations are the basis for flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information

showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Counselor's office, County Court House, Conway, South Carolina.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Julian Richardson, Chairman of the County Council of Grand Strand Flood District, County Court House, Conway, South Carolina 29526. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Atlantic Ocean	5th Ave.	13
	Old Conway Highway.	13
	Shore Dr.	13
	Kings Rd.	13
	Beach Dr.	13
	Waccamaw Dr.	14
	Ocean Blvd.	14

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

Issued: March 7, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9286 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2835]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Charlottesville, Independent City, Virginia

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Charlottesville, Independent City, Virginia.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Planning Office, Department of Community Development, City Hall, 7th and Main Street, Charlottesville.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Cole Hendrix, City Manager, P.O. Box 911, Charlottesville, Virginia 22902. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Rivanna River	Chesapeake St. (extended).	328
	Riverview St. (extended).	333
	Fairway Ave. (extended).	334
	U.S. 250	339
	Confluence with Meadow Creek.	342
Meadow Creek	Holmes Ave.	344
	Glendale Rd. (extended).	346
	Essex Rd. (extended)	403
	King Mountain Rd. (extended).	404
	Hydraulic Rd.	420
	Route 250 Bypass	427
	Earhart St.	431
	Private Rd.	435
North Fork Meadow Creek.	Confluence with Meadow Creek.	435
	200 ft upstream from Emmet St.	440
	1,000 ft upstream from Emmet St.	445
	50 ft downstream from Cedar Court Rd.	451
	Cedar Court Rd.	456
Moores Creek	Downstream corporate limit.	332
	Monticello Ave. (extended).	338
	Palatine Ave. (extended).	344
	Meridian St. (extended).	353
	Old Scottsville Rd.	359
	Hartman Mill Rd. (extended).	362
Rock Creek	Confluence with Moores Creek.	365
	5th St. downstream	370
	5th St. upstream	373
	Prospect Ave. (extended).	379
	Orangedale Ave. (extended).	381
	Elkhorn Rd. (extended).	390
	Briarcliff Ave. (extended).	395
	Laurel Circle (extended).	400
5th Street Creek	Confluence with Rock Creek.	373
	700 ft upstream from confluence.	375
	1,000 ft upstream from confluence.	380

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

Issued: March 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9285 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2836]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the City of Chelan, Chelan County, Washington

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 32 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Chelan, Chelan County, Washington.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Chelan.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Glenn Geer, Box 1669, Chelan, Washington 98816. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Lake flooding		
Lake Chelan	Emerson St. (extended).	1,100
	Woodin St.	1,100
	Corporate limits	1,100

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

Issued: March 4, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9284 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2837]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Wickenburg, Maricopa County, Arizona

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Wickenburg, Maricopa County, Arizona.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Wickenburg Post Office, 55 East Yavapai, Wickenburg, Arizona.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. Marvin Millsap, Town Clerk of Wickenburg, P.O. Box 1269, Wickenburg, Arizona. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Hassayampa River	Downstream corporate limit.	2,030
	Confluence with Sunset Wash.	2,033
	900 ft with downstream from Center St.	2,038
	Center St.	2,047
	Confluence with Powder House Wash.	2,050
	Upstream corporate limit.	2,051
Powder House Wash	Confluence with Hassayampa River.	2,050
	Constellation Rd.	2,050
	280 ft upstream from Constellation Rd.	2,055
	600 ft upstream from Constellation Rd.	2,060
	800 ft upstream from Constellation Rd.	2,065
Sols Wash	River St.	2,050
	Highway 89	2,064
	1,000 ft Upstream from Highway 89.	2,067
	Olander St. (extended).	2,084
	Park St. (extended)	2,085
	Upstream corporate limit.	2,093
Hospital Wash	Rose Lane	2,085
	590 ft upstream from Rose Lane.	2,090
	800 ft upstream from Rose Lane.	2,095
	Upstream corporate limits.	2,103
Casandro Wash	Highway 89	2,064
	A.T. & S.F. RR.	2,068
	Adam St.	2,072
	Madison St.	2,076
	Jackson St.	2,082
	Navajo St.	2,088
	Avispa St.	2,093
	Cucoracha St.	2,104
	Mariposa Dr.	2,115
	500 ft upstream from Mariposa Dr.	2,125
	1,600 ft upstream from Mariposa Dr.	2,135
	1,500 ft upstream from Mariposa Dr.	2,150
	Los Altos Rd. (extended).	2,158
	2,500 ft upstream from Mariposa Dr.	2,170
	Horseshoe Trail	2,180
	Buckskin Trail	2,185
	Horseshoe Trail	2,195
	Country Club Rd.	2,210
	Confluence with S. Branch Casandro Wash.	2,216
	Corporate limits	2,230
	do.	2,247
	Park Pl.	2,281
	West Dr.	2,263
	Vulture Mines Rd.	2,272
	Upstream corporate limits.	2,277
South Branch Casandro Wash.	U.S. Highway 60 and 70.	2,230
	Yucca Dr.	2,245
	Yaqui Dr.	2,262
	500 ft upstream from Yaqui Dr.	2,270
	Upstream corporate limit.	2,285
Flying "E" Wash	Downstream corporate limit.	2,288
	U.S. Highway 60 and 70.	2,294
	Wilshire Dr. (extended).	2,302
	Pike Dr. (extended)	2,309
	Sunset Dr. (extended).	2,315
	Upstream corporate limit.	2,321

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

Issued: March 18, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9283 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2838]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Fairfax, California

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Fairfax, California.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 142 Bolinas Road, Fairfax, California 94930.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Randall Garrison, Town Hall, 142 Bolinas Road, Fairfax, California 94930. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fairfax Creek	School St. and Park Rd.	115.4
	Spruce Rd. and Arroyo Rd.	119.3
	Scenic Rd. and Arroyo Rd.	127.3

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

Issued: March 17, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9282 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2839]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the Town of Columbine Valley, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbine Valley, Colorado.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Columbine Country Club, 17 Fairway Lane, Littleton, Colorado 80123.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Joseph F. Kindregan, Columbine Country Club, 17 Fairway Lane, Littleton, Colorado 80123. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Platte River	West Bowles Ave	5,322
	Dutch Creek	5,330
	South Jefferson County drainage (north).	5,342
Dutch Creek	Cart Bridge (by corporate limits).	5,334
Cart Bridge	Cart Bridge (2,000 ft above South Platte).	5,346
	Fairway Lane	5,360
	Platte Canyon Rd	5,373

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

Issued: March 18, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.77-9281 Filed 4-4-77;8:45 am]

[24 CFR Part 1917]

[Docket No. FI-2840]

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Flood Elevation Determinations for the County of Adams, Colorado

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pbu. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90–448), 42 U.S.C. 4001–4128, and 24 CFR Part 1917, hereby gives notice of the proposed determinations of base flood elevations (100-year flood) for the County of Adams, Colorado.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by §1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

Proposed base flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Administration Building, 450 South Fourth Avenue, Brighton, Colorado 80601.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. David Strasburger, Administration Building, 450 South Fourth Avenue, Brighton, Colorado 80601. The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

The proposed 100-year Flood Elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Dry Creek	West 120th Ave	5,216
	Interstate 25	5,162
	East 144th Ave	5,124
	York St	5,091
	East 160th St	5,077
Little Dry Creek	Lowell Blvd	5,267
	Federal Blvd	5,245
Comanche Creek	U.S. Highway 36	5,393
	26th Ave	5,338
Little Comanche Creek.	U.S. Highway 36	5,389
Clear Creek	Tennyson Blvd	5,244
	Lowell Blvd	5,232
	Pecos St	5,183
	Washington St	5,136
Box Elder Creek	U.S. Highways 36-40, 287.	5,530
South Platte River	Interstate 76	5,105
	McKay Rd	5,093
	East 124th St	5,013
	Base Line Rd	4,953
Niver Creek	North Washington St	5,209
	Downing St	5,181
	Explorador St	5,168
Northfield Creek	88th Ave	5,195
	Rainbow Ave	5,175

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4000–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: March 18, 1977.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc. 77-9280 Filed 4-4-77;8:45 am]

federal register

TUESDAY, APRIL 5, 1977

PART III



FEDERAL ELECTION COMMISSION

■

ADVISORY OPINION REQUESTS

FEDERAL ELECTION COMMISSION

[Notice 1977-21, AOR 1977-14]

ADVISORY OPINION

Request

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's Proposed Regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-14 has been made public at the Commission. Copies of AOR 1977-14 were made available on March 29, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A description of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-14: May a special joint fundraising committee be utilized to retire the 1976 campaign debts of three (3) presidential candidates who unsuccessfully sought nomination and may such a committee participate in a fundraising dinner held to raise contributions for a party-related political committee?—Requested by Dennis J. Whittlesey, Esq., on behalf of the presidential campaign committees of Senator Birch Bayh, Fred R. Harris, and Sargent Shriver, Washington, D.C.

Dated: March 29, 1977.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.77-9926 Filed 4-4-77;8:45 am]

federal register

TUESDAY, APRIL 5, 1977

PART IV



COMMODITY FUTURES TRADING COMMISSION

■

COMMODITY OPTIONS TRANSACTIONS

Proposed Amendment of Interim Regulations

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1 and 32]

REGULATION OF COMMODITY OPTION TRANSACTIONS

Interim Regulations

The Commodity Futures Trading Commission is proposing to amend its interim regulations under the Commodity Exchange Act relating to commodity options, which were adopted by the Commission on November 22, 1976.[1] Adoption of the interim regulations was the first stage of a two stage procedure for the regulation of commodity option transactions in the United States. The proposed amendments would implement the second stage: a limited, rigidly controlled, three-year pilot program. The pilot program is designed to limit commodity option transactions in the United States to options offered and sold through the facilities of (1) boards of trade located in the United States, which have heretofore been designated as contract markets under the Act, and which are licensed by the Commission as domestic commodity option exchanges, and (2) existing foreign boards of trade which are recognized by the Commission as foreign commodity option exchanges. The interim regulations currently in effect were designed to provide basic customer protections in connection with the offer and sale of commodity options until second-stage regulations of the type now proposed can be implemented.

Prior Proposals

On October 22, 1975, the Commission announced that it was considering the adoption of rules to regulate—or perhaps forbid—transactions in commodity options, including promulgation of a temporary rule pending the adoption of a definitive regulatory program. (40 FR 49360.)

On February 20, 1976, the Commission proposed comprehensive regulations governing commodity option transactions not entered into on domestic boards of trade, including options granted by commodity option dealers located in the United States. (41 FR 7774.) Under those proposed regulations it would have been unlawful for any commodity option dealer to offer or sell commodity options unless the dealer met certain financial requirements and was registered with the Commission. In its release announcing those proposals, the Commission invited interested persons to submit comments and to participate in oral hearings, held on March 8, 1976. The Commission also noted that comprehensive regulations would not be adopted until it had an opportunity to consider the recommendations on commodity options of its Advisory Committee on the Definition and Regulation of Market Instruments chaired by Commission Vice Chairman John V. Rainbolt, II. The Advisory Committee's recommendations were delivered to the Commission in July, 1976 (CCH Comm. Fut. L. Rep. (Special Supp. July, 1976)). After analysis of the comments received, the presentations made at the oral hearing and and the report and recommendations of its Advisory Committee, the Commission decided against the adoption of regulations in the form that had been proposed in February, 1976.

Instead, in a resolution dated September 13, 1976, introduced by Vice Chairman Rainbolt, the Commission determined to implement a test program for commodity option transactions. As the first step in this program, on October 8, 1976, the Commission published a proposal to adopt interim regulations. (41 FR 44560.) The proposed interim regulations were designed to permit a gradual phase-in of the pilot program that the Commission now proposes to adopt. Interested persons were invited to submit written comments on the proposed rules to the Commission prior to November 8, 1976. Following consideration of all the comments received, the Commission adopted the interim regulations substantially in the form it had proposed. (41 FR 51808.) [2]

As adopted, the interim regulations now in effect generally (1) prohibit any option transaction involving any commodity futures contract traded on or subject to the rules of any contract market or involving the prices of such contracts (§ 32.2); (2) make it unlawful for any person to accept money, securities or property from an option customer as payment of the purchase price in connection with a commodity option transaction unless that person is registered with the Commission as a futures commission merchant (§ 32.3); (3) require individuals soliciting or accepting orders for the purchase or sale of commodity options, or supervising any person or persons so engaged, to register with the Commission as associated persons of a specified futures commission merchant (§ 32.3); (4) require registered futures commission merchants that are engaged in commodity option transactions to maintain a greater minimum adjusted working capital than those only engaged in futures transactions (17 CFR § 1.17); and (5) require persons engaged in the offer and sale of commodity options to segregate in a separate account in the United States ninety percent of the money, securities or property received from an option customer as payment of the purchase price in connection with a commodity option transaction, and to maintain that segregation until the expiration of the term of the option or, if the option is exercised, until all rights of the option customer under the option have been fulfilled (§ 32.6). [3]

The interim regulations also require that persons engaged in the offer and sale of commodity options provide existing and prospective option customers with a summary disclosure statement, which sets forth general information relating to the option being offered, including the cost, commission, profit and other elements comprising the purchase price to be charged and an explanation of all other costs imposed upon the customer. In addition, as part of the written confirmation of the execution of a transaction, an option customer must be furnished particularized price information regarding the option transaction within 24 hours after execution (§ 32.5). Furthermore, § 32.7 requires each person engaged in the offer and sale of commodity options to maintain specified books and records.

The Commission now proposes to amend the interim rules in order to implement the Commission's pilot program while, at the same time, adding to the existing framework of customer protection. The Commission expects to adopt these regulations no later than approximately July 31, 1977, effective some time during the Fall of 1977. With this objective in mind the Commission is publishing these proposals for a 60-day comment period and seeks meaningful comments from members of the industry and the public. The Commission will also hold public hearings in May, 1977 in Washington, D.C., to afford interested persons an opportunity to make their views known through oral statements. A specific date for the hearings will be announced. Since the regulations being proposed are part of a test program designed to gain data that will permit the Commission to determine whether and, if so, how commodity option trading will be permitted in the United States after the pilot program has ended, comments will be most valuable which address the efficacy of the proposed regulations for this purpose.

The Commission's Statutory Responsibility

Section 8a(5) of the Commodity Exchange Act [4] broadly empowers the Commission "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of [the Act] * * *" Section 4c(b)

---

[1] 41 FR 51808, et seq. (November 24, 1976). The interim regulations were adopted by the Commission pursuant to Sections 2(a)(1), 4c(a), 4c(b) and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975).

[2] In view of certain revisions which the Commission effected in response to comments it had received, the effective date of the rules was deferred until December 9, 1976, and in the case of the segregation provisions, until December 27, 1976.

[3] On December 21, 1976, in *British American Commodity Options, Inc.* v. *Bagley*, CCH Comm. Fut. L. Rep. ¶20,245 (S.D.N.Y.), the United States District Court for the Southern District of New York upheld all of the provisions of the option regulations except the segregation requirement, the application of which was enjoined as against the plaintiffs in that suit. On December 22, 1976, the Commission announced that, for the time being, it would not enforce its segregation rules against any commodity option dealer selling London options in the United States. Cross-appeals have been taken to the United States Court of Appeals for the Second Circuit and oral argument was held on February 9, 1977.

[4] 7 U.S.C. 12a(5) (Supp. V, 1975).

of the Act vests the Commission with pervasive authority to regulate commodity option transactions. It provides in pertinent part:

> No person shall offer to enter into, enter into, or confirm the execution of, any [commodity option] transaction * * * contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall prescribe * * *[5]

Consistent with this authority, the Commission may ultimately prohibit all commodity option trading in the United States. Alternatively, it may permit commodity option trading subject to such requirements as it may choose to prescribe and, perhaps, allow some forms of option trading while prohibiting others.

In deciding whether or on what terms to permit option trading to continue during and after the pilot program, the Commission proposes to apply a test analogous to the test contained in Section 5(g) of the Commodity Exchange Act[6] for the designation of commodity futures contract markets. The Act reflects a Congressional judgment that commodity futures contract trading is, in general, in the public interest; the Commission's role under Section 5(g) is to determine whether trading in a particular futures contract for which designation is sought will "not be contrary to the public interest." On the other hand, the prohibition against trading in certain commodity options, which is contained in Section 4c(a)(B) of the Act, reflects a Congressional judgment that option trading in those commodities is contrary to the public interest. The Commission has the statutory duty to make a judgment whether or not option trading involving other commodities is also contrary to the public interest. The proposed regulations will require the Commission affirmatively to determine that any commodity option trading is "not contrary to the public interest." To make a positive determination in this regard, the Commission will have to assure itself that commodity options in general, and specific options in particular (1) serve an economic purpose, (2) may be offered and sold consistent with adequate protection of option customers and (3) do not have a material adverse effect on domestic futures or cash markets. It has structured its proposals accordingly.

Objectives of the Pilot Program

The Congressional mandate that commodity trading be prohibited or be regulated completely and effectively arose out of scandals that occurred in the early 1970's. The Commission's experience to date in regulating the offer and sale of commodity options has not provided an adequate basis upon which the Commission can determine either to prohibit option trading or the proper manner in which to remedy completely these problems.[7] Thus, in order properly to carry out its Congressional mandate, the Commission needs to accumulate additional data. At the same time, it must provide option customers with adequate safeguards and must minimize the adverse effect, if any, of option trading on the existing futures and cash markets in the United States.

The Commission has decided that the best way to achieve these purposes is through a limited, rigidly controlled pilot program. With these objectives in mind, the Commission proposes to limit trading to domestic and foreign boards of trade and that boards of trade will be licensed as domestic commodity option exchanges and recognized as foreign commodity option exchanges, but only after the Commission determines that the offer and sale of options through their facilities to customers in the United States would not be contrary to the public interest.[8] In addition, the Commission proposes to limit the types of instruments and commodities in which it will allow option trading during the test period.

For this purpose, the Commission might, on the one hand, adopt regulations which limit option trading on domestic exchanges to call options on futures contracts; on the other hand, the Commission might permit option trading in put options as well as options on physical commodities. In their present form the Commission's proposals take the former approach; but this does not reflect a judgment by the Commission that this is the best approach or the approach that it will ultimately decide to take. Rather, it is offered for comment and discussion. The Commission would welcome comments that propose specific alternatives to implement a pilot program that may include put options or options on physical commodities. The Commission will consider the merits of these comments and any specific alternatives that may be advanced.

Options that will be permitted on a domestic commodity option exchange may not be traded otherwise than on or subject to the rules of the exchange,[9] but may be either transferable (the option position may be liquidated on or subject to the rules of the exchange by an offsetting exchange transaction) or non-transferable.

The Commission also proposes to prohibit the margining of premiums on domestic commodity option exchanges during the pilot program because the comparatively low purchase cost of a margined option might reduce the liquidity of domestic futures markets by drawing trading activity away from those markets. To avoid the possibility that option trading will disrupt trading in the underlying futures contract, the Commission believes that there should be a sufficiently high trading volume in the contract. The Commission proposes to permit option trading only if the futures contract averages at least 1000 trades per week for the previous twelve months.

Further, to avoid possible adverse effects on the underlying futures contract and in order to enable the Commission adequately to conduct market surveillance, the commodities underlying the futures contracts on which options will be allowed will have to satisfy certain basic criteria, as follows:

> (1) have a readily available deliverable supply and accurate statistics thereon,
> (2) have an efficiently functioning delivery system, and
> (3) have a reliable mechanism available to the public for determining cash prices on such commodity (cash price series).

The Commission anticipates that not all commodities will be able to meet these tests and, consequently, that option trading on domestic commodity option exchanges would be limited to futures contracts involving certain carefully selected commodities.

The Commission is aware that a small number of persons in the United States are engaged in the offer and sale of dealer options on physical commodities. At the time the Commission proposed the first stage of its option program in October, 1976, the Commission expressly stated that, except for the trade option exemption, off-exchange commodity option transactions would in fact be prohibited once the pilot program began.[10] The Commission is aware of no reason why it should depart from that position. Consequently, it proposes to make the offer or sale of dealer options unlawful during the test period.

As stated above, the Commission believes the trade option exemption affords commercial participants the opportunity to engage in option transactions on physical commodities. In addition, the Commission believes that the absence of a clearing, or equivalent, mechanism on the dealer markets, as well as the difficulty attending the supervision and control of trade practices in a dealer market, make dealer options unsuitable for the pilot program. Nevertheless, the Commission remains interested in re-

---

[5] 7 U.S.C. 6c(b) (Supp. V, 1975). Section 4c(a)(B) of the Act expressly prohibits option transactions involving certain commodities which are enumerated in Section 2(a) of the Act. The interim regulations presently in effect and the regulations now being proposed regulate only option transactions that are not prohibited under Section 4c(a)(B).

[6] 7 U.S.C. 7(g) (Supp. V, 195).

[7] As was noted at the time of the adoption of the Commission's interim regulations, a very substantial part of the Commission's resources have been devoted, and continue to be devoted, to monitoring the activities of commodity option dealers, to investigating those activities, and to bringing enforcement actions as necessary.

[8] To make a determination with respect to domestic boards of trade the Commission proposes to impose certain requirements which are contained in Commission Guideline I, CCH Comm. Fut. L. Rep. ¶ 20,041 (May 13, 1975), for contract market designation (proposed § 32.5).

[9] The requirement that options be traded only on or subject to the rules of a domestic commodity option exchange is consistent with Sections 4 and 4h of the Act, 7 U.S.C. 6 and 6h, which prohibit futures contracts to be traded otherwise than on or subject to the rules of a contract market and by or through a member thereof.

[10] Previously, at the time of its proposals in February, 1976, the Commission indicated that it might ultimately confine commodity option trading to organized exchanges.

ceiving comments whether there is any reason why this position should be altered, if at all.

The Commission has tentatively determined that the restrictions concerning commodity option instruments that are proposed for domestic commodity option exchanges will not be imposed on foreign commodity option exchanges. Presently, options on either foreign futures contracts or physical commodities are being offered and sold on foreign boards of trade. The Commission is not aware of any facts that would lead it to conclude that trading in these instruments would materially affect the futures and cash markets in the United States, although it will consider any probative facts that may be brought to its attention. Moreover, the Commission believes that adequate customer protection can be provided for option customers in the United States for trading in these instruments.

By limiting its pilot program to trading on organized exchanges the Commission will better be able adequately to monitor, through the auspices of existing exchange mechanisms, the offer and sale of commodity options during the test period. The Commission does not believe it is necessary or even desirable to impose identical requirements upon foreign and domestic boards of trade for purposes of the pilot program; such differences as will be permitted to exist may permit valuable comparisons to be made by the Commission during and at the end of the pilot program. The Commission does consider it essential, however, to achieve a parity in customer protection between options offered through the facilities of domestic and foreign boards of trade. Thus, the Commission proposes to require any foreign board of trade that wishes to participate in the pilot program and be recognized as a foreign commodity option exchange to provide for (1) the segregation of option customer funds, or an equivalent which is approved by the Commission, (2) a mechanism for the clearing of trades, or an equivalent which is approved by the Commission, (3) registration of commodity option transactions in the names of option customers in the United States, and (4) the general quotation and dissemination of option, and underlying futures or commodity, price information in the United States on a timely basis.

The Commission recognizes that the present form of its proposals would impose direct obligations on foreign boards of trade wishing to be recognized as foreign commodity option exchanges. As an alternative to this approach, the Commission is considering placing formal obligations solely upon the persons in the United States offering and selling foreign commodity options. For example, the Commission could require that persons may offer and sell these options in the United States only if the options originate through the facilities of foreign boards of trade that have established segregation, clearing, customer registration and price quotation and dissemination procedures. Of course, the cooperation of foreign boards of trade would be necessary in order to enable a person in the United States to offer and sell their options. The Commission requests specific comments on this alternative and on any other alternatives to its proposal concerning the recognition of foreign boards of trade.

The Commission has also proposed specific customer protection through the regulations of persons dealing directly with option customers in the United States. This is discussed more fully below.

Economic Contribution of Option Trading

As part of the pilot program the Commission wishes to determine whether option contracts traded on licensed domestic commodity option exchanges and recognized foreign commodity option exchanges will be used by producers, processors, merchants, or consumers engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) on which such options are traded. To become licensed, a domestic board of trade will have to demonstrate that trading in a particular commodity option contract can reasonably be expected (1) to be used by commercial interests on something more than an occasional basis for other than speculative purposes and (2) provide data useful to the Commission in evaluating option trading in other commodities (proposed § 32.5(a)(4)). Thereafter, in order to enable the Commission to obtain actual data on commercial participation, domestic commodity option exchanges will be required to furnish the Commission with such information relating to commodity option transactions effected on or subject to their rules as the Commission may from time to time request (proposed § 32.6(e)).

The Commission recognizes that conceptually the option premium reflects the market's valuation of expected volatility of the price of the underlying commodity and that, under some circumstances, option positions may function partially to transfer price risk in a manner similar to the hedging function performed by futures contracts. Accordingly, the Commission intends to judge the economic utility of option trading on how well the option markets perform these functions. In this connection, the Commission is aware of arguments that some economic benefits may be derived from the trading of commodity options; however, it has insufficient basis at present to substantiate the nature and magnitude of any such benefits. Consequently, during the pilot program, the Commission intends to make a full study of the commercial use of option trading to facilitate the production, marketing and processing of commodities in interstate commerce, the economic effect of option trading, and the public interest served thereby. If the Commission determines as a result of the experience obtained through the pilot program and its study that commodity options do not make a positive net contribution to the national public interest or are against the public interest (for example, option trading had a negative impact on the functioning of underlying futures or cash markets), the Commission would ban or restrict option trading.

To enable the Commission to analyze the economic utility of foreign options, foreign commodity option exchanges will be required to furnish the Commission with general background and demographic information concerning the quantity and nature of market participants in the United States and with specific information pertaining to volume of trading, the prices at which option contracts are traded and exercised, futures and spot prices for underlying commodities, as well as other information the Commission may from time to time specify (proposed § 32.8(b)).

The Commission will reserve the right, during the term of the pilot program, to suspend or revoke the license of any domestic commodity option exchange, or to suspend or withdraw the recognition of any foreign commodity option exchange, if, among other things, the Commission determines, after notice and opportunity for hearing, that commercial interests are not in fact participating in the option markets and utilizing them as an integral part of their ongoing commercial business on something more than an occasional basis for other than speculative purposes (proposed §§ 32.11 and 32.12). Irrespective of the market on which regulated options originate, the Commission is interested in evaluating the extent of commercial participation in trading by option customers in the United States.

Customer Protection

Customer protection will be provided to option customers in the United States during the pilot program through Commission oversight of the boards of trade licensed as domestic commodity option exchanges, through effective monitoring of recognized foreign commodity option exchanges and through regulation of persons engaged in the offer and sale of commodity options. The Commission will impose strict standards on boards of trade wishing to be licensed as domestic commodity option exchanges. These requirements, set forth in proposed § 32.5, will include approval of the terms and conditions of the option contract for which licensing is sought; review of the board of trade's program to secure compliance with the option regulations and with all bylaws, rules, regulations and resolutions which the board of trade is required to enforce; [1]

[1] The proposed requirements are similar to those imposed by Commission Regulation 17 CFR § 1.51 and Guideline II, CCH Comm. Fut. L. Rep. ¶ 20,042 (May 13, 1975), relating to contract market rule enforcement programs. The Commission will consider how effectively the applicant board of trade is presently discharging its responsibilities for the surveillance of futures market activities and trading practices to determine whether it can reasonably expect the board of trade to meet the same responsibilities for its option markets without adverse effects on its existing surveillance program.

and, in the Commission's discretion, a general review pursuant to Commission Regulation 17 CFR § 1.50, relating to continued compliance with the conditions and requirements for designation as a contract market for the commodity futures contract underlying the option.

The Commission also proposes to impose continuing obligations on domestic commodity option exchanges (proposed § 32.6), including a requirement that copies of all proposed bylaws, rules, regulations or resolutions relating to commodity option transactions be submitted to the Commission for approval not less than thirty days prior to the proposed effective date thereof or within such shorter period of time as the Commission may permit. In addition, the Commission proposes to impose requirements for the keeping of books, records, minutes and journals of proceedings and for the enforcement of all bylaws, rules, regulations and resolutions (proposed § 32.6(b) and (c)). Moreover, the proposed rules contain provisions (1) to suspend or revoke the license of any domestic commodity option exchange for specific cause shown (proposed § 32.11); (2) to prohibit any person believed to be violating or to have violated the Act or any of the Commission's rules or orders thereunder from offering to enter into, entering into, confirming the execution of, or maintaining a position in, any commodity option in the United States and to require all domestic commodity option exchanges to refuse such person trading privileges thereon for specific periods of time (proposed § 32.13); (3) to alter or supplement the rules and practices of domestic commodity option exchanges (proposed § 32.14); (4) to require the delivery of a standardized disclosure statement prepared by a domestic commodity option exchange to each option customer or prospective option customer (proposed § 32.16); (5) to require segregation of money, securities and property (i) representing premiums to be used for the purchase of an option contract for an option customer, (ii) representing premiums payable to an option customer, (iii) received from an option customer to guarantee or secure performance of option contracts, or (iv) accruing to an option customer as the result of option contracts (proposed § 32.17(a)); (6) to require retention of promotional material used by registered futures commission merchants in their commodity option activities (proposed § 32.18), and (7) to protect option customers against fraud and manipulation in connection with commodity option transactions (proposed §§ 32.28 and 32.29).

While the customer protection proposed in connection with the pilot program on domestic commodity option exchanges is directed toward the monitoring of both the exchanges and the persons who trade on or through their facilities, the customer protection proposed with respect to foreign commodity option exchanges is more pointedly directed to effective regulation and monitoring of the persons who engage in foreign option transactions with customers in the United States.

The Commission feels justified in permitting the standards for recognition as a foreign commodity option exchange to be somewhat less stringent than those imposed on a domestic board of trade seeking to be licensed as a domestic commodity option exchange (proposed § 32.7). The foreign boards of trade which may be expected to participate in the pilot program are primarily, if not exclusively, those on or through which "London" options are presently traded. These are options offered and sold by or through a member of one of the London commodity markets and cleared through the International Commodities Clearing House, Ltd., in London, as well as options issued by or through an indivirdual member of the London Metal Exchange. Wrongful acts in the United States in connection with London options appear to have been perpetrated exclusively by sales persons or organizations here and not abroad. No fraudulent or other wrongful activity that has worked to the detriment of option customers in the United States has apparently been attributable to any act or ommission of foreign boards of trade themselves. For these reasons the Commission has some confidence in their integrity and in the ability of these markets meaningfully to police their own members and proposes to focus its attention on the offerors and sellers of London options in the United States rather than on the London exchanges. Nevertheless, the Commission intends to impose certain minimum requirements on foreign boards of trade intending to be recognized as foreign commodity option exchanges.

Proposed § 32.1(i) defines a foreign commodity option exchange as a foreign board of trade located outside the United States and in existence on September 1, 1976, on or through which commodity option transactions are effected and which is recognized as such by the Commission pursuant to proposed § 32.7. By prescribing a September 1, 1976, cut-off date, the Commission proposes to confine trading of foreign options in the United States to known and existing entities for purposes of the pilot program. Of course, even these entities will be required to demonstrate a willingness to cooperate with the Commission in its pilot program by complying with its requirements for recognition as a foreign commodity option exchange. To be recognized, a foreign board of trade will be required (1) to show that it will provide specified protection to option customers in the United States, (2) to furnish copies of the terms and conditions of the commodity option contracts proposed to be offered to customers in the United States to which the Commission does not object, and (3) to undertake to provide specific information concerning its option markets to the Commission on a continuing basis.

The customer protection that the Commission proposes to require as a condition for recognizing a foreign commodity option exchange will be basically fourfold: (1) segregation of the funds of option customers, or an equivalent approved by the Commission (proposed § 32.7(a)(1)); (2) a clearing mechanism for commodity option transactions effected for commodity option customers in the United States, or an equivalent approved by the Commission (proposed § 32.7(a)(2));[12] (3) registration of commodity options bought or sold for the account of customers in the United States in the names of those customers (proposed § 32.7(a)(3)) and (4) the general quotation and dissemination of option, and underlying futures or commodity, price information in the United States on a timely basis (§ 32.7(a)(4)).

Additional customer protection will be provided through Commission review of the terms and conditions of option contracts proposed to be used on foreign commodity option exchange both before and after recognition (proposed §§ 32.7(b) and 32.8(a), respectively). If the Commission has concerns about a term or condition of an option contract, under the proposed rules it would convey such concerns to the exchange and possibly request that appropriate changes be made. If suggested changes should not be made, and if that form of option contract should be offered to persons within the United States, the Commission could, after notice and opportunity for hearing, suspend or withdraw the recognition of the foreign commodity option exchange (proposed § 32.12(d)).

The bulk of the protection that the Commission proposes to require for customers in the United States who purchase options offered through foreign commodity option exchanges will be provided through the strict regulation of the persons offering and selling those options in the United States. All transactions on foreign commodity option exchanges that are for the account of option customers in the United States will be required to be conducted through a member of the exchange located in the United States. Persons accepting money, securities or property (or extending credit in lieu thereof) from customers as payment of the purchase price for a commodity option or to guarantee or secure performance of a commodity option will be required to be registered as futures commission merchants under the Act; and persons soliciting or accepting orders for the purchase or sale of commodity options or supervising any person or persons so engaged, will continue to be required to be registered as futures commission merchants or, if individuals, as associated persons of specified futures commission merchants or as floor brokers (proposed § 32.3).

[12] At present the London Metal Exchange does not provide a formal clearing mechanism for transaction effected thereon. Unless such a mechanism is established, or a method of providing equivalent customer protection is devised, the London Metal Exchange could not qualify as a foreign commodity option exchange under the Commission's pilot program.

Prior to the entry into a commodity option transaction on or subject to the rules of a foreign commodity option exchange, the person soliciting or accepting the order will be required to furnish the option customer or prospective option customer with a dated disclosure statement containing current information with respect to the options being offered. This disclosure statement will not be a standardized exchange document like that required with respect to the options on domestic commodity option exchanges. Rather, it will be prepared by the futures commission merchant with whom an option customer deals. Appropriate confirmation statements and particularized price information will continue to be required (proposed §§ 32.16 (d) and (e)).

Protection of option customers in the United States will (whether they grant or purchase options) also be achieved through the segregation provisions (proposed § 32.17(b)). This section basically provides that persons required to register as futures commission merchants under the Act shall treat and deal with all money, securities and property received by such person (i) as a premium to be used to purchase an option for an option customer in the United States who purchases an option, (ii) as a premium payable to an option customer in the United States who has granted an option, (iii) to guarantee or secure performance of option contracts of an option customer in the United States who has granted an option, or (iv) representing accruals to an option customer in the United States who has purchased an option as the result of option contracts, as belonging to such option customer, in the same manner as futures contract customers' funds are dealt with under section 4d(2) of the Act.[13] However, these persons will be permitted to deposit the funds, securities and property with the foreign commodity option exchange, which in turn, will be obligated to segregate and to treat and deal with the funds, securities and property as belonging to option customers in the United States.

This segregation proposal is significantly different from that imposed in the Commission's interim regulations, pursuant to which persons have been required only to segregate 90% of the funds received as payment of the purchase price of the option from option customers who purchased options until the option lapsed or was exercised and all rights of option customers were fulfilled. The interim regulations did not cover segregation of funds put up by or payable to option customers who granted options or funds accruing to option customers who purchased options as a result of the transaction. However, the Commission's new proposals require segregation of these funds as well as option premiums payable by an option customer who purchases the option. The Commission believes that the proposal requiring segregation of funds deposited with foreign commodity option exchanges and the proposed requirement that transactions be registered in the name of option customers will permit all funds and property of option customers to be traced directly to the London markets, if need be, in the event a futures commission merchant in the United States, or any other person involved in the option transaction, should fail to meet its obligations to option customers because of its insolvency or otherwise.[14] Option customers would no longer be at a firm's mercy in seeking to pursue their rights on the London markets. The London markets presently keep no record of the identity of options customers in the United States who are the beneficial owners of option contracts that are presently recorded in omnibus accounts with member firms. Given this additional protection, the Commission believes that it will no longer be necessary for 90% of funds representing the purchase price of the transaction to be segregated during the entire term of an option contract.

Protection of Cash and Futures Markets

In order to minimize any adverse effects of option trading on futures and cash markets, it is proposed that whenever the Commission has reason to believe that an emergency or potential emergency exists threatening the interests of option customers in the United Sates or jeopardizing the orderly functioning of the option, futures or cash markets in the United States, it may take, and direct others to take, such action as in its judgment is necessary to restore orderly trading in, or the liquidation of, any option contract, including suspending the offer and sale of option contracts in the United States for such period as the Commission may determine (proposed § 32.15). This authority, in conjunction with the authority granted the Commission to deal with emergencies related to futures trading by section 8a(9) of the Act,[15] will allow the Commission maximum flexibility to deal with problems affecting the orderly functioning and liquidity of the markets in the United States as they arise. Furthermore, before it may be licensed as a domestic commodity option exchange, a board of trade will be required to provide safeguards appropriate to protect its futures markets and commodity option markets from each other so as to avoid congestion, potential manipulation, tape racing, corners, squeezes, and similar risks (proposed § 32.5(c)). As stated above, the Commission does not believe that option trading abroad will materially affect the functioning of the markets in the United States. For that reason it does not propose to impose a similar requirement on foreign commodity option exchanges seeking recognition. If any person should have reason to believe that the Commission is in error in this respect, it is extremely important that his or her views be made known to the Commission so that the Commission may further evaluate whether similar provisions concerning foreign markets would be appropriate.

The Commission will carefully monitor the effects of option trading on the functioning of existing domestic markets. Should the Commission at any point during, or upon termination of, the pilot program perceive an effect adverse to the interests of option customers or the underlying markets, or an effect otherwise contrary to the public interest, the Commission may determine to prohibit further option trading on certain exchanges, in certain instruments or commodities, or in its entirety.

Section 1.19; Financial Rules

At the time of its October 8, 1976, proposal, the Commission announced that in connection with the second stage of its regulations it would consider the repeal of its Regulation 17 CFR § 1.19—which prohibits a futures commission merchant from issuing or otherwise assuming financial responsibility for a commodity option transaction. The Commission is now proposing that § 1.19 be repealed.

The Commission earlier recognized that repeal of § 1.19 would not be possible without substantial revisions of its financial rules for futures commission merchants contained in Regulation 17 CFR § 1.17, and it stated that revisions could not be made without additional study. The Commission expects shortly to propose substantial revisions to § 1.17 which, among other things, will incorporate changes in connection with commodity options that will enable the Commission to repeal § 1.19. The Commission hopes to adopt them to coincide with the implementation of the Commission's pilot program. If this is not possible, the Commission will timely propose modification of § 1.17 solely with respect to commodity option trading.

Requests for Comment

The Commission is requesting both general and specific comments on its proposals as well as any alternatives that may be suggested. The Commission particularly desires comments on the types of options it proposes for the pilot program. Also of particular interest to the Commission would be suggestions concerning the criteria the Commission should use to select the commodities in which options will be traded during the pilot program.

The Commission also seeks to be apprised of (1) the public's views as to the pilot program in general, (2) the limitations it seeks to impose on the participants therein, (3) the criteria it has proposed for domestic and foreign commodity option exchanges, (4) the economic

[13] As is explained under "Definitions" below, an option customer may be a futures commission merchant for purposes of the segregation provisions.

[14] This proposal will impose additional bookkeeping requirements on foreign markets, but the Commission considers this requirement extremely important if the segregation proposals are to be expected to work. Suggestions for meaningful alternatives would be welcomed.

[15] U.S.C. 12a(9) (Supp. V, 1975).

and other criteria the Commission should apply to determine whether to allow option trading to continue after the termination of the test program, (5) whether any distinctions should be drawn between the licensing of domestic commodity option exchanges and the recognition of foreign commodity option exchanges, (6) whether the customer protection sought to be provided during the pilot program is sufficient or is lacking in any respect, and whether the proposed regulations are adequate for the stated purpose, (7) whether any additional exemptions should be provided other than the trade option exemption, (8) the types of record keeping and reporting requirements and the type of information which should be requested concerning participants in the pilot program, (9) the feasibility of instituting a computerized trading system on domestic commodity option exchanges—including the method for the establishment of such a system and the timing for its implementation, (10) whether commodity option pools should be banned,[10] as well as (11) any other subject which may be of assistance to the Commission in formulating and implementing its pilot program. It may, of course, become necessary for the Commission to alter, substantially or in part, its proposals prior to their ultimate adoption.

A section-by-section explanation of certain of the Commission's proposed regulations is set forth below:

Definitions

Section 32.1 defines certain terms used in the rules. The Commission proposes to add additional terms and to modify certain existing definitions. Proposed § 32.1(b) adds the term "United States", defined as the jurisdictional entities comprising the United States of America, including its states, territories, possessions and the District of Columbia. The proposed rules frequently refer to option transactions taking place and option customers located in the United States.

Proposed § 32.1(d) modifies the existing definition of "option customer" to (1) include grantors of commodity options, (2) exclude owners or holders of "proprietary option accounts" (defined in proposed § 32.1(k)) for certain purposes of the proposed rules, and (3) include futures commission merchants for certain purposes of the proposed rules.

The Commission's interim regulations were designed to protect purchasers of commodity options. Domestic exchange-traded options can be expected to attract large numbers of public customers who wish to grant as well as purchase options. The Commission therefore proposes to expand the definition of "option customer" to include an option grantor.

Proposed § 32.1(k) defines "proprietary option account" as a commodity option trading account carried on the books of an individual or other person required to register as a futures commission merchant for, or which is partially owned by, one of the persons listed in Commission regulation 17 CFR § 1.3(y)(i)–(viii), which defines a "proprietary account" for trading in commodity futures contracts. Commission regulation 17 CFR § 1.3(k) excludes the owners or holders of proprietary accounts from the definition of "commodity customer" for purposes of the segregation requirements and, with certain exceptions, the attendant record keeping provisions, of the Act and regulations. The Commission believes that the owners and holders of proprietary option accounts should be afforded similar treatment. Thus, the Commission proposes to exclude the owners and holders of proprietary option accounts from the definition of "option customer" for purposes of the segregation and many of the record keeping requirements of the rules, and in addition, from the disclosure requirements.[11]

Futures commission merchants continue to be excluded from the definition of "option customer" for most purposes. However, since the Commission proposes to repeal § 1.19 of its regulations, these persons may commence to sell and thereby become financially obligated to fulfill commodity options on domestic exchanges. In addition, they can be expected to purchase domestic exchange options. Consequently, the Commission believes that persons registered as futures commission merchants who act as customers for their own account have as much need for the protection of the segregation provisions of proposed § 32.17 as other option customers. Moreover, proposed § 32.5(g)(5) provides that domestic commodity option exchanges are required to investigate complaints of option customers, and proposed § 32.7 requires foreign commodity option exchanges to provide option customers with certain segregation, clearing, customer identification, and price information protections. The Commission believes that futures commission merchants acting as customers in their own right require the protection of these provisions and are entitled to have their complaints concerning option trades and accounts investigated as well. Accordingly, the Commission proposes to include persons registered as futures commission merchants under the Act within the definition of "option customer" for purposes of these sections of its rules.

In view of the Commission's proposed modification of the option customer definition, technical amendments have also been made to the definitions of "purchase price" (proposed § 32.1(e)) and "striking price" (proposed § 32.1(g)) to exclude references therein to "option customers" and refer instead to "persons." "Striking price" has also been amended to clarify that it applies to the total, rather than the per unit, price at which a person may purchase or sell the commodity or futures contract which is the subject of a commodity option on exercise.

For purposes of defining those funds which are owed to and must be segregated for the benefit of the person granting an option, the term "premium" is defined in proposed § 32.1(f) as the money, securities or property paid or to be paid to a person for granting a commodity option.

Promotional material is referred to in existing § 32.7(a) Books and Record Keeping). For purposes of clarification the Commission has added a definition of "promotional material" in proposed § 32.1(j).

Prohibited Transactions

Proposed § 32.2(a) is unchanged and continues to incorporate the existing statutory ban on the offer and sale of commodity options involving specific commodities. Proposed § 32.2(b) prohibits the offer and sale of commodity options involving domestically traded futures contracts or the prices of those contracts except under the terms and conditions prescribed in the Commission's proposed rules. Of course, pending adoption of the Commission's proposals, the prohibition in § 32.2(b) of the interim rules on the offer and sale of these options continues in effect.

Unlawful Commodity Option Transactions

Proposed § 32.3(a) basically implements the pilot program by making it unlawful for any person to offer to enter into, enter into, confirm the execution of, or maintain a position in, any commodity option transaction that is not traded on or subject to the rules of a domestic commodity option exchange, by or through a member thereof, or on or subject to the rules of a foreign commodity option exchange, by or through a member thereof located in the United States. The Commission is proposing that option transactions on foreign commodity option exchanges be conducted through a member located in the United States so as to enable the Commission and option customers continuously to have ready access to a person in the United States responsible for performance in connection with an option transaction.

Proposed §§ 32.3 (b) and (c)(1) specify the circumstances under which persons accepting funds or other property from option customers in connection with a commodity option transaction, or soliciting or accepting orders for commodity options, are required to register as futures commission merchants or associ-

[10] The Commissions' proposed rules for commodity pool operators (42 FR 9266, February 15, 1977) would impose certain requirements on commodity pool operators investing funds in commodity options in connection with their business. Notwithstanding this proposal, the Commission is now requesting comment on whether any person should be permitted to solicit, accept or receive and to pool the funds, securities or property of others for the purpose of trading commodity options.

[11] Consistent with 17 CFR § 1.3(k), owners or holders of proprietary option accounts will be included in the definition of "option customer" for purposes of that subsection of proposed § 32.19 which will apply the record keeping requirements of Commission regulation § 1.37 to option transactions on domestic commodity option exchanges.

ated persons, respectively, under the Act. These sections correspond to existing §§ 32.3 (a) and (b) and have been changed to delete the January 17, 1977, registration deadline as superfluous. In addition, because the definition of option customer has been changed to include grantors or commodity options, § 32.3(b) is proposed to be amended to make it unlawful for any person to accept any money, securities or property from an option customer to guarantee or secure performance of a commodity option unless registered as a futures commission merchant under the Act. Proposed § 32.3 (c)(2), which corresponds to existing regulation § 32.3(b)(2), makes it unlawful for any person required to be registered as a futures commission merchant under the Act to permit an individual to be associated with it in certain specified capacities unless that individual is registered as an associated person under the Act.

Proposed § 32.3(d) makes it unlawful for any person to use any facility or computerized trading system (when and if established) provided by a domestic commodity option exchange for the purchase or sale of commodity options, to purchase or sell an option for any other person without being registered with the Commission as a floor broker under the Act. Proposed § 32.3(h) provides, however, that a person already registered as a floor broker under the Act need not reregister to trade options for another person's account, but such person must (or if such person is employed by a futures commission merchant, the futures commission merchant must) notify the Commission of the date such person commenced or intends to commence trading options. The Commission is aware that the term "floor broker" in section 2(a)(1) of the Act is not defined to include persons engaged in brokerage activities on the floor of a domestic commodity option exchange. However, as in the case of requiring certain persons dealing in commodity options to register as futures commission merchants, the Commission has determined to entrust floor brokerage activities on domestic commodity option exchanges solely to persons registered with the Commission as floor brokers.

Proposed § 32.3(e), the counterpart of existing § 32.3(c), adds floor brokers to the categories of registered persons (presently consisting of futures commission merchants and associated persons) who will not be included within the definition of commodity trading advisor contained in the Act provided certain conditions are met. Proposed §§ 32.3 (f) and (g) incorporate the provisions of §§ 32.3 (d) and (e) of the interim regulations without change, except that registered floor brokers have been included as persons who need not reregister as associated persons or as floor brokers in order to comply with the registration provisions of the rules.

Exemptions

The trade option exemption contained in § 32.4(a) of the interim option regulations applies to a commodity option offered by a person which has a reasonable basis to believe that the option is offered to a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products or by-products thereof, and that the producer, processor, commercial user or merchant is offered or enters into the commodity option transaction solely for purposes related to its business as such. Under the existing trade option exemption a person who is not engaged in commercial activity could offer an option to a person who is. Upon reconsideration, the Commission is aware of no reason why the trade option exemption should apply other than between persons who are commercial interests. Accordingly, the Commission now proposes to amend the "trade" exemption to limit its applicability to options which are issued by, offered to and purchased by persons each of which has a reasonable basis to believe the other is a person engaged in commercial activity of the type described above. The Commission also made certain technical amendments to the trade option exemption to make clear that, during the pilot program, the exemption will continue to be inapplicable to options involving futures contracts on contract markets or the prices of such contracts. As stated above, the offer and sale of these options are presently prohibited by the interim regulations but trading in these options is proposed to be permitted on domestic commodity option exchanges during the pilot program. In addition, the Commission proposes that the provisions of § 32.13 (Orders Prohibiting Trading In Commodity Options) will apply to transactions between commercial interests. The Commission believes that it should be able to prohibit persons found to have violated, or who are violating, the Act or the rules, regulations or orders thereunder from engaging in trade option transactions in the same manner as it may prohibit persons from engaging in other option transactions in the United States and cause domestic commodity option exchanges to refuse such persons trading privileges thereon.

The Commission also proposes that the provisions of proposed §§ 32.19 and 32.22 concerning, respectively, record keeping requirements for persons registered as futures commission merchants and reports by foreign commodity option exchanges, will apply to trade option transactions. This will enable the Commission to obtain additional data concerning the use of foreign options by commercial interests. The Commission requests specific comments on its amended "trade" exemption.

Proposed § 32.4(b) retains, without substantive change, the general exemptive provision of the interim rules. That provision permits the Commission, by order, upon written request or upon its own motion, to exempt any person, either unconditionally or on a temporary or other conditional basis, from any of the provisions of the regulations, except proposed §§ 32.2(a) (prohibited transactions), 32.28 (unlawful activities) and 32.29 (antifraud), if it finds that it would not be contrary to the public interest to grant such exemption. As stated in its previous releases, due to the limited nature of its test program the Commission contemplates granting few exemptions to its rules. This provision is contained in the regulations, however, to permit maximum Commission flexibility in the operation of its pilot program.

Licensing of Domestic Commodity Option Exchanges

As previously stated, the proposed pilot program is intended to enable the Commission to accumulate and analyze data to determine if option transactions serve an economic purpose, are not contrary to the protection of option customers in the United States and have no material adverse effect on domestic futures or cash markets. The requirements for the licensing of domestic commodity option exchanges and the continuing requirements to retain such license have been structured to accomplish this purpose.

Before the Commission will license a board of trade as a domestic commodity option exchange, the Commission must satisfy itself that option trading thereon will not be contrary to the public interest. To aid in this determination a board of trade seeking to be licensed must (1) submit to the Commission an application pursuant to proposed § 32.9 (a) for trading an approved option which meets the requirements previously described; (2) undertake to comply, on a continuing basis, with the requirements of proposed §§ 32.5 and 32.6, (3) submit, if requested by the Commission, the information called for by Commission regulation 17 CFR § 1.50 concerning continued compliance with the requirements for designation as a contract market in the futures contract for which the option license is sought (proposed § 32.5 (a)(3)); (4) demonstrate that it is reasonable to expect that the option contracts proposed will be used on something more than an occasional basis for other than speculative purposes by commercial interests engaged in handling or utilizing the underlying commodity, or any products, by-products or source commodity thereof, in interstate commerce and that trading in such contracts will provide data which will be useful in evaluating option trading in other commodities (proposed §§ 32.5(a)(4)(i) and (iv)); (5) provide for making effective any orders entered by the Commission under proposed § 32.13 prohibiting a person from trading on or subject to the rules of a domestic commodity option exchange and for compliance with all other requirements applicable to the board of trade under this Part (proposed § 32.5(b)); (6) provide appropriate safeguards to its futures markets from any potential adverse effects which may arise from the trading of options and vice versa (proposed § 32.5(c)); (7) submit to the Commission all by-laws, rules, reg-

ulations and resolutions made or issued by it, its governing board, or any committee or clearing organization thereof relating to commodity option transactions (proposed § 32.5(d)); (8) submit for the Commission's review the required standardized disclosure statement (proposed § 32.5(f)); (9) maintain an adequate program to secure compliance with the Commission's commodity option regulations and with all by-laws, rules, regulations or resolutions which the board of trade is required to enforce (proposed § 32.5(g)); (10) provide for the general quotation and dissemination of bids and offers and volume and last sale price information on a timely basis in the option contracts for which designation is sought and the underlying futures contracts (proposed § 3205(h)); (11) demonstrate that clearance and processing of the option contracts proposed will not adversely affect the capability of the board of trade and its members to clear and process transactions for future delivery on the board of trade (proposed § 32.5(i)); and (12) receive Commission approval of the terms and conditions of the proposed option contract (proposed § 32.5(e)).

Requirements Imposed on Domestic Commodity Option Exchanges

After licensing, proposed §§ 32.6(a) requires a domestic commodity option exchange to submit to the Commission for approval all proposed by-laws, rules, regulations or resolutions and proposed changes therein made or issued by it or any of its affiliate entities relating to commodity option transactions in the manner prescribed in Commission regulation 1.41,[38] governing submission of rules of designated contract markets, not less than thirty days prior to the proposed effective date thereof, or within such shorter period as the Commission shall permit. No by-law, rule, regulation or resolution, or proposed change therein, may become effective without Commission approval. The Commission will grant approval within 30 days of the proposed amendment's receipt (unless the exchange is informed that a longer period is necessary) unless it determines that the proposed amendment is in violation of the Act or the regulations thereunder, is not in accordance with just and equitable principles of trade or is otherwise inconsistent with the interests of option customers in the United States or contrary to the public interest. In submitting proposed by-laws, rules, regulation or resolutions, or proposed changes therein, a domestic commodity option exchange may place an operational, administrative or temporary emergency rule into effect or may deal with a physical emergency in the same manner and subject to the same conditions as provided in Commission regulation § 1.41. In addition, the exchange must (1) keep, and permit inspection by representatives of the Commission of specified books and records for five years (proposed § 32.6(b));[39] (2) enforce all by-laws, rules, regulations or resolutions issued by it or by its governing board, or any committee or clearing organization thereof, relating to commodity option transactions on the exchange and revoke and not enforce any such by-law, rule, regulation or resolution made, issued or proposed which the Commission has disapproved (proposed § 32.6(c)); (3) make continually available for dissemination to option customers, and provide the Commission with copies of, a standardized disclosure statement containing current information (proposed § 32.6(d)); and (4) furnish the Commission with such information concerning option transactions on the exchange as the Commission may from time to time request (proposed § 32.6(e)).

Recognition of Foreign Commodity Option Exchanges

Proposed § 32.7(a) provides that the Commission may recognize any foreign board of trade in existence on September 1, 1976 as a foreign commodity option exchange when the Commission determines that trading by option customers in the United States in the option for which recognition is sought will not be contrary to the public interest, and the foreign board of trade provides for (1) the segregation of all funds and other property received by the exchange or its members for the account of option customers in the United States, or accruing to those customers, as belonging to those customers, or a substantive equivalent thereto approved by the Commission, (2) a clearing mechanism for option transactions effected for option customers in the United States or a substantive equivalent thereto approved by the Commission, (3) the registration of option transactions effected for option customers in the United States in the name of those customers, and (4) the general quotation and dissemination of bids and offers and volume and last sale price information in the United States on a timely basis with respect to the commodity option contracts for which recognition is sought and the underlying futures contract or physical commodity. The Commission believes that these requirements will provide adequate protection for customer funds, provide a method of tracing an option customer's option should performance not occur, and make available current option market information on which option customers in the United States can make their trading decisions.

The Commission also proposes that a foreign board of trade seeking recognition must furnish copies of the terms and conditions of the option contracts proposed to be marketed in the United States to determine if the Commission has any material objections thereto (proposed § 32.7(b)), and to undertake to provide the Commission with certain specified information on a continuing basis or at the Commission's request (proposed § 32.7(c)).

Obligations of Foreign Commodity Option Exchanges

Paragraph (a) of proposed § 32.8 requires a foreign commodity option exchange to submit all proposed changes in any term or condition of any option contract for which it is recognized not less than thirty days prior to the proposed effective date thereof or within such shorter time as the Commission shall permit. The Commission will notify the foreign commodity option exchange within thirty days of its receipt of the proposed change if the Commission has any material objections thereto. Should the proposed change be implemented despite the Commission's objection, the Commission could suspend or withdraw the exchange's recognition for the particular option contract under proposed § 32.12(d).

Paragraph (b) of proposed § 32.8 also requires a foreign commodity option exchange to provide the Commission at its request with certain information concerning volume of trading, market participants, options exercised, corresponding futures and spot prices for the commodities on which option contracts are traded, and such other information as the Commission shall from time to time specify regarding the options for which the system is recognized. The Commission believes this information will provide it with sufficient data to determine if foreign option trading should be permitted to continue in the United States during and after conclusion of the test program and, if so, under what conditions.

Application for Licensing of Domestic Commodity Option Exchanges and for Recognition of Foreign Commodity Option Exchanges

A board of trade seeking to be licensed as a domestic commodity option exchange must submit an application pursuant to proposed § 32.9(a). A foreign board of trade in existence on September 1, 1976 desiring recognition as a foreign commodity option exchange must notify the Commission of its intention to participate in the Commission's pilot program pursuant to proposed § 32.9(b). Proposed § 32.9(c) provides that the Commission shall not refuse to license a board of trade as a domestic commodity option exchange or to recognize a foreign board of trade as a foreign commodity option exchange without affording it an opportunity for a hearing on the matter before the Commission. Proposed § 32.9 (d) provides that a license as a domestic commodity option exchange or the recognition as a foreign commodity option exchange shall in no event exceed three years (the term of the pilot program) from the effective date of the proposed rules or such shorter period as the Commission shall determine.

[38] 41 FR 40091 (September 17, 1976).

[39] The Commission has not included a requirement that books and records be kept available for inspection by representatives of the Department of Justice. Section 5a(2) of the Act imposes this requirement on contract markets. The Commission requests specific comment on whether this requirement should be imposed on domestic commodity option exchanges.

VACATION OF LICENSE; WITHDRAWAL OF RECOGNITION

Under § 32.10 of the proposed rules, a domestic or foreign commodity option exchange may have its license vacated or recognition withdrawn, respectively, on submission of a written request to the Commission. The request must set a date at least 90 days after its receipt by the Commission on which vacation or withdrawal is to take place. Should a board of trade again apply for a license as a domestic commodity option exchange or again seek recognition as a foreign commodity option exchange, it must reapply, or again notify the Commission, as the case may be, and satisfy all original requirements imposed for licensing or recognition by this Part.

SUSPENSION OF REVOCATION OF LICENSE; SUSPENSION OR WITHDRAWAL OF RECOGNITION

Proposed § 32.11 provides that the Commission may suspend or revoke the license of a domestic commodity option exchange for trading in an option contract at any time if it determines that (1) cause exists which would warrant a denial of a license under § 32.5, (2) the exchange is violating or has violated § 32.6, (3) the exchange, or any of its officers, agents, or employees, is violating or has violated the Act or any of the Commission's regulations thereunder, (4) the option contract is not sufficiently used on more than an occasional basis for other than speculative purposes by commercial interests in interstate commerce, (5) option trading on the exchange in the option contract for which the license was granted, or all option trading in the commodity underlying that contract, is contrary to the protection of option customers or underlying futures or cash markets or is otherwise contrary to the public interest, or (6) all commodity option trading in the United States should be prohibited in the public interest or otherwise for the protection of option customers. Under proposed § 32.12 the Commission may suspend or withdraw the recognition of a foreign commodity option exchange for any option contract for substantially similar reasons. The Commission believes that these standards are consistent with the basic goals of the pilot program (1) to provide protection to option customers in the United States and existing domestic cash and futures markets and (2) to determine if option transactions on domestic and foreign commodity option exchanges serve an economic purpose to option customers in the United States.

ORDERS PROHIBITING OPTION TRADING

Consistent with the Commission's desire to establish strict customer protections standards for its test program, proposed § 32.13 permits the Commission to prohibit a person which it has reason to believe is violating or has violated any provision of the Act, or the regulations or any order of the Commission thereunder from participating in any commodity option transaction in the United States and to require all domestic commodity option exchanges, and to request foreign commodity option exchanges, to refuse all trading privileges to such person for such period as the Commission may specify in its order. Proposed § 32.13 specifies that any order prohibiting trading may be issued in accordance with the procedures set out in Section 6(b) of the Act, 7 U.S.C. 9 (Supp. V, 1975).

SUPPLEMENTING DOMESTIC COMMODITY OPTION EXCHANGE RULES

In order to maintain strict control of its test program for option trading on domestic commodity option exchanges, proposed § 32.14 permits the Commission to alter or supplement the rules and practices of a domestic commodity option exchange, its governing board, or any committee or clearing organizations thereof. This may be accomplished if, after making written request to the exchange that specific changes in certain rules or practices be implemented, the Commission determines, after affording the exchange an opportunity for a hearing, that the changes requested have not been made and are necessary (1) to protect option customers, persons producing, handling or consuming any commodity which is the subject of a commodity option transaction on the exchange (or a product or by-product thereof), or underlying futures or cash markets, or traders thereon, or (2) to insure fair dealing in the commodity options traded on the exchange.

EMERGENCY ACTIONS

Proposed § 32.15 provides that whenever the Commission has reason to believe that a potential or actual emergency exists which threatens the interests of option customers in the United States or jeopardizes the orderly functioning of cash, futures or options markets in the United States, it may take, and direct others to take, such action as it deems necessary to maintain or restore orderly trading in, or liquidation of, any commodity option contract, including the suspension of the further offer and sale of any option contract in the United States for such period as it shall determine.

DISCLOSURE

Proposed § 32.16 amends the summary disclosure requirements of the interim regulations (1) to take into account the differences between option transactions on domestic and foreign commodity option exchanges, and (2) to provide more detailed information to option customers and prospective option customers concerning option transactions. With respect to domestic commodity option exchanges, the Commission proposes in § 32.16(a) that the exchanges prepare the disclosure statements required to be distributed to option customers and prospective option customers by persons soliciting or accepting the order for the option transaction. A single exchange document will permit the Commission to review disclosure statements at the time application for licensing is made and easily monitor changes in the disclosure statements thereafter. The Commission considers this a more practical and efficient approach than supervising or having exchanges supervise the use of numerous disclosure statements prepared individually by futures commission merchants.

The exchange disclosure statement furnished to option customers must be dated, contain then current information, and include the following information in addition to that currently required to be delivered to persons purchasing London options or domestic dealer options:

(1) A modified, bold-faced statement on the cover page highlighting the financial risks involved in option transactions and indicating that a person should not grant an option unless he either owns the futures contract or physical commodity underlying the option or is able to sustain a substantial financial loss;

(2) Statements to the effect that (i) the grantor of an uncovered option is subject to risk of loss should the price of the futures contract underlying the option increase, and (ii) the grantor of a covered option is subject to the full risk of the underlying position;

(3) A description of (i) the procedural prerequisites for the exercise of the option contracts, (ii) an grantor's obligations to perform upon exercise, (iii) the rights and obligations of the option customer, including his rights upon default, (iv) any material risks not otherwise required to be stated, and (v) a description of the domestic commodity option exchange where the options are sold, including the operation of its clearing mechanism and an explation of any clearinghouse guarantees;

(4) A list of the futures contracts which are the subject of the options being offered; and

(5) A clear explanation of any force majeure clauses contained in the option contract.

With respect to options originating on foreign commodity option exchanges, proposed §32.16(b) would continue the requirement in § 32.5 of the interim regulations that persons soliciting or accepting orders for option transactions furnish option customers, or prospective option customers, with a disclosure statement prior to the time an option transaction is entered into. The proposed disclosure statement is similar in content to that required in the case of options on domestic commodity option exchanges and must contain then current information with respect to the option being offered. Proposed § 32.16(b) would expand the information required by the interim regulations in summary disclosure statements to include the following data:

(1) The additional information described in paragraphs (1) through (5) above for option transactions on domestic commodity option exchanges, modified as appropriate for transactions on foreign commodity option exchanges;

(2) A statement that the grantor of a put option is subject to risk of loss should the price of the futures contract or physical commodity underlying the option decrease; and

(3) The name of the person registered as a futures commission merchant with whom the option customer's account is established and the address and telephone number of such person's principal business office.

Proposed § 32.16(c) incorporates the provisions of § 32.5(b) of the interim regulations and sets forth those circumstances under which an option customer need not be furnished with a disclosure statement. Similarly, proposed §32.16(e) continues the requirement of § 32.5(c) of the interim regulations that option customers be furnished with a confirmation statement not more than 24 hours after execution of a commodity option transaction containing certain specified information about the transaction.

Proposed § 32.16(d) modifies § 32.5(c) of the interim regulations to require that prior to the entry into a commodity option transaction, an option customer must be informed about specified costs, fees and other information not only if the actual amounts are then known but also if the amounts can reasonably be approximated. The Commission understands that many option dealers have adopted the practice of establishing their charges as percentages of the premium paid by an option customer. Since the actual amount of the premium is seldom known prior to the execution of an option transaction, little pre-transaction price disclosure is presently being made to option customers. However, the Commission understands that premiums generally do not fluctuate from day-to-day to such an extent that they cannot be reasonably approximated. It therefore proposes that information concerning approximate premiums, costs, fees and other charges be provided to option customers prior to entry into an option transaction where they can be reasonably approximated.

Segregation

With respect to option transactions on or subject to the rules of domestic commodity option exchanges, proposed § 32.17(a) basically provides that each person required to register as a futures commission merchant under the Act shall treat and deal with all money, securities and property which he receives representing funds owing to an option customer, whether premiums, accrued equity payable to, or security put up by, the option customer, in the same manner and under the same conditions as futures contract customers' funds are dealt with under section 4d(2) of the Act. Option customers' option funds may be commingled only with the option funds of other option customers trading on domestic commodity opton exchanges and deposited in banks or trust companies, with the clearing organization of a domestic commodity option exchange, or with other persons registered as futures commission merchants under the Act. The Commission believes that segregation of all monies owing to an option customer is essential for option transactions to assure, to the extent feasible, the financial integrity of option transactions on domestic exchange markets and to prevent fraud. Consistent with trading in futures contracts, the Commission does not propose to require that amounts representing commissions, fees or other charges be segregated.

Proposed §§ 32.17(a)(3)–(14) have been reserved for the incorporation of regulatory requirements concerning the segregation of funds and property similar to those contained in Commission regulations 17 CFR §§ 1.20–1.30 and 1.32 for futures transactions on contract markets. The Commission requests comments concerning the applicability of the requirements contained in §§ 1.20–1.30 and 1.32 to option transactions on domestic commodity option exchanges and whether those sections could be appropriately modified to incorporate requirements related to option transactions.

As indicated above, proposed § 32.17 (b) provides the segregation requirements for options traded on or subject to the rules of a foreign commodity option exchange, and have been modified significantly from the requirements in the interim regulations to coincide with the segregation provisions for transactions on domestic commodity option exchanges.

Because of the strict control which the Commission wishes to have exercised over option customers' funds, the Commission's proposals do not permit customer funds used for, or resulting from, option transactions on domestic commodity option exchanges to be commingled with customer funds used for, or resulting from, option transactions on foreign commodity option exchanges. The Commission seeks specific comment on this proposal.

Promotional Material

To aid it in its efforts to detect abuses in the solicitation of commodity option transactions, the Commission proposes to retain in proposed § 32.18 the requirements of existing § 32.7(a) that each person required to register as a futures commission merchant under the Act retain and make available for inspection upon request of an authorized Commission representative for five years all promotional material used by it in its commodity option activities.

Record Keeping Requirements

Paragraphs (a)–(l) of proposed § 32.19 have been reserved with the intention of incorporating and applying the record keeping requirements for futures transactions contained in Commission regulation 17 CFR §§ 1.31 and 1.33–1.40 to option transactions on domestic commodity option exchanges. Comments on this proposal are requested.

With respect to transactions on foreign commodity option exchanges, proposed §§ 32.19(j) (1), (2) and (5) incorporate the books and record keeping provisions of existing §§ 32.7 (a), (b) and (e) without substantive change except for the deletion of the requirment regarding promotional material covered by proposed § 32.18. Proposed §§ 32.19(j) (3) and (4) modify the record keeping requirements currently contained in §§ 32.7 (c) and (d) of the interim regulations to apply only to persons required to register as futures commission merchants under the Act. The existing requirements also impose these requirements on persons required to register as associated persons. The Commission is proposing the modifications to reduce the potential for fragmentation, mishandling or loss of records which might result from the division of responsibility regarding record keeping requirements.

Reporting, Informational and Trading Requirements

Sections 32.20–32.27 of the proposed rules have been reserved with the intention of applying the regulatory standards for futures transaction contained in Commission regulations 17 CFR §§ 1.46 (Applications and Closing Out of Offsetting Long and Short Positions), 1.50 (Filing of Information by Contract Markets), 17.00 through 17.03 (Reports by Futures Commission Merchants), 18.00 through 18.07 (Reports by Traders), 20.00 (Reports by Members of Contract Markets), and 21.00 through 21.02 (Special Calls for Information) to option transactions on domestic commodity option exchanges and 17 CFR §§ 16.00–16.03 (Reports by Contract Markets) to commodity option transactions on both domestic and foreign commodity option exchanges. The Commission believes that the information that it will obtain by applying these rules to option markets can be of substantial value to it in making its final decisions concerning option trading. The Commission requests specific comments on these proposals.

The Commission also believes that the trading standards estblished in §§ 155.1–155.3 and 155.10 [39] may be necessary for a strictly controlled test program on domestic commodity option exchanges. The Commission requests comments on the application of the regulatory standards contained in those sections to option trading on domestic commodity option exchanges.

Unlawful Activities

Proposed §§ 32.28(a)–(c) redesignate §§ 32.8(a)–(c) of the interim regulations without change. Proposed §§ 32.28(d) makes it unlawful for any person to manipulate or attempt to manipulate the market price of any commodity option on or subject to the rules of any domestic commodity option exchange. A provision is included, however, indicating that any action taken by such an exchange pursuant to a rule approved by the Commission or in emergency situations permitted by proposed § 32.15 shall not be a manpulation for purposes of this section. The Commission believes this section to be essential for the protection of option customers and the maintenance of orderly and reliable domestic option markets. Proposed § 32.28(e), makes unlawful in the United States any commodity option transaction of the character of or commonly known as, as "wash sale", "cross trade", "accommodation trade" or a "fictitious sale". The Commission believes that sections 4c(a)(A) and (B) of the Act, by their express terms, make option transactions of this type unlawful. This provision has been included

[39] 41 FR 55887 (December 23, 1976).

as part of the proposed rules to clarify the Commission's position on the types of transactions described and to incorporate all rules affecting commodity option transactions in one place in the Code of Federal Regulations.

ANTIFRAUD

Proposed § 32.29 incorporates the Commission's existing antifraud rule governing commodity option transactions without change.

OPTION TRANSACTIONS ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS PART; CERTAIN SUBSEQUENT TRANSACTIONS

Proposed § 32.30 makes clear that the proposed rules have only prospective effect and that the current interim regulations will apply to all option transactions entered into while they were in effect. The Commission wishes to point out, however, as it did when it adopted its interim options rules, that fraudulent activity occurring after the effective date of the proposed rules, in connection with a commodity option transaction lawfully entered into prior to the effective date, is unlawful.

AMENDMENT TO § 1.3

The proposed rules amend regulation §§ 1.3 (d) and (n) to include, respectively, in the definition of "clearing organization", the clearing organization of a domestic commodity option exchange and, in the definition of "floor broker", a floor broker trading on a domestic commodity option exchange.

REPEAL OF § 1.19

The proposed regulations would repeal Commission regulation § 1.19, which currently precludes a futures commission merchant from issuing or otherwise assuming financial responsibility for the fulfillment of a commodity option transaction. In view of the various customer protections which the Commission proposes in the pilot program, the Commission see no reason to continue this prohibition so long as persons registered as futures commission merchants meet strict financial requirements designed to prevent their insolvency. As indicated above, the Commission intends to amend its financial rules for futures commission merchants under § 1.17 to revise those requirements in time to accompany the repeal of § 1.19.

* * * * *

In consideration of the foregoing, the Commission, pursuant to its authority contained in sections 2(a)(1), 4(ca), 4c (b) and 8a of the Act, 7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975), hereby proposes to amend Chapter 1 of Title 17 of the Code of Federal Regulations by amending §§ 1.3(d) and 1.3(n), by revoking § 1.19 and amending Part 32 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3 (d) and (n) are amended to read as follows:

§ 1.3 Definitions.

* * * * *

(d) *Clearing organization.* This term means the person or organization which acts as a medium for clearing transactions in commodities for future delivery and/or transactions in commodity options, or for effecting settlements of contracts for future delivery and/or commodity option contracts, for and between members of any board of trade.

* * * * *

(n) *Floor broker.* This term means any person who, in or surrounding any pit, ring, post or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market and shall include any person required to register as a floor broker under the Act by virtue of Part 32 of this Chapter.

§ 1.19 [Revoked]

2. Section 1.19 is hereby revoked.

* * * * *

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

1. Part 32 is amended to read as follows:

Sec.

32.1 Definitions.
32.2 Prohibited Transactions.
32.3 Unlawful commodity option transactions.
32.4 Exemptions.
32.5 Licensing of domestic commodity option exchanges.
32.6 Requirements imposed on domestic commodity option exchanges.
32.7 Recognition of foreign commodity exchanges.
32.8 Obligations of foreign commodity option exchanges.
32.9 Application for licensing of domestic commodity option exchanges and recognition of foreign commodity option exchanges.
32.10 Vacation of license as a domestic commodity option exchange, withdrawal of recognition as a foreign commodity option exchange.
32.11 Suspension or revocation of license as a domestic commodity option exchange.
32.12 Suspension or withdrawal of recognition of foreign commodity option exchange.
32.13 Orders prohibiting trading in commodity options.
32.14 Supplementing domestic commodity option exchange rules.
32.15 Emergency actions.
32.16 Disclosure.
32.17 Segregation.
32.18 Promotional material.
32.19 Record keeping requirements.
32.20 Application and closing out of offsetting long and short positions.
32.21 Filing of information by domestic commodity option exchanges.
32.22 Reports by domestic and foreign commodity option exchanges.
32.33 Reports by futures commission merchants.
32.24 Reports by traders.
32.25 Reports by members of domestic commodity option exchanges.
32.26 Special calls for information.
32.27 Trading requirements.
32.28 Unlawful activities.
32.29 Fraud in connection with commodity option transactions.
32.30 Option transactions entered into prior to the effective date of this Part; certain subsequent transactions.

AUTHORITY: Secs. 2(a)(1), 4c(a), 4c(b), 8a, Commodity Exchange Act (7 U.S.C. 2, 6c(a), 6c(b) and 12a (Supp. V, 1975)).

§ 32.1 Definitions.

As used in this part—

(a) "Commodity option transaction" and "commodity option" each means any transaction or agreement in interstate commerce which is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "call", "put", "advance guaranty", or "decline guaranty" involving any commodity regulated under the Act other than wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice;

(b) "United States" means the jurisdictional entities comprising the United States of America, including its states, territories, possessions and the District of Columbia;

(c) "Interstate commerce" shall be construed and have the same meaning as set forth in Sections 2(a) and 2(b) of the Act;

(d) "Option customer" means any person who, directly or indirectly, purchases or grants, or otherwise acquires or disposes of any interest in a commodity option for value, but shall not include (1) for purposes of §§ 32.16 through 32.19, the owner or holder of a proprietary option account to the extent of such ownership or holdings or (2) except for purposes of §§ 32.5, 32.7 and 32.17, a person required to register as a futures commission merchant under the Act;

(e) "Purchase price" means the total actual cost paid or to be paid, directly or indirectly, by a person for entering into a commodity option transaction, by whatever named called;

(f) "Premium" means the money, securities or property paid or to be paid to a person for granting a commodity option;

(g) "Striking price" means the total price at which a person may purchase or sell the commodity or the contract of sale of a commodity for future delivery which is the subject of a commodity option;

(h) "Domestic commodity option exchange" means any board of trade located in the United States licensed by the Commission as such in accordance with the provisions of § 32.5;

(i) "Foreign commodity option exchange" means any board of trade located outside the United States and in existence on September 1, 1976, on or through which commodity option transactions are effected and which is recognized by the Commission as such in accordance with the provisions of § 32.7;

(j) "Promotional material" includes (1) any text of a standard oral presentation, or any communication for publication in any newspaper, magazine or similar medium or for broadcast over television, radio, or other electronic medium which is disseminated or directed to an option customer or prospective option customer concerning a commodity option transaction, (2) any standardized form of report, letter, circular, memorandum, or publication which is disseminated or directed to an option customer or prospective option customer, and (3) any other written literature or advice disseminated or directed to an option customer or prospective option customer for the purpose of soliciting entry into an option transaction;

(k) "Proprietary option account" means a commodity options trading account carried on the books of an individual or other person required to register as a futures commission merchant in accordance with this Part for, or which is partially or jointly owned by, one of the presons listed in § § 1.3(y) (i)–(viii) of this chapter.

§ 32.2 Prohibited transactions.

No person may offer to enter into, enterinto, confirm the execution of, or maintain a position in, any transaction in interstate commerce involving—

(a) Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, or

(b) Any contract of sale of any commodity for future delivery traded on or subject to the rules of any contract market or involving the prices of such contracts, except under the terms and conditions prescribed in this Part; if the transaction is or is held out to be of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty."

§ 32.3 Unlawful commodity option transactions.

(a) It shall be unlawful for any person to offer to enter into, enter into, confirm the execution of, or maintain a position in, any commodity option transaction that—

(1) Is not traded on or subject to the rules of a domestic commodity option exchange and by or through a member thereof, or

(2) Is not traded on or subject to the rules of a foreign commodity option exchange and by or through a member thereof located in the United States.

(b) It shall be unlawful for any person to accept any money, securities, or property (or to extend credit in lieu thereof) from an option customer as payment of the purchase price in connection with a commodity option transaction or to guarantee or secure performance of a commodity option unless such person is registered as a futures commission merchant under the Act and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked.

(c) It shall be unlawful for—

(1) Any person to solicit or accept orders (other than in a clerical capacity) for the purchase or sale of any commodity option, or to supervise any person or persons so engaged, unless such person is—

(i) Registered as a futures commission merchant under the Act, or

(ii) If such person is an individual, registered as an associated person of a specified person registered as a futures commission merchant under the Act;

and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked;

(2) Any person required to be registered as a futures commission merchant under the Act to permit an individual to become or remain associated with such person as a partner, officer or employee (or in any status or position involving similar functions) in any capacity involving such solicitation, acceptance or supervision if such person knew or should have known that such individual was not registered as required by this Part or that such registration has expired, been suspended (and the period of suspension has not expired) or revoked.

(d) It shall be unlawful for any person in or surrounding any "pit," "ring," "post," or other place provided by a domestic commodity option exchange for the purchase or sale of commodity options, or through the use of any computerized trading system provided by a domestic commodity option exchange, to purchase or sell for any other person any commodity option on or subject to the rules of such exchange, unless such person is registered as a floor broker under the Act and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked.

(e) A person required to register as a futures commission merchant, as a floor broker, or as an associated person in accordance with this Part which furnishes the services specified in that portion of Section 2(a)(1) of the Act defining the term "commodity trading advisor" shall not be included in the term commodity trading advisor if:

(1) At the time such services are furnished, such person is registered as a futures commission merchant, as a floor broker, or as an associated person under the Act, and such registration shall not have expired, been suspended (and the period of suspension has not expired) or revoked; and

(2) The furnishing of such services is solely incidental to the conduct of such person's activities relating to commodity option transactions.

(f) A person already registered as a futures commission merchant under the Act, need not reregister as such in order to comply with this Part, but shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this section.

(g) A person already registered as an associated person or as a floor broker under the Act, who is required to register as an associated person by virtue of this Part, need not register as such in order to comply with this Part, but the person registered as a futures commission merchant under the Act employing such person shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this Part.

(h) A person already registered as a floor broker under the Act, need not reregister as such in order to comply with this Part, but shall immediately notify the Commission in writing, specifying the date such person commenced or intends to commence engaging in activities otherwise requiring registration under this Part; *Provided, however*, if such person is employed by a person registered as a futures commission merchant under the Act, such futures commission merchant shall provide the information.

§ 32.4 Exemptions.

(a) Except for the provisions of §§ 32.2(a), 32.2(b) and the provisions of this Part applicable to transactions referred to therein, 32.13, 32.19, 32.22, 32.28 and 32.29, the provisions of this Part shall not apply to a commodity option which is issued by a person and offered to and purchased by a person each of which has a reasonable basis to believe that the other is a producer, processor, or commercial user of, or a merchant handling, the commodity which is the subject of the commodity option transaction, or the products, by-products or source commodity thereof, and enters into the commodity option transaction solely for purposes related to its business as such.

(b) The Commission may, in its discretion, by order, upon written request or upon its own motion, exempt any other person, either unconditionally or on a temporary or other conditional basis, from any provisions of this Part, other than §§ 32.2(a), 32.28 or 32.29, if it finds that it would not be contrary to the public interest to grant such exemption.

§ 32.5 Licensing of domestic commodity option exchanges.

The Commission may license any board of trade located in the United States as a domestic commodity option exchange when the Commission deter-

mines that trading in the commodity options for which the license is sought will not be contrary to the public interest and the following conditions and requirements are satisfied:

(a) Such board of trade—

(1) Applies for a license for trading "call" options which: (i) Involve contracts of sale for future delivery of a commodity; (ii) Are not capable of being conveyed other than on or subject to the rules of the board of trade; and (iii) Do not provide for payment of less than the full amount of the premium at the time the option is purchased;

(2) Is designated as a contract market for the commodity underlying the contract of sale for future delivery for which the license is sought;

(3) Submits, if so requested by the Commission, the information called for by regulation § 1.50 of this chapter (relating to continued compliance with the conditions and requirements for designation as a contract market) for the specified futures contract underlying the option for which the license is sought and the Commission finds the applicant to be in continued compliance with the requirements for designation as a contract market for such commodity; and

(4) Demonstrates that: (i) The options for which the license is sought can reasonably be expected to be used on more than an occasional basis for other than speculative purposes, by producers, processors, merchants or consumers engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) underlying the contract of sale for future delivery in interstate commerce,

(ii) The volume of trading in the contract for future delivery for which the option license is sought has averaged at least 1000 contracts per week for the 12 months preceding the date of application for license,

(iii) With respect to the commodity underlying the contract of sale for future delivery for which the license is sought there is—(A) A readily available deliverable supply; (B) Accurate available statistics concerning deliverable supply; (C) An efficient functioning delivery system; and (D) A reliable mechanism available to the public for determining cash prices of such commodity (cash price series)—to support trading in both commodity options and contracts for future delivery in that commodity, and

(iv) It is reasonable to anticipate that trading in the option for which the license is sought will provide the Commission with data as to the type of market participants and the uses to which options are put which will be useful in evaluating option trading in other commodities.

(b) The governing board of such board of trade provides for making effective the final orders entered pursuant to the provisions of § 32.13, and for compliance in all other respects with the requirements applicable to such board of trade under this Part.

(c) Such board of trade provides appropriate safeguards to protect its futures markets from its commodity option markets so as to avoid congestion, potential manipulation, tape racing, corners, squeezes, and similar occurrences in such markets.

(d) Such board of trade furnishes the Commission with copies of all by-laws, rules, regulations, and resolutions made or issued by it or by its governing board, and any committee or clearing organization thereof, relating to commodity option transactions.

(e) The Commission approves the terms and conditions of the option contract for which the license is sought. In determining whether to approve contract terms and conditions, the Commission shall take into account the justification submitted for such factors as:

(1) Whether contract terms and conditions reflect normal commercial practice;

(2) The expiration date of the commodity option relative to the delivery period on the contract of sale for future delivery underlying the commodity option;

(3) The conditions precedent to the exercise of the commodity option and the method by which the option may be exercised;

(4) The cover and initial margin and variation margin requirements for option issuers;

(5) The nature of the clearing mechanism to be utilized for the commodity option, and the differences, if any, between that clearing mechanism and that utilized for the contract of sale for future delivery underlying the option;

(6) Specific notice periods including the periods from the date notice of intent to exercise an option is given until exercise is accomplished;

(7) The default provisions or procedures contained in the option contract, if any; and

(8) Permitted deviations from or substitutions for compliance with the terms and conditions set forth in paragraphs (e)(1) through (7) of this section.

(f) Such board of trade submits for the Commission's review a standardized disclosure statement conforming to the requirements of § 32.16 with respect to the option for which the license is sought.

(g) The Commission is satisfied that such board of trade maintains an adequate affirmative action program to secure compliance with the provisions of this Part and with all of the bylaws, rules, regulations and resolutions which the board of trade is required by this Part to enforce. Such program shall include at a minimum:

(1) A suitable staff consisting of full time paid employees, or persons hired on a contract basis, to be responsible for the implementation and operation of a rule enforcement program with a sufficient degree of control over such persons to maintain an effective, continuing action program with no conflict of interest on the part of such persons;

(2) Surveillance of futures and options market activity for indications of possible congestion or other market situations conducive to possible price distortions, including monitoring of

(i) Price movements and changes in price relationships among the cash, futures and options markets,

(ii) Open interest and changes in open interest,

(iii) Concentrations of positions among clearing members,

(iv) Volume of trading and changes therein,

(v) Deliveries and the functioning of the delivery system, and

(vi) Market news;

(3) Surveillance of trading practices on the floor of such board of trade;

(4) Examination of the books and records kept by members of such board of trade relating to their business in commodity options on such board of trade;

(5) Investigation of complaints received from option customers concerning their accounts or orders, including, when appropriate, examination of records and documents, interviewing members and their employees and agents and making whatever other inquiries are necessary;

(6) Investigation of alleged or apparent violations of the bylaws, rules, regulations and resolutions of such board of trade;

(7) A prompt and effective disciplinary procedure for any violations of the bylaws, rules, regulations and resolutions of such board of trade found to have been committed and/or taking prompt, effective action to prevent or eliminate market disruption which shall provide that:

(i) The findings are supported by the evidence,

(ii) The action is taken with reasonable dispatch, and

(iii) In cases where penalties are warranted, the sanctions are sufficient to deter future violations and are sufficiently publicized;

(8) Such other surveillance, record examination and investigation as is necessary to enforce the bylaws, rules, regulations and resolutions of such board of trade; and

(9) The keeping of full, complete and systematic records stating the actions taken under the program.

(h) Such board of trade provides for the general quotation and dissemination of bids and offers and volume and last sale price information on a timely basis with respect to the commodity option contracts for which licensing is sought and with respect to the underlying futures contracts.

(i) Such board of trade demonstrates that clearance and processing of option transactions on or subject to the rules of the board of trade will not adversely affect the capability of the board of trade and its members to clear and process transactions for future delivery on the board of trade.

(j) Such board of trade undertakes to comply, on a continuing basis, with all the requirements of this section and of § 32.6 of this Part.

§ 32.6 Requirements imposed on domestic commodity option exchanges.

Each domestic commodity option exchange shall—

(a) Submit to the Commission for its approval, in the same manner as provided in § 1.41 of this chapter (relating to the submission of rules of a contract market), copies of all proposed bylaws, rules, regulations or resolutions relating to commodity option transactions made or issued rules, regulations or resolutions not less than thirty days prior to the proposed effective date thereof or within such shorter period of time as the Commission shall permit. No such bylaw, rules, regulation or resolution, or proposed change therein, shall become effective unless approved by the Commission. The Commission shall approve the bylaw, rule, regulation, resolution, or proposed change therein, unless the Commission determines that it is in violation of the provisions of the Act or the regulations thereunder, is not in accordance with just and equitable principles of trade, or is otherwise inconsistent with the interests of option customers in the United States, or contrary to the public interest in which case the Commission shall disapprove, after appropriate notice and opportunity for hearing, the bylaw, rule, regulation, resolution or proposed change therein. Such approval shall be made within thirty days after the receipt of the rule, unless the Commission notifies the domestic commodity option change of the Commission's inability to make a determination within such period of time. In the event the Commission disapproves a bylaw, rule, regulation or resolution, or proposed change therein, within thirty days, it shall not become effective, except upon such conditions as the Commission may prescribe. In submitting proposed bylaws, rules, regulations or resolutions, or proposed changes therein to the Commission, a domestic commodity option exchange may place into effect an operational or administrative rule or a temporary emergency rule or may take action to deal with a physical emergency in the same manner and subject to the same terms and conditions as provided in § 1.41 of this chapter.

(b) Keep all books, records, minutes and journals of proceedings of such domestic commodity option exchange, and its governing board, and any committee or clearing organization thereof in a manner that will clearly describe all matters discussed by such domestic commodity option exchange, governing board, committee or clearing organization and reveal any action taken in such matters, and allow inspection at all times by any authorized representative of the Commission of all such books, records, minutes and journals of proceedings. Such books, records, minutes and journals of proceedings shall be kept for a period of five years from the date thereof.

(c) Enforce all bylaws, rules, regulations, and resolutions, made or issued by it or its governing board, or a committee or clearing organization thereof relating to commodity option transactions on such domestic commodity option exchange; and revoke and not enforce any such bylaw, rule, regulation, or resolution made, issued, or proposed to be issued, which has been disapproved by the Commission.

(d) Make continually available for dissemination to option customers and prospective option customers a standardized disclosure statement containing current information, amend the standardized disclosure statement submitted to the Commission pursuant to § 32.5(f) when, and as necessary to keep current information required to be included therein and provide the Commission with copies of all such amendments at the time the amended standardized disclosure statement is first disseminated to option customers.

(e) Furnish such information relating to commodity option transactions effected on or subject to the rules of the exchange as the Commission may from time to time request.

§ 32.7 Recognition of foreign commodity option systems.

The Commission may recognize any foreign board of trade which was in existence on September 1, 1976, as a foreign commodity option exchange when the Commission determines that trading by option customers in the United States in the commodity option for which recognition is sought will not be contrary to the public interest and the following conditions and requirements are satisfied—

(a) The foreign board of trade provides for:

(1) The treating and dealing of all money, securities and property received by the foreign commodity option exchange or the members thereof for the account of option customers in the United States

(i) Which represents premiums payable to option customers in the United States,

(ii) Which is used to guarantee or secure the performance of option contracts of option customers in the United States, or

(iii) Which has accrued to option customers in the United States as the result of option transactions on such foreign commodity option exchange,

As belonging to option customers in the United States and the segregation of such money, securities and property for their benefit from the money, securities and property of other persons, as provided in § 32.17(b), or a substantive equivalent thereto approved by the Commission;

(2) A clearing mechanism for commodity option transactions effected for the accounts of option customers in the United States, or a substantive equivalent thereto approved by the Commission;

(3) Registration of commodity option transactions effected for the accounts of option customers in the United States in the name of such customers;

(4) The general quotation and dissemination of bids and offers of volume and last sale price information in the United States on a timely basis with respect to the commodity option contracts for which recognition is sought and with respect to the underlying futures contracts and cash commodities.

(b) The foreign board of trade furnishes the Commission with copies of the terms and conditions of the commodity option contracts proposed to be used for transactions with option customers in the United States and the Commission has no material objections to such terms and conditions.

(c) The foreign board of trade undertakes to comply, on a continuing basis, with all the requirements of § 32.7(a) and to provide the information required by § 32.8 of this Part.

§ 32.8 Obligations of foreign commodity option exchanges.

Each foreign commodity option exchange shall furnish the Commission at its principal office in Washington, D.C., with

(a) Copies of any proposed change in any term or condition of any commodity option contract for which the foreign commodity option exchange is recognized not less than thirty days prior to the proposed effective date thereof or within such shorter period of time as the Commission shall permit. Any proposed change in the terms and conditions of such commodity option contracts shall be considered by the Commission, which shall notify the foreign commodity option exchange within thirty days after receipt thereof if the Commission has any material objections thereto;

(b) The following information upon the Commission's request,

(i) The total volume of trading on the foreign commodity option exchange in each commodity option contract for which the exchange is recognized,

(ii) General background information and demographic statistics about the quantity and nature of market participants in the United States,

(iii) The number of options exercised in each commodity option contract for which the exchange is recognized during a specified period, including the dates of, and the striking prices at which such options were exercised,

(iv) Corresponding futures and spot prices for the commodities on which option contracts are traded, and

(v) Such other information as the Commission shall from time to time specify regarding the commodity options for which the exchange is recognized.

§ 32.9 Application for licensing of domestic commodity option exchanges and recognition of foreign commodity option exchanges.

(a) Any board of trade desiring to be licensed as a domestic commodity option exchange shall make application to the Commission and accompany the same with a showing that it meets the conditions set forth in, and provides all the information and materials required by, § 32.5 of this Part.

(b) Any foreign board of trade in existence on September 1, 1976, wishing to participate in the pilot program as

a recognized foreign commodity option exchange shall notify the Commission of its intention for such recognition and accompany the same with (1) a showing that it meets the conditions of § 32.7(a) and (2) the materials and undertaking required by § 32.7 (b) and (c) respectively.

(c) The Commission shall not refuse to license any board of trade as a domestic commodity option exchange or to recognize any foreign board of trade as a foreign commodity option exchange without affording such board of trade an opportunity for a hearing before the Commission.

(d) The effective period for a license as a domestic commodity option exchange or for recognition as a foreign commodity option exchange under this Part shall be for a period not to exceed three years from the effective date of this paragraph, or for such shorter period as the Commission shall determine.

§ 32.10 Vacation of license as a domestic commodity option exchange; withdrawal of recognition as a foreign commodity option exchange.

(a) Any board of trade may have its license as a domestic commodity option exchange vacated and set aside by giving notice in writing to the Commission, which notice shall be submitted at least 90 days prior to the date named therein as the date when the vacation of license shall take effect. Upon receipt of such notice the Commission shall forthwith order the vacation of the license of such board of trade as a domestic commodity option exchange, effective upon the day named in the notice, and shall forthwith send a copy of the notice and its order to all other domestic commodity option exchanges. From and after the date upon which the vacation became effective the said board of trade may thereafter be licensed again as a domestic commodity option exchange only by making application to the Commission in the manner provided in this Part for an original application.

(b) Any foreign board of trade may have its recognition as a foreign commodity option exchange withdrawn by giving notice in writing to the Commission, which notice shall be served at least 90 days prior to the date named therein as the date when the withdrawal of recognition shall take effect. Upon receipt of such notice the Commission shall forthwith order the withdrawal of recognition of such foreign board of trade as a foreign commodity option exchange, effective upon the date named in the notice. From and after the date upon which the withdrawal of recognition became effective the foreign board of trade may thereafter be recognized again as a foreign commodity option exchange only by notifying the Commission in the manner provided in this Part for an original request for recognition.

§ 32.11 Suspension or revocation of license as a domestic commodity option exchange.

The Commission may, after notice and opportunity for hearing, suspend or revoke the license of any board of trade as a domestic commodity option exchange in an option contract for which it is licensed if it determines that—

(a) Cause exists which would warrant a denial of license under § 32.5;

(b) The domestic commodity option exchange is violating or has violated any of the provisions of § 32.6;

(c) The domestic commodity option exchange, or any director, officer, agent or employee thereof, otherwise is violating or has violated any of the provisions of the Act, or any of the rules, regulations, or orders of the Commission thereunder;

(d) The option contract is not used on more than an occasional basis for other than speculative purposes by producers, processors, merchants or consumers engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) underlying the contract of sale for future delivery on which such option is traded in interstate commerce;

(e) Option trading on the domestic commodity option exchange in that contract, or all option trading in the commodity underlying that contract, is contrary to the protection of option customers or the underlying fuures or cash markets, or is otherwise contrary to the public interest; or

(f) All commodity option transactions in the United States should be prohibited for any reason consistent with the public interest or the protection of option customers.

§ 32.12 Suspension or withdrawal of recognition of foreign commodity option exchanges.

The Commission may, after notice and opportunity for hearing, suspend or withdraw the recognition of any foreign board of trade as a foreign commodity option exchange in an option contract for which it is recognized if it determines that—

(a) Cause exists which would warrant the withholding of recognition under § 32.7;

(b) The foreign commodity option exchange has failed to comply with the provisions of § 32.8;

(c) The foreign commodity option exchange, or any director, officer, agent or employee of such exchange, otherwise is violating or has violated any of the provisions of the Act, or any of the rules, regulations, or orders of the Commission;

(d) The foreign commodity option exchange implements a change in the terms or conditions of the commodity option contract to which the Commission has raised material objections, as provided in § 32.8, and which objections have not been resolved to the Commission's satisfaction;

(e) The option contract is not used on more than an occasional basis for other than speculative purposes by producers, processors, merchants or consumers in the United States engaged in handling or utilizing the commodity (including the products, by-products or source commodity thereof) on which such option is traded, or the commodity underlying the contract of sale for future delivery on which such option is traded, in interstate commerce;

(f) Option trading on the foreign commodity option exchange in that contract, or all option trading in the commodity underlying that contract, is contrary to the protection of option customers in the United States or is otherwise contrary to the public interest; or

(g) All commodity option transactions in the United States should be prohibited for any reason consistent with the public interest or for the protection of option customers in the United States.

§ 32.13 Orders prohibiting trading in commodity options.

If the Commission has reason to believe that any person is violating or has violated any of the provisions of the Act or of the rules, regulations, or orders of the Commission thereunder, it may in accordance with the procedures provided in paragraph (b) of section 6 of the Act, prohibit such person from offering to enter into, entering into, confirming the execution of, or maintaining a position in, any commodity option transaction in the United States and require all domestic commodity option exchanges, and request foreign commodity option exchanges, to refuse such person all trading privileges thereon for such period as may be specified in the Commission's order.

§ 32.14 Supplementing domestic commodity option exchange rules.

The Commission may alter or supplement the rules and practices of a domestic commodity option exchange, its governing board, or any committee or clearing organization thereof, by rule or regulation or by order, if, after making a request in writing to the domestic commodity option exchange that such exchange effect specified changes in such rules and practices, and after affording an opportunity for a hearing, it determines that such domestic commodity option exchange, its governing board, or any committee or clearing organization thereof, has not made the changes so required, and that such changes are necessary or appropriate for the protection of option customers, persons producing, handling, or consuming any commodity which is the subject of a commodity option transaction on such domestic commodity option exchange, or the products or by-products thereof, or for the protection of the underlying futures or cash markets, including persons trading thereon, or to insure fair dealing in commodity options traded on

such domestic commodity option exchange.

§ 32.15 Emergency actions.

The Commission, whenever it has reason to believe that an emergency or potential emergency exists which threatens the interests of option customers in the United States or jeopardizes the orderly functioning of the options, futures or cash markets in the United States, may take, and direct others to take, such action as, in the Commission's judgment, is necessary to maintain or restore orderly trading in, or liquidation of, any commodity option contract, including suspending the further offer and sale of such option contract in the United States for such period as the Commission shall determine.

§ 32.16 Disclosure.

(a) Except as provided in paragraph (c) of this section, prior to entry into the purchase or sale of a commodity option on or subject to the rules of a domestic commodity option exchange, each option customer or prospective option customer shall be furnished with a dated copy of the disclosure statement, prepared by such domestic commodity option exchange and containing then current information with respect to the option being offered by the person soliciting or accepting the order therefor. The disclosure statement shall contain at least the following:

(1) The following boldface statements in ten point type on the first page:

Because of the volatile nature of the commodities markets, the purchase and granting of commodity options involve a high degree of risk and are not suitable for many members of the public. Such transactions should be entered into only by persons who have read and understand this disclosure statement and who understand the nature and extent of their rights and obligations and of the risks involved in the option transactions covered by this disclosure statement. A person should not purchase a commodity option unless he is able to sustain a total loss of the premium and transaction costs of purchasing the option. A person should not grant a commodity option unless he either owns the futures contract or physical commodity underlying the option or is able to sustain a substantial financial loss. These commodity options have not been approved or disapproved by the commodity futures trading commission nor has the commission passed upon the accuracy or adequacy of this statement. Any representation to the contrary is a violation of the Commodity Exchange Act and the regulations thereunder.

(2) A statement to the effect that:

(i) Specific market movements of the commodities or contracts of sale for future delivery underlying the commodity options being offered cannot be accurately predicted.

(ii) The grantor of a call option who does not own the futures contract required to be delivered upon exercise of the option is subject to risk of loss should the price of the underlying futures contract increase,

(iii) The grantor of a call option who owns the futures contract underlying the option is subject to the full risk of his underlying position; in exchange for the premium, so long as he remains obligated under the option contract, he had given up an opportunity for gain resulting from an increase in the price of the underlying futures contract above the price at which the option may be exercised,

(3) A description of the call options being offered including:

(i) The nature of a call option contract,

(ii) A list of the futures contracts which are the subject of the options being offered,

(iii) The total quantity and quality of the commodities which underlie the contracts of sale for future delivery which may be purchased upon exercise of the options,

(iv) The duration of the option contracts,

(v) A listing of the elements comprising the purchase price to be charged including the premium, commissions, costs, fees and other charges, as well as the method by which the premium is established,

(vi) A description of any and all costs in addition to the purchase price which may be incurred by an option customer if the commodity option is exercised, including, but not limited to, the amount of interest, commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred,

(vii) The method by which the striking price is established,

(viii) The procedural requirements for exercise of the options contracts being offered,

(ix) A description of the grantor's obligations to perform upon exercise of the option,

(x) A description of the rights and obligations of the option customer, including the option customers' rights upon default,

(xi) A clear explanation of any force majeure clause contained in the option contracts, and

(xii) A description of any material risks not included in the statements required by paragraphs (a) (1) and (2) of this section;

(4) A description of the domestic commodity option exchange on which the options are traded, including the operation of the clearing mechanism and an explanation of any clearinghouse guarantees; and

(5) If the commodity option is incapable of being liquidated by an offsetting transaction on or subject to the rules of the domestic commodity option exchange on which it is traded, a statement to the effect that (i) the price of the contract of sale for future delivery underlying the option must rise above the striking price by an amount in excess of the sum of the premium and all other costs incurred in entering into and exercising the commodity option in order for the option customer to realize a profit on the option transaction, and (ii) an option customer will be unable to sell any option purchased an any market to recover any of the purchase price, but rather may only liquidate by exercising an option before the expiration date of the option.

(b) Except as provided in paragraph (c) of this section, prior to the entry into a commodity option transaction for the purchase or sale of a commodity option on or subject to the rules of a foreign commodity option exchange, each option customer or prospective option customer shall be furnished with a dated disclosure statement containing then current information with respect to the option being offered by the person soliciting or accepting the order therefor. The disclosure statement shall contain at least the following:

(1) The statements required by paragraphs (a)(1) and (a)(2)(i) of this section in the form specified by those paragraphs;

(2) A statement to the effect that:

(i) The grantor of a call option who does not own the futures contract or physical commodity required to be delivered upon exercise of the option is subject to the risk of loss should the price of the underlying futures contract or physical commodity increase.

(ii) The grantor of a put option is subject to risk of loss should the price of the underlying futures contract or physical commodity decrease,

(iii) The grantor of a call option who owns the futures contract or physical commodity underlying the option is subject to the full risk of his underlying position; in exchange for the premium, so long as he remains obligated under the option contract, he has given up an opportunity for gain resulting from an increase in the price of the underlying futures contract or physical commodity above the exercise price of the option.

(3) A description of the commodity options being offered including:

(i) The type and nature of the contracts being offered,

(ii) A list of the actual commodities and/or futures contracts which are the subject of such options,

(iii) The total quantity and quality of the commodities which may be purchased or sold upon exercise of the commodity options being offered or which underlie the contracts of sale for future delivery which may be purchased or sold upon exercise of the options,

(iv) The duration of the option contracts,

(v) A listing of the elements comprising the purchase price to be charged including the premium, commissions costs, fees and other charges, as well as the method by which the premium is established,

(vi) The services to be provided for the separate elements comprising the purchase price,

(vii) A descripition of any and all costs in addition to the purchase price which may be incured by an option customer if the commodity option

is exercised, including, but not limited to, the amount of storage, interest, commissions (whether denominated as sales commissions or otherwise), and all similar fees and charges which may be incurred,

(viii) The method by which the striking price is established,

(ix) The procedural requirements for exercise of the options,

(x) A description of the issuer's obligations to perform upon exercise of the option,

(xi) A description of the rights and obligations of the option customer, including the option customer's rights upon default,

(xii) A clear explanation of any force majeure clause contained in the option contracts, and

(xiii) A description of any material risks not included in the statements required by paragraphs (a)(1), (a)(2)(i) and (b)(2) of this section;

(4) A description of the foreign commodity option exchange on which the commodity options are traded, including its clearing mechanism, or the substantive equivalent thereto approved by the Commission;

(5) If the commodity option is incapable of being liquidated by an offsetting transaction on or subject to the rules of the foreign commodity option exchange on which it is traded, a statement to the effect that (i) the price of the commodity or contract of sale for future delivery underlying the option must either rise above the striking price, or fall below the striking price, as the case may be, by an amount in excess of the sum of the premium and all other costs incurred in entering into and exercising the commodity option in order for the option customer to realize a profit on the option transaction, and (ii) an option customer will be unable to sell any option purchased in any market to recover any of the purchase price, but rather may only liquidate by exercising an option before the expiration date of the option;

(6) The name of the person required to register as a futures commission merchant under the Act with whom the account agreement is established, as well as the address and telephone number of the person's principal business office; and

(7) A clear explanation of the effect of any foreign currency fluctuations with respect to commodity options being offered.

(c) A person shall not be required to deliver the disclosure statement to an option customer as provided by paragraphs (a) and (b) of this section if the required disclosure statement has previously been furnished by such person to the option customer: Provided, however, that an appropriate disclosure statement shall be delivered in any event (1) upon the request of the option customer, or (2) if the previously delivered disclosure statement has become inaccurate in any material respect.

(d) Prior to the entry into a commodity option transaction on or subject to the rules of a domestic or foreign commodity option exchange, each option customer or prospective option customer shall, to the extent the following amounts are known or can reasonably be approximated, be informed by the person soliciting or accepting the order therefor of the amount of the premium, and any commissions, costs, fees and other charges incurred in connection with the commodity option transaction, as well as the striking price and all costs to be incurred by the option customer if the commodity option is exercised.

(e) Not more than 24 hours after the execution of a commodity option transaction on a domestic or foreign commodity option exchange, each person required to register as a futures commission merchant under the Act which deals directly with an option customer and which places, or causes to be placed, an order for a commodity option transaction on behalf of its option customer, shall furnish such option customer, by mail or other generally accepted means of communication, with a written confirmation statement containing at least the following information:

(1) A separate listing of the actual amount of the premium, as well as each commission, cost, fee and other charge incurred in connection with the commodity option transaction;

(2) The striking price;

(3) The total quantity and quality of the commodity which may be purchased or sold, or which underlies the contract of sale for future delivery which may be purchased or sold, upon exercise of the commodity option;

(4) The expiration date, and the final exercise date, if different, of the commodity option purchased or sold, and in the case of an option on a contract of sale for future delivery, the final trading date on such contract; and

(5) The date the commodity option transaction was executed.

§ 32.17 Segregation.

(a) With respect to commodity options traded on or subject to the rules of a domestic commodity option exchange—

(1) Each person required to register as a futures commission merchant under the Act shall treat and deal with all money, securities and property received by such person (i) as a premium to be used for the purchase of an option contract for an option customer, (ii) as a premium payable to an option customer, (iii) to guarantee or secure performance of the option contracts of an option customer, or (iv) representing accruals to an option customer as the result of option contracts, as belonging to such option customer. Such money, securities and property shall be separately accounted for and shall not be commingled with the money, securities or property of such person required to register as a futures commission merchant under the Act or with the money, secruities or property of such person's commodity customers (as defined in § 1.3(k) of this chapter) or of any other person or be used to secure or guarantee the trades or contracts, or to secure or extend the credit, of any option customer or person other than the one for whom the same are held: *Provided, however,* that such money, securities or property treated as belonging to the option customers of such person who engage in commodity option transactions executed on or subect to the rules of a domestic commodity option exchange may for convenience be commingled and deposited in the same account or accounts with any bank or trust company, with the clearing organization of such domestic commodity option exchange, or with another person registered as a futures commission merchant under the Act, in the United States, and that such share thereof as in the normal course of business shall be necessary to guarantee, secure, transfer, adjust, or settle the commodity option contracts of such option customers, or resulting market positions, with the clearing organization of such domestic commodity option exchange or with any other person registered as a futures commission merchant under the Act, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage and other fees and charges, lawfully accruing in connection with such option contracts and trades: *Provided, further,* that such money may be invested in obligations of the government of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the government of the United States.

(2) It shall be unlawful for any person, including but not limited to any clearing organization of a domestic commodity option exchange, and any depository, that has received any money, securities, or property for deposit in a separate account, as provided in paragraph (a)(1) of this section, to hold, dispose of or use any such money, securities or property as belonging to any person other than the option customers of the person required to register as a futures commission merchant which deposited such option customer money, securities and property.

(3)–(14) [Reserved]

(b) With respect to commodity options traded on or subject to the rules of foreign commodity option exchange—

(1) Each person required to register as a futures commission merchant under the Act shall treat and deal with all money, securities and property received by such person (i) as a premium to be used for the purchase of an option contract for an option customer in the United States, (ii) as a premium payable to an option customer in the United States, (ii) to guarantee or secure performance of option contracts of an option customer in the United States, or (iv) representing accruals to an option customer in the United States as the result of option contracts, as belonging to such option customer. Such money, securities and property shall be separately accounted for and segregated in the

United States and shall not be commingled with the money, securities or property of such person required to register as a futures commission merchant or with the money, securities or property of such person's commodity customers (as defined in § 1.3(k) of this chapter) or of any other person or be used to secure or guarantee the trades or contracts, or to secure or extend the credit, of any option customer or person other than the one for whom the same are held: *Provided, however,* that the money, securities or property treated as belonging to the option customers of such person who engage in commodity option transactions executed on or subject to the rules of a foreign commodity option exchange may for convenience be commingled and deposited in the same account or accounts with any bank or trust company in the United States or with another person registered as a futures commission merchant under the Act in the United States or with the foreign commodity option exchange and that such share thereof as in the normal course of business shall be necessary to guarantee, secure, transfer, adjust, or settle the foreign commodity option contracts of such option customers or resulting market positions, with the foreign commodity option exchange, or with any person registered as a futures commission merchant under the Act, may be withdrawn and applied to such purposes. Such money, securities and property, when so deposited with any bank, trust company, other person required to be registered as a futures commission merchant under the Act, shall be deposited under an account name which will clearly show that it contains money, securities or property treated as belonging to option customers, segregated as required by this Part. Each person required to register as a futures commission merchant under the Act depositing such money, securities or property shall obtain and retain in its files for the period provided in § 1.31 of this chapter an acknowledgment from such bank, trust company or person required to register as a futures commission merchant under the Act that it was informed that the money, securities and property so deposited are being treated as belonging to option customers and are being held in accordance with the provisions of this Part. Such bank, trust company, or person required to register as a futures commission merchant under the Act must allow inspection of such accounts at any reasonable time by representatives of the Commission.

(2) No money, securities or property deposited in accordance with paragraph (b)(1) of this section shall be held, disposed of, used or treated as belonging to the depositing person or any person other than the option customers in the United States of such person: *Provided, however,* that such money may be invested in obligations of the government of the United States, in general obligations of any State or of any political subdivision thereof, and in obligations fully guaranteed as to principal and interest by the government of the United States. Such investments shall be made through an account or accounts used for the deposit of money, securities or property received from or for the account of option customers and proceeds from any sale of such obligations shall be redeposited in such account or accounts. Each person which invests money belonging or accruing to option customers in obligations as described in this paragraph (2), shall separately account for such obligations and segregate such obligations as belonging to such option customers. Such obligations shall be deposited under an account name which will clearly show that it contains obligations treated as belonging to option customers, segregated as required by this Part. Each person depositing such obligations shall obtain and retain in its files an acknowledgment from such bank or trust company that it was informed that the obligations are treated as belonging to option customers and are being held in accordance with the provisions of this Part. Such acknowledgment shall be retained for the period provided in § 1.31 of this chapter. Such bank or trust company must allow inspection of the obligations at any reasonable time by representatives of the Commission.

(3) Each person which invests money treated as belonging to option customers as permitted hereunder shall keep a record showing the following: (i) the date on which such investments were made, (ii) the name of the person through which such investments were made, (iii) the amount of money so invested, (iv) a description of the obligations in which such investments were made, (v) the identity of the depositories or other places where such obligations are segregated, (vi) the date on which such investments were liquidated or otherwise disposed of and the amount of money received on such disposition, if any, and (vii) the name of the person to or through which such investments were disposed of.

(4) Persons which invest money in obligations described in paragraph (b)(2) of this section shall include such obligations in segregated account at values which at no time shall be greater than current market value, determined as of the close of the market on the last preceding market day.

(5) The deposit and/or investment of money as provided in paragraph (b)(1) or (2) of this section shall not operate to prevent the person so depositing and/or investing such money from receiving and retaining as its own any increment or interest resulting therefrom.

(6) The amount of money, securities and property which is and which must be in a segregated account in order to comply with the segregation requirements of this paragraph (b) of this section shall be computed by each person required to register as a futures commission merchant under the Act as of the close of each business day. A record of such computation shall be made and kept, together with all supporting data, in accordance with the provisions of § 32.19 of this Part. Such computation shall be made prior to the opening of business on the next business day.

§ 32.18 Promotional material.

Each person required to register as a futures commission merchant under the Act shall retain for a period of at least five years, all promotional material used by it in its commodity option activities with option customers and shall make such promotional material available for inspection upon request by any authorized representative of the Commission.

§ 32.19 Record keeping requirements.

(a)–(i) [Reserved]

(j) With respect to commodity options traded on or subject to the rules of a foreign commodity option exchange, each person required to be registered as a futures commission merchant under the Act—

(1) Shall keep full, complete and systematic records together with all pertinent data and memoranda of or relating to its commodity option transactions. Such records shall at least include all orders (filled, unfilled or cancelled), signature cards, books and records, journals, ledgers (separate for proprietary option accounts), cancelled checks, copies of all statements of purchase, exercise or lapse, customer month end statements, monthly trial balances, monthly listing of open option positions arranged by commodity and striking price, and reports, letters, disclosure statements and confirmation statements required by § 32.16. Upon the request of an authorized representative of the Commission, such person shall furnish the true name and address of each commodity option customer in the United States or prospective commodity option customer solicited.

(2) Shall also keep a record in permanent form which shall show the true name and address of each maker, underwriter, issuer or other person who assumes or purports to assume any financial responsibility for the fulfillment of any commodity option transaction solicited or accepted by such person to the extent that such information is known or may reasonably be obtained by such person.

(3) Which accepts an order for a commodity option from a person other than an option customer, shall keep full, complete and systematic records together with all pertinent data and memoranda of or relating to the transaction. Such records shall at least include the items set forth in paragraph (j)(2) of this section and, to the extent necessary to reflect such person's participation in the transactions, shall include all items set forth in paragraph (j)(1) of this section.

(4) Which accepts an order for a commodity option as provided in paragraphs (j)(1) through (3) of this section shall immediately upon receipt thereof prepare a written record of such order, including an account identification and order number, and shall record thereon by time-stamp or other device, the date and time, to the nearest minute, that

the order is (i) accepted, (ii) transmitted for execution, and (iii) executed.

(5) Shall retain all records, memoranda and other documents required to be maintained by paragraphs (j) (1) through (3), and to be prepared by paragraph (j)(4), of this section for the period specified in § 1.31 of this chapter, and shall produce the same for inspection and furnish true and correct copies thereof and information and reports as to the contents or meaning thereof when and as requested by any authorized representative of the Commission or the United States Department of Justice.

§ 32.20 Application and closing out of offsetting long and short positions.

[Reserved.]

§ 32.21 Filing of information by domestic commodity option exchanges.

[Reserved.]

§ 32.22 Report by domestic and foreign commodity option exchanges.

[Reserved.]

§ 32.23 Reports by futures commission merchants.

[Reserved.]

§ 32.24 Reports by traders.

[Reserved.]

§ 32.25 Reports by members of domestic commodity option exchanges.

[Reserved.]

§ 32.26 Special calls for information.

[Reserved.]

§ 32.27 Trading requirements.

[Reserved.]

§ 32.28 Unlawful activities.

It shall be unlawful for any person—

(a) Required to be registered with the Commission in accordance with this Part expressly or impliedly to represent that the Commission, by declaring effective the registration of such person or otherwise, has directly or indirectly approved such person, or any commodity option transaction solicited or accepted by such person;

(b) In or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of any commodity option transaction expressly or impliedly to represent that compliance with the provisions of this Part constitutes a guarantee of the fulfillment of the commodity option transaction;

(c) Upon receipt of an order for a commodity option transaction, unreasonably to fail to secure prompt execution of such order;

(d) To manipulate or attempt to manipulate the market price of any commodity option on or subject to the rules of any domestic commodity option exchange: *Provided, however,* that any action taken by any domestic commodity option exchange pursuant to a rule approved by the Commission or any emergency action which a domestic commodity option exchange is permitted to take pursuant to § 32.15 shall not be deemed to be a manipulation for purposes of this paragraph;

(e) To offer to enter into, enter into, or confirm the execution of, any commodity option transaction, if such transaction is, is of the character of, or is commonly known to the trade as, a "wash sale", "cross trade", or "accommodation trade", or is a fictitious sale.

§ 32.29 Fraud in connection with commodity option transactions.

It shall be unlawful for any person directly or indirectly—

(a) To cheat or defraud or attempt to cheat or refraud any other person;

(b) To make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

(c) To deceive or attempt to deceive any other person by any means whatsoever;

in or in connection with an offer to enter into, the entry into, or the confirmation of the execution of, any commodity option transaction.

§ 32.30 Option transactions entered into prior to the effective date of this Part; certain subsequent transactions.

Nothing contained in this Part shall be construed to affect any lawful activities that occurred prior to the effective date of this Part. All option transactions offered or entered into on or after December 9, 1976, and prior to July 30, 1977, shall be subject to the terms and conditions of this Part in effect on and between those dates.

Interested persons are invited to submit comments on the proposed regulations to the Commission, 2033 K Street, N.W., Washington, D.C., 20581, Attention: Secretariat. Comments received on or before June 6, 1977, will be considered by the Commission before taking action on the proposed regulations. Copies of all comments received will be available for inspection in the Commission's offices in Washington, D.C.

Issued in Washington, D.C. on March 30, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77-10013 Filed 4-4-77;8:45 am]

federal register

TUESDAY, APRIL 5, 1977

PART V



DEPARTMENT OF STATE

■

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Pub. Notice 534]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94–265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Additional Applications for fishing beginning March 1, 1977, have been received from the Polish People's Republic, and are published herewith.

Dated: March 31, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

FISHING VESSEL NOTIFICATION FORM (FOREIGN)

PL-77-0034

Permit Period Applied For: 1977

Application No. PL-77-0034 For Use of Issuing Office

State: POLAND

1. Name of Vessel: MARLIN
2. Vessel No.: Hull No. SWI-219 Registration No. 440225
3. Name and Address of Owner / Name and Address of Charterer
   Name: DEPP SEA FISHING COMPANY "ODRA"
   Address: 72-602 ŚWINOUJŚCIE
   Jana Sołtana 1
   Cable Address: "ODRA" - ŚWINOUJŚCIE
4. Homeport and State of Registry: ŚWINOUJŚCIE
5. Type of Vessel: stern trawler B-417
6. Tonnage (Gross) 2390 (Net) 988
7. Length 89,88 M. 8. Breadth 15,03 M. 9. Draft 6,50 M.
10. Horsepower 3600 shp. 11. Maximum Speed 15,0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ).
    Other
13. Date Built 1977
14. Number and Nationality of Personnel 78 Poles
    Officers 16 Crew 62 Other (Specify)
15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X).
    Other
    International Radio Call Sign SQGY
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies 2506 KHz
    Schedule 08.00-12.00,20.00-22.00 on the zone times
16. Navigation Equipment: Loran C (X), Loran A (X), Omega (X), Decca (X), Navsat ( ), Radar (X), Fathometer (X),
    Other
17. Cargo Capacity (MT)

Salted Fish	
Fresh Fish	
Frozen Fish	810
Fish Meal	180
Other	Fish oil 40

18. Cargo Space

	Number	Name
Freezer	2	1,2
Dry Hold	1	
Tanks	2	19,20
Other		

19. Processing Equipment (Indicate daily capacity, MT)
    Baader-33/unit 1-140 fish/min.,B-694/unit 1/, Techmet/unit 1/, filleting line B-181, Trio-4-10 tons/day, filleting line B-189, B-423, OFD1/units 2/-5-21 tons/day, filleting B-188,B-413,OFD-1 /units2/-5-21 tons/day,Plate freezers/units5/-60 tons/day. Fish meal and oil plant F.M-50,-50 tons/day raw mat.
20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NE PACYFK	1977	Hake	3000	
		Jack Mackrel	400	
		Pollock	1000	
		Atka Mackrel	170	
		Other ground fish	20	
		Cod	30	

21. Name and Address of Agent appointed to receive any legal process issued to the United States:
    Ameropol International Inc. Officiel Reprezentative
    Two Werrld Trade Center Ireneusz Wrześniewski
    Suite 2222, New York NY 10048

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

PL-77-0035

Permit Period Applied For: 1977

Application No. For Use of Issuing Office PL-77-0035

State: POLAND

1. Name of Vessel KOLIAS
2. Vessel No.: Hull No. ŚWI-220 Registration No. _____
3. Name and Address of Owner / Name and Address of Charterer

Name: DEEP SEA FISHING COMPANY "ODRA"

Address: 72-602 ŚWINOUJŚCIE

Jana Sołtana 1

Cable Address: ODRA - ŚWINOUJŚCIE

4. Homeport and State of Registry: ŚWINOUJŚCIE
5. Type of Vessel: stern trawler B-417
6. Tonnage (Gross) 2395 (Net) 988
7. Length 89,88 M. 8. Breadth 15,03 M. 9. Draft 6,50 M.
10. Horsepower 3600 shp. 11. Maximum Speed 15,0 kt.
11. Propulsion: Diesel (X), Steam ( ), Diesel/Electric ( ),

Other _____

13. Date Built 1977
14. Number and Nationality of Personnel 78 Poles

Officers 16 Crew 62 Other (Specify) _____

15. Communications: VHF-FM (X), AM/SSB, Voice (X), Telegraphy (X),

Other _____

International Radio Call Sign SQGM

Radio Frequencies Monitored 500 KHz

Other Working Frequencies 2506 KHz

Schedule 08,00-12,00, 20,00-22,00 on the zone times

16. Navigation Equipment: Loran C (---), Loran A (x), Omega (x), Decca (X), Navsat (x), Radar (x), Fathometer ( ),

Other _____

17. Cargo Capacity (MT)

Salted Fish	_____
Fresh Fish	_____
Frozen Fish	810
Fish Meal	180
Other	Fish oil 40

18. Cargo Space

Number		Name
Freezer	2	1,2
Dry Hold	1	
Tanks	2	19,20
Other		

19. Processing Equipment (Indicate daily capacity, MT)
Beader-33/unit 1-140 fish/min.,B-694/unit 1/, Techmet/unit 1/, filleting line B-181, Trio-4-10 tons/day, filleting line B-189, B-423, OFD1/units 2/-5-21 tons/day, filleting B-188,B-413,OFD-1 /units 2/-5-21 tons/day, Plate frezers/units5/-60 tons/day. Fish meal and oil plant F.M-50,-50 tons/day raw mat.

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used
NE PACYFIK	1977 1.VI-31.X.77	Hake	3000-	
		Jack Mackrel	400	
		Pollock	1000	
		Ałtka Mackrel	170	
		Other ground fish	20	

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

Ameropol International Inc. Official Reprezentative

Two World Trade Center Ireneusz Wrześniewski

Suite 2222, New York, NY 10048

[FR Doc.77-10078 Filed 4-4-77;8:45 am]

Supplement 2

PRINCIPAL EXECUTIVE BRANCH OFFICIALS OF THE ADMINISTRATION OF JIMMY CARTER

Appointed January 20–March 30, 1977

- **Lists names and titles of more than 250 key officials**
- **Supplements the 1976/77 edition of the U.S. Government Manual**

Price: 75 cents

Compiled by the Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402