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federal register

FRIDAY, DECEMBER 30, 1977

highlights

"THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for January are being accepted for the free workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L St. N.W., Washington, D.C. in Room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202–523–3517.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

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

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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

DOT/CG—Tank vessels carrying oil in trade; protection of marine environment 54177; 12–13–76

FAA—Belvidere, Ill.; transition area. 42192; 8–22–77

MTB—Conversion of existing pipelines to gas service 60146; 11–25–77

NCUA—Share accounts and share certificate accounts; authorization for establishment by Federal credit unions. 60905; 11–30–77

USDA/AMS—Oranges, grapefruit, tangerines, and tangelos grown in Fla... 59367; 11–17–77

Rules Going Into Effect December 31, 1977

Commerce/DIBA—Exporters; deletion of periodic requirement and time limit licenses 62911; 12–14–77

DOT/FAA Airworthiness directives; General Electric CF6–6 Engines 45817; 10–18–76

FHLBB—Continuation of electronic fund transfers through remote service units. 61450; 12–5–77

HEW/FDA—Onion rings made from diced onions; common or usual name. 54536; 11–24–75

Potato chips made from dried potatoes; common or usual names 54539; 11–24–75

Restructured seafood products; common or usual names 54537; 11–24–75

ICC—Corporate disclosure regulations. 35853; 7–12–77

Treasury/IRS—Certain requirements for income tax return preparers 59961; 11–23–77

USDA/APHIS—Rabies virus vaccines; packaging and labeling 28519; 6–3–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

[3125–01]

Title 3—The President

CHAPTER I—EXECUTIVE OFFICE OF THE PRESIDENT

PART 101—PUBLIC INFORMATION PROVISIONS OF THE ADMINISTRATIVE PROCEDURES ACT

Council on Environmental Quality

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Technical amendment (final rule).

SUMMARY: Because the Council has issued its own Freedom of Information procedures (text is published concurrently with this rule), Part 101 of Chapter I of Title 3 of the Code of Federal Regulations requires a technical amendment. A new § 101.5 will be added to indicate that the Council's Freedom of Information regulations appear at 40 CFR Ch. 5.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, 202–633–7032.

SUPPLEMENTARY INFORMATION: This rule is a technical correction which cross-references the Council's Freedom of Information regulations (published in this FEDERAL REGISTER in 3 CFR Ch. I. relating to the Executive Office of the President.

A new 3 CFR 101.5 is added as follows:

§ 101.5 Council on Environmental Quality.

Freedom of Information regulations for the Council on Environmental Quality appear at 40 CFR Chapter V.

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77–37143 Filed 12–29–77;8:45 am]

[6820–27]

Title 1—General Provisions

CHAPTER IV—MISCELLANEOUS AGENCIES

DELETION OF REGULATIONS

EDITORIAL NOTE: Various government commissions now publish their Privacy Act and Freedom of Information Act regulations in Chapter IV of Title 1 of the Code of Federal Regulations. During 1977, several of these commissions have completed their reports and expired in accordance with the terms of the statutes authorizing the commissions. Due to their expiration, the Office of the Federal Register is removing their regulations now codified in Chapter IV of Title 1 of the Code of Federal Regulations. Listed below are the commissions that have expired, their existing Part assignments in the CFR, and the public law citation to the specific act that created the commission.

1. Commission on Review of National Policy Toward Gambling; 1 CFR Part 410 (Pub. L. 91–452).

2. Defense Manpower Commission; 1 CFR Part 420 (Pub. L. 93–155).

3. Privacy Protection Study Commission; 1 CFR Parts 430, 431 (Pub. L. 93–579).

4. Electronic Fund Transfer Commission; 1 CFR Parts 440, 441 (Pub. L. 93–495).

Therefore, Parts 410, 420, 430, 431, 440, and 441 of Chapter IV of Title 1 of the Code of Federal Regulations are deleted.

[3410–01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

Investigatory Subpoenas—Issuance Under Packers and Stockyards Act

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document authorizes the Administrator, Agricultural Marketing Service to delegate authority to issue investigatory subpoenas in connection with investigations conducted under the Packers and Stockyards Act.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, Washington, D.C., 202–447–6035.

SUPPLEMENTARY INFORMATION: Section 1.29 of title 7, Code of Federal Regulations delegates authority to an agency head to issue subpoenas in connection with investigations conducted under statutes administered by that agency head where a statute so authorizes the Secretary to issue a subpoena. It is specifically provided that such authority may not be redelegated by the head of the agency. The recent merger of the Packers and Stockyards Administration into the Agricultural Marketing Service would thus require the Administrator of the Agricultural Marketing Service to issue subpoenas in connection with investigations being conducted under the Packers and Stockyards Act. It has been determined that to so require the Administrator to issue all subpoenas would unduly hamper effective investigations conducted under the Packers and Stockyards Act. Hence, § 1.29 is being revised to authorize the Administrator to delegate the authority to issue subpoenas in connection with investigations conducted under the Packers and Stockyards Act to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service, as follows:

Subpart B—Departmental Proceedings

Section 1.29 is amended by adding the following sentence to the end of paragraph (a) to read as follows:

§ 1.29 Subpoenas relating to investigations under statutes administered by the Secretary of Agriculture.

(a) *Issuance of subpoena.* * * * Notwithstanding the foregoing proviso, the Administrator, Agricultural Marketing Service may delegate the authority to issue subpoenas in connection with investigations being conducted under the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181–229), to the Deputy Administrator, Packers and Stockyards, Agricultural Marketing Service.

* * * * *

(5 U.S.C. 301.)

Done at Washington, D.C., this 23d day of December 1977.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc.77–37146 Filed 12–29–77;8:45 am]

[3410–01]

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Assistant Secretary of Agriculture for Marketing Services to reflect the merger of the Packers and Stockyards Administration into the Agricultural Marketing Service. It has been determined that such action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel M. Garvey, Personnel Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6635.

Subpart F—Delegations of Authority by the Assistant Secretary of Marketing Services

1. Section 2.50 is amended by revoking and reserving paragraphs (a)(5); by revising paragraph (a); and by adding new paragraphs (a) (8) and (9) to read as follows:

§ 2.50 Administrator, Agricultural Marketing Service.

(a) Pursuant to § 2.17 (a) and (e), subject to reservations in § 2.18(a), the following delegations of authority are made by the Assistant Secretary for Marketing Services to the Administrator, Agricultural Marketing Service:

* * * * *

(5) [Reserved]

* * * * *

(8) Administer the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. 181-229).

(9) Enforce provisions of the Consumer Credit Protection Act (15 U.S.C. 1601-1665, 1681-1681t), with respect to any activities subject to the Packers and Stockyards Act, 1921, as amended and supplemented.

* * * * *

2. Section 2.54 is revoked and reserved as follows:

§ 2.54 [Reserved]

Dated: December 27, 1977.

For Subpart F:

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc.77-37147 Filed 12-29-77;8:45 am]

[3410-01]

PART 2—DELEGATION OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Soil and Water Resources Conservation Act Implementation

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document provides delegations of authority to the Assistant Secretary of Agriculture for Conservation, Research and Education and the Administrator, Soil Conservation Service, relating to the Soil and Water Resources and Conservation Act of 1977.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

J. Michael Nethery, Director, Policy Analysis Division, Soil Conservation Service, U.S. Department of Agriculture, 202-447-7585.

SUPPLEMENTARY INFORMATION: On November 18, 1977, President Carter signed the Soil and Water Resources Conservation Act of 1977, Pub. L. 95-192. This Act, among other purposes, directs the Secretary of Agriculture to (1) conduct an appraisal, on a continuing basis, of the soil, water, and related resources of the Nation; (2) develop and periodically update a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources; and (3) provide to Congress and the public information and an annual evaluation of how the program is meeting qualitatively and quantitatively the long-term needs of the Nation as determined by the provisions of the Act.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

Section 2.19 is amended by adding a new paragraph (f) (8) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

* * * * *

(f) * * *

(8) Provide national leadership in carrying out the Soil and Water Resources Conservation Act of 1977, Pub. L. 95-192.

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

Section 2.62 is amended by adding a new paragraph (a)(10) to read as follows:

§ 2.62 Administrator, Soil Conservation Service.

(a) * * *

(10) Administer the Soil and Water Resources Conservation Act of 1977, Pub. L. 95-192, except as to responsibilities assigned to other USDA agencies.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

For Subpart C:

Dated: December 27, 1977.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart G:

Dated: December 27, 1977.

RICHARD L. DUESTERHAUS,
Acting Assistant Secretary for Conservation, Research, and Education.

[FR Doc.77-37162 Filed 12-29-77;8:45 am]

[3410-05]

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 6]

PART 724—FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54, AND 55) TOBACCO

Subpart—Tobacco Allotment and Marketing Quota Regulations, 1972-73 and Subsequent Marketing Years

1977-78 RATE OF PENALTY

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule provides the penalty rate that applies to the 1977 crop of tobacco which may be subject to marketing quota penalty during the 1977-78 marketing year. Other minor changes are also made. This rule is needed to inform producers of the penalty rate.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Maurice Reddick, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-4695.

SUPPLEMENTARY INFORMATION: Since the penalty rate is simply a mathematical determination, the marketing of tobacco will start soon, and the penalty rates are needed at the time of marketing, it is hereby determined that compliance with the notice of proposed rulemaking, public procedure, and 30-day effective date provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest.

FINAL RULE

Accordingly, 7 CFR, Part 724 is amended as follows:

1. The table of sections is amended to read as follows:

Sec.

* * * * *

724.73 [Reserved]

* * * * *

§ 724.73 [Reserved]

2. Section 724.73 is revoked and reserved.

3. In § 724.81, paragraph (e)(1)(ii) is amended and paragraph (e)(1)(iii) is added to read as follows:

§ 724.81 Issuance of producer marketing cards.

* * * * *

(e) * * *

(1) * * *

(ii) The farm operator or another producer on the farm prevents the county committee from obtaining information

necessary to determine the correct acreage of tobacco on the farm, or

(iii) The farm operator fails, according to Part 718 of this chapter, to provide a certification of acreage planted to tobacco.

* * * * *

4. Section 724.88 is amended by adding paragraph (i) to read as follows:

§ 724.88 Rate of penalty.

* * * * *

(i) (1) *The 1976-77 average market price.* The average market price for the kinds of tobacco listed below as determined by the Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, for the 1976-77 marketing year was:

AVERAGE MARKET PRICE

Kind of tobacco:	Cents per pound
Fire-cured (type 21)	118.0
Fire-cured (types 22, 23, 24)	142.2
Dark air-cured	116.6
Virginia sun-cured	105.0
Cigar filler and binder (types 42, 43, 44, 53, 54, and 55)	72.8
Cigar-binder (types 51 and 52)	89.6

(2) *1977-78 rate of penalty per pound.* The penalty rate per pound for the kinds of tobacco listed below upon marketings of excess tobacco subject to marketing quotas during the 1977-78 marketing year shall be:

RATE OF PENALTY

Kinds of tobacco:	Cents per pound
Fire-cured (type 21)	89
Fire-cured (types 22, 23, 24)	107
Dark air-cured	87
Virginia sun-cured	79
Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55)	55
Cigar-binder (types 51 and 52)	(1)

[1] Quotas terminated for 1977 crop.

(Secs. 301, 313, 314, 316, 318, 363, 372-375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 81 Stat. 120, as amended, 52 Stat. 63, as amended, 65, as amended, 66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended (7 U.S.C. 1301, 1313, 1314, 1314b, 1314d, 1363, 1372-1375, 1377, 1378).)

NOTE.—The Agricultural Stabilization and Conservation Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Signed at Washington, D.C., on December 20, 1977.

RAY FITZGERALD,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-37087 Filed 12-29-77;8:45 am]

[3410-02]

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

[Lemon Regulation 126; Lemon Regulation 125, Amendment 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period January 1-7, 1978, and increases the quantity of such lemons that may be so shipped during the period December 25-31. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective January 1, 1978, and the amendment is effective for the period December 25-31, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, 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 the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on December 27, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons continues strong, with 200's showing some weakness.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.426 Lemon Regulation 126.

(a) *Order.* The quantity of lemons grown in California and Arizona which may be handled during the period January 1, 1978, through January 7, 1978, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. The provisions of paragraph (a) in § 910.425 Lemon Regulation 125 (42 FR 64360) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period December 25, 1977, through December 31, 1977, is established at 220,000 cartons."

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

D. S. KURYLOSKI,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

DECEMBER 28, 1977.

[FR Doc.77-37369 Filed 12-29-77;11:37 am]

[3410-02]

[Papaya Regulation 8]

PART 928—PAPAYAS GROWN IN HAWAII

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets grade and size requirements for papayas grown in Hawaii for the 1978 season and is needed to provide orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: January 1 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: On December 7, 1977, notice was published in the FEDERAL REGISTER (42 FR 61867) inviting written comments not later than December 22, 1977, on proposed grade and size requirements for shipments of 1978 season Hawaiian papayas, under Marketing Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The committee estimated that 1978 production of Hawaiian papayas will total 70.0 million pounds, 11 percent more than the estimated record large 1977 crop. Fresh sales are expected to total 57.0 million pounds and the remaining 13.0 million processed. In-state fresh sales are projected at 13.5 million pounds for 1978, compared to 13.0 million estimated for 1977. It is anticipated that out-of-state sales will amount to 76 percent of the total fresh sales next year and reach a record large 43.5 million pounds, 2.5 million more than in 1977.

Under the regulation, papayas in intrastate shipment must grade at least Hawaii No. 1 during the period January 1–May 15, 1978, and weigh at least 14 ounces (16 ounces for Hawaii Fancy). During the period May 16–December 31, 1978, such papayas must grade at least Hawaii No. 1 with 5 percent tolerance for defects and weigh at least 16 ounces.

Export shipments during the period January 1–May 15, 1978, must grade at least Hawaii No. 1 with 5 percent tolerance for defects and weigh at least 11 ounces. During the period May 16–December 31, 1978, such papayas must grade Hawaii Fancy with 3 percent tolerance for defects, including brown spot, and weigh at least 14 ounces.

The regulation is based upon an appraisal of the prospective supply and market situation for papayas during the period January 1–December 31, 1978. It is designed to assure consumers of an adequate supply of acceptable quality papayas consistent with the quality and size composition of the crop.

After consideration of all relevant matters presented, including the proposal in the notice, it is hereby found that the following regulation is in accordance with the marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of papayas will be regulated only through December 31, 1977, by Papaya Regulation 7, as amended, and, in order to effectuate the declared policy of the act, this regulation should be effective not later than January 1, 1978, to provide continuity of regulation; (2) this regulation is the same as that which was specified in the notice (42 FR 61867), to which no exceptions were submitted; and (3) compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date thereof.

§ 928.308 Papaya Regulation 8.

Order. (a) No handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152 of this part):

(1) During the period January 1 through May 15, 1978, to any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of a size which individually weigh not less than 14 ounces: *Provided,* That papayas handled as Hawaii Fancy grade shall be of a size which individually weigh not less than 16 ounces.

(2) During the period May 16 through December 31, 1978, to any destination within the production area unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided,* That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further,* That such papayas individually weigh not less than 16 ounces.

(3) During the period January 1 through May 15, 1978, to any export destination unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided,* That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further,* That such papayas shall individually weigh not less than 11 ounces each.

(4) During the period May 16 through December 31, 1978, to any export destination unless such papayas at least meet the requirements of Hawaii Fancy grade except for the defect of brown spot; that with respect to the brown spot defect, such fruit at least meet the requirements of Hawaii No. 1 grade; and further that allowable tolerances for total defects, including brown spot, shall not exceed 3 percent: *Provided,* That not more than 1 percent shall be permitted for immature fruit and not more than 1 percent for decay: *Provided further,* That such papayas shall individually weigh not less than 14 ounces each.

(b) When used herein "Hawaii Fancy" and "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Grown Papayas, as amended, Subsection 5.32, Section 5, Regulation 1, Division of Marketing and Consumer Services, Department of Agriculture, State of Hawaii, issued pursuant to Section 147–4, Part I and Section 147–22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes. All other terms shall have the same meaning as when used in the marketing agreement and order.

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

Dated: December 23, 1977, to become effective January 1, 1978.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-37145 Filed 12-29-77;8:45 am]

[3410–34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Release of Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Olmstead County in Minnesota from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the area quarantined. No areas in the State of Minnesota remain under quarantine.

EFFECTIVE DATE: December 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Room 737, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This amendment releases a portion of Olmsted County in Minnesota from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded area, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas in said Part 73 will apply to the excluded area.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

In § 73.1a, paragraph (h) relating to the State of Minnesota is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participa-

tion in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C. this 22nd day of December 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-37034 Filed 12-29-77;8:45 am]

[3410-34]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md., Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Okeechobee County in Florida.

The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they again come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Morgan County in Missouri.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Benton, Boone, Calhoun, Clay, Greene, and Pike Counties in Arkansas; Brevard, Calhoun, Gadsden, Gulf, and Hamilton Counties in Florida; Jones, Schley, Telfair, and Washington Counties in Georgia; Jackson and Laclede Counties in Missouri; Bernalillo County in New Mexico; Grundy and White Counties in Tennessee; Pecos County in Texas; Addison, Chittenden, Franklin, and Orleans Counties in Vermont; and Gurabo, Isabela, Quebradillas, and San Sebastian Municipalities in Puerto Rico.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Minidoka County in Idaho; St. Johns County in Florida; Culberson, Hutchinson, Martin, Moore, Ochiltree, Sherman, and Yoakum Counties in Texas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are revised to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long., McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Idaho, Kootenai, Latha, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Platt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Dallas, Davis, Decatur, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Barber, Brown, Chase, Cheyenne, Clark, Comanche, Decatur, Doniphan, Edwards, Ellsworth, Ford, Gove, Graham, Grant, Gray, Greeley, Hamil-

ton, Haskell, Hodgeman, Johnson, Kearny, Kingman, Kiowa, Lane, Logan, Marion, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Wallace, Washington, Wichita.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kinsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Brewster, Childress, Comal, Crane, Culberson, Ector, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Reagan, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Greene, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa, Yuma.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appanoose, Cerro Gordo, Clayton, Crawford, Delaware, Guthrie, Jefferson, Ringgold, Sac, Wayne.

Kansas. Allen, Anderson, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Douglas, Elk, Ellis, Finney, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Jewell, Labette, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Stevens, Sumner, Wabaunsee, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau,

Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmit, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, ones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Pecos, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwell, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.* Yellowstone National Park.

(b) *Specific Counties Within States.*
Florida. Okeechobee.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of December 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-36911 Filed 12-29-77;8:45 am]

[3410-34]

SUBCHAPTER G—ANIMAL BREEDS

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

Recognized Breeds and Books of Record

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations relating to recognized breeds and books of record of purebred animals. An examination has been made by the Animal and Plant Health Inspection Service of the rules of entry and the printed book of record of the "Irish Simmental Cattle Society" and it has been determined that these rules and records are complete and adequate to provide a sufficient pedigree certificate to meet the requirements of the regulations. The intended effect of this document is to provide duty-free entry of certain Simmental cattle which are registered in the "Irish Simmental Cattle Society Book of Records."

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. H. A. Waters, USDA, APHIS, VS, Federal Building, Room 826, Hyattsville, Md. 20782, 301–436–8383.

SUPPLEMENTARY INFORMATION: This amendment will include Simmental cattle in the listing of recognized breeds and will add the full blood herd book of record of the "Irish Simmental Cattle Society" in 9 CFR 151.9. An examination has been made by the Animal and Plant Health Inspection Service of the rules of entry and the printed book of record of the "Irish Simmental Cattle Society" and it has been determined that these rules and records are complete and adequate to provide a sufficient pedigree certificate to meet the requirements of 9 CFR Part 151, provided that the pedigree certificate accompanying said animal shows at least 3 generations of known and recorded purebred ancestry.

Accordingly, Part 151, Title 9, Code of Federal Regulations, is amended in the following respect:

In § 151.9, the chart in pargraph (a) is amended by inserting the following in alphabetical order under the heading "Cattle":

In § 151.9, the chart in paragraph (a)

§ 151.9 Recognized breeds and books of record.

* * * * *

(a) * * *

Cattle

Code	Name of breed	Book of record	By whom published
*	*	*	*
1115	Simmental	Irish Simmental Cattle Society	Irish Simmental Cattle Society Ltd., Springhill Carrigtwohill, Co. Cork, Ireland.
*	*	*	*

(Sec. 101, 76 Stat. 72, Item 100.01, Title I, Tariff Act of 1930, as amended (19 U.S.C. 1202, Item 100.01); 37 FR 28464, 28477; 38 FR 19141.)

The effect of this amendment is to provide for duty-free entry of certain purebred animals, and it should be made effective upon publication to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of December 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this documents does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc.77-36900 Filed 12-29-77;8:45 am]

[3410-37]

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE MEAT AND POULTRY INSPECTION DEPARTMENT OF AGRICULTURE

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES, AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

Notice of Termination of Designation of the State of New Hampshire With Respect to the Inspection of Meat and Poultry Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Termination of designation of the State of New Hampshire under the Federal Meat Inspection Act and the Poultry Products Inspection Act.

SUMMARY: Representatives of the Governor of New Hampshire had advised this Department that the State of New Hampshire would no longer be in a position to continue administering the State meat and poultry inspection programs after January 2, 1978. Therefore, the Secretary of Agriculture designated the State of New Hampshire as required under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act with an effective date of application of Federal provisions of January 9, 1978. Since then, representatives of the Governor of New Hampshire have advised the Department that New Hampshire will now continue its meat and poultry inspection programs and requested that the designation of New Hampshire under the Acts be terminated. Therefore, such designations of New Hampshire are hereby terminated.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. James K. Payne, Director, Federal-State Relations, Field Operations, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6313.

SUPPLEMENTARY INFORMATION: Representatives of the Governor of the State of New Hampshire had advised this Department that the State of New Hampshire would no longer be in a position to continue administering the State meat and poultry inspection programs after January 2, 1978, and requested the Department to assume the responsibility for carrying out the provisions of titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered or their carcasses, or parts or products thereof, are prepared for use as human food, or at which poultry are slaughtered or poultry products are processed for use as human food, solely for distribution within such State, and with respect to intrastate operations and transactions concerning products and other articles and animals subject to the Federal Meat Inspection Act or the Poultry Products Inspection Act, and persons, firms, and corporations engaged therein.

The Secretary determined that in view of the proposed termination date for the New Hampshire programs, New Hampshire was not effectively enforcing requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act, inasmuch as those requirements contemplate continuous ongoing programs.

Accordingly, on December 9, 1977, a notice was published in the FEDERAL REGISTER (42 FR 62143-62144) designating the State of New Hampshire, effective December 9, 1977, under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act; and January 9, 1978, was specified as the "Effective date of application of Federal provisions" for both programs.

Since then, representatives of the Governor have informed the Department that New Hampshire will now continue its meat and poultry inspection programs and requested that the designation of New Hampshire under the Acts be terminated. The Secretary has now determined that since New Hampshire will continue its meat and poultry inspection programs, New Hampshire will enforce State meat and poultry inspection requirements at least equal to the requirements under titles I and IV of the Federal Meat Inspection Act and sections 1-4, 6-10, and 12-22 of the Poultry Products Inspection Act.

Therefore, the designation of the State of New Hampshire with respect to meat and meat products and poultry and poultry products under the Acts is hereby terminated.

§ 331.2 [Amended]

1. Accordingly, § 331.2 of the Federal meat inspection regulations (9 CFR 331.2) is hereby amended by deleting "New Hampshire" from the "State" column and by deleting the date which was added on the line with "New Hampshire."

(Secs. 21 and 301(c)(3), 34 Stat. 1260, as amended; 21 U.S.C. 621, 661(c)(3).)

§ 381.221 [Amended]

2. Also, § 381.221 of the poultry products inspection regulations (9 CFR 381.-221) is hereby amended by deleting "New Hampshire" from the "State" column and by deleting the date which was added on the line with "New Hampshire."

(Secs. 5(c) and 14, 71 Stat. 441, as amended; 21 U.S.C. 454(c)(3), 463)

This amendment of the meat and poultry inspection regulations is necessary to reflect the determination of the Secretary of Agriculture under section 301(c)(3) of the Federal Meat Inspection Act and section 5(c)(3) of the Poultry Products Inspection Act. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Secretary. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public procedure is impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on December 23, 1977.

JOSEPH A. POWERS,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc.77-37267 Filed 12-29-77;8:45 am]

[4810-33]

Title 12—Banks and Banking

CHAPTER I—COMPTROLLER OF THE CURRENCY, DEPARTMENT OF THE TREASURY

PART 9—FIDUCIARY POWER OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

AGENCY: Comptroller of the Currency.

ACTION: Final amendment.

SUMMARY: This amendment reflects the change in the title of the Comptrol-

ler's Manual for Representative in Trusts, which is cited in 12 CFR 9.11(d), to the Comptroller's Handbook for National Trust Examiners. The amendment also deletes the text of Form TA–1 from 12 CFR 9.20(e). The form, which relates to the registration of national bank transfer agents, remains in effect but because subject to frequent revision, will no longer be codified in the regulation.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dennis J. Arczynski, Assistant to the Deputy Comptroller for Trust Operations, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1731.

SUPPLEMENTARY INFORMATION: On November 1, 1976, the Comptroller's Manual for Representatives in Trusts was revised and republished under the new title of Comptroller's Handbook for National Trust Examiners. This republication has made it necessary to make conforming changes in 12 CFR Part 9 which specifically cites the Comptroller's Manual for Representatives in Trusts in Section 9.11(d). It has also been determined that the registration form for national bank transfer agents, Form TA–1, need no longer be codified in the Code of Federal Regulations. This has become particularly apparent as a result of the form being subject to frequent revisions.

The changes made by this amendment are technical non-substantive ones designed to conform 12 CFR Part 9 with current Office practice. Therefore, the Comptroller for good cause has determined pursuant to 5 U.S.C. 553(b)(B) and (d)(3) that notice, public procedures and delayed effectiveness are unnecessary and would be contrary to the public interest.

DRAFTING INFORMATION: The principal drafters of this document were Mr. Dennis J. Arczynski, Assistant to the Deputy Comptroller for Trust Operations and Mr. Richard H. Neiman, Staff Attorney.

FINAL AMENDMENT

12 CFR Part 9 is hereby amended by amending Sections 9.11 and 9.20 as follows:

1. Section 9.11 is amended by revising paragraph (d) as follows:

§ 9.11 Investment of funds held as fiduciary.

* * * * *

(d) As a part of each examination of the trust department of a national bank and as provided by the Comptroller's Handbook for National Trust Examiners, the Comptroller of the Currency will examine the investments held by such bank as fiduciary, including the investment of funds under the provision of § 9.18, in order to determine whether such investments are in accordance with law, this regulation and sound fiduciary principles.

§ 9.20 [Amended]

2. Section 9.20 is amended by deleting everything after the first paragraph in paragraph (e).

Dated: December 20, 1977

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77–37337 Filed 12–29–77;8:45 am]

[8025–01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

(Revision 2, Amendment 2)

PART 101—ADMINISTRATION

Correction: Suspension or Disbarment of Counsel

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: SBA is correcting two editorial errors that were made at the time of publication of this Part. The corrections are made for clarity and to prevent confusion.

DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

John J. Sharp, Office of General Counsel, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202–653–6487.

SUPPLEMENTARY INFORMATION: The editorial corrections which are being made are:

(1) Change "because of contemptuous course" to "because of contemptuous conduct," and

(2) Change "in the court of an investigation." to "in the course of an investigation."

Because Part 101 consists of rules relating to the agency's organization and procedures, and because these are editorial corrections, notice of proposed rulemaking and public participation thereon as prescribed in 5 USC 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

Accordingly, 13 CFR 101 is amended as follows:

§ 101.8–7 Suspension or disbarment of counsel.

The Administrator for good cause shown may, in accordance with the procedures set forth in Part 104 of this chapter, reprimand, suspend or disbar counsel from practice before the Administration because of contemptuous conduct, dilatory tactics or other improper conduct in the course of an investigation.

Dated: December 22, 1977.

OLETA F. WAUGH,
Federal Register Liason Officer.

[FR Doc.77–37133 Filed 12–29–77;8:45 am]

[6320–01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER–1037, Enactment of Part]

PART 291—GENERAL RULES FOR ALL-CARGO AIR CARRIERS

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: On November 9, 1977, Congress amended the Federal Aviation Act to establish a new class of air carriers called "all-cargo air carriers." These carriers will be authorized by the Board to carry air freight and mail between the various States of the United States and the District of Columbia, between the United States and Puerto Rico or the U.S. Virgin Islands, and between Puerto Rico and the U.S. Virgin Islands. This notice promulgates a new Part 291 of the Board's regulations exempting these carriers from certain sections of the Federal Aviation Act.

DATES: Effective: January 9, 1978, Adopted: December 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Ernest M. Stern, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., 202–673–5335.

SUPPLEMENTAL INFORMATION: The law establishing the class of all-cargo air service carriers requires the Board to issue certificates to several of the "grandfather" applicants no later than January 9, 1978. We have thus concluded that the public interest is best served by making these rules effective on that date, and therefore find that good cause (as that term is used in the Administrative Procedure Act, 5 U.S.C. §§ 553(b)(3)(B) and 553(d)(3)) exists for omitting opportunity for comment and 30-days' advance notice.

These rules establish certain exemptions, made pursuant to new subsection 418(c) of the Federal Aviation Act, which will govern the provision of all-cargo air service during the so-called "grandfather service" period, of about one year, until applications from new entrants into the domestic air freight market can be received.[1] During this period, the rules now applicable to existing carriers will remain applicable to them, even though they obtain section 418 certificates. Thus, for example, the Board's reporting requirements applicable to section 401 carriers will also apply to their section 418 operations, and the reporting rules contained in Part 298 of the Board's regulations (14 CFR Part 298) will also apply

[1] Applications under new subsection 418(a)(3) of the Act, from persons who are not grandfather carriers, can be submitted on or after November 9, 1978.

to the section 418 operations of the carriers now subject to Part 298.[3]

Exemptions under subsection 418(c) may be issued in any case in which the Board, by rule, determines an exemption to be "appropriate," and, as guidance to what the Board ought to find "appropriate," the new law also contains an amendment to section 102 of the Federal Aviation Act, the Act's general policy statement. This amendment expands that statement to require the consideration of the following factors, as well as those contained in the existing section 102, in matters involving all-cargo air service:

(1) The encouragement and development of an expedited all-cargo air service system, provided by private enterprise, responsive to (A) the present and future needs of shippers, (B) the commerce of the United States, and (C) the national defense.

(2) The encouragement and development of an integrated transportation system relying on competitive market forces to determine the extent, variety, quality, and price of such services.

(3) The provision of services without unjust discriminations, undue preferences or advantages, unfair or deceptive practices, predatory pricings.

The prominence of the terms "private enterprise" and "competitive market forces" in this addition to the policy statement of our Act leads us to conclude that Congress intended us to use our new exemption authority in a liberal fashion, relaxing those provisions of the Act that impinge upon the normal economic behavior of carriers and their customers. At the same time, we believe that the structure of the new law contemplates a transition period from a highly regulated environment to a more competitive one. We thus believe it is incumbent on us not to act with undue haste.

We think that the rules we are adopting reflect a fair and equitable balance between these two considerations; and, with this general preamble, we will explain the basis for the exemptions we are here granting.

The first of these is the duty to charge reasonable rates, contained in subsection 404(a) of the act. The new law has revoked the Board's power to determine the reasonableness of such rates by amending subsection 1002(d) of the act, and the duty to charge reasonable rates could be enforced, if at all, only by private suits in the courts.[5] We think that that method of enforcement could lead to confusion and therefore believe we should grant the carriers an explicit exemption from this duty to make it clear that rate levels are to be determined in this respect by market forces and not judicially.

Section 407 of the act contains a number of directions relating to reporting, accounting and inspection of records. Subsections 407(b) and 407(c) require the disclosure of stock ownership by carriers, and by their officers and directors. We have decided to exempt carriers from these subsections, because we believe that the compliance burdens exceed the value to the Board of these reports. For the larger companies, of course, information on this subject can be obtained from filings with the U.S. Securities and Exchange Commission or from commercial sources. In addition, while the Board also has a duty to determine nationality, under section 101 of the act, we believe that this duty can be satisfied, if reporting is required at all for this purpose, by reports specifically identifying foreign interests known to the carrier.[4] Our decision to exempt the 418 carriers from subsections 407(b) and 407(c) is also related to our views about sections 408, 409 and 412 of the act, from which we have also determined to exempt these carriers.

Section 408 of the act prohibits air carriers and other carriers or aviation interests from merging or otherwise entering into common control without prior Board approval, section 409 prohibits interlocking directorates without prior Board approval, and section 412 requires carriers to file with the Board agreements with each other relating to air transportation. These sections have a common relationship to section 414 of the act, in that a Board order approving anything falling within sections 408, 409 or 412 relieves affected persons from the operation of the antitrust laws. We have concluded that the section 418 carriers should be exempted from these sections, but that their activities should be subject to the antitrust laws. We see no reason—in the less regulated environment in which the section 418 carriers will be operating—for us to be required to approve each and every item falling within any of these sections, or to give these carriers an immunity which similarly situated unregulated companies cannot obtain. This result also seems most consistent with the expanded reliance on "competitive market forces" mandated by the new amendment to our policy statement contained in section 101 of the act.

We note that the section 401 carriers will continue to be subject to sections 408, 409 and 412 of the act, and that we therefore will not lose our existing jurisdiction over transactions involving them. In addition, both section 401 and section 418 carriers will continue to be subject to our jurisdiction under section 411 of the act, which prohibits, among other things, unfair methods of competition in air transportation. Thus we will retain ample power to correct any serious anticompetitive practices which may not be foreseeable at the present time, even if the trade regulation laws applicable to businesses in general in the United States are ineffective in a particular instance.

In determining what exemptions to issue under section 418(c), we also considered the possibility of exempting these carriers from the duty to file tariffs under subsection 403(a) of the act. Our decision not to do so is based on our view that the filing of tariffs should be required, at least in this transition year, to assist in determining the effects on the carriers' pricing decisions of the new section 418 authority. There is genuine reason to question, however, whether the requirement of tariff filing is consistent with effective price competition. We will, therefore, monitor this experience; and if and when it appears that the tariff-filing requirement is itself preventing the kinds of pricing behavior that section 418 is supposed to encourage, we would clearly be inclined to issue an exemption. No existing carrier—whether holding a section 401 or operating under Part 298—will be required to have tariffs in effect, however, unless and until it begins operating under its section 418 authority. Thus, a commuter carrier could, for example, hold its section 418 certificate for a time, while it made arrangements to commence service with large aircraft, without losing its Part 298 exemption for the "interstate air transportation of property."[6]

Finally, we believe we should emphasize to all interested persons that we do not contemplate that the section 418 carriers will continue to be governed by the attached rules for the indefinite future. The law creating the section 418 carriers is very recent, and, obviously, no operations under it have yet been conducted. We would hope to issue one or more sets of proposed rules in the near future, regarding such things as tariff filing, reporting, and general operating rules and conditions applicable to all section 418 carriers (perhaps modeled on the existing Part 298). Our more mature reflection on Congress' intent in enacting various provisions of this legislation, plus the results of the operations which are conducted under this new authority, may lead to rules which differ substantially—in terms of greater leniency or less—from those that we are adopting today. We thus caution those subject to our rules that long-term decisions should not be made on the assumption that these rules governing section 418 carriers will remain unchanged.

Accordingly, 14 CFR Part 291, General Rules for All-Cargo Air Carriers, is issued to read as follows:

Sec.
291.1 Applicability of part.
291.2 Definitions.
291.11 Exemptions.
291.12 Duration of Exemptions.
291.13 No relief from antitrust laws.
291.14 Approval of certain relationships.

AUTHORITY: Secs. 204(a) and 418(c) of the Federal Aviation Act of 1958, as amended, 72

[3] The Director, Bureau of Accounts and Statistics will shortly issue directives setting forth in detail the recordkeeping and reporting requirements of § 401 certificated carriers and commuter carriers, under Parts 241 and 298, respectively, with respect to all-cargo air service that they choose to provide as § 418 "grandfather" carriers.

[4] *See, e.g., Nader* v. *Allegheny Airlines, Inc.*, 512 F. 2d 527 (D.C. Cir. 1975), *rev'd on other grounds*, 426 U.S. 290 (1976).

[5] No such requirement is being imposed at this time, however, since all of the grandfather applicants are already air carriers.

[6] The term, newly defined in subsection 1002(k) of the act, includes the air transportation of property within the geographical scope of "all-cargo air service."

Stat. 743, 91 Stat. 1283, 49 U.S.C. § 1324(a), 1388(c).

§ 291.1 Applicability of part.

This part establishes rules to govern all-cargo air carriers holding certificates issued by the Board under section 418 of the act.

§ 218.2 Definitions.

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. §§ 1301 et seq.

"All-cargo air carrier" or "section 418 carrier" means any citizen of the United States, as defined in section 101(14) of the act, that holds a currently effective all-cargo air service certificate.

"All-cargo air service certificate" or "section 418 certificate" means a certificate authorizing the holder to provide "all-cargo air service" as that term is defined in section 101(11) of the act.

§ 291.11 Exemptions.

Each all-cargo air carrier is, with respect to its all-cargo air service, hereby exempted from: (a) Subsection 404(a), except the requirement to provide and furnish interstate and overseas air transportation, as authorized by its operating authority, upon reasonable request therefor, to provide reasonable through service in such air transportation in connection with other air carriers, and to provide safe and adequate service, equipment, and facilities in connection with such transportation; (b) Subsection 407(b); (c) Subsection 407(c); (d) Subsection 408(a); (e) Section 409; and (f) Section 412.

§ 291.12 Duration of exemptions.

The exemption from any provision of the act provided by § 291.11 for any person or class of persons shall continue in effect only until such time as the Board shall find that the exemption is no longer appropriate.

§ 291.13 No relief from antitrust laws.

The exemptions granted in § 291.11 shall not constitute orders, within the meaning of section 414 of the act, and shall not confer any immunity or relief from the "antitrust" laws or any other statute except the act.

§ 291.14 Approval of certain relationships.

To the extent that any officer or director of any all-cargo air carrier would be in violation of paragraphs (3) or (6) of subsection 409(a) of the act because of any interlocking relationships covered by the exemption granted in § 291.11(e), such participation is hereby approved by the Board. The approvals given by this section shall not constitute orders, within the meaning of section 414 of the act, and shall not confer any immunity or relief from the "antitrust laws" or any other statute except the act.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-37248 Filed 12-29-77;8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 302—FOREIGN EXCESS PROPERTY REGULATIONS

Editorial Amendments

AGENCY: Industry and Trade Administration, Bureau of Trade Regulation, Department of Commerce.

ACTION: Nomenclature changes and other corrections in regulations.

SUMMARY: As a result of the reorganization of the Domestic and International Business Administration and its redesignation as the Industry and Trade Administration as well as the creation of the Bureau of Trade Regulation, it is necessary to change certain organization orders and form and organizational designations. References to authorities and organizations within the Department of the Treasury are also changed to conform with current provisions. Transitional provisions of the regulations are also deleted as no longer applicable.

FOR FURTHER INFORMATION CONTACT:

Richard M. Seppa, 202-377-2925.

SUPPLEMENTARY INFORMATION: In 15 CFR Part 302 (FR Doc. 73-8784, appearing at page 11068 in the FEDERAL REGISTER of Friday, May 4, 1973) the following changes should be made:

1. The authority section should be changed to read as follows:

AUTHORITY: Secs. 402 and 404(b) of the Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 398, 399; 40 U.S.C. 512, 514(b) and 472).

2. In § 302.1 "Mutual Security Act of 1954, as amended. (See 26 CFR Part 180.)" should be changed to "Arms Export Control Act (Pub. L. 94-329), which supersedes the Mutual Security Act of 1954 (See 27 CFR Part 47).".

3. In § 302.2(b) "Resources and Trade Assistance, Domestic and International Business Administration" should be changed to "Trade Regulation, Industry and Trade Administration".

4. In § 302.2(g) change "DIB-303" to "ITA-303" and "FEPF-2" to "DIB-303". In § 302.2(h) change "DIB-305" to "ITA-305" and "FEPF-4" to "DIB-305". In § 302.4(b) change "DIB-302P" to "ITA-302P" and "FEPF-1" to "DIB-302P". In § 302.9(a) change "DIB-304P" to "ITA-304P" and "FEPF-3" to "DIB-304P". Elsewhere, "DIB" should be changed to "ITA" wherever it occurs.

5. "Bureau of Customs" should be changed to "U.S. Customs Service" wherever it occurs.

6. In § 302.15 "Office of Import Programs" should be changed to "Statutory Import Programs Staff".

7. Sections 302.16 and 302.17 should be deleted in their entirety.

The notice, public rulemaking procedure and effective date requirements of the Administrative Procedure Act are omitted as unnecessary because the changes are editorial in nature.

Dated: December 23, 1977.

STANLEY J. MARCUSS,
Deputy Assistant Secretary, for Trade Regulation.

[FR Doc.77-37132 Filed 12-29-77;8:45 am]

[4310-10]

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION,[1] DEPARTMENT OF COMMERCE

PART 303—WATCHES AND WATCH MOVEMENTS

Codification of Watch Quota Rules; Correction

AGENCY: Industry and Trade Administration (formerly Domestic and International Business Administration), Bureau of Trade Regulation.

ACTION: Codification of watch quota rules; correction.

SUMMARY: As the result of the reorganization of the Domestic and International Business Administration and its redesignation as the Industry and Trade Administration as well as the creation of the Bureau of Trade Regulation, it is necessary to change the prefix portion of the designations for forms used in the administration of the watch quota established by Pub. L. 89-805. The numerical portions of the form designations are not affected. Additionally, corrections are made of typographical errors contained in the original document filed with the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard M. Seppa, 202-377-2925.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-35701 appearing at page 62907 in the FEDERAL REGISTER of Wednesday, December 14, 1977, the following changes should be made:

1. "DIB" should be changed to "ITA" at: (a) Section 303.2(b) (1), (2), (3) and (4) (page 62908); (b) Section 303.4(a), 303.5(a) (1) and (2) and 303.6(a) (page 62909); (c) Section 303.7 (a) and (d), and 303.8 (a) and (b) (page 62910).

2. In Section 303.2(a)(3) (page 62908) and 303.11(a) (page 62911), "Bureau of Trade Regulations" should be changed to "Bureau of Trade Regulation".

3. Section 303.8(b) (page 62910) should be changed by substituting a comma after "ownership" (line 8).

Dated: December 23, 1977.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation, U.S. Department of Commerce.

JAMES A. JOSEPH,
Under Secretary, U.S. Department of the Interior.

[FR Doc.77-37302 Filed 12-29-77;8:45 am]

[1] Editorial Note: Chapter III will be formally renamed at a future date to "Industry and Trade Administration, Department of Commerce".

[3510–25]

PART 371—GENERAL LICENSES

Limited Revision of General License Ship Stores

AGENCY: Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

ACTION: Final rule.

SUMMARY: This revision expands provisions of General License Ship Stores to allow normal ship stores to be provided to certain Cuban fishing vessels and to permit repairs and repair parts to be provided to such vessels as well as certain fishing vessels of Country Groups Q, W, and Y.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles C. Swanson, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–4196.

SUPPLEMENTARY INFORMATION: The Agreement between the United States and Cuba concerning fisheries off the coasts of the United States, which entered into force on September 26, 1977, permits certain Cuban fishing vessels and fishery support vessels to replenish stores, obtain bunkers, and receive repairs and other normal services in certain major U.S. ports. In order to make these goods and services available promptly, the Export Administration Regulations are amended to allow such goods and services to be provided under General License Ship Stores to those Cuban vessels that are admitted to U.S. ports under the Fishery Agreement.

Similarly, General License Ship Stores is expanded to permit repairs and repair parts to be provided under this license to fishing vessels of countries included in Groups Q, W, and Y,[1] provided such vessels are admitted into U.S. ports under governing international fishery agreements. Vessels qualifying for expanded general license provisions include fishing vessels and associated vessels used in processing, storing, and transporting fish.

Accordingly, Section 371.9 of the Export Administration Regulations (15 CFR 371.9) is amended as follows:

1. Section 371.9(a)(1) is amended to read as follows:

(1) The items listed below may be exported (subject to the conditions set forth in § 371.9(b) below) for use on board a vessel of any registry during the outgoing and immediate return voyage, except a vessel registered in North Korea, Vietnam, Cambodia, or Cuba, or owned or controlled by, or under charter or lease to any of these countries or their nationals. However, subject to these same conditions, these items may be exported for use on board Cuban fishing vessels and fishery support vessels used in the processing, storage, and transport of the catch if the vessel was admitted into the U.S. under the Agreement between the United States and Cuba concerning fisheries off the coasts of the United States, which entered into force on September 26, 1977.

(i) Bunker fuel provided it is not of Naval Petroleum Reserves origin or derivation;

(ii) Deck, engine, and steward department stores, provisions, and supplies for both port and voyage requirements, provided they are not of Naval Petroleum Reserves origin or derivation if listed in Supplement No. 3 to Part 377 hereof;

(iii) Medical and surgical supplies;

(iv) Food stores;

(v) Slop chest articles; and

(vi) Saloon stores or supplies.

The above do not include crude petroleum.

2. Section 371.9(a)(2) is amended to read as follows:

(2) Equipment and spare parts for permanent use on a vessel may be exported for use on board a vessel of any registry, except a vessel registered in a country in Country Group Q, W, Y, or Z,[2] or owned or controlled by, or under charter or lease to any of these countries or their nationals, when necessary for the proper operation of such vessel. However, equipment and services for necessary repair to fishing and fishery support vessels of QWY Countries or Cuba while they are in the United States, may be exported for use on board such vessels when admitted into the United States under governing international fishery agreements.

3. Section 371.9(b)(3) is amended to read as follows:

(3) Registry restrictions. No export of petroleum or petroleum products (including those used as bunker fuel) listed in § 371.9(b)(4) below may be made under this general license on a foreign vessel of 500 or more gross registered tons departing from the United States for use on board such vessels if the vessel is registered in North Korea, Vietnam, or Cambodia, or owned or controlled by, or under charter or lease to any of these countries or their nationals. No such export may be made on a foreign vessel, regardless of tonnage, if the vessel is registered in Cuba or owned or controlled by, or under charter or lease to Cuba or its nationals, except for Cuban fishing and fishery support vessels admitted into the United States under the United States-Cuban Fisheries Agreement.

AUTHORITY: Sec. 4, Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; EO 12002, 42 FR 35623 (1977); Department Organization order 10–3, dated November 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46–1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46–2, dated November 17, 1975, 40 FR 59761 (1975), as amended.

Dated: December 23, 1977.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation, Department of Commerce.

[FR Doc.77–37131 Filed 12–29–77;8:45 am]

[1] Country Group Q consists of Romania; Country Group W consists of Poland; and Country Group Y consists of Albania, Bulgaria, Czechoslovakia, Estonia, German Democratic Republic (including East Berlin), Hungary, Laos, Latvia, Lithuania, Outer Mongolia, People's Republic of China (excluding Republic of China), and Union of Soviet Socialist Republics.

[2] Country Group Z consists of North Korea, Vietnam, Cambodia, and Cuba.

[8010–01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–5891, 34–14304, 35–20332, AS–235]

PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

Subpart A—Accounting Series Releases Lease Accounting and Disclosure Rules

AGENCY: Securities and Exchange Commission.

ACTION: Retention of rule.

SUMMARY: The Commission had stated it would reconsider the effect of its adopted rules on companies which might be in violation of loan covenants as a result of capitalizing leases entered into prior to January 1, 1977. They would be required to disclose such potential violations as the reason for not capitalizing such leases. Comments were requested and only a few were received. The Commission has decided not to amend its previously adopted lease accounting and disclosure rules.

EFFECTIVE DATE: Not applicable.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–376–8019.

SUPPLEMENTARY INFORMATION: The Commission issued Accounting Series Release No. 225 (42 FR 44807) on August 31, 1977 announcing amendments to its lease accounting and disclosure rules (17 CFR 210.3–16(q)) to (1) conform its lease accounting and disclosure requirements to those standards recently adopted by the Financial Accounting Standards Board (FASB) in its Statement No. 13 (SFAS No. 13), "Accounting for Leases"; (2) require early application for public companies of the FASB restatement requirements for financial statements for fiscal years ending after December 24, 1978; and (3) require certain lease disclosures of rate-regulated enterprises.

In that release the Commission stated:

The Commission has concluded that it will require financial statements filed with the Commission for fiscal years ending after December 24, 1978, to reflect early application of the accounting requirements of SFAS No. 13 unless a violation or probable future violation of a restrictive clause in an existing loan indenture or other agreement would result. In that event a description of the poten-

tial violation should be made in the footnotes to the financial statements.

Although the Commission has adopted this rule, it is concerned that some commentators have asserted that its application would be unfair to companies which might be in violation of loan covenants if they adopted SFAS No. 13 early or if they were required to disclose they were not adopting it because of that problem. Because of this concern the Commission will reconsider this action before December 31, 1977.

The Commission would like to receive additional input by October 31 concerning those assertions. We are particularly interested in a more detailed description of the hardships expected to be caused by the disclosure of the existence of a "problem" as the reason for not restating.

Three additional letters of comment were received. These letters did not provide any additional information to that considered by the Commission when it adopted the rule.

The Commission believes that creditors will be aware of potential covenant violations from the footnote disclosures required by SFAS No. 13 and that the Commission's rule requiring disclosure of a "problem," when that is the reason for not restating, will not significantly affect the negotiations between companies and their creditors to amend their agreements. The Commission believes that a violation or probable future violation of a restrictive covenant of a loan indenture or other agreement that would result if the provisions of SFAS No. 13 were applied early should be disclosed to investors and that the benefits of such disclosure to investors exceed any burden on competition.

COMMISSION ACTION: After considering comments on the matter, the Commission has decided not to amend the rule requiring restatement of financial statements (Paragraph No. 1 of Commission Action in 17 CFR 211.225, 42 FR 44809) adopted in Accounting Series Release No. 225 on August 28, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 22, 1977.

[FR Doc.77-37118 Filed 12-29-77;8:45 am]

[8120-01]

Title 18—Conservation of Power and Water Resources

CHAPTER II—TENNESSEE VALLEY AUTHORITY

PART 300—ETHICAL AND OTHER CONDUCT STANDARDS AND RESPONSIBILITIES OF EMPLOYEES AND SPECIAL GOVERNMENT EMPLOYEES

Statement of Employment and Financial Interests—Annual Revision

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of annal revision.

SUMMARY: TVA regulations require the Authority to maintain a list of certain grades of employees who are required to submit statements of employment and financial interest. This notice announces the revision of the appendix thereto listing positions filled by employees at TVA grades M-5, M-6, and M-7 who are required to submit statements of employment and financial interest.

EFFECTIVE DATE: The appendix is updated for the purposes of inclusion in the Code of Federal Regulations as of (on publication in the FR). The revisions become effective for individual employees concerned upon receipt of actual notice.

ADDRESS: Relevant comments may be sent to the Planning and Analysis Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tenn. 37902.

FOR FURTHER INFORMATION CONTACT:

Ms. Sue Wallace, Chief, Planning and Analysis Branch, Division of Personnel, Tennessee Valley Authority, Knoxville, Tenn. 37902, telephone 615-632-2817.

SUPPLEMENTARY INFORMATION: TVA's Code of Ethical Standards implements, in accordance with 16 U.S.C. §§ 831-831dd, the requirements of E.O. 11222 and has been previously published or referenced in the FEDERAL REGISTER as follows:

33 F.R. 19,168, December 24, 1968.
38 F.R. 15,075, June 8, 1973.
42 F.R. 2668, January 13, 1977.

To reflect the growth or change of responsibilities accompanying employees' positions and the requirements that incumbents provide requisite employment and financial statements, the list of employees' positions appended to 18 CFR § 300.735-41(b) is revised annually.

The Appendix to § 300.735-41(b) is revised to read as follows:

APPENDIX

As provided in § 300.735-41(b), employees in the following positions, which are described in section 300.735-41(a)(2) and (3) and which are in addition to the positions described in section 300.735-41(a)(1), must submit statements of employment and financial interests:

OFFICE OF THE GENERAL MANAGER

Chief, Budget Staff, Grade M-7.
Chief, Planning Staff, Grade M-7.
Manager, Corporate Information Systems, Grade M-6.
Project Manager, Grade M-6.

DIVISION OF PERSONNEL

Chief, Employment Branch, Grade M-7.
Chief, Trades and Labor Relations Staff, Grade M-7.
Salary Policy Contract Negotiator, Grade M-7.
Trades and Labor Contract Specialist, Grade M-6.

DIVISION OF FINANCE

Chief, Auditing Branch, Grade M-7.
Chief, Central Accounting Branch, Grade M-7.
Chief, Retirement Services Branch, Grade M-7.
Treasurer, Grade M-7.
Assistant Chief, Auditing Branch, Grade M-6.
Assistant Chief, Retirement Services Branch, Grade M-6.
Supervisor, Services, Central Accounting Branch, Grade M-6.
Accounting Staff Officer, Chemical Accounting Branch (acts in absence of branch chief), Grade M-5.
Supervisor, Section, Auditing Branch, Grade M-5.
Supervisor, Section, Chemical Accounting Branch, Grade M-5.
Supervisor, Section, Retirement Services Branch, Grade M-5.

DIVISION OF PURCHASING

Chief, Equipment Procurement Branch, Grade M-7.
Chief, Fuels Procurement Branch, Grade M-7.
Chief, Materials Procurement Branch, Grade M-7.
Chief, Nuclear Procurement Branch, Grade M-7.
Chief, Traffic Branch, Grade M-7.
Assistant Chief, Equipment Procurement Branch, Grade M-6.
Assistant Chief, Fuels Procurement Branch, Grade M-6.
Assistant Chief, Materials Procurement Branch, Grade M-6.
Assistant Chief, Nuclear Procurement Branch, Grade M-6.
Assistant Chief, Traffic Branch, Grade M-6.
Assistant to Director of Purchasing, Grade M-6.
Chief, Management Services Staff, Grade M-6.
Chief, Procurement Planning Staff, Grade M-6.
Procurement Systems Analyst, Grade M-5.
Purchasing Agent, Grade M-5.
Supervisor, Section, Equipment Procurement Branch, Grade M-5.
Supervisor, Section, Fuels Procurement Branch, Grade M-5.
Supervisor, Section, Materials Procurement Branch, Grade M-5.
Supervisor, Section, Nuclear Procurement Branch, Grade M-5.
Supervisor, Section, Traffic Branch, Grade M-5.
Supervisor, Services, Management Services Staff, Grade M-5.
Supervisor, Systems and Procedures Section, Grade M-5.

DIVISION OF PROPERTY AND SERVICES

Assistant to Director of Property and Services, Grade M-7.
Chief, Computing Services Branch, Grade M-7.
Chief, Land Branch, Grade M-7.
Chief, Office Service Branch, Grade M-7.
Chief, Public Safety Service Branch, Grade M-7.
Chief, Transportation Branch, Grade M-7.
Manager of Properties, Grade M-7.
Assistant Chief, Computing Services Branch, Grade M-6.
Assistant Chief, Office Service Branch, Grade M-6.

Assistant Chief, Transportation Branch, Grade M–6.
Chief, Property Administration Branch, Grade M–6.
Manager, Office Service Operations, Grade M–6.
Personnel Officer, Grade M–6.
Supervisor, Appraisals, Grade M–6.
Supervisor, Duck River Section, Grade M–6.
Supervisor, Land Buying, Grade M–6.
Supervisor, Titles, Grade M–6.
Airplane Pilot, Grade M–5.
Assistant Supervisor, Land Buying, Grade M–5.
Assistant to Director of Property and Services, Grade M–5.
Building Management Specialist, Grade M–5.
Coordinator, Grade M–5.
Supervisor, Office Management Services Staff, Grade M–5.
Specialist in Property Management, Grade M–5.
Supervisor, Section, Office Service Branch, Grade M–5.
Supervisor, Section, Property Administration Branch, Grade M–5.
Supervisor, Section, Computing Services Branch, Grade M–5.
Supervisor, Section, Public Safety Service Branch, Grade M–5.
Supervisor, Services, Computing Services Branch, Grade M–5.
Supervisor, Services, Land Branch, Grade M–5.
Supervisor, Services, Office Service Branch, Grade M–5.
Supervisor, Staff, Computing Services Branch, Grade M–5.
Supervisor, Unit, Office Service Branch, Grade M–5.

DIVISION OF WATER MANAGEMENT

Chief, Data Services Branch, Grade M–7.
Chief, Mapping Services Branch, Grade M–7.
Chief, Water Systems Development Branch, Grade M–7.

OFFICE OF ENGINEERING DESIGN AND CONSTRUCTION

OFFICE OF THE MANAGER OF ENGINEERING DESIGN AND CONSTRUCTION

Assistant to Manager of Engineering Design and Construction, Grade M–7.
Quality Assurance Manager, Grade M–7.
Chief, Systems Planning and Development Staff, Grade M–6.

DIVISION OF ENGINEERING DESIGN

Assistant Chief, Architectural Design Branch, Grade M–7.
Assistant Design Project Manager, Grade M–7.
Assistant to Director of Engineering Design, Grade M–7.
Chief, Mechanical Engineering and Design Branch, Grade M–7.
Chief, Quality Engineering Branch, Grade M–7.
Civil Design Project Engineer, Grade M–7.
Civil Engineer, Grade M–7.
Design Project Manager, Grade M–7.
Electrical Design Project Engineer, Grade M–7.
Electrical Engineer, Grade M–7.
Mechanical Design Project Engineer, Grade M–7.
Mechanical Engineer, Grade M–7.
Assistant to Chief, Electrical Engineering and Design Branch, Grade M–6.
Assistant to Chief, Mechanical Engiing Branch, Grade M–6.
Assistant to Chief, Mechanical Engineering Branch, Grade M–6.
Civil Design Project Engineer, Grade M–6.
Electrical Design Project Engineer, Grade M–6.
Materials Engineer (acts in absence of branch chief), Grade M–6.
Mechanical Design Project Engineer, Grade M–6.
Quality Assurance Engineer, Grade M–6.
Nuclear Engineer (may act for Design Project Manager during his absence for short periods of time), Grade M–5.

DIVISION OF CONSTRUCTION

Construction Engineer, Grade M–7.
General Construction Superintendent, Grade M–7.
Project Manager, Grade M–7.
Chief, Project Controls Staff, Grade M–6.
Chief, Project Services Staff, Grade M–6.
Chief, Quality Assurance Staff, Grade M–6.
General Construction Superintendent, Grade M–6.
Assistant to Director of Construction (Safety), Grade M–5.
Supervisor, Warehouse Services Unit, Grade M–5.
Welding Engineer, Grade M–5.

OFFICE OF POWER

OFFICE OF THE MANAGER OF POWER

Chief, Financial Planning and Budget Staff, Grade M–7.
Chief, Management Services Staff, Grade M–7.
Quality Assurance Manager, Grade M–7.
Assistant Quality Assurance Manager, Grade M–6.
Chief, Systems Planning and Development Staff, Grade M–6.
Economist, Grade M–6.
Supervisor, Power Stores Section, Grade M–6.
Assistant Supervisor, Power Stores Section, Grade M–5.
Chemical Engineer, Grade M–5.
Mechanical Engineer, Grade M–5.
Research Analyst (contract compliance), Grade M–5.
Supervisor, Section, Energy Research, Grade M–5.
Supervisor, Section, Management Services Staff, Grade M–5.
Supervisor, Section, Quality Assurance and Audit Staff, Grade M–5.

DIVISION OF POWER CONSTRUCTION

Area Construction Manager, Grade M–7.
Assistant Area Construction Manager, Grade M–6.
General Construction Superintendent, Grade M–5.
Supervisor, Technical Services, Grade M–5.

DIVISION OF POWER PRODUCTION

Assistant Chief, Nuclear Generation Branch, Grade M–7.
Chief, Hydroelectric Generation Branch, Grade M–7.
Chief, Plant Engineering Branch, Grade M–7.
Chief, Power Plant Maintenance Branch, Grade M–7.
Power Plant Superintendent, Grade M–7.
Assistant Chief, Hydroelectric Generation Branch, Grade M–6.
Assistant to Chief, Steam-Electric Generation Branch, Grade M–6.
Coordinator, Training Center, Grade M–6.
Electrical Engineer, Grade M–6.
Mechanical Engineer, Boiler and Reactor Maintenance Group, Grade M–6.
Mechanical Engineer, Turbine Maintenance Group, Grade M–6.
Nuclear Engineer, Office of Chief, Power Plant Maintenance Branch, Grade M–6.
Nuclear Engineer, Technical Support and Planning Group, Grade M–6.
Personnel Officer, Grade M–6.
Power Plant Superintendent, Watts Bar Plants, Grade M–6.
Superintendent, Power Service Shops, Grade M–6.
Supervisor, Administrative Services, Grade M–6.
Supervisor, Reactor Engineering Staff, Grade M–6.

DIVISION OF POWER RESOURCE PLANNING

Chief, Fossil Fuels Planning Branch, Grade M–7.
Chief, Nuclear Fuels Planning Branch, Grade M–7.
Chief, Nuclear Raw Materials Branch, Grade M–7.
Chief, Power Supply Planning Branch, Grade M–7.
Chief, Regulatory Branch, Grade M–7.
Assistant Chief, Nuclear Raw Materials Branch, Grade M–6.
Manager, Field Operations, Grade M–6.
Nuclear Engineer, Grade M–6.
Project Engineer, Grade M–6.
Fuels Engineer (acting Supervisor, Section, Fossil Fuels Planning Branch), Grade M–5.
Nuclear Engineer, Grade M–5.
Power Supply Engineer, Grade M–5.
Project Manager, Grade M–5.
Supervisor, Administrative Services, Grade M–5.
Supervisor, Section, Fossil Fuels Planning Branch, Grade M–5.
Supervisor, Section, Nuclear Fuels Planning Branch, Grade M–5.
Supervisor, Section, Nuclear Raw Materials Branch, Grade M–5.
Supervisor, Section, Regulatory Branch, Grade M–5.
Supervisor, Section, Power Supply Planning Branch, Grade M–5.
Supervisor, Systems Development Staff, Grade M–5.

DIVISION OF POWER SYSTEM OPERATIONS

Chief, Transmission Maintenance and Test Branch, Grade M–7.

DIVISION OF POWER UTILIZATION

Assistant to Director of Power Utilization, Grade M–7.
Chief, Analysis Branch, Grade M–7.
Chief, Direct Service Branch, Grade M–7.
Chief, Distributor Branch, Grade M–7.
Chief, Rate Branch, Grade M–7.
District Manager, Grade M–7.
Assistant District Manager, Grade M–5.

DIVISION OF TRANSMISSION PLANNING AND ENGINEERING

Chief, Civil Engineering and Design Branch, Grade M–7.
Chief, Communication Engineering and Design Branch, Grade M–7.
Chief, Electrical Engineering and Design Branch, Grade M–7.
Chief, Transmission System Planning Branch, Grade M–7.
Chief, Transmission System Siting and Clearance Staff, Grade M–7.
Assistant Chief, Civil Engineering and Design Branch, Grade M–6.
Assistant Chief, Electrical Engineering and Design Branch, Grade M–6.
Civil Engineer, Grade M–5.
Supervisor, Materials, Specifications, and Procurement Section, Grade M–5.
Supervisor, Substation Projects Section, Grade M–5.

OFFICE OF AGRICULTURAL AND CHEMICAL DEVELOPMENT

OFFICE OF THE MANAGER OF AGRICULTURAL AND CHEMICAL DEVELOPMENT

Administrator, International Fertilizer Program, Grade M–7.
Assistant to the Manager of Agricultural and Chemical Development, Grade M–7.
Administrative Officer, Grade M–6.
Agricultural Economist, Grade M–6.
Personnel Officer, Grade M–6.
Project Manager, Grade M–6.
Chemical Engineer (contract administration), Grade M–5.
Personnel Officer, Grade M–5.
Supervisor, Safety Engineering Services, Grade M–5.

DIVISION OF AGRICULTURAL DEVELOPMENT

Chief, Agricultural Resource Development Branch, Grade M–7.
Chief, Soils and Fertilizer Research Branch, Grade M–7.
Chief, Test and Demonstration Branch, Grade M–7.
Senior Scientist, Grade M–7.
Agricultural Economist (contract administration), Grade M–6.
Assistant Chief, Test and Demonstration Branch, Grade M–6.
Supervisor, Section, Test and Demonstration Branch, Grade M–6.
Supervisor, Administrative Services, Grade M–5.

DIVISION OF CHEMICAL DEVELOPMENT

Chief, Applied Research Branch, Grade M–7.
Chief, Design Branch, Grade M–7.
Chief, Fundamental Research Branch, Grade M–7.
Chief, Process Engineering Branch, Grade M–7.
Projects Manager, Grade M–7.
Chief, Administrative Services, Grade M–6.
Electrical Engineer, Grade M–6.
Mechanical Engineer, Grade M–6.
Project Engineer, Grade M–6.

DIVISION OF CHEMICAL OPERATIONS

Chief, Ammonia Branch, Grade M–7.
Chief, Maintenance Branch, Grade M–7.
Chief, Nitrogen Fertilizer Branch, Grade M–7.
Supervisor, Central Services Section, Grade M–5.

DIVISION OF ENVIRONMENTAL PLANNING

Chief, Applied Research and Education Staff, Grade M–7.
Chief, Industrial Hygiene Branch, Grade M–7.
Chief, Radiological Hygiene Branch, Grade M–7.
Environmental Scientist, Grade M–7.
Assistant Chief, Water Quality and Ecology Branch, Grade M–6.
Assistant to Chief, Water Quality and Ecology Branch, Grade M–6.
Chief, Air Quality Branch, Grade M–6.
Chief, Environmental Assessment and Compliance Staff, Grade M–6.
Chief, Hazard Control Compliance Staff, Grade M–6.
Chief, Laboratory Branch, Grade M–6.
Supervisor, Air Quality Studies Section, Grade M–6.
Supervisor, Section, Industrial Hygiene Engineering Staff, Grade M–6.
Biologist (contracting and procurement; surplus property disposal; safety standards), Grade M–5.
Budget Officer, Grade M–5.
Chief, Central Services Staff, Grade M–5.
Environmental Engineer (contracting and procurement), Grade M–5.
Health Physicist, Grade M–5.
Industrial Hygienist, Grade M–5.
Personnel Officer, Grade M–5.
Research Chemist, Grade M–5.
Safety Engineer, Grade M–5.
Supervisor, Section, Air Quality Branch, Grade M–5.
Supervisor, Section, Laboratory Branch, Grade M–5.
Supervisor, Section, Radiological Hygiene Branch, Grade M–5.
Supervisor, Section, Safety Engineering Staff, Grade M–5.
Supervisor, Section, Water Quality and Ecology Branch, Grade M–5.
Supervisor, Staff, Water Quality and Ecology Branch, Grade M–5.
Supervisor, Staff, Air Quality Assessment Section, Grade M–5.
Supervisor, Unit, System Planning and Development, Grade M–5.

DIVISION OF MEDICAL SERVICES

Chief, Area Medical Service, Grade P–2.
Chief, Health Projects Staff, Grade P–2.
Chief, Special Health Services Staff, Grade P–2.
Medical Administrator, Grade M–7.
Chief, Health Resource Development Staff, Grade M–6.

OFFICE OF TRIBUTARY AREA DEVELOPMENT

Chief, Program Implementation Staff, Grade M–7.
Chief, Program Planning Staff, Grade M–7.
Tributary Area Representative (program manager, mass transit program), Grade M–5.

DIVISION OF FORESTRY, FISHERIES, AND WILDLIFE DEVELOPMENT

Chief, Forest and Wildlife Resources Branch, Grade M–7.
Chief, Administrative and Protective Services, Grade M–6.
Facilities Manager, Facilities Management Services, Grade M–6.
Projects Manager, Reclamation, Revegetation, and Tree Improvement, Grade M–6.
Projects Manager, Resources Projects Management, Grade M–6.
Personnel Officer, Grade M–5.
Staff Forester (reclamation compliance), Grade M–5.

Dated: November 25, 1977.

TENNESSEE VALLEY AUTHORITY,
LYNN SEEBER,
General Manager.

[FR Doc.77-37080 Filed 12-29-77;8:45 am]

[8120–01]

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Amendments to Regulations Governing Approval of Construction and Regulation of Structures on the Tennessee River System

AGENCY: Tennessee Valley Authority (TVA). (18 CFR Part 304)

ACTION: Final rule.

SUMMARY: This rule prescribes changes in the existing regulations governing approval of construction and the regulation of structures which affect or would affect navigation, flood control, or public lands or reservations along or in the Tennessee River or its tributaries. Most of the amendments are designed only to clarify or update the existing regulations in light of new circumstances, but several will result in changes in the scope or effect of the present regulations.

EFFECTIVE DATE: February 15, 1978.

FOR FURTHER INFORMATION CONTACT:

John S. Rozek, Director of Property and Services, 109 West Cumberland Building, Knoxville, Tenn. 37902, 615–632–3151.

SUPPLEMENTARY INFORMATION: The first of the substantive changes occurs in section 304.101, under which the

Board reserved to itself the determination of all applications for structures or activities which may result in any "discharge" into "navigable waters" of the United States, as those terms are defined in the Federal Water Pollution Control Act Amendments of 1972 (FWPCA). The only exceptions to this reservation were applications which involved marine toilets. Under the new section 304.101, authority to approve or disapprove all applications has been delegated to TVA's Director of Property and Services.

A second change is the addition of a new subsection (c) to section 304.3 in order to make it explicit that each flotation device subject to the regulations must be firmly affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions. If this is not done, individual flotation devices will escape, causing a navigation hazard to vessels on TVA reservoirs.

Another alteration contained in the amendments concerns section 304.108(c), which provided that plans for fixed boathouses, piers, and docks would not be approved if they included toilets, living or sleeping quarters, or enclosed spaces with floor area in excess of 25 square feet. Floating boathouses were similarly restricted by the terms of section 304.205. In order to make coverage complete, the scope of this prohibition has been expanded to cover floats, rafts, and all other structures subject to approval under section 26a except those structures which are subject to section 26a only because they are located upon land subject to TVA flowage easements as provided in section 304.109. At the same time the authority of the Director to modify these restrictions for piers and docks which are a part of public or commercial recreation facilities has been expanded to any structure, not just piers and docks, and to any public or commercial facility, not just recreational ones.

In the course of reorganizing section 304.109 for greater clarity and simplicity, it has been redrafted to apply to flowage easements on all TVA reservoirs instead of Fort Loudoun and Douglas Reservoirs only. Experience has shown that, although to a lesser extent, problems do occur on the flowage easements for the other reservoirs and this change will provide uniform application and facilitate a more complete implementation of TVA's policies of flood damage prevention and water pollution control. The special provision under which the Director could exempt certain structures from the effect of the section if he determined that they were not subject to serious damage from flooding has been deleted. The provision was of little benefit to applicants because in order to determine the potential for flood damage the Director needed nearly as much information from them as for a regular approval, and in addition there was the possibility that a structure could be immune to flood damage itself and yet hamper the effectiveness of the reservoir under emergency conditions.

The final major alteration concerns the definition of navigable houseboats in section 304.201. Formerly, a houseboat could qualify as navigable if it was on a boat hull, pontoons or "other comparable flotation devices," but there was no provision as to the alignment or the shape of the flotation devices. Yet, if they are placed crosswise to the direction of travel or are not shaped to facilitate movement through the water, they are likely to come loose and escape, endangering the craft being supported and creating navigation hazards for other vessels on the reservoir. These dangers are also increased when flotation is rendered by numerous small devices. Under the new regulations, therefore, flotation for a navigable houseboat may come from a boat hull or pontoons only, and a definition of "pontoon" has also been provided under which a flotation device must run fore and aft for the full length of the vessel and have a sloped or molded bow. Existing houseboats which qualified as navigable under the previous regulations, but would not under the new amendments, are to continue to be treated as navigable for all purposes except for being subject to the prohibition in section 304.203(d) against replacing or rebuilding nonnavigable houseboats.

These amendments were published in draft form on September 15, 1977, in the FEDERAL REGISTER (42 FR 46348), and public comment was requested by October 15. No comments were received within this 30-day period, but increased publicity after the close of the comment period suggested that a certain number of late comments might be received. Accordingly, publication of the final rule was deferred, but as of this date, TVA has still received no comments. This delay and the resulting later date of final publication made it appropriate to defer the effective date of the proposed regulations until February 15, 1978, and this has been done.

The only other change from the proposed regulations is the insertion in § 304.103(c) of the name of the city in which the Southern District office of TVA's Division of Property and Services is located.

Accordingly 18 CFR Part 304 is amended as follows:

1. The index to Part 304 is amended to read:

INDEX

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Subpart A—General Requirements

Sec.
304.1 Definitions.
304.2 Scope and intent.
304.3 Flotation devices and material.
304.4 Treatment of sewage.
304.5 Removal of unauthorized or unsafe structures.

Subpart B—Approval of Construction

304.100 Scope and intent.
304.101 Delegation of authority.
304.102 Application.
304.103 Contents of application.
304.104 Little Tennessee River; date of formal submission.
304.105 Determination of application.
304.106 Appeals.
304.107 Conduct of hearings.
304.108 Conditions of approvals.
304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits

304.200 Scope and intent.
304.201 Definitions.
304.202 Designation of harbor areas at commercial boat docks.
304.203 Houseboats.
304.204 Floating boathouses.
304.205 Approval of plans for floating boathouses and nonnavigable houseboats.
304.206 Numbering and transfer of approval facilities.

AUTHORITY: 16 U.S.C. sections 831–831dd.

2. Section 304.1 is amended to read:

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

Act means the Tennessee Valley Authority Act of 1933, as amended.

Applicant means the person, corporation, State, municipality, political subdivision or other entity making application.

Application means a written request for the approval of plans pursuant to section 26a of the Act and the regulations contained in this part.

Board means the Board of Directors of TVA.

Director means the Director of the Division of Property and Services of TVA.

TVA means the Tennessee Valley Authority.

3. Section 304.2 is amended to read:

§ 304.2 Scope and intent.

The act among other things confers on TVA broad powers related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the act's purposes. In particular, section 26a of the act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. By way of example only, such obstructions include boat docks, piers, boathouses, rafts, buoys, floats, boat launching ramps, fills, and nonnavigable houseboats as defined in § 304.201. Any person considering constructing, operating, or maintaining any such structure should carefully study these regulations before doing so. The regulations also apply to certain structures built upon land subject to TVA flowage easements. In the transfer or other disposition affecting shoreline lands within its custody,

TVA has also retained land rights to carry out the act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and subjacent to TVA reservoirs to carry out the purposes and policies of the act. In addition, recent legislation, including the National Environmental Policy Act of 1969, as amended, (NEPA), 42 U.S.C. section 4321 et seq., and the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. section 1251 et seq., (FWPCA), have declared it to be congressional policy that agencies should administer their statutory authorities so as to restore, preserve, and enhance the quality of the environment and should cooperate in the control of pollution. Unless otherwise noted, all references in this title to these statutes shall be deemed to include any future amendments to them. It is the intent of the regulations prescribed in this Part 304 to carry out the purposes of the act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

4. Section 304.3 is amended by amending paragraph (b) and adding a new paragraph (c) to read:

§ 304.3 Flotation devices and material.

* * * * *

(b) The only metal drums permitted are those which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, on existing facilities, but replacement of any metal drum flotation permitted to be used by this subsection must be with some type of permanent flotation device or material, for example, pontoons, boat hulls, or other buoyancy devices made of steel, aluminum, fiberglass, or plastic foam, not including filled metal drums.

(c) Every flotation device employed in the Tennessee River system must be firmly and securely affixed to the structure it supports with materials capable of withstanding prolonged exposure to wave wash and weather conditions.

5. Section 304.4 is amended to read:

§ 304.4 Treatment of sewage.

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant of easement, lease, license, permit, or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is in compliance with all applicable statutes and regulations, including the FWPCA and regulations issued thereunder.

6. Section 304.5 is amended to read:

§ 304.5 Removal of unauthorized, unsafe, and derelict structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit, or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored without such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

7. Section 304.100 is amended to read:

§ 304.100 Scope and intent.

Approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

8. Section 304.101 is amended to read:

§ 304.101 Delegation of authority.

The power to approve or disapprove applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.105. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Property and Services.

9. Section 304.102 is amended to read:

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Property and Services, Knoxville, Tenn. 37902.

10. Section 304.103 is amended to read:

§ 304.103 Contents of application.

(a) Each application must be accompanied by five (5) complete sets of plans for the construction, operation, and maintenance of the proposed structure. The application shall be prepared according to "Instructions for Preparing an Application for an Approval of Plans for Proposed Structures Under Section 26a of the Tennessee Valley Authority Act." These instructions require that the application include, among other things: (1) Accurate maps showing the exact location where the structure is proposed to be built, moored, or installed; (2) plans, including layout, in scale, of the proposed structure; (3) statements of the plans formulated for the maintenance and operation of the structure when completed; (4) sufficient information to describe adequately all of the persons, corporations, organizations, agencies, or others who propose to construct, own, and operate such structure; and (5) a report of the anticipated environmental consequences resulting from the construction, operation, and maintenance of the proposed structure. This report of anticipated environmental consequences shall include a discussion of: (i) The probable impact of the proposed structure on the environment; (ii) any probable adverse environmental consequences which cannot be avoided; (iii) alternatives to the proposed structure; (iv) the relationship between the local short-term uses of the environment and the maintenance of long-term productivity which will result from the proposed structure; and (v) any irreversible or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance, or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may result in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (a) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency has determined after public notice of applicant's proposal that there is reasonable assurance that applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. If construction or operation of the proposed structure will affect water quality but is not subject to any applicable water quality standards, applicant shall submit a written statement to that effect by such State, interstate agency, or the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and instructions are available at the address specified in § 304.102 or from the Manager of Properties, Division of Property and Services, Tennessee Valley Authority, at one of the following district offices:

(1) Western District, Post Office Box 280, Paris, Tenn. 38242 (office location: 202 West Blythe Street).

(2) Southern District, 601 First Federal Building, Muscle Shoals, Ala. 35660 (office location: 102 South Court Street, Florence).

(3) Central District, Post Office Box 606, Athens, Tenn. 37303 (office location: 110 Congress Parkway).

(4) Eastern District, 2611 West Andrew Johnson Highway, Morristown, Tenn. 37814.

11. Section 304.105 is amended to read:

§ 304.105 Determination of application.

(a) The Division of Property and Services conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement are required under NEPA, and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of applications that request approval of plans for structures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

(b) Hearings concerning approval of applications are conducted (in accordance with § 304.107) (1) when requested by the applicant, (2) when TVA deems that a hearing is necessary or appropriate in determining any issue presented by the application, or (3) when required under applicable provisions of the FWPCA.

(c) Upon completion of the investigation, coordination of the review of water quality aspects of the application under the FWPCA, completion of review under NEPA, if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting documents, the report of investigation, the transcript of the hearing or hearings, if any be held, the recommendations of other agencies, the intent of this part, and the applicable provisions of the TVA Act, the FWPCA, NEPA, and other applicable laws or regulations. In his discretion the Director may refer any application and supporting materials to the Board for its approval or disapproval.

(d) Promptly following determination, the Director or the Board, as the case may be, furnishes a written copy of the decision to the applicant and to any parties of record pursuant to § 304.107. In the case of applications initially approved or disapproved by the Board, written requests for reconsideration may be made to the Board in the same manner as provided for appeals under § 304.106 (a).

12. Section 304.106 (a) and (b) are amended to read:

§ 304.106 Appeals.

(a) If the Director disapproves an application, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such disapproval, obtain review by the Board of the determination of the Director disapproving the application.

(b) A party of record to any hearing before the Director who is aggrieved or adversely affected by any determination of the Director approving an application may obtain review by the Board of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

* * * * *

13. Section 304.108 (b) and (c) are amended to read:

§ 304.108 Conditions of approvals.

* * * * *

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to the FWPCA and no additional or other Federal permit or license is required for operation of such structure or facility, the holder of the TVA approval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Except for plans which must be approved only because the proposed structure is to be built upon land subject to a TVA flowage easement, as provided in § 304.109, no plans will be approved for any structure, including by way of example only, boat docks, piers, fixed boathouses, floats or rafts, if they provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, floor space shall not be deemed enclosed solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure or facility open to the weather: *And, provided, further,* That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for structures to be used as part of a public boat dock, marina, or other public or commercial facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

14. Section 304.109 is amended to read:

§ 304.109 Habitable and certain other enclosed structures within the flowage easement areas of TVA reservoirs.

In addition to all other requirements of this part, any structure built upon land subject to a flowage easement held by TVA shall be deemed an obstruction affecting navigation, flood control, or public lands or reservations within the meaning of section 26a of the Act if it:

(a) Is a fixed enclosed structure having a cost-in-place in excess of five thousand dollars; or

(b) Is designed or used for human habitation, regardless of cost; or

(c) Involves a discharge into the navigable waters of the United States.

Such obstructions shall be subject to all requirements of this subpart, but nothing contained in this section shall be construed to be in derogation of the rights of the United States or of TVA under any flowage easement held by TVA.

For purposes of this section "enclosed structure" shall mean a structure enclosed overhead and on all sides so as to keep out weather.

15. The heading of Subpart C is amended to read: Subpart C—Regulation of Boathouses, Houseboats, Other Floating Structures, and Harbor Limits.

16. Section 304.200 is amended to read:

§ 304.200 Scope and intent.

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which may be moored or installed in such areas and in other areas in the Tennessee River and its tributaries, all in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, prevent the preemption of public waters by houseboats moored in permanent or semipermanent locations outside such harbors and used as floating dwellings, attain the widest range of beneficial uses of land and land rights owned by the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses, and maintain, protect, and enhance the quality of the human environment.

17. Section 304.201 is amended to read:

§ 304.201 Definitions.

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

Existing as applied to floating boathouses or other structures, except houseboats, means those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before

July 1, 1972. *Existing* as applied to houseboats shall mean those which were moored, anchored, or otherwise installed on, along, or in a TVA reservoir on or before February 15, 1978.

Floating boathouse means a floating structure or facility, any portion of which is enclosed, capable of storing or mooring any houseboat or other vessel under cover.

Houseboat means any vessel which is equipped with enclosed or covered sleeping quarters.

Navigable houseboat means any self-propelled houseboat having maneuverability which is (a) built on a boat hull or on two or more pontoons; (b) equipped with motor and rudder controls located at a point on the houseboat from which there is forward visibility over a 180° range; and (c) in compliance with all applicable State and Federal requirements relating to watercraft; provided, however, that any existing houseboat which was deemed navigable under the provisions of the former § 304.201, which became effective November 21, 1971, shall continue to be deemed navigable for all purposes of this subpart, except that such houseboats shall be subject to the provisions of § 304.203(d).

New as applied to houseboats, floating boathouses, floats, or other structures means all houseboats, floating boathouses, floats, or other structures, other than existing ones.

Nonnavigable houseboat means a houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

Pontoon means an elongated watertight box or cyclinder extending fore and aft for the full length of a vessel and having a sloped or molded bow to facilitate movement through the water.

Vessel means any watercraft or other structure or contrivance used or capable of use as a means of water transportation, such as a boat, floatboat, or houseboat.

18. Section 304.203 is amended to read:

§ 304.203 Houseboats.

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs subject to the provisions of paragraph (d) of this section, but only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such houseboats may not be structurally modified or expanded, nor may they be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir or have deteriorated or been damaged so as to be unusable and unrepairable.

19. Section 304.204 is amended to read:

§ 304.204 Floating boathouses.

(a) Floating boathouses may be moored in TVA reservoirs only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (b) of this section.

(b) All floating boathouses shall be moored: (1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(c) Ordinary maintenance and repair of existing floating boathouses permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such floating boathouses may not be structurally modified or expanded, or replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable or unrepairable; provided, however, that such floating boathouses may be so structurally modified or expanded, replaced, rebuilt, or so returned to the reservoir if they comply with all the requirements of § 304.205(d) and approval is obtained under that section as for a new floating boathouse.

20. Section 304.205 (b), (c), (d), and (e) are amended to read:

§ 304.205 Approval of plans for floating boathouses and nonnavigable houseboats.

* * * * *

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction or mooring thereof. Applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of flotation device; the proposed mooring locations thereof; whether a marine toilet is on the facility; and the name and mailing address of the owner. TVA shall be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boat dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed *enclosed* solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather, and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation device includes metal drums in any form.

(e) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of § 304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with § 304.4 are proposed.

* * * * *

21. Section 304.206(a) is amended to read:

§ 304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters and figures not less than three (3) inches high. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

* * * * *

(16 U.S.C. 831–831dd.)

NOTE.—TVA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Dated: December 22, 1977.

LYNN SEEBER,
General Manager.

[FR Doc.77-37240 Filed 12-29-77;8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0420]

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to extend the safe use of a chemical as a preservative for latex pigment binders in paper and paperboard to use in contact with all nonacidic, nonalcoholic food. Dow Chemical U.S.A. filed a petition for such use.

DATES: Effective December 30, 1977; objections by January 30, 1978.

ADDRESS: Written objections to the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51655) that a petition (FAP 6B3224) had been filed by Dow Chemical U.S.A., Box 1706, Midland, Mich. 48640, proposing that § 176.170 (21 CFR 176.170) be amended to provide for the safe use of 1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride as a preservative for latex pigment binders as components of paper and paperboard intended for use in contact with all food types. After publication of the notice of filing, the petitioner amended its petition to limit the use of the preservative for latex pigment binders to paper and paperboard intended for contact with nonacidic, nonalcoholic food.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 176.170 should be amended as requested in the amended petition, and he further concludes that the Chemical Abstracts Service Registry Number for the additive should be included in the regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 5.1), § 176.170 is amended in paragraph (b)(2) by revising the item "1-(3-chloroallyl)-3,5,7-triaza-1-azoniaadamantane chloride" to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(b) * * *

(2) * * *

List of substances	*Limitations*
* * *	* *
1-(3-chloroallyl)-3,5,7-triaza-1-azonaadamantane chloride (Chemical Abstracts Service Registry No. 4080-31-3).	For use only as a preservative at a level of 0.3 weight percent in latexes used as pigment binders in paper and paperboard intended for use in contact with nonacidic, nonalcoholic food and under the conditions of use described in paragraph (c) of this section, table 2, conditions of use E, F, and G.
* * *	* *

Any person who will be adversely affected by the foregoing regulation may at any time on or before January 30, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, writen objections thereto and may make a written request for a public hearing on the stated objections.

Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall consitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective December 30, 1977.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: December 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-36861 Filed 12-29-77;8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Docket No. 77N-0419]

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Bicyclohexylammonium Fumagillin; NAS/NRC Update

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUBJECT: The animal drug regulations are amended to specify those conditions of use of bicyclohexylammonium fumagillin that are classified effective as the result of a National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluation of the product. A previous FEDERAL REGISTER publication has reflected this product's compliance with the conclusions of the review. Approval of new animal drug applications (NADA's) for products that are identical to NAS/NRC reviewed generic drugs may require bioequivalence or similar data in lieu of certain efficacy data.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the FEDERAL REGISTER of February 15, 1969 (34 FR 2275). In that publication the Academy concluded, and FDA concurred, that the product is effective for the prevention of nosema in honey bees. Supplemental applications were requested with revised labeling to reflect the conclusions of the review.

Abbott Laboratories, North Chicago, IL 60064, submitted a supplemental NADA (9-252V) in response to the NAS/NRC review. The supplement was approved by publication of a regulation in the FEDERAL REGISTER of March 13, 1973 (38 FR 6810). The regulation reflecting this approval (21 CFR 135c.67, recodified 21 CFR 520.182) did not specify those conditions of use that are NAS/NRC approved. These are the drug uses for which approval of an NADA does not require efficacy data as specified by § 514.1(b)(8)(ii) (21 CFR 514.1(b)(8)(ii)) of the animal drug regulations. This document amends the regulations to indicate those conditions of use for which applications for identical products need not include certain types of efficacy data required for approval in § 514.111(a)(5)(vi) (21 CFR 514.111(a)(5)(vi)) of the animal drug regulations. In lieu of that data, approval may require bioequivalency or similar data as suggested in the

guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

§ 520.182 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 520.182 Bicyclohexylammonium fumagillin is amended in paragraph (c) (1) (2), (3), and (4) by adding after each paragraph the footnote reference "[1]" and at the end of the section by adding the footnote "[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter."

Effective date: December 30, 1977.

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

Dated: December 22, 1977.

PHILIP D. CAZIER,
Acting Associate Director
Surveillance and Compliance.

[FR Doc.77-37327 Filed 12-29-77;8:45 am]

[4110–03]

[Docket No. 77N–0421]

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

Calcium Disodium Edetate Injection; NAS/NRC Update

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to specify those conditions of use of calcium disodium edetate that are classified as effective as the result of a National Academy of Sciences/National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluation of the product. A previous FEDERAL REGISTER publication has reflected this product's compliance with the NAS/NRC review. Approval of new animal drug applications (NADA's) for products that are identical to NAS/NRC reviewed generic drugs may require bioequivalence or similar data in lieu of certain efficacy data.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of this product was published in the FEDERAL REGISTER of February 1, 1969 (34 FR 1609). In that publication the Academy concluded, and FDA concurred, that the product is effective, particularly if given early in acute poisoning, with certain label changes. Supplemental applications were requested with revised labeling to reflect concurrence with the review.

Bayvet Corp., P.O. Box 390, Shawnee Mission, KS 66201, through a subsidiary, submitted a supplemental NADA (10–540V) in response to the NAS/NRC review. The supplement was approved by publication of a regulation in the FEDERAL REGISTER of June 18, 1973 (38 FR 15833). The regulation reflecting this approval (21 CFR 135b.88, recodified 21 CFR 522.281) did not specify those conditions of use that are NAS/NRC approved. These are the drug uses for which approval of an NADA does not require efficacy data as specified by § 514.1 (b)(8)(ii) (21 CFR 514.1(b)(8)) of the animal drug regulations.

This document amends the regulations to indicate those conditions of use for which applications for identical products need not include certain types of efficacy data required for approval in § 514.111(a)(5)(vi) (21 CFR 514.111(a)(5)(vi)) of the animal drug regulations. In lieu of that data, approval may require bioequivalency or similar data as suggested in the guideline for submitting NADA's for NAS/NRC reviewed generic drugs, available with the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md 20857.

§ 522.281 [Amended]

1. Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 522.281 Calcium disodium edetate injection is amended in paragraphs (c) (1), (2), (3), and (4) by adding after each paragraph the footnote reference "[1]" and at the end of the section by adding the footnote "[1] These conditions of use are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter."

Effective date: December 30, 1977.

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

Dated: December 22, 1977.

PHILIP D. CAZIER,
Associate Director
Surveillance and Compliance.

[FR Doc.77-37238 Filed 12-29-77;8:45 am]

[4910–22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 771—ENVIRONMENTAL IMPACT AND RELATED STATEMENTS

Technical Amendments

AGENCY: Federal Highway Administration, DOT.

ACTION: Amendments to final rules.

SUMMARY: These amendments reflect a transfer of responsibilities from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA) under the President's reorganization plan for the Executive Office of the President (Reorganization Plan No. 1 of 1977, July 15, 1977). Effective December 5, 1977, five copies of all draft and final environmental impact statements (EIS's) will be filed with EPA headquarters in Washington, D.C., rather than with the CEQ. The EPA will be responsible for publishing the required listing of EIS's in the FEDERAL REGISTER.

EFFECTIVE DATE: December 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Clour, Environmental Programs Division, Office of Environmental Policy, 202–426–0106, or Mr. Stan Abramson, Office of Chief Counsel, 202–426–0791, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A–107.

Accordingly, 23 CFR Part 771 is amended as follows:

§ 771.12 [Amended]

1. By revising § 771.12(d)(2) to read as follows:

* * * * * *

(d) * * *

(1) * * *

(2) Environmental Protection Agency (EPA), Washington, D.C. 20460—5 copies.

2. By amending § 771.12(g) in the first sentence to delete the words "The Council on Environmental Quality" and to add in lieu thereof the words "The Environmental Protection Agency".

§ 771.14 [Amended]

3. By revising § 771.14(d) to read as follows:

* * * * * *

(d) For those final EIS's which require prior concurrence, the FHWA Washington Headquarters Office will notify the Regional Federal Highway Administrator when he may release the final EIS to the public and EPA, at which time the Regional Federal Highway Administrator will adopt and sign the final EIS and insure that the following distribution is made:

(1) Environmental Protection Agency, Washington, D.C. 20460—5 copies.

(Authority: 23 U.S.C. § 315, 49 CFR 1.48(b).)

Issued on December 22, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-37105 Filed 12-29-77;8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7530]

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

PART 7—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1976

Requirements Relating to Certain Exchanges Involving a Foreign Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to ruling requests in respect of certain transfers involving a foreign corporation. It also contains temporary regulations relating to the extent to which a foreign corporation shall be considered to be a corporation on certain exchanges with respect to which a ruling is no longer required as it was under prior law. In addition, the rules contained in the temporary regulations set forth in this document also serve as a notice of proposed rulemaking by which the rules contained therein are proposed to be prescribed as final regulations.

The major portion of the regulations set forth in this document is prescribed under changes to the applicable tax law which were made by the Tax Reform Act of 1976, but this document also contains revisions to existing regulations which are prescribed under the authority of the applicable tax law as in effect prior to the enactment of the Tax Reform Act. In addition, this document sets forth rules which are prescribed under the Act of January 17, 1971 (Pub. L. 91-681, 84 Stat. 2065). Because this document contains revisions to the existing regulations it is necessary to include the rules referred to in the previous sentence to assure that the new regulations are accurate.

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 28, 1978. The regulations prescribed pursuant to changes to the applicable law made by the Tax Reform Act which relate to ruling requests in respect of certain transfers involving a foreign corporation apply to transfers beginning after October 9, 1975. The regulations prescribed pursuant to changes to the applicable law made by the Act of January 17, 1971, apply to transfers made after December 31, 1967, except that in certain cases these regulations apply only with respect to transfers made after December 31, 1970. The regulations relating to exchanges for which a ruling is no longer required under the changes made to the applicable tax law by the Tax Reform Act of 1976, apply to exchanges beginning on or after January 1, 1978

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, CC:LR:T, 202-566-3740, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains temporary income tax regulations (26 CFR Part 7) under section 367 of the Internal Revenue Code of 1954, as added by section 1042(a) of the Tax Reform Act of 1976 (the "Act") (90 Stat. 1634) in order to prescribe rules relating to certain exchanges involving a foreign corporation. In addition, this document contains temporary income tax regulations under section 367, as in effect prior to the enactment of the Act. The regulations prescribed under section 367 as in effect prior to the enactment of the Act include amendments to existing regulations under that section and rules prescribed under the Act of January 17, 1971 (Pub. L. 91-681, 84 Stat. 2065).

Section 7.367(a)-1 of the temporary regulations, in part, provides rules relating to the manner of filing ruling requests with respect to those exchanges for which a ruling request must be filed, in order that a foreign corporation be considered to be a corporation for purposes of determining the extent to which gain shall be recognized on an exchange to which section 367(a)(1), as amended by the Act, applies. When this section is published in the FEDERAL REGISTER as a Treasury decision, these rules will supersede § 1.367-1 of the income tax regulations (26 CFR Part 1). Upon publication, this section will also supersede temporary regulations § 7.367-1 which was published in the FEDERAL REGISTER for June 30, 1977 (42 FR 33286).

The regulations promulgated in this document are also proposed to be prescribed as final Income Tax Regulations (26 CFR Part 1) under section 367 of the Internal Revenue Code of 1954.

STATUTORY PROVISIONS

EXCHANGES DESCRIBED IN SECTION 332, 351, 354, 355, 356, OR 361

Section 367(a) of the Code as in effect prior to the enactment of the Act provided, in part, that, in the case of any of the exchanges described in section 332, 351, 354, 355, 356, or 361, a foreign corporation shall not be considered to be a corporation in determining the extent to which gain shall be recognized unless at a specified time, it has been established to the satisfaction of the Secretary or his delegate that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. Unless the exchange described in that section 367(a) was a mere change of form of a foreign corporation and certain other conditions were met, section 367(a)(1) required that the requisite lack of tax avoidance purpose be established prior to the exchange. If the exception applied, under section 367(a)(2), the lack of tax avoidance purpose could be established to the satisfaction of the Secretary either before or after the exchange. This exception was added to section 367 by the Act of January 17, 1971, and applies to transfers made after December 31, 1967.

Section 367(a)(1), as added by the Act, provides that if, in connection with any exchange described in section 332, 351, 354, 355, 356, or 361, there is a transfer of certain property by a United States person to a foreign corporation, for purposes of determining the extent to which gain will be recognized on such transfer, a foreign corporation shall not be considered to be a corporation unless it is established to the satisfaction of the Secretary that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. The determination that such exchange is not in pursuance of such a plan must be made pursuant to a request filed not later than the close of the 183d day after the beginning of any such transfer of property made in connection with the exchange in such form and manner as may be prescribed by regulations.

Section 367(b), as amended by the Act, provides that in the case of any exchange described in section 332, 351, 354, 355, 356, or 361 in connection with which there is no transfer described in section 367(a)(1), a foreign corporation shall be considered to be a corporation except to the extent provided in regulations prescribed by the Secretary or his delegate.

A transfer described in section 367(a)(1) is a transfer made by a United States person to a foreign corporation in connection with one of the exchanges specifically referred to in section 367 which consists of property other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization. Thus, an exchange described in section 367(b) may involve a transfer of such stock by a United States person to a foreign corporation. Such an exchange may also involve a transfer of any type of property by a foreign person either to another foreign person or to a United States person.

Section 367(b)(2) specifically states that the regulations prescribed pursuant to section 367(b) shall include (but shall not be limited to) regulations dealing with the sale or exchange of stock or securities in a foreign corporation by a United States person. Under section 367(b)(2), these regulations may provide the circumstances under which gain shall be recognized currently, or amounts included in gross income, as a dividend, currently, or both, or gain or other amounts may be deferred for inclusion in the gross income of a shareholder (or a

successor in interest) at a later date. In addition, the regulations may provide the extent to which adjustments shall be made to earnings and profits, basis of stock or securities, and basis of assets.

Section 367(a)(1) applies to transfers beginning after October 9, 1975. Under the transitional rule provided in section 367(d), section 367(a)(1) shall apply in the case of any exchange beginning before January 1, 1978, without regard to whether or not there is a transfer of property described in section 367(a)(1), and section 367(b) shall not apply. Thus, even if an exchange is described in section 367(b), if that exchange begins before January 1, 1978, but after October 9, 1975, section 367(a)(1) applies to that exchange and section 367(b) does not.

SPECIAL RULES

Subsection (c) of section 367 as in effect prior to the enactment of the Act, provided that for purposes of section 367, any distribution described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange. This provision was added to section 367 by the Act of January 17, 1971, and applied to transfers made after December 31, 1967. This provision was unaffected by the Act but now appears in section 367(c)(1), as added by the Act.

Subsection (d) of section 367 as in effect prior to the enactment of the Act, provided that for purposes of chapter 1 of subtitle A of the Code, any transfer of property to a foreign corporation as a contribution to capital shall be treated as an exchange of such property for stock of the transferee corporation equal in value to the fair market value of the property transferred unless, before such transfer, it has been established to the satisfaction of the Secretary or his delegate that such transfer is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. This rule applies only if, immediately after the transfer, the transferor or transferors met certain ownership requirements with respect to stock in the transferee. This provision was added by the Act of January 17, 1971, and applies with respect to transfers made after December 31, 1970, but beginning before October 10, 1975.

Section 367(c)(2), as added by the Act, provides that a transfer of property to a foreign corporation as a contribution to capital shall be treated as an exchange of such property for stock of the transferee equal in value to the fair market value of the property transferred. Like former section 367(d), this provision applies for purposes of chapter 1 of subtitle A of the Code and applies only if the same ownership conditions as those set forth in former section 367(d) are met. Unlike the amended provision it is not possible, under section 367(c)(2), to establish a lack of tax avoidance purpose prior to the transfer so that the transfer will not be treated as an exchange. However, if the exchange which is considered to occur by reason of section 367(c)(2) is an exchange described in section 367(a)(1) or (b), the applicable provisions of these subsections apply. The provisions of section 367(c)(2) apply to transfers beginning after October 9, 1975.

INCOME TAX REGULATIONS UNDER SECTION 367

RULING REQUESTS IN RESPECT OF CERTAIN TRANSFERS INVOLVING A FOREIGN CORPORATION

Section 7.367(a)-1 of the temporary regulations provides rules relating to the form, time, and manner for filing a ruling request with respect to an exchange to which section 367 of the Code, as in effect prior to the enactment of the Act applies, or with respect to an exchange to which section 367(a)(1), as amended by the Act, applies.

Paragraph of § 7.367(a)-1 provides definitions for purposes of section 367 as amended by the Act. Paragraph (c) sets forth the general rule relating to an exchange with respect to which a lack of tax avoidance purpose must be established under section 367 in order that a foreign corporation be considered to be a corporation for purposes of determining the extent to which gain will be recognized. Such an exchange is one to which section 367 as in effect prior to the enactment of the Act, applies, or is one to which new section 367(a)(1) applies. Paragraph (d) of this section sets forth the rules relating to form, time, and manner of filing a ruling request for a ruling.

Paragraphs (e) through (g) of § 7.367(a)-1 of the temporary regulations apply only to an exchange to which section 367(a)(1) applies. Paragraph (e) provides a special rule relating to timely filing of a request for purposes of meeting the 183-day time limit set forth in that section. Paragraph (f) provides rules in the case of an exchange where there is more than one transfer of property, and a ruling request is filed in a timely manner with respect to some but not all of such transfers. Paragraph (g) provides that in those situations which the Commissioner deems appropriate, a foreign corporation will be treated as a corporation even in the absence of a ruling request. The rules provided in paragraphs (e) through (g) of § 7.367(a)-1 follow the Report of the Committee of Conference. H.R. Rept. 1515, 94th Cong., 2d sess. 464 (1976).

The rules in § 7.367(a)-1 of the temporary regulations which relate to section 367 prior to its amendment by the Act of January 17, 1971, are substantially the same as the rules contained in §. 7.367(a)-1 of these regulations which relate to section 367(a)(1), as amended by the Act, are substantially the same as the rules contained in temporary regulations § 7.367-1 which was published in the FEDERAL REGISTER on June 30, 1977 (42 FR 33286) and which will be superseded upon publication of § 7.367(a)-1.

GENERAL RULES

Section 7.367(b)-1 of the temporary regulations provides general rules relating to any exchange to which section 367(b) applies. Paragraph (b) of § 1.367(b)-1 sets forth the general rule provided in section 367(b)(1) that, on such an exchange, a foreign corporation shall be considered to be a corporation except to the extent otherwise provided under the regulations prescribed under section 367(b) ("the section 367(b) regulations"). Thus, if the section 367(b) regulations are silent with respect to a specific exchange, the appropriate sections of the Code will apply to that exchange without modification.

Paragraph (b) of § 7.367(b)-1 also specifies the Federal income tax consequences to a taxpayer of a failure to comply with any applicable provision of the section 367(b) regulations. As a general rule, if a taxpayer fails to comply with §§ 7.367(b)-1 through 7.367(b)-12, the Commissioner shall make a determination whether a foreign corporation will be considered to be a corporation based on all the facts and circumstances surrounding failure to comply. In making the determination, the Commissioner may conclude that: (1) A foreign corporation will be considered to be a corporation despite the failure to comply; (2) a foreign corporation will be considered to be a corporation provided that the conditions imposed under §§ 7.367(b)-4 through 7.367(b)-12 are fulfilled; or (3) a foreign corporation will not be considered to be a corporation only for purposes of determining the extent to which gain shall be recognized on such exchanges but that any gain recognized by reason of the Commissioner's determination to disregard the corporate status of a foreign corporation will be taken into account for purposes of applying the provisions of section 334, 358 or 362. However, in those cases in which other provisions of regulations §§ 7.367(b)-4 through 7.367(b)-12 provide consequences of failure to comply with the section 367(b) regulations with respect to certain exchanges which differ from the consequences specified under the general rule, the specific consequences will apply. See, e.g., § 7.367(b)-5(b).

Paragraph (c) of § 7.367(b)-1 imposes a requirement that certain persons provide notice of an exchange to which section 367(b) applies. If a person required to give notice, fails to provide in a timely manner, information sufficient to apprise the Commissioner of the occurrence and nature of an exchange to which section 367(b) applies, the person will be considered to have failed to comply with §§ 7.367(b)-1 through 7.367(b)-12, only if the person does not establish reasonable cause for the failure. In the event that a person fails to comply with the notice requirement, the general rule of paragraph (b) of § 7.367(b)-1 will apply.

DEFINITIONS AND SPECIAL RULES

Section 7.367(b)-2 of the temporary regulations provides definitions for special terms used in the section 367(b) regulations. Section 7.367(b)-3 of the temporary regulations provides special

rules relating to the manner in which certain amounts attributable to stock under the section 367(b) regulations are to be computed. Section 7.367(b)–4 provides rules which specify which Code sections take precedence for purposes of applying section 367(b) if an exchange is described in more than one Code section.

CONDITIONS OR MODIFICATIONS TO TREATMENT OF A FOREIGN CORPORATION AS A CORPORATION ON CERTAIN EXCHANGES

Under §§ 7.367(b)–5 through 7.367(b)–12 of the temporary regulations, conditions or modifications are imposed which define the extent to which a foreign corporation will be considered to be a corporation on certain exchanges to which section 367(b) applies. The specific rules set forth in these sections are prescribed in order to prevent the avoidance of Federal income taxes.

EXCHANGES DESCRIBED IN SECTION 332

Section 7.367(b)–5 of the temporary regulations applies to an exchange described in section 332 which involves the complete liquidation of a foreign corporation and which begins after December 31, 1977. In the case of a complete liquidation of a foreign subsidiary into a domestic parent corporation, if the domestic corporation includes in its gross income, as a dividend deemed paid in money for the taxable year in which the distribution occurs, the all earnings and profits amount (as defined in § 7.367(b)–2(f) of the regulations) attribuable to the stock which the domestic corporation held in the distributor foreign corporation, the foreign corporation will be considered to be a corporation for purposes of applying subchapter C of chapter 1 of subtitle A of the Code. If the domestic corporation does not include this amount in gross income, for the purpose of determining the extent to which gain is recognized on the exchange the foreign corporation will not be considered to be a corporation. However, the applicable provisions of the Code other than section 332 shall apply as if no gain had been recognized on the exchange and for such purpose a foreign corporation shall be considered to be a corporation.

Under § 7.367(b)–5, if a foreign corporation receives a distribution in complete liquidation from another foreign corporation, a foreign corporation shall be considered to be a corporation for purposes of section 332 and other applicable sections such as section 381.

EXCHANGE OF STOCK IN A FOREIGN INVESTMENT COMPANY

Section 7.367(b)–6 of the temporary regulations provides rules relating to an exchange of stock in a foreign investment company if the exchange is described in section 354, or 356 and stock in a domestic corporation is received pursuant to the exchange. Under the general rule of paragraph (b), the taxpayer exchanging the stock must include in gross income for the taxable year in which the exchange occurs, the section 1246 amount (as defined in § 7.367(b)–2(c) of the regulations) attributable to the stock in the foreign investment company which was exchanged, to the extent of the excess of the fair market value of such stock over its adjusted basis. This amount must be included in gross income as gain from the sale of an asset other than a capital asset.

Paragraph (c) of § 7.367(b)–6 provides that if the exchanging taxpayer is a domestic corporation, such domestic corporation must include in gross income in lieu of the amount required to be included under the general rule, the all earnings and profits amount computed under the principles of section 1246 (as defined by § 7.367(b)–2(f) of the regulations) attributable to the stock exchanged. This amount must be included in gross income as a dividend deemed paid in money to the extent attributable to earnings and profits accumulated in taxable years beginning before January 1, 1963, and as gain from the sale of an asset other than a capital asset to the extent attributable to earnings and profits accumulated in taxable years beginning after December 31, 1962. If a domestic corporation does not include the all earnings and profits amount as required, for the purpose of determining the extent to which gain is recognized on the exchange, the foreign corporation will not be considered to be a corporation. However, the applicable provisions of the Code other than section 354, or 356 shall apply as if no gain had been recognized by reason of this section and for such purpose a foreign corporation will be considered to be a corporation.

EXCHANGES DESCRIBED IN SECTION 351, 354, OR 361

Sections 7.367(b)–7 and 7.367(b)–8 of the temporary regulations provide rules relating to exchanges described in section 351, 354, or 361.

Section 7.367(b)–7 applies to an exchange of stock in a foreign corporation (other than a foreign investment company as defined in section 1246(b)) if: (1) The exchange is described in section 354 or 356 and is made pursuant to a reorganization described in section 368(a)(1) (B) through (F); (2) immediately before the exchange, there is a United States shareholder of the corporation whose stock is exchanged; and (3) the exchanging person is either a United States shareholder or a foreign corporation having a United States shareholder.

Paragraph (c)(1) of § 7.367(b)–7 provides, as a general rule, that if, in an exchange to which § 7.367(b)–7 applies, an exchanging shareholder received stock of a domestic corporation, of a foreign corporation which is not a controlled foreign corporation or of a foreign corporation which is a controlled foreign corporation as to which the exchanging shareholder is not a United States shareholder, it must include an amount in gross income as a dividend. If the exchanging shareholder is a foreign corporation and any United States shareholder of the exchanging shareholder is not a United States shareholder of such controlled foreign corporation, the earnings and profits of the exchanging shareholder will be adjusted.

The amount which is considered to be received as a dividend by a United States person is the section 1248 amount attributable to the stock of the foreign corporation which was exchanged to the extent of the excess of the fair market value of the stock exchanged over its adjusted basis. This amount must be included in gross income by the United States person for the specified taxable year.

The amount added to the earnings and profits of an exchanging foreign corporation is the total of all section 1248(c)(2) amounts which would be attributable to the stock exchanged if it were wholly owned by a United States shareholder.

Paragraph (b) of § 7.367(b)–7 provides, in effect, for deferred treatment of amounts as a dividend in certain exchanges to which § 7.367(b)–7 applies (other than an exchange pursuant to a reorganization described in section 368(a)(1) (E) or (F)). Deferred treatment is allowed when an exchanging shareholder receives stock in a controlled foreign corporation and immediately after the exchange, the exchanging shareholder (if a United States person) is a United States shareholder of the controlled foreign corporation, or all United States shareholders of the exchanging shareholder (if a foreign corporation) are United States shareholders of the controlled foreign corporation.

Section 7.367(b)–9 provides rules relating to deferred treatment of amounts as a dividend. In general, under § 7.367(b)–9 certain amounts are attributed to the stock received in certain exchanges to which section 367(b) applies which are described in section 351, 354, or 361. The amounts attributed are the section 1248 amount or the section 1248(c)(2) amount (depending on whether the exchange is made by a United States person or by a foreign corporation) and the additional earnings and profits amount attributable to the stock exchanged. Under § 7.367(b)–12, the amounts attributed are required to be taken into account on a subsequent sale, exchange, or distribution of the stock, if section 1248 or section 367(b) applies to the subsequent transaction. In addition, § 7.367(b)–9 provides for appropriate adjustments to earnings and profits and basis as authorized in section 367(b).

CERTAIN EXCHANGES DESCRIBED IN SECTION 351

Section 7.367(b)–8 applies to a transfer of property pursuant to an exchange described in section 351 regardless of whether the transfer is also described in section 361 if: (1) The transferor of property is a foreign corporation; and (2) in the case of a transfer described in section 361 the transferor corporation remains in existence. Paragraph (b) of § 7.367(b)–8 provides that, in the case of such a transfer described in section 361, section 381(a)(2) shall not apply

with respect to an item described in section 381(c)(2).

Paragraph (c) of § 7.367(b)-8 provides that if the transferor corporation transfers stock in a foreign corporation and there is a United States shareholder of both the transferor corporation and of the corporation whose stock is transferred immediately before the exchange, the rules provided in § 7.367(b)-7 and § 7.367(b)-9 apply. Thus, the rules with respect to exchanges described in section 351 are the same as those applicable to receipt of stock pursuant to an exchange described in section 354 which is made by a foreign corporation having a United States shareholder.

EXCHANGES DESCRIBED IN SECTION 355

Section 7.367(b)-10 of the temporary regulations applies to distributions of stock described in section 355 to which section 367(b) applies.

Paragraph (b) of § 7.367(b)-10 applies to a distribution of stock of a foreign corporation (the "controlled corporation") which is made by a domestic corporation. This paragraph provides, in part, that section 1248(f) of the Code applies on such a distribution.

Paragraph (d) of § 7.367(b)-10 provides that § 1.312-10 of the income tax regulations (relating to allocations of earnings and profits of the distributing corporation) does not apply. Rather, under paragraph (a), earnings and profits or a deficit in earnings and profits of the distributing corporation, the controlled corporation and any subsidiaries thereof must be allocated after the distribution between the group of corporations comprised of the distributing corporation and its subsidiaries and the group of corporations comprised of the controlled corporation and its subsidiaries.

The allocation will be made in proportion to the net fair market value of the assets which are held by the group after the distribution. However, for this purpose assets held by the group do not include stock of any subsidiaries within the group.

Where stock is distributed by a foreign corporation, the section 1248 amount, section 1248(c)(2) amount, the all earnings and profits amount and the additional earnings and profit amount attributable to stock in the distributing corporation owned by a United States shareholder prior to the distribution must be attributed to certain stock owned after the distribution under paragraph (h) of § 7.367(b)-10. As provided in § 7.367(b)-12, amounts attributed must be taken into account in applying section 1248 or the section 367(b) regulations to a sale, exchange, or distribution of the stock which takes place after the distribution described in section 355. If, in a distribution by a foreign corporation, a United States person receives stock in a domestic corporation, or of a foreign corporation which is not a controlled foreign corporation, or stock of a controlled foreign corporation as to which the person is not a United States shareholder the United States person must include in gross income, as a dividend deemed paid in money, the section 1248 amount attributable to the stock in the distributing corporation owned by United States shareholder immediately before the distribution reduced by the section 1248 amount (if any) attributed under paragraph (h) to stock owned by the shareholder immediately after the distribution. However, this amount must be included only to the extent of the excess of the fair market value of the stock of the distributing corporation over its adjusted basis.

If a foreign corporation receives stock in a distribution, rules analogous to those applying to receipt of stock by a United States shareholder apply. Thus, if stock in a controlled foreign corporation is received and all United States shareholders of the corporation receiving the distribution are United States shareholders of the controlled corporation, the section 1248(c)(2) amount attributable to the stock received is attributed to that stock for deferred application of section 1248 or the section 367(b) regulations. However, in any case other than that for which deferral is allowed, an appropriate amount is added to the earnings and profits of the foreign corporate distributee. See paragraph (i)(3)(ii) of § 7.367(b)-10.

DEFICIT IN EARNINGS AND PROFITS

Section 7.367(b)-11 of the temporary regulations provides rules relating to the manner in which a deficit in earnings and profits of a corporation may be used after certain exchanges to which section 367(b) applies. Paragraph (b) of this section provides that if a deficit is allocated to a corporation under the section 367(b) regulations, such a deficit may only be used as provided in section 381(c)(2)(B) and the regulations thereunder. Paragraph (c) provides that if section 382 would apply to a net operating loss of a corporation in respect of an exchange to which section 367(b) applies, the percentage reduction of section 382 with respect to net operating losses shall reduce a deficit in earnings and profits of the corporation. Paragraph (d) of § 7.367(b)-11 provides a specific rule with respect to amounts attributed to stock for inclusion in gross income at a later date under the section 367(b) regulations if a deficit in earnings and profits is attributed to stock. In such a case, if the rules of paragraph (c) of § 7.367(b)-11 (relating to adjustments to a deficit in earnings and profits of a corporation) apply on an exchange, the attributed amount shall also be adjusted as provided in paragraph (c) of § 7.367(b)-11.

CERTAIN TRANSFERS TREATED AS EXCHANGES

Sections 7.367(c)-1 and 7.367(c)-2 of the temporary regulations provide rules relating to certain transfers which are treated as exchanges. In particular, § 7.367(c)-1 applies to distributions described in section 355 which are treated as exchanges for purposes of section 367. Section 7.367(c)-2 applies to certain contributions to the capital of a foreign corporation which are treated as exchanges for purposes of chapter 1 of subtitle A of the Code. In general, these provisions relate the requirements of section 367 (as in effect before and after the enactment of the Act) to these transfers which are treated as exchanges.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adoption of the final regulations proposed in this document, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Katherine A. Newell of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

ADOPTION OF REGULATIONS

In order to prescribe temporary Income Tax Regulations (26 CFR Part 7) relating to requirements relating to certain exchanges involving a foreign corporation pursuant to section 367 of the Internal Revenue Code of 1954, in effect prior to the enactment of the Tax Reform Act of 1976 (the "Act"), as amended by Pub. L. 91-681, 91st Cong., 2d sess. (84 Stat. 2065) and pursuant to section 367 of the Code, as added by section 1042 of the Tax Reform Act of 1976 (90 Stat. 1634), the following temporary regulations are hereby adopted:

§ 1.367-1 [Deleted]

PARAGRAPH 1. Section 1.367-1 is deleted.

PAR. 2. Section 7.367-1 is redesignated as § 7.367(a)-1 and is amended to read as follows:

§ 7.367(a)-1 Ruling requests under section 367 relating to certain transfers involving a foreign corporation.

(a) *Scope.* (1) This section prescribes rules relating to the filing of ruling requests under section 367 of the Internal Revenue Code of 1954. The provisions of this section apply to any exchange to which—

(i) Section 367 as in effect prior to October 4, 1976 applies, or

(ii) Section 367(a)(1), as amended by section 1042(a) of the Tax Reform Act of 1976 (90 Stat. 1634), applies.

(2) Section 367(a)(1), as amended by section 1042(a) of the Tax Reform Act of 1976, applies in the case of any transfer which begins after October 9, 1975—

(i) Which is a "transfer described in section 367(a)(1)" (within the meaning of paragraph (b)(3) of this section), or

(ii) Which is made in connection with an exchange described in section 367(b)

(within the meaning of paragraph (b)(4) of this section) if such exchange begins before January 1, 1978.

(b) *Definitions.* Except as otherwise provided, the following definitions apply for purposes of section 367, as amended by section 1042(a) of the Tax Reform Act of 1976—

(1) *Beginning of transfer.* A transfer of property shall be considered to begin on the earliest date as of which title, possession of, or right to the use of stock, securities, or property passes pursuant to the plan under which the exchange is to be made between parties to the exchange. A transfer shall not be considered to begin with a decision of a board of directors or similar action. A transfer shall be deemed to have begun even though it is made subject to a condition that, if there is a failure to obtain a determination that there is no tax avoidance purpose, the transaction will not be consummated and to the extent possible the assets transferred will be returned.

(2) *Beginning of exchange.* An exchange shall be considered to begin with the beginning of the first transfer of property (within the meaning of paragraph (b)(1) of this section) pursuant to the plan under which the exchange is to be made.

(3) *Transfer described in section 367(a)(1).* (i) A "transfer described in section 367(a)(1)" is a transfer of property other than stock or securities of a foreign corporation which is a party to the exchange or a party to the reorganization (as defined in section 368(b)), made by a United States person (as defined in section 7701(a)(30)) directly or indirectly to a foreign corporation in connection with an exchange described in section 332, 351, 354, 355, 356, or 361.

(ii) A transfer by a United States person indirectly to a foreign corporation includes a transfer of assets by a domestic corporation to another domestic corporation in connection with a reorganization described in section 368(a)(1)(C), or in section 368(a)(1)(A) and section 368(a)(2)(D) or (E), if stock in a controlling corporation is received by any United States person who is an exchanging shareholder in such a reorganization and the controlling corporation is a foreign corporation.

(iii) A transfer by a foreign partnership, foreign trust, or foreign estate in which a United States person holds an interest, shall be considered to have been made by any such United States person who realizes gain or other income (whether or not recognized) on account of the transfer.

(iv) An election by a domestic corporation under section 1504(d) to treat a corporation organized under the laws of a contiguous foreign country as a domestic corporation shall be considered to be a transfer of property made pursuant to an exchange described in section 367(b). The revocation by a domestic corporation of an election under section 1504(d) shall be considered to be a transfer of property made pursuant to an exchange described in section 367(a)(1).

(4) *Exchange described in section 367(b).* An "exchange described in section 367(b)" is an exchange described in section 332, 351, 354, 355, 356, or 361 with respect to which the status of a foreign corporation as a corporation is relevant for determining the extent to which gain shall be recognized, and in connection with which there is no transfer described in section 367(a)(1).

(5) *Excepted exchange.* An "excepted exchange" is an exchange made by a foreign corporation of stock in one foreign corporation (the old corporation) for stock in another foreign corporation (the new corporation) if—

(i) The exchange is made in order to effect a mere change in form of a single corporation,

(ii) The old corporation and the new corporation differ only in their form of organization,

(iii) The ownership of the old corporation immediately before the exchange is identical to the ownership of the new corporation immediately after the exchange, and

(iv) The first transfer in connection with the exchange begins after December 31, 1967.

(c) *General rule.* (1) For purposes of determining the extent to which gain shall be recognized on an exchange to which this section applies, and subject to the exception specified in paragraph (g) of this section, a foreign corporation shall not be considered to be a corporation unless it is established to the satisfaction of the Commissioner that such exchange is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes. In the case of an exchange to which section 367 as in effect prior to October 4, 1976, applies (other than an excepted exchange), the lack of such a plan must be established prior to the exchange. In the case of an exchange to which section 367(a)(1), as amended by section 1042(a) of the Tax Reform Act of 1976, applies, the lack of such a plan must be established pursuant to a ruling request filed within the time provided in paragraph (d)(4)(iii) of this section. A determination (i) that the exchange is not in pursuance of such a plan, or (ii) of the terms and conditions pursuant to which the exchange will be determined to be not in pursuance of such a plan, shall be made pursuant to a ruling request. The ruling request must be filed in the form, time, and manner specified in paragraph (d) of this section. A ruling letter setting forth the Commissioner's determination with respect to such exchange will be forwarded to the taxpayer. If the exchange is carried out in a manner which represents a material variance from the plan submitted, or if the terms and conditions imposed under the ruling letter are not met, the Commissioner's determination will not be given effect.

(2) The taxpayer must retain a copy of the ruling letter as authority for treating a foreign corporation as a corporation in determining the extent to which gain is recognized on such exchange.

(3) If an exchange to which section 367(a)(1) applies has begun prior to the filing of a return with respect to that exchange, and:

(i) The taxpayer receives a ruling letter regarding the exchange, the taxpayer must attach to the return a copy of the ruling letter and any decision on any protest thereto;

(ii) The taxpayer has filed a ruling request regarding the exchange but has not received a ruling letter pursuant thereto, the taxpayer must attach to the return a statement that the ruling request has been filed, and date of such filing; or

(iii) The taxpayer has not filed a ruling request regarding the exchange, the taxpayer must attach to the return a statement indicating (A) that the exchange is one to which section 367(a)(1) applies, (B) that no ruling request has been filed regarding the exchange, (C) the date of the beginning of any transfer which is relevant for determining whether a ruling request regarding the exchange is filed within the time limits specified in paragraph (d) of this section, and (D) whether the taxpayer intends to file a ruling request within such time limits.

(d) *Form, time, and manner of filing.* A request for a ruling regarding an exchange to which this section applies must:

(1) Set forth the facts and circumstances relating to the plan under which the exchange is to be made and be accompanied by a copy, or a complete description of such plan;

(2) Be filed in accordance with all applicable procedural rules set forth in the Statement of Procedural Rules (26 CFR Part 601) and any applicable revenue procedures relating to submission of ruling requests;

(3) Be executed by the taxpayer under penalties of perjury, regardless of whether such requirement is also imposed under § 601.201(e); and

(4) Be filed in compliance with paragraph (d)(1), (2), and (3) of this section:

(i) Before the beginning of any exchange (other than an excepted exchange) to which section 367 as in effect prior to October 4, 1976 applies,

(ii) Before or after the beginning of any excepted exchange, and

(iii) At any time before or after, but not later than the 183d day after, the beginning of:

(A) In the case of an exchange described in section 367(a)(1), any transfer described in section 367(a)(1), or

(B) In the case of an exchange described in section 367(b) to which section 367(a)(1) applies by reason of section 367(d), any transfer of property made in connection with such exchange.

(e) *Timely filing.* Notwithstanding the provisions of paragraph (d) of this section, or any other provision relating to procedures for the filing of ruling requests with the Internal Revenue Service, a ruling request under section 367(a)(1) shall not be deemed filed within the time limits specified in paragraph (d)(4) of this section unless with-

in such time limits the taxpayer files a request which meets certain minimum standards. To meet such minimum standards a request must (1) set forth the facts and circumstances relating to the plan under which the exchange is to be made, in sufficient detail to apprise the Commissioner of the nature of the exchange and the purpose for which such request is filed, and (2) be executed under penalties of perjury as required in paragraph (d)(3) of this section. In the event of a failure to comply exactly with the provisions of paragraph (d) (1) and (2) of this section, the Service may decline to the rule until there is compliance.

(f) *Multiple transfers in connection with one exchange.* In the case of an exchange to which section 367(a)(1) applies:

(1) A foreign corporation will be treated as a corporation with respect to gain realized on any transfer pursuant to the exchange if all the following conditions are met:

(i) A ruling request is filed in the form, time, and manner specified in paragraph (d) of this section,

(ii) It is established to the satisfaction of the Commissioner that such exchange and all transfers described in the ruling request are not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes,

(iii) Any terms and conditions to which the Commissioner's determination are subject are satisfied, and

(iv) The exchange is consummated in accordance with all material details of the plan as described in the ruling request.

(2) If all the conditions specified in paragraph (f)(1) of this section were not met solely because there was a transfer pursuant to the exchange made more than 183 days before the ruling request was filed, and such transfer was not the subject of a ruling request filed in the form, time, and manner specified in paragraph (d) of this section, then:

(i) Except as provided in paragraph (g) of this section, gain shall be recognized on such prior transfer if a ruling request is required with respect to such prior transfer, and

(ii) The conditions specified in paragraph (f)(1) will be considered met if it is established to the satisfaction of the Commissioner that the exchange in its entirety (taking into account the gain recognized) is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(3) If all the conditions specified in paragraph (f)(1) of this section were not met solely because subsequent to the filing of the original ruling request there was a transfer pursuant to the exchange which was not described in the original request, then a foreign corporation shall not be considered to be a corporation with respect to gain realized on all transfers made in connection with the exchange. However, if another ruling request is timely filed with respect to the subsequent transfer in the form, time, and manner specified in paragraph (d) of this section, and if the conditions specified in paragraph (f)(1) (ii), (iii), and (iv) of this section are met with respect to the subsequent request (taking into account all transfers described in the original request), a foreign corporation will be treated as a corporation with respect to all transfers decribed in the requests made pursuant to the exchange (other than those as to which gain is required to be recognized pursuant to paragraph (f)(2)(i)).

(g) *Exception.* Failure of the taxpayer to request a ruling under section 367(a)(1) may not be used by the taxpayer to its advantage. In those situations which the Commissioner deems appropriate, a foreign corporation will be treated as a corporation even in the absence of a ruling request.

PAR. 3. The following new §§ 7.367(b)-1 through 7.367(b)-12 and §§ 7.367(c)-1 and 7.367(c)-2 are added immediately after § 7.367(a)-1:

§ 7.367(b)-1 Other transfers.

(a) *Scope.* This section and §§ 7.367(b)-2 through 7.367(b)-12 apply to exchanges to which section 367(b), as amended by section 1042(a) of the Tax Reform Act of 1976, applies. This section sets forth certain general rules regarding the extent to which a foreign corporation shall be considered to be a corporation in connection with an exchange to which section 367(b) applies. An exchange to which section 367(b) applies is any exchange described in section 367(b) and paragraph (b)(4) of § 7.367(a)-1 which begins after December 31, 1977.

(b) *General rule.* If section 367(b) applies to an exchange, a foreign corporation shall be considered to be a corporation in respect of that exchange except to the extent otherwise provided in this section and in §§ 7.367(b)-4 through 7.367(b)-12. Unless otherwise provided, if a taxpayer fails to comply with §§ 7.367(b)-1 through 7.367(b)-12, the Commissioner shall make a determination whether a foreign corporation will be considered to be a corporation based on all the facts and circumstances surrounding failure to comply. In making this determination the Commissioner may conclude that:

(1) A foreign corporation will be considered to be a corporation despite the failure to comply;

(2) A foreign corporation will be considered to be a corporation provided that the conditions imposed under §§ 7.367(b)-4 through 7.367(b)-12 are fulfilled; or

(3) A foreign corporation will not be considered to be a corporation only for purposes of determining the extent to which gain shall be recognized on such exchange but that any gain recognized by reason of the Commissioner's determination to disregard the corporate status of a foreign corporation will be taken into account for purposes of applying the provisions of section 334, 358 or 362.

See, §§ 7.367(b)-5(b), 7.367(b)-6(c), 7.367(b)-7(c)(2), and 7.367(b)-10(j) for specific provisions which override the provisions of paragraph (b)(3) of this section.

(c) *Notice required.*—(1) *In general.* If any person referred to in section 6012 (relating to the requirement to make returns of income) realized gain or other income (whether or not recognized) on account of any exchange to which section 367(b) applies, such person must file a notice of such exchange on or before the last date for filing a Federal income tax return (taking into account any extensions of time therefor) for the person's taxable year in which gain or other income is realized. This notice must be filed with the district director with whom the person would be required to file a Federal income tax return for the taxable year in which the exchange occurs.

(2) *Information required.* The notice shall contain:

(i) A statement that the exchange is one to which section 367(b) applies;

(ii) A complete description of the exchange;

(iii) A description of any stock or securities received in the exchange;

(iv) A statement which describes any amount required, under §§ 7.367(b)-4 through 7.367(b)-12 to be included in gross income or added to the earnings and profits or deficit of an exchanging foreign corporation for the person's taxable year in which the exchange occurs;

(v) A statement which describes any amount of earnings and profits attributed by reason of the exchange under §§ 7.367(b)-4 through 7.367(b)-12, to stock owned by any United States person;

(vi) Any information which is or would be required to be furnished with a Federal income tax return pursuant to regulations under section 332, 351, 354, 355, 356, 361, or 368 (whether or not a Federal income tax return is required to be filed) if such information has not otherwise been provided;

(vii) Any information required to be furnished under section 6038 or 6046 if such information has not otherwise been provided; and

(viii) If applicable, a statement that the taxpayer is making the election permitted under paragraph (d) of § 7.367(b)-3 relating to earnings and profits of a less developed country corporation.

(ix) If applicable, a statement that all relevant shareholders are making the election provided in paragraph (c)(1)(iii) of § 7.367(b)-7, in paragraph (f) of § 7.367(b)-9, in paragraph (i)(3)(ii)(C) of § 7.367(b)-10, or in paragraph (f) of § 7.367(b)-10 in order to obtain the increase in basis of stock provided in paragraph (c)(1)(iii) of § 7.367(b)-7, paragraph (i)(3)(ii)(C) of § 7.367(b)-10, paragraph (e)(1) of § 7.367(b)-9, or paragraph (e) of § 7.367(b)-10.

(3) *Failure to provide notice.* If a person required to give notice under paragraph (c)(1) of this section fails to provide, in a timely manner, information sufficient to apprise the Commissioner of the occurrence and nature of an exchange to which section 367(b) applies, the taxpayer will be considered to have

failed to comply with the provisions of §§ 7.367(b)-1 through 7.367(b)-12 only if the taxpayer fails to establish reasonable cause for the failure.

(d) *Records to be kept.*—(1) *Adjustments to earnings and profits.* Any corporation whose earnings and profits are required to be adjusted under §§ 7.367(b)-4 through 7.367(b)-12 must keep records adequate to establish the adjustment.

(2) *Amounts attributed to stock.* If, under §§ 7.367(b)-4 through 7.367(b)-12, an amount is attributed to stock in a foreign corporation which is owned by a United States person, that person must keep records to establish the amount so attributed. If the person fails to maintain such records, and an inclusion in gross income of such amount is required by reason of section 1248 or §§ 7.367(b)-4 through 7.367(b)-12, the district director shall make a reasonable determination of the amount attributed.

§ 7.367(b)-2 Definitions.

(a) *Controlled foreign corporation.* The term "controlled foreign corporation" means a controlled foreign corporation as defined in section 957 and the regulations thereunder.

(b) *United States shareholder.* The term "United States shareholder" means any United States person who satisfies the ownership requirements of section 1248(a)(2) or of section 1248(c)(2) with respect to a foreign corporation.

(c) *Section 1246 amount.* In the case of an exchange of stock in a foreign investment company (as defined in section 1246(b)) to which section 367(b) applies, the term "section 1246 amount" means the earnings and profits, if any, of the foreign investment company, which would have been attributable under section 1246 and the regulations thereunder to the stock exchanged if the stock had been sold in a transaction to which section 1246 applied.

(d) *Section 1248 amount.* In the case of an exchange of stock in a first-tier foreign corporation to which section 367(b) applies, the term "section 1248 amount" means the earnings and profits or deficit in earnings and profits which would have been attributable under section 1248 and the regulations thereunder to the stock of the foreign corporation exchanged if the stock had been sold in a transaction to which section 1248(a) applied.

(e) *Section 1248(c)(2) amount.* In the case of an exchange of stock in a lower-tier foreign corporation to which section 367(b) applies and which is made by another foreign corporation, the term "section 1248(c)(2) amount" means the earnings and profits or deficit in earnings and profits which would have been attributable under section 1248(c)(2) and the regulations thereunder to the stock of the foreign corporation exchanged (including stock in other lower-tier corporations owned by reason of ownership of the stock exchanged). The determination shall be made as if stock in any first-tier corporation by reason of the ownership of which the United States shareholder owns the stock exchanged had been sold in a transaction to which section 1248(a) applied.

(f) *All earnings and profits amount.* The term "all earnings and profits amount" means the earnings and profits or deficit in earnings and profits for all taxable years which are attributable to the stock of the foreign corporation exchanged under the principles of section 1246 or 1248 (whichever is applicable) and the regulations thereunder. The determination shall be made by applying section 1246 or 1248 as modified by §§ 7.367(b)-2 through 7.367(b)-12 as if there were no distinction in those sections between earnings and profits accumulated before or after December 31, 1962.

(g) *Additional earnings and profits amount.* The term "additional earnings and profits amount" means the earnings and profits or deficit in earnings and profits for taxable years beginning before January 1, 1963, which are attributable under the principles of section 1248 and the regulations thereunder to the stock of the foreign corporation exchanged. The determination shall be made by applying section 1248 as modified by §§ 7.367(b)-2 through 7.367(b)-12 as if there were no distinction in those sections between earnings and profits accumulated before or after December 31, 1962.

(h) *All earnings and profits amount or additional earnings and profits amount.* In computing an "all earnings and profits amount" or "additional earnings and profits amount" under the principles of section 1248, if the stock exchanged is:

(1) Stock in a first-tier corporation, then section 1248(c)(2) (inclusion of earnings and profits of subsidiaries) does not apply.

(2) Stock in a lower-tier corporation, then section 1248(c)(2) shall be applied to determine the earnings and profits of that lower-tier corporation which are attributable to the stock exchanged but that section shall not be applied with respect to any other lower-tier corporations.

(i) *Inclusion of earnings and profits described in section 1248(d).* For purposes of computing any of the amounts defined in paragraphs (d) through (g) of this section, the exclusions from earnings and profits provided for under section 1248(d) shall not apply. See, however, paragraph (c) of § 7.367(b)-3 (relating to amounts retaining character as exclusions under section 1248(d)).

(j) *Corporations organized under laws of Puerto Rico or United States possessions corporations.* For purposes of computing the amounts defined in paragraphs (f) and (g) of this section, if, for a taxable year, a corporation organized in or under the laws of the Commonwealth of Puerto Rico or a possession of the United States meets the requirements of section 957(c) (or would have met such requirements if the Revenue Act of 1962 had been in effect) then:

(1) Earnings and profits accumulated by the corporation during such a taxable year which begins before January 1, 1978, are not required to be taken into account, and

(2) Earnings and profits accumulated by the corporation during such a taxable year which begins after December 31, 1977, are required to be taken into account only to the extent such earnings would not qualify for the credit of section 936(a) had the corporation been a domestic corporation which met the requirements of section 936(a)(1) and which had elected the credit under that section.

A corporation which, during its first taxable year beginning after December 31, 1962, meets the requirements of section 957(c) will be considered to have met such requirements during taxable years beginning prior to January 1, 1963.

§ 7.367(b)-3 Special rules.

(a) *Character of section 1246 amount.* If, under § 7.367(b)-6, an amount attributable to stock in a foreign investment company (as defined in section 1246(b)) is required to be taken into gross income of its shareholders, such earnings and profits will be included in income as—

(1) Gain from the sale of an asset which is not a capital asset to the extent attributable to earnings and profits accumulated in taxable years beginning after December 31, 1962; and

(2) A dividend deemed paid in money to the extent attributable to earnings and profits accumulated in taxable years beginning before January 1, 1963, and required to be included as part of the "all earnings and profits amount".

(b) *Character of amounts computed under the principles of section 1248.* If, under § 7.367(b)-5 or §§ 7.367(b)-7 through 7.367(b)-12, any amount is required to be included in the gross income of a United States person, that amount shall be considered to have been distributed as a dividend paid in money immediately prior to the exchange and taxable under section 301 as a dividend formally declared in the same amount.

(c) *Amounts retaining character as exclusions under section 1248(d).* (1) Amounts described in paragraphs (d) through (g) of § 7.367(b)-2 which must be included in gross income of a United States person shall be reduced—

(i) In all cases, by earnings and profits retaining their character as exclusions under section 1248(d)(1), (2), (4), and (5), and

(ii) If the inclusion in gross income is required by a provision other than paragraph (b) of § 7.367(b)-5, paragraph (c)(2) of § 7.367(b)-7, or paragraph (j) of § 7.367(b)-10, by earnings and profits retaining their character as exclusions under section 1248(d)(3). See, however, paragraph (d) of this section.

(2) Amounts described in paragraph (e) or (g) of § 7.367(b)-2 which must be added to the earnings and profits or deficit of an exchanging foreign corporation shall not be reduced by earnings and profits retaining their character as exclusions under section 1248(d).

(d) *Less developed country corporation election.* This paragraph applies to all earnings and profits of a character described in section 1248(d)(3). Any such earnings and profits which are required to be included in gross income of a domestic corporate shareholder as part of an all earnings and profits amount may, at the election of such taxpayer, be taxed as gain from the sale of a capital asset. Such election shall be made in the notice required under paragraph (c) of § 7.367(b)–1. A corporation which during its first taxable year beginning after December 31, 1962, meets the requirements of section 902(d), as in effect before the enactment of the Tax Reduction Act of 1975, will be considered to have met such requirements during taxable years beginning prior to January 1, 1963.

(e) *Character of certain earnings and profits.* Earnings and profits or a deficit in earnings and profits to which a corporation succeeds under section 381(a)(1) or amounts which are attributed to stock under §§ 7.367(b)–9, 7.367(b)–10, and 7.367(b)–12 shall retain their character. Earnings and profits or deficits shall be considered as if accumulated or incurred by the corporation which succeeds to such earnings and profits or deficits.

This paragraph applies for all purposes, including but not limited to sections 901 to 908, 959, 960, 1248, and §§ 7.367(b)–1 through 7.367(b)–12.

(f) *Foreign tax credit.* If an amount of earnings and profits of a foreign corporation which is considered to have been distributed as a dividend is included in gross income of a United States person, the foreign tax credit provisions (sections 78, and 901 through 908) shall apply as if such earnings and profits were actually distributed by a foreign corporation as a dividend.

(g) *Treatment of section 1248 amounts and section 1248(c)(2) amounts where attribution is not made.* (1) The portion of the section 1248 amount included in gross income of a United States person which is attributable to each particular foreign corporation shall be determined as follows. First, the total gross earnings and profits (determined without regard to any deficit) attributable to each particular corporation shall be determined as if it were the only corporation included in the section 1248 amount. In situations to which § 7.367(b)–10 applies, the determination shall be made without regard to the allocation under paragraph (d) of that section. Next, that amount shall be multiplied by the amount included in gross income. Finally, the product shall be divided by the section 1248 amount. The result will be the amount of earnings and profits from that particular corporation which are included in gross income.

(2) The section 1248 amount included in gross income by a United States person which is attributable to the earnings and profits of a foreign corporation shall be considered as if distributed directly to the United States person by the foreign corporation. A section 1248(c)(2) amount which is added to the earnings and profits or deficit of an exchanging foreign corporation shall be considered as if accumulated or incurred directly by the exchanging foreign corporation.

§ 7.367(b)–4 Certain exchanges described in more than one Code provision.

(a) *Scope.* This section provides special rules for purposes of applying section 367 to certain exchanges which are described in more than one section of subchapter C of chapter 1 of subtitle A of the Code.

(b) *Precedence of section 351 or 361 over section 368(a)(1)(B).* If an exchange of stock in a foreign corporation by a United States person pursuant to a reorganization described in section 368(a)(1)(B) involving a foreign corporate transferee is described in section 351 or 361 as well as in section 354, the exchange will be considered to be described in section 351 or 361. Accordingly, such an exchange is described in section 367(a)(1), and §§ 7.367(b)–1 through 7.367(b)–12 (other than this section) do not apply to such an exchange.

(c) *Precedence of section 1036 over section 354.* If an exchange of stock in a foreign corporation pursuant to a reorganization is described both in sections 354 and 1036, the exchange will be considered to be described in section 1036, unless the stock surrendered is stock to which an amount has been attributed under §§ 7.367(b)–5 through 7.367(b)–12. In that event, the provisions of these regulations shall apply to the attributed amounts as if section 1036 did not apply to the subsequent exchange.

(d) *Special definition of reorganization described in section 368(a)(1)(F).* For purposes of section 367(b) and §§ 7.367(b)–1 through 7.367(b)–12, a reorganization will be considered to be described in section 368(a)(1)(F) only if it involves a mere change in identity, form, or place of organization, however effected, of a single corporate entity.

§ 7.367(b)–5 Complete liquidation of foreign subsidiary.

(a) *Scope.* This section applies to an exchange described in section 332 which involves receipt of a distribution in complete liquidation of a foreign corporation.

(b) *Receipt of distribution by a domestic corporation.* If a domestic corporation which receives a distribution in complete liquidation of a foreign corporation includes in its gross income the all earnings and profits amount attributable to its stock in the distributor foreign corporation, the foreign corporation will be considered to be a corporation for purposes of applying subchapter C of chapter 1 of substitle A of the Code. The domestic corporation must include the all earnings and profits amount in gross income for the taxable year in which occurs the date of distribution (within the meaning of section 381(b)(2) and the regulations thereunder). If the domestic corporation does not include this amount in gross income, for the purpose of determining the extent to which gain is recognized on the exchange, the foreign corporation will not be considered to be a corporation. However, the provisions of the Code other than section 332 shall apply as if the foreign corporation were considered a corporation. For example, sections 334(b)(1) and 381(a)(1) shall apply where applicable.

(c) *Receipt of distribution by a foreign corporation.* If a foreign corporation receives a distribution in complete liquidation of another foreign corporation, a foreign corporation will be treated as a corporation for purposes of section 332 and other applicable sections such as section 381.

§ 7.367(b)–6 Exchange of stock in a foreign investment company.

(a) *Scope.* This section applies to an exchange of stock in a foreign investment company (as defined in section 1246(b)) if:

(1) The exchange is described in section 354 or 356 pursuant to any reorganization described in subparagraph (B), (C), (D), or (F) of section 368(a)(1) and in section 368(a)(2)(F) (if applicable), and

(2) Stock in a domestic corporation is received pursuant to the exchange. In the case of an exchange to which stock in a foreign corporation is received see section 1246(c).

(b) *General rule.* Except as provided in paragraph (c) of this section, a taxpayer who makes an exchange to which this section applies shall include in gross income for its taxable year in which the exchange occurs the section 1246 amount attributable to the stock in the foreign investment company which was exchanged to the extent of the excess of the fair market value of such stock over its adjusted basis.

(c) *Exchange pursuant to certain asset acquisitions.* (1) If the exchange to which this section applies is made pursuant to a reorganization described in section 368(a)(1)(C), (D), or (F) involving the acquisition of assets of a foreign investment company (the "acquired corporation") by a domestic corporation, and the exchanging taxpayer is a domestic corporation, such taxpayer shall include in gross income for its taxable year in which the exchange occurs the all earnings and profits amount with respect to that stock computed in accordance with the principles of section 1246.

(2) If the domestic corporation does not include the amount referred to in paragraph (c)(1) of this section in gross income, for the purpose of determining the extent to which gain is recognized on the exchange, the foreign corporation will not be considered to be a corporation. However, the provisions of the Code other than section 354 or 356 shall apply as if the foreign corporation were considered a corporation. For example, sections 358, 362, and 381 (if applicable) shall apply as if no gain had been recognized.

(d) *Adjustment to basis.* Any amount included in gross income under paragraph (b) or (c)(1) of this section which is characterized as gain from the sale of an asset which is not a capital asset shall be treated as gain recognized for purposes of applying sections 358 and 362.

§ 7.367(b)–7 Exchange of stock described in section 354.

(a) *Scope.* This section applies to an exchange of stock in a foreign corporation (other than a foreign investment company as defined in section 1246(b)) if:

(1) The exchange is described in section 354 or 356 and is made pursuant to a reorganization described in section 368(a)(1)(B) through (F); and

(2) The exchanging person is either a United States shareholder or a foreign corporation having a United States shareholder who is also a United States shareholder of the corporation whose stock is exchanged.

(b) *Receipt of stock in a controlled foreign corporation.* If an exchanging shareholder receives stock of a controlled foreign corporation in an exchange to which this section applies (other than in an exchange pursuant to a reorganization described in section 368(a)(1)(E) or (F)), § 7.367(b)–9 applies if, with respect to such corporation, immediately after the exchange—

(1) The exchanging shareholder is a United States shareholder of that controlled foreign corporation, or

(2) All United States shareholders of the exchanging foreign corporate shareholder are United States shareholders of that controlled foreign corporation.

(c) *Receipt of other stock*—(1) *General rule.* Except as provided in paragraph (c)(2) of this section, if an exchanging shareholder receives stock of a domestic corporation, or stock of a foreign corporation which is not a controlled foreign corporation, or stock of a controlled foreign corporation as to which the exchanging United States shareholder or any United States shareholder of the exchanging foreign corporation is not a United States shareholder, then—

(i) An exchanging United States shareholder shall include in gross income the section 1248 amount attributable to the stock exchanged, to the extent that the fair market value of the stock exchanged exceeds its adjusted basis, or

(ii) There shall be added to the earnings and profits or deficit of the exchanging foreign corporation the section 1248(c)(2) amount and the additional earnings and profits amount of the exchanging foreign corporation, computed as if all stock of the corporation whose stock is exchanged is owned by a United States shareholder. The amount added shall not be considered a dividend.

(iii) In situations to which paragraph (c)(1)(ii) of this section applies, the basis of the stock received by the exchanging shareholder shall be increased by the earnings and profits added to the earnings and profits of the exchanging foreign corporation under paragraph (c)(1)(ii) of this section. Correspondingly, the basis of such exchanging shareholder shall be decreased by any deficits added to deficits of the exchanging foreign corporation under paragraph (c)(1)(ii) of this section. Any increase in basis attributable to earnings and profits included in the section 1248(c)(2) amount referred to in paragraph (c)(1)(ii) of this section shall be made only if all United States shareholders of the exchanging corporation consent to treat amounts added to the earnings and profits of the exchanging foreign corporation as a dividend. Such consent shall be given in the notice required by paragraph (c) of § 7.367(b)–1. See paragraph (f)(1) of § 7.367(b)–9 for the effect of such election. The adjustment to basis in respect of earnings and profits or deficit accumulated or incurred in taxable years beginning before January 1, 1963, shall be taken into account only for purposes of computing an all earnings and profits amount and additional earnings and profits amount, where such amounts must be computed after an exchange of stock the basis of which has been adjusted under this paragraph (c)(1)(iii).

(2) *Exchange of stock by certain domestic corporations.* (i) A United States person shall include in gross income the all earnings and profits amount if:

(A) Pursuant to a reorganization described in section 368(a)(1)(C), (D), or (F), assets of a foreign corporation are acquired by a domestic corporation;

(B) The exchanging United States person is a domestic corporation; and

(C) Such United States person receives stock of a domestic corporation in exchange for its stock in the acquired corporation.

(ii) If the domestic corporation does not include this amount in gross income, for the purpose of determining the extent to which gain is recognized on the exchange, the foreign corporation will not be considered to be a corporation. However, the applicable provisions of the Code other than section 354 or 356 shall apply as if the foreign corporation were considered a corporation. For example, sections 358, 362, and 381, if applicable, shall apply as if no gain had been recognized.

§ 7.367(b)–8 Transfer of assets by a foreign corporation in an exchange described in section 351.

(a) *Scope.* This section applies to a transfer of property pursuant to an exchange described in section 351, regardless of whether the transfer is also described in section 361, if:

(1) The transferor of property is a foreign corporation; and

(2) In the case of a transfer also described in section 361, the transferor remains in existence immediately after the transaction.

(b) *Section 381 inapplicable.* If this section applies to a transfer described in section 361, section 381(a)(2) shall not apply with respect to items described in section 381(c)(2).

(c) *Transfer of stock in controlled foreign corporation.* If the transferor corporation transfers stock in a foreign corporation of which there is a United States shareholder immediately before the exchange, and the transferor receives stock—

(1) Of a controlled foreign corporation as to which all United States shareholders of the transferor corporation remain United States shareholders, § 7.367(b)–9 shall apply.

(2) Of a domestic corporation, of a foreign corporation which is not a controlled foreign corporation, or of a controlled foreign corporation as to which any United States shareholder of the transferor is not a United States shareholder, paragraph (c)(1)(ii) of § 7.367(b)–7 shall apply.

§ 7.367(b)–9 Attribution of earnings and profits on an exchange described in section 351, 354, or 356.

(a) *Scope.* This section applies to a transaction involving an exchange of stock in a foreign corporation to which paragraph (b) of § 7.367(b)–7 or paragraph (c)(1) of § 7.367(b)–8 applies.

(b) *General rule.* Upon an exchange of stock to which this section applies:

(1) The section 1248 amount, the section 1248(c)(2) amount, the all earnings and profits amount and the additional earnings and profits amount shall be computed with respect to each United States shareholder and to each foreign corporation as to which there is a United States shareholder who exchanges stock in the transaction. The amounts so computed shall be attributed to the stock received by each exchanging shareholder in the exchange in accordance with the principles of §§ 1.1248–2 and 1.1248–3. For the effect of attribution, see § 7.367(b)–12.

(2) Earnings and profits or deficit of the corporation whose stock is received in the exchange shall be increased as provided in paragraph (c) of this section.

(3) Earnings and profits or deficit of the corporation whose stock is exchanged and of any lower-tier corporations whose earnings and profits would be taken into account under section 1248(c)(2) shall be reduced as provided in paragraph (d) of this section.

(c) *Earnings and profits or deficits of the corporation whose stock is received.* (1) Earnings and profits or deficit of the corporation whose stock is received in the exchange shall be increased by the earnings and profits or deficit to which it would succeed if:

(i) That corporation were the acquiring corporation, within the meaning of paragraph (b)(2) of § 1.381(a)–1, in a transaction to which section 381 applies (whether or not section 381 applies or that corporation would be considered the acquiring corporation); and

(ii) The corporation whose stock is exchanged, and each lower-tier corporation whose earnings and profits would be taken into account in calculating a section 1248 or section 1248(c)(2) amount, were a transferor corporation for purposes of section 381(a)(2).

A corporation which actually is the acquiring corporation in a transaction to which section 381(a)(2) applies shall not succeed to an item of the transferor described in section 381(c)(2) by reason of section 381(a)(2). However, that corporation shall succeed to all other items described in section 381(c).

(2) To the extent that the corporation whose stock is received does not acquire, either directly or through other entities, all the stock of the corporation whose stock is exchanged or of any lower-tier corporation whose earnings and profits would be taken into account in calculating a section 1248(c)(2) amount, paragraph (c)(1) of this section shall apply only to the proportion of earnings and profits or deficits attributable to the stock acquired. Such proportion shall be determined as if the earnings and profits or deficits were section 1248 or section 1248(c)(2) amounts. The earnings and profits or deficit to which the corporation whose stock is received does not succeed by reason of this paragraph shall be considered entirely attributable to the stock not acquired by the corporation whose stock is received.

(d) *Earnings and profits of corporation whose stock is exchanged and of lower-tier corporation.* The earnings and profits or deficit of the corporation whose stock is exchanged and of any lower-tier corporation whose earnings and profits or deficit would be taken into account under section 1248 shall be reduced to the extent that the adjustment required under paragraph (c) of this section is attributable to earnings and profits or deficit of that corporation.

(e) *Adjustment to basis.* (1) This paragraph (e)(1) applies to increases and decreases to basis of stock in corporations which as to the corporation whose stock is exchanged are lower-tier corporations. To the extent that earnings and profits of corporations (other than the corporations whose stock is exchanged, are reduced under paragraph (d) of this section, the basis in stock of each corporation whose earnings and profits are so reduced shall, in the hands of its immediate shareholder, be increased. The increase shall equal the total reduction in earnings and profits in respect of all corporations which as to such immediate shareholder are lower-tier corporations. Correspondingly, the basis to such immediate shareholder of stock in a corporation (other than the corporation whose stock is exchanged) whose deficit is reduced shall be decreased by the total reduction in deficits in respect of the corporations which as to that shareholder are lower-tier corporations.

(2) This paragraph (e)(2) applies to increases and decreases to basis of stock in corporations which are not lower-tier corporations as to the corporation whose stock is exchanged but are lower-tier corporations of the corporation whose stock is received. In the case of a reorganization described in section 368(a)(1)(B) or of a reorganization in which the acquiring corporation, within the meaning of § 1.381(a)-1(b)(2), is a lower-tier corporation as to the corporation whose stock is received, the basis of stock shall be adjusted as provided in this paragraph (e)(2). To the extent that earnings and profits of the corporation whose stock is exchanged and of its lower-tier corporations are reduced under paragraph (d) of this section, the basis to the immediate corporate shareholder:

(i) Of stock in the corporation whose stock is exchanged, or

(ii) Of stock in a corporation (other than the corporation whose stock is received) which is the acquiring corporation of the corporation whose stock is exchanged,

shall be increased by the total reduction in earnings and profits under paragraph (d) of this section, except to the extent that the basis of such stock is determined by reference to the basis of the assets of the corporation whose stock is exchanged. The basis in such stock to each immediate corporate shareholder shall be similarly increased, and such increase shall in turn be made at each successive tier. The basis of the stock of the corporation whose stock is received, however, shall not be increased. Correspondingly, the basis of such stock to each immediate corporate shareholder, and at each successive higher tier, shall be decreased by the total reduction in deficits under paragraph (d) of this section, except to the extent that the basis of such stock is determined by reference to the basis of the assets of the corporation whose stock is exchanged.

(3) Any adjustment to basis in respect of earnings and profits or deficit accumulated or incurred in taxable years beginning before January 1, 1963, shall be taken into account only for purposes of computing the all earnings and profits and additional earnings and profits amounts.

(f) *Election as condition of increase in basis with respect to post-1962 earnings and profits.* (1) An increase in basis under paragraph (e)(1) of this section attributable to earnings and profits for taxable years beginning after December 31, 1962, shall be made only if all United States shareholders of the corporation whose corporation whose stock is exchanged make a consent dividend election in the notice required by paragraph (c) of § 7.367(b)-1. If such consent is made, the portion of such earnings and profits attributable to each particular corporation shall be treated as if, immediately prior to the reorganization, it had been distributed as a dividend through any intervening corporations to the corporation whose stock is exchanged.

(2) An increase in basis under paragraph (e)(2) of this section attributable to earnings and profits for taxable years beginning after December 31, 1962, shall be made only if:

(i) An election has been made under paragraph (f)(1) of this section, and

(ii) All United States shareholders of the corporation whose stock is received make a consent dividend election as provided in section 565 for the taxable year in which the reorganization occurs.

If such consent is made, such earnings and profits attributable to the corporation whose stock is exchanged and of its lower-tier corporations whose earnings and profits were reduced under paragraph (d) of this section shall be treated as if immediately after the reorganization, it had been distributed as a dividend through any intervening corporations to the corporation whose stock is received.

(3) See sections 553, 951 and 959 as to the possible effect of an election under this section.

§ 7.367(b)-10 Distribution of stock described in section 355.

(a) *Scope.* This section provides rules relating to a distribution described in section 355 to which section 367(b) applies. For purposes of this section, the terms "distributing corporation" and "controlled corporation" have the meaning of those terms as used in section 355.

(b) *Distribution by a domestic corporation.* If a domestic corporation distributes stock in a controlled corporation which is a controlled foreign corporation as to which the distributing corporation is a United States shareholder, section 1248(f) applies to such distribution. After earnings and profits attributable to the stock have been determined under section 1248(f), paragraphs (d) through (f) of this section apply. With respect to subsequent transactions involving the distributing group, the allocation described in paragraph (d) of this section shall not increase or decrease the amounts described in paragraphs (d) through (g) of § 7.367(b)-2.

(c) *Distribution of stock by a foreign corporation.* If a foreign corporation having a United States shareholder distributes stock in another corporation, paragraphs (d) through (j) of this section apply.

(d) *Allocation of earnings and profits.* Earnings and profits or deficit accumulated or incurred by the distributing corporation, the controlled corporation (or corporations), and by corporations which directly or indirectly are controlled by either, shall be allocated among those corporations immediately after the distribution. For purposes of making this allocation:

(1) Section 1.312-10 shall not apply.

(2) The sum of the earnings and profits accumulated prior to the distribution by each corporation shall be determined.

(3) The sum of the deficits in earnings and profits incurred prior to the distribution by each corporation shall be determined.

(4) The total gross earnings and profits and deficits shall be allocated between the distributing corporation and any corporations controlled by it after the distribution (the "distributing group") and the controlled corporation (or corporations) and any corporations controlled by them after the distribution (the "controlled group"). Such allocation shall be made in accordance with the net fair market value of the assets of each group. In determining the fair market value of

the assets of a group, the fair market value of stock in a corporation controlled by another corporation in a group shall not be taken into account.

(5) For purposes of allocating earnings and profit or deficits to either the distributing group or the controlled group:

(i) Earnings and profits or deficit of only the distributing corporation or of the controlled corporation shall be increased;

(ii) No allocation shall be made from one member to another member of the same group;

(iii) The earnings and profits allocated from a particular corporation shall be the proportion of total earnings and profits allocated from its group to the other group which earnings and profits of that particular corporation prior to the allocation bears to the total gross earnings and profits of all corporations in that group having earnings and profits prior to the allocation; and

(iv) The deficit in earnings and profits allocated from a particular corporation shall be the proportion of the total deficits allocated from its group to the other group which the deficit of that particular corporation prior to the allocation bears to the total gross deficit of all corporations in that group having deficits prior to the allocation.

(6) To the extent that there is not distributed all the stock of the controlled corporation, or of any lower-tier corporation of the controlled corporation whose earnings and profits would be taken into account in calculating a section 1248(c)(2) amount, paragraph (d)(1) through (5) of this section shall apply only to the proportion of the earnings and profits or deficits attributable to the stock distributed. Such proportion shall be determined as if the earnings and profits were section 1248 or section 1248(c)(2) amounts. The earnings and profits or deficits not allocated by reason of this paragraph shall be considered entirely attributable to the stock not distributed.

(e) *Adjustment to basis.* (1) Except as provided in paragraph (f) of this section, to the extent earnings and profits are allocated from a corporation other than the distributing or controlled corporations, the basis of the stock of that corporation in the hands of its immediate shareholder shall be increased by the amount of earnings and profits allocated from it and from members of the group which as to that corporation are lower-tier corporations. Correspondingly, to the extent deficits are allocated from a corporation other than the distributing or controlled corporation, the basis of the stock of that corporation in the hands of its immediate shareholder shall be decreased by the amount of deficit allocated from it and from members of the group which as to that corporation are lower-tier corporations.

(2) Any adjustment to basis in respect of earnings and profits or deficit accumulated or incurred in taxable years beginning before January 1, 1963, shall be taken into account only for purposes of computing the all earnings and profits and additional earnings and profits amounts.

(f) *Election as condition of increase in basis.* An increase in basis attributable to allocation of earnings and profits for taxable years beginning after December 31, 1962, of a corporation to the other group shall be made only if all United States shareholders of the group from which the allocation is made (determined after the distribution) make a consent dividend election in the notice required by paragraph (c) of § 7.367(b)-1. If such consent is made, such earnings and profits, allocated from each particular corporation shall be treated as if, immediately after the distribution, they had been distributed as a dividend through any intervening corporations to the distributing corporation or controlled corporation as the case may be. See sections 553, 951, and 959 for the possible effect of an election under this section.

(g) *Computation of certain amounts.* Upon a distribution described in paragraph (c) of this section, the section 1248 or section 1248(c)(2) amount, the all earnings and profits amount, and the additional earnings and profits amount shall be computed with respect to each United States shareholder and to each foreign corporation as to which there is a United States shareholder. The computation shall be made with reference to stock owned by the shareholder in the distributing corporation prior to the distribution and shall be made regardless of whether the shareholder is an exchanging shareholder.

(h) *Attribution to stock owned after the distribution.* (1) The amounts described in paragraph (g) of this section shall be attributed to all stock owned after the distribution except stock received in the distribution and to which paragraph (i) or (j) of this section applies.

(2) Attribution of an amount shall be made to stock of a corporation in the proportion that the value of such stock bears to all stock owned after the distribution, including for this purpose stock to which paragraph (i) or (j) of this section applies and to which no attribution is made.

(3) If after the distribution the distributing foreign corporation is no longer a controlled foreign corporation as to a United States shareholder, see section 1248(a)(2) with respect to stock disposed of within five years after a change in status.

(i) *Receipt of other stock.* Except as provided in paragraph (j) of this section, if an exchanging shareholder receives—

(1) Stock of a domestic corporation,

(2) Stock of a foreign corporation which is not a controlled foreign corporation, or

(3) Stock of a controlled foreign corporation as to which the exchanging United States shareholder or any United States shareholder of the exchanging foreign corporation is not a United States shareholder, then—

(i) An exchanging United States shareholder shall include in gross income the excess of—

(A) The section 1248 amount computed under paragraph (g) of this section, over

(B) The section 1248 amount attributed to stock under paragraph (h) of this section,

to the extent that the fair market value of stock in the distributing corporation owned by the shareholder prior to the distribution exceeds its adjusted basis; or

(ii) There shall be added to the earnings and profits or deficit of an exchanging foreign corporation the excess of:

(A) The section 1248(c)(2) amount computed under paragraph (g) of this section, over

(B) The section 1248(c)(2) amount attributed to stock under paragraph (h) of this section. The amount added shall not be considered a dividend.

(C) In situations to which subdivision (B) of this subparagraph applies, the basis adjustment and election rules of § 7.367(b)-7(c)(1)(iii) shall apply.

(j) *Receipt of stock by certain domestic corporations.* A United States person shall include in its gross income the excess of the all earnings and profits amount computed under paragraph (g) of this section over the all earnings and profits amount attributed under paragraph (h) of this section if—

(1) The distribution is made pursuant to a reorganization described in section 368(a)(1)(D) and involving the acquisition of assets of the foreign distributing corporation by a domestic corporation; and

(2) The United States person is a domestic corporation.

If the domestic corporation does not include this amount in gross income, for purposes of determining the extent to which gain is recognized on the exchange, the foreign corporation will not be considered to be a corporation. However, the applicable provisions of the Code other than section 355, 356, or 361 shall apply as if the foreign corporation were considered a corporation. For example, sections 358 and 362, if applicable, shall apply as if no gain had been recognized.

§ 7.367(b)-11 Deficit in earnings and profits.

(a) *Scope.* This section provides rules relating to the manner in which a deficit in earnings and profits of a corporation may be used after certain exchanges to which section 367(b) applies.

(b) *Limitation on deficits allocated to a corporation.* Any deficit in earnings and profits incurred prior to the distribution which are allocated to a corporation under paragraph (c) of § 7.367(b)-9 or allocated under paragraph (d) of § 7.367(b)-10 shall be used only in the manner prescribed under section 381(c)(2)(B) and the regulations thereunder.

(c) *Deficit in earnings and profits.* If section 382 would apply to a net operating loss of a corporation in respect of a transaction to which section 367(b) applies, the percentage reduction provided

in section 382 with respect to net operating losses shall reduce a deficit in earnings and profits allocated to that corporation.

(d) *Computation of allocated amounts.* If paragraph (c) of this section applies, a deficit attributed to stock under §§ 7.367(b)-5 through 7.367(b)-11 shall be adjusted in accordance with the rule of paragraph (b).

§ 7.367(b)-12 Subsequent treatment of amounts attributed or included in income.

(a) *Application.* This section applies to distributions with respect to, or a disposition of, stock—

(1) To which an amount has been attributed pursuant to § 7.367(b)-9, or § 7.367(b)-10; or

(2) In respect of which an amount has been included in income or added to earnings and profits pursuant to § 7.367(b)-7 or § 7.367(b)-10.

(b) *Successor in interest.* A subsequent United States shareholder of stock to which this section applies—

(1) Whose holding period is considered to include the period during which such stock was held by the prior United States shareholder, and

(2) Who acquired the stock other than by means of a transfer to which §§ 7.367(b)-1 through 7.367(b)-12 apply

shall be considered to be the "successor in interest" to the prior United States shareholder. The successor in interest will succeed to the earnings and profits or deficit which the regulations under section 367(b) attribute to the stock in the hands of the prior United States shareholder.

(c) *Distributions after attribution.* Distributions with respect to stock made after an amount has been attributed to the stock under § 7.367(b)-9 or § 7.367(b)-10 shall be considered to be made in accordance with the following rules:

(1) Distributions shall be considered to be made first out of earnings and profits accumulated since the attribution.

(2) To the extent that as of the close of a taxable year distributions have exceeded earnings and profits accumulated since the attribution, excess distributions during that year shall be considered to be made out of earnings and profits previously attributed to the stock (but will not increase a deficit attributed to the stock). Solely for this purpose, amounts which would have been attributed to stock under § 7.367(b)-9 or § 7.367(b)-10 had such stock been owned by a United States shareholder or by an exchanging foreign corporation as to which there is a United States shareholder shall be attributed to such stock.

(3) Distributed earnings and profits considered under paragraph (c)(2) of this section to be made out of attributed amounts shall be considered as if distributed from each of the corporations from which amounts have been attributed, in the proportion that amounts attributed from that corporation bear to amounts attributed from all corporations from which amounts have been attributed. Such amounts shall retain their character for all purposes, including sections 901 through 908 and 959.

(4) When all earnings and profits attributed have been distributed, the distributions shall be considered to have been made from earnings and profits accumulated by the distributing corporation, whether before or after the attribution.

(d) *Distributions after an inclusion in income or addition to earnings and profits.* Amounts included in gross income of a United States person pursuant to § 7.367(b)-7 or § 7.367(b)-10 shall be treated for purposes of this section in the same manner as amounts previously included in income under section 951. Thus,

(1) Subsequent distributions of amounts which would but for this section be treated as dividends shall be considered first to consist of amounts previously included in income and shall be excluded in the same manner as under section 959.

(2) In the case of an inclusion under § 7.367(b)-10, this paragraph shall apply only with respect to distributions from the corporations described in paragraph (i) or (j) of that section.

(3) Amounts to which an election applies under § 7.367(b)-7(c)(1)(iii) or § 7.367(b)-10(1)(3)(ii)(C) shall be treated in the same manner as amounts described in paragraph (d)(1) of this section but only to the extent distributed to the exchanging foreign shareholder.

(e) *Disposition after an attribution or inclusion in income.* Upon a disposition of stock to which section 1248 or § 7.367(b)-1 through 7.367(b)-12 apply, amounts described in § 7.367(b)-2 (d) through (g) shall be determined in the following manner:

(1) In the case of amounts to which a corporation succeeds under section 381(a)(1), the rules of section 1248 will apply.

(2) In the case of amounts attributed under §§ 7.367(b)-9 and 7.367(b)-10:

(i) There shall first be determined earnings and profits or deficits attributed to the stock disposed of.

(ii) The earnings and profits described in paragraph (e)(2)(i) of this section shall be reduced (but deficits shall not be increased) by distributions referred to in paragraph (c)(2) of this section.

(iii) To the amount determined after applying paragraph (e)(2)(ii) of this section there shall be added amounts attributable to the stock without regard to the attribution; however, earnings and profits or deficits accumulated or incurred prior to the attribution shall not be taken into account.

Moreover, deficits incurred after the attribution shall not be taken into account to the extent they would occur by reason of distributions of previously attributed earnings and profits. For example, distributions described in paragraph (c)(2) of this section shall not be taken into account in computing a deficit under § 1.1248-3(b)(3); and no part of any deficit attributable to distributions described in paragraph (c)(2) of this section shall be allocated to stock until after the earnings and profits previously attributed have been distributed.

(iv) Amounts to which paragraph (d)(1) or (d)(3) of this section apply shall increase the basis of stock in the same manner as under section 961, and distributions attributable to those amounts shall correspondingly decrease the basis of stock.

(v) Earnings and profits distributed out of accumulated amounts shall be considered as if distributed from each of the corporations from which earnings and profits have been attributed, in the ratio that earnings and profits attributed from that corporation bear to earnings and profits attributed from the corporations from which earnings and profits have been attributed. Such distributions shall reduce the amounts previously attributed and shall retain their character for all purposes, including sections 901 through 908 and section 959.

(vi) When all attributed amounts have been distributed, the distributions shall be considered to have been made from earnings and profits accumulated by the distributing corporation, whether before or after the distribution.

§ 7.367(c)-1 Section 355 distribution treated as an exchange.

(a) *General rule.* For purposes of section 367 as in effect both before and after October 4, 1976, any distribution which is described in section 355 (or so much of section 356 as relates to section 355) shall be treated as an exchange whether or not it is an exchange.

(b) *Ruling required.* In the case of any distribution to which this section applies which begins (within the meaning of § 7.367(a)-1(b)(2)) before January 1, 1978, a foreign corporation shall not be considered to be a corporation for purposes of determining the extent to which gain shall be recognized on such distribution unless, pursuant to a ruling request timely filed in accordance with the provisions of § 7.367(a)-1(d), it is established to the satisfaction of the Commissioner at the applicable time that such distribution is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(c) *Application of section 367(b) regulations.* In the case of any distribution to which this section applies which begins on or after January 1, 1978, and in connection with which there is no transfer described in section 367(a)(1) (as defined in § 7.367(a)-1(b)(3)), the provisions of section 367(b), as amended by the Tax Reform Act of 1976, apply. Accordingly, a foreign corporation shall be considered to be a corporation on such distribution to the extent provided in §§ 7.367(b)-1 through 7.367(b)-12.

§ 7.367(c)-2 Contribution of capital to controlled corporations.

(a) *General rule.* For purposes of chapter 1 of subtitle A of the Internal

Revenue Code of 1954, any transfer of property to a foreign corporation as a contribution to the capital of such corporation which is made after December 31, 1970, by one or more persons who, immediately after the transfer, own (within the meaning of section 318) stock possessing at least 80 percent of the total combined voting power of all classes of stock of such corporation entitled to vote shall, except as provided in paragraph (b) of this section, be treated as an exchange of such property for stock of such foreign corporation equal in value to the fair market value of the property transferred.

(b) *Treatment as contribution to capital.* In the case of a transfer of property referred to in paragraph (a) of this section which begins before October 10, 1975, such transfer shall not be treated as an exchange if, prior to the transfer, it is established that such transfer is not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

(c) *Ruling required.* In the case of a transfer of property which begins after October 9, 1975, and which is treated as an exchange under paragraph (a) of this section, a ruling is required if section 367 (a) (1) applies. For example, if after October 9, 1975 and before January 1, 1978, a foreign corporation transfers property to its wholly owned foreign subsidiary as a contribution to capital, the exchange which is considered to occur is described in section 351 and section 367(a)(1) applies to such transfer.

(d) *Application of section 367(b) regulations.* In the case of a transfer of property which (i) begins after December 31, 1977, (ii) is treated as an exchange as provided in paragraph (a) of this section, and (iii) is not a transfer described in section 367(a)(1), if such a transfer is an exchange described in section 367(b) or made in connection with an exchange described in that section, a foreign corporation shall be considered to be a corporation on such transfer to the extent and upon fulfillment of any applicable conditions specified in §§ 7.367(b)-1 through 7.367(b)-12.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitations of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 367 and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1634; 68A Stat. 917; 26 U.S.C. 367 and 7805).

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: December 27, 1977.

EMIL M. SUNLEY,
Acting Assistant Secretary of the Treasury.

[FR Doc.77-37139 Filed 12-27-77;2:07 pm]

[4510-27]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION DEPARTMENT OF LABOR

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS, AND AMERICAN SAMOA

Compensation of Committee Members

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases from $122 to $130 a day the per diem allowance to which members of industry committees in Puerto Rico, the Virgin Islands and American Samoa are entitled. The industry committees, whose members include representatives of employees, employers and the public as appointed by the Secretary of Labor, meet periodically to review the wage rates in various industries and to recommend wage increases where appropriate. The Committees meet pursuant to the Fair Labor Standards Act, which authorizes the establishment of minimum wage rates in Puerto Rico, the Virgin Islands and American Samoa which are lower than the mainland minimum wage rate.

EFFECTIVE DATE: January 15, 1978.

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.

SUPPLEMENTARY INFORMATION: It is the standard practice to adjust compensation for Industry Committee members in accordance with changes in General Schedule salary rates. The purpose of this amendment is to increase the compensation of each member of an industry committee from $122 to $130 for each day spent in the work of the committee. It accords with changes in General Schedule salary rates effective October 9, 1977, for regular employees of the U.S. Department of Labor.

As this amendment concerns only a rule of agency practice, and is not substantive, notice of proposed rule making, opportunity for public participation, and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

This document was prepared under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division.

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), I hereby amend 29 CFR 511.4 to read as follows:

§ 511.4 Compensation of committee members.

Each member of an industry committee will be allowed a per diem of $130 for each day actually spent in the work of committee, and will, in addition, be reimbursed for necessary transportation and other expense incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon certification of, the Administrator or his authorized representative.

(Sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205.)

Signed at Washington, D.C., this 15th day of December 1977.

XAVIER M. VELA,
Administrator, Wage and Hour Division.

[FR Doc.77-37273 Filed 12-29-77;8:45 am]

[4510-26]

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

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

Minor Amendments to Recordkeeping Regulations

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Final regulations on recording and reporting.

SUMMARY: This document contains minor amendments covering certain safety and health recording and reporting regulations to reduce the recordkeeping burden on employers, while continuing to provide necessary injury and illness data. This reduction is being accomplished by replacing forms OSHA No. 100 and OSHA No. 102 with a new form OSHA No. 200.

EFFECTIVE DATE: January 1, 1978, except as noted in supplementary information.

FOR FURTHER INFORMATION CONTACT:

Norman Root, Chief, Division of Record Requirements and Information, Bureau of Labor Statistics, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-9281.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In response to the charge by President Carter and the efforts of the Commission on Federal Paperwork to reduce the burden of unnecessary government paperwork, the Office of Management and Budget (OMB) approved the elimination and redesign of certain forms and procedures in the Occupational Safety and

Health Administration (OSHA) recordkeeping and reporting system. This notice contains only minor technical amendments to 29 CFR Part 1904 to conform with the OMB approved changes, to reflect new titles, and to eliminate unnecessary and outdated wording. The amendments do not alter the substantive or conceptual aspects of the OSHA recordkeeping system.

SUMMARY

The principal objectives of the changes in the regulations are to carry out the provisions of section 8(d) of the Occupational Safety and Health Act which provides that any information obtained by the Secretary of Labor shall be obtained with a minimum burden on employers. The recordkeeping and reporting changes include a reduction in the number of recordkeeping forms and the number of entries employers are required to complete. In addition, posting requirements and reporting procedures are simplified. While the burden on employers is being reduced by these amendments, the purpose of the recordkeeping requirements—to collect and make available important safety and health data—are not being compromised.

These actions are in accord with recommendations presented in a report by the Commission on Federal Paperwork, "Occupational Safety and Health,", July 6, 1976. The revision combines, with certain technical changes, forms OSHA No. 100 and No. 102 into form OSHA No. 200. The new form OSHA No. 200, the Log and Summary of Occupational Injuries and Illnesses, will enable employers to maintain records in a more simplified format than before. This format includes:

1. A new presentation which provides a more detailed description of occupational illnesses.
2. Individual columns for each entry category thus simplifying preparation of end-of-year totals.
3. Changes to make possible easier identification of problem areas by compliance officers through review of the individual columns.
4. Elimination of a column dealing with permanent transfers and terminations, and in its place provision for identification of those personnel actions related to occupational illnesses.
5. Provision for running or page totals, enabling simpler addition and identification of the current status of the establishment's injury and illness experience.
6. A provision for permitting yearly totals from the form OSHA No. 200 to meet the posting requirement, thereby eliminating one form (current form OSHA No. 102). Additionally, the totals from the form OSHA No. 200 can be used to respond to the annual survey reporting form if an employer is selected to participate in the survey.

Appendix A to Part 1904 is being deleted because all the required recordkeeping forms are readily available to the public at all BLS and OSHA regional and area offices and States. At the time of the original publication of Part 1904 in 1971 the initial forms had not been printed and thus publication of the forms as contained in Appendix A of the FEDERAL REGISTER provided employers with their first opportunity to view these forms. Since all forms are currently available it is not necessary to publish an Appendix.

This effort to reduce paperwork and other burdens on employers is further supplemented by reduction in the number of employers selected to participate in the periodic survey and by the July 29, 1977, amendment to § 1904.15 (42 FR 38567) exempting of employers with 10 or fewer employees from recordkeeping requirements, except for those selected to participate in the annual statistical survey.

The new form is being mailed to employers with 11 or more employees. States with approved plans under section 18 of the Act will make the necessary changes to State recordkeeping and reporting regulations as required by 29 CFR Part 1952 to reflect these new instructions and form designations.

Notice and comment are deemed unnecessary and impracticable since these amendments are of a minor technical and non-substantive nature (5 U.S.C. 553 (b) and (d)).

EFFECTIVE DATE

The effective date for the amendments contained in this notice is January 1, 1978. As it will be necessary for employers to receive copies of the new form and to familiarize themselves with its format, a delay until February 1, 1978, for conversion to form OSHA No. 200 is given to all employers. Employers who maintain a computer generated recordkeeping system are given until June 1, 1978, to adapt their systems to the new requirements. At the time of adoption of the new form, all employers must convert the data collected from January 1, 1978, from the old forms to the new form OSHA No. 200.

Accordingly, pursuant to sections 8(c), (1), (2), 8(g)(2), and 24 (a) and (e), of the Occupational Safety and Health Act of 1970, 84 Stat. 1599, 1600, 1615, 29 U.S.C. 657 and 673, and Secretary of Labor's Order No. 8-76 (41 FR 25059), 29 CFR Part 1904 is amended as follows:

1. Wherever there appears the term "log of occupational injuries and illnesses," it is amended to read: "log and summary of occupational injuries and illnesses."

2. Wherever the term "form OSHA No. 100" appears, it is amended to read "form OSHA No. 200."

3. Section 1904.2 is revised to read as follows:

§ 1904.2 Log and summary of occupational injuries and illnesses.

(a) Each employer shall, except as provided in paragraph (b) of this section, (1) maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; and (2) enter each recordable injury and illness on the log and summary as early as practicable but no later than 6 working days after receiving information that a recordable injury or illness has occurred. For this purpose form OSHA No. 200 or an equivalent which is as readable and comprehensible to a person not familiar with it shall be used. The log and summary shall be completed in the detail provided in the form and instructions on form OSHA No. 200.

* * * * *

4. Section 1904.3 is revised to read as follows:

§ 1904.3 Period covered.

Records shall be established on a calendar year basis.

5. Section 1904.4a is deleted.

6. Section 1904.5 is revised to read as follows:

§ 1904.5 Annual summary.

(a) Each employer shall post an annual summary of occupational injuries and illnesses for each establishment. This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeros must be entered on the totals line, and the form must be posted.

(b) The summary shall be completed by February 1 beginning with calendar year 1979. The summary of 1977 calendar-year's occupational injuries and illnesses shall be posted on form OSHA No. 102.

(c) Each employer, or the officer or employee of the employer who supervises the preparation of the log and summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer, or the officer or employer who supervises the preparation of the annual summary of occupational injuries and illnesses, at the bottom of the last page of the log and summary or by appending a separate statement to the log and summary certifying that the summary is true and complete.

(d)(1) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under § 1903.2(a)(1) of this chapter. The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis, employers shall satisfy this posting requirement by presenting or mailing a copy of the summary portion of the log and summary during the month of February of the following year to each such employee who receives pay during that month. For multi-establish-

ment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

* * * * *

7. Section 1904.6 is revised to read as follows:

§ 1904. Retention of records.

Records provided for in §§ 1904.2, 1904.4, and 1904.5 (including form OSHA No. 200 and its predecessor forms OSHA No. 100 and OSHA No. 102) shall be retained in each establishment for 5 years following the end of the year to which they relate.

8. Section 1904.13 is amended by changing the term "Regional Director," to read "Regional Commissioner."

9. Section 1904.20 is revised to read as follows:

§ 1904.20 Description of statistical program.

(a) Section 24 of the Act directs the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to develop and maintain a program of collection, compilation, and analysis of occupational safety and health statistics. The Commissioner of the Bureau of Labor Statistics has been delegated this authority by the Secretary of Labor. The program shall consist of periodic surveys of occupational injuries and illnesses.

* * * * *

10. Section 1904.21 is revised to read as follows:

§ 1904.21 Duties of employers.

Upon receipt of an Occupational Injuries and Illnesses Survey Form, the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

Appendix A [Deleted]

11. Appendix A is deleted.

(Secs. 8(c) (1), (2), 8(g)(2), and 24(e), 84 Stat. 1599, 1600, 1615 (29 U.S.C. 657, 673).)

Signed at Washington, D.C., this 21st day of December 1977.

EULA BINGHAM,
Assistant Secretary of Labor for Occupational Safety and Health.

JULIUS SHISKIN,
Commissioner of the Bureau of Labor Statistics.

[FR Doc.77-37275 Filed 12-29-77;8:45 am]

[4510-26]

PART 1911—RULES OF PROCEDURE FOR PROMULGATING, MODIFYING, OR REVOKING OCCUPATIONAL SAFETY OR HEALTH STANDARDS

Specification of the Time of Issuance of Standards

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This procedural rule specifies the time of issuance of occupational safety and health standards under section 6 of the Occupational Safety and Health Act of 1970. The specific time of issuance of rules promulgating, modifying or revoking occupational safety or health standards under section 6 of the Occupational Safety and Health Act of 1970 (84 Stat 1593, 29 U.S.C. 655), is not clearly stated in the Act or in the rules of procedure for the issuance of standards in 29 CFR Part 1911. The time of issuance is relevant in determining whether petitions to the courts under section 6(f) of the Act are filed in a timely manner or are filed prematurely or too late. The establishment of a definite time for the issuance of standards will avoid conjecture as to the time when a standard is issued and will be fairer to those parties who may be interested in seeking judicial review of OSHA standards.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Gordon, Room S-4004, Office of the Solicitor, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, 202-523-9468.

SUPPLEMENTARY INFORMATION: The U.S. Court of Appeals for the District of Columbia Circuit in *Industrial Union Department, AFL-CIO* v. *Bingham*, Nos. 77-1395, 77-1516, C.A.D.C. 1977, recommended that OSHA exercise its discretion to determine the precise manner for promulgating occupational safety and health standards. The Court further indicated that it would defer to the agency's choice, if it is reasonable. The following amendments reflect OSHA's determination as to the time of issuance of its rules promulgating, modifying, or revoking standards or of determinations that standards should not be issued.

This amendment to the Part 1911 regulations provides that the time of issuance of rules promulgating, modifying, or revoking standards, whether permanent standards or emergency temporary standards, is the time when the rule is officially filed in the Office of the Federal Register.

Under this regulation, petitions for review filed with courts prior to the time of official filing of the rule in the Office of the Federal Register would be prematurely filed. Similarly, petitions for review filed later than the sixtieth day after a rule is officially filed in the Office of the Federal Register would be filed too late.

Once a document is officially filed with the Office of the Federal Register, the entire document is available to the public for inspection and copying there. At the same time, OSHA will also have the final standard or the emergency temporary standard available for inspection and copying at the OSHA Technical Data Center, Room S-6212, Third Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7894.

This amendment to 29 CFR Part 1911 constitutes a rule of procedure. Consequently neither advance notice, opportunity for comment, nor delay in effective date is necessary.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Room S-2315, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(b), 6(c), and 8(g) of the Act, and Secretary of Labor's Order No. 8-76 (41 FR 25059), §§ 1911.12 and 1911.18 of 29 CFR Part 1911 are amended as set forth below. This amendment is effective December 30, 1977.

1. In § 1911.12, paragraph (a) is redesignated as paragraph (a)(1) and a new paragraph (a)(2) is added as follows:

§ 1911.12 Emergency standards.

(a) (1) Whenever an emergency standard is published pursuant to section 6(c) of the Act, the Assistant Secretary must commence a proceeding under section 6(b) of the Act, and the standard as published must serve as a proposed rule. Any notice of proposed rulemaking shall also give notice of any appropriate subsidiary proposals.

(2) An emergency standard promulgated pursuant to section 6(c) of the Act shall be considered issued at the time when the standard is officially filed in the Office of the Federal Register. The time of official filing in the Office of the Federal Register is established for the purpose of determining the prematurity, timeliness, or lateness of petitions for judicial review.

* * * * *

2. In § 1911.18, a new paragraph (d) is added to read as follows:

§ 1911.18 Decision.

* * * * *

(d) A rule promulgating, modifying, or revoking a standard, or a determination that a rule should not be promulgated, shall be considered issued at the time when the rule or determination is officially filed in the Office of the Federal Register. The time of official filing in the Office of the Federal Register is established for the purpose of determining the prematurity, timeliness, or lateness of petitions for judicial review.

(Secs. 6, 8, Occupational Safety and Health Act of 1970; 84 Stat. 1593, 1598 (29 U.S.C. 655, 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 21st day of December 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-37277 Filed 12-29-77;8:45 am]

[4310-68]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—RESPIRATORY PROTECTIVE APPARATUS; TESTS FOR PERMISSIBILITY; FEES

PART 11—RESPIRATORY PROTECTIVE DEVICES; TESTS FOR PERMISSIBILITY; FEES

AGENCY: Mining Enforcement and Safety Administration (MESA), Department of the Interior and the National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Final rule.

SUMMARY: These amendments (1) clarify the use of approved gas masks and chemical-cartridge respirators against gases and vapors with poor warning properties; (2) restrict approval of Type A supplied-air respirators only for use in atmospheres not immediately dangerous to life or health; (3) reduce the minimum service life requirements for vinyl chloride chemical-cartridge respirators; and (4) provide for the approval of single-use vinyl chloride respirators.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Schutz, Chief, Testing and Certification Branch, Division of Safety Research, NIOSH, telephone 304-599-7331.

SUPPLEMENTARY INFORMATION: On October 13, 1976, proposed amendments were published in the FEDERAL REGISTER (41 FR 44864) to accomplish the additions and changes in Part 11 described above. The proposed amendments also included new performance requirements for the approval of single-use chemical-cartridge respirators for protection against gases and vapors other than vinyl chloride. Comments on the proposed amendments were received and on February 14, 1977, MESA and NIOSH held a public hearing (42 FR 2986) to obtain further comments and pertinent information.

As a result of written comments and data received at the public hearing, it has been determined that additional research on test methods and performance requirements is required before single-use chemical cartridge respirators can be approved for use against gases or vapors other than vinyl chloride. Therefore, this final rule differs from the proposed rule in that it provides for the approval of only single-use vinyl chloride respirators. Other changes to the proposal are summarized as follows:

(1) The proposed definition for single-use respirator is revised as suggested by the public comments.

(2) The words "escape only from" in footnote 4 of § 11.90 and footnote 7 of § 11.150 have been deleted to broaden the application of this caution statement.

(3) The table in § 11.150 is revised from that proposed to include vinyl chloride as a type of chemical cartridge respirator with a maximum use concentration of 10 parts per million, in accordance with the requirements of Subpart N of this part.

(4) The term "replaceable cartridge respirator" is now referred to as "other than single-use vinyl chloride respirator."

(5) The proposed change in § 11.203 (b) (4) to reduce the test atmosphere relative humidity from 85±5 to 50±5 percent has not been adopted because of the severe effect of moisture on vinyl chloride sorption.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Accordingly, 30 CFR Part 11 is amended as set forth below:

Approved: November 7, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

Approved: December 19, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

Part 11, Subchapter B, Chapter I, Title 30, Code of Federal Regulations is amended as follows:

1. Section 11.3 is amended by adding a new paragraph (kk) which reads:

§ 11.3 Definitions.

* * * * *

(kk) "Single-use Respirator" means a respirator that is entirely discarded after excessive resistance, sorbent exhaustion, or physical damage renders it unsuitable for further use.

§ 11.90 [Amended]

2. In § 11.90, paragraph (b) is amended by revising footnote 4 to read as follows:

[4] Not for use against gases or vapors with poor warning properties (except where MESA or Occupational Safety and Health Administration standards permit such use for a specific gas or vapor) or those which generate high heats of reaction with sorbent material in the canister.

§ 11.110 [Amended]

3. Section 11.110, paragraphs (a) and (a) (1) are amended by deleting the words "hazardous atmospheres" and substituting "atmospheres not immediately dangerous to life or health" therefor.

4. Section 11.150 is amended by revising the table and footnote 7, to read as follows:

§ 11.150 Chemical cartridge respirators; description.

* * * * *

Type of chemical cartridge respirator [1]	Maximum use concentration, parts per million
Ammonia	300
Chlorine	10
Hydrogen chloride	50
Methyl amine	100
Organic vapor	[2] 1,000
Sulfur dioxide	50
Vinyl chloride	10

[1] Not for use against gases or vapors with poor warning properties (except where MESA or Occupational Safety and Health Administration standards may permit such use for a specific gas or vapor) or those which generate high heats of reaction with sorbent material in the cartridge.

* * * * *

5. Section 11.160 is amended by inserting the phrase "for chemical cartridge respirators other than single-use vinyl chloride" between the words "Facepieces" and "shall" in paragraph (a) and adding a new paragraph (a-1) which reads:

§ 11.160 Head harnesses; minimum requirements.

* * * * *

(a-1) Facepieces for single-use vinyl chloride respirators shall be equipped with adjustable head harnesses designed and constructed to provide adequate tension during use and an even distribution of pressure over the entire area in contact with the face.

* * * * *

6. Section 11.162-1 is amended by revising the table in paragraph (b) to read:

§ 11.162-1 Breathing resistance test; minimum requirements.

Maximum resistance

[Millimeter water column height]

Type of chemical-cartridge respirator	Inhalation		Exhalation
	Initial	Final [1]	
Other than single-use vinyl chloride respirators:			
For gases, vapors, or gases and vapors	40	45	20
For gases, vapors, or gases and vapors, and dusts, fumes, and mists	50	70	20
For gases, vapors, or gases and vapors, and mists of paints, lacquers, and enamels	50	70	20
Single-use respirator with valves:			
For vinyl chloride	20	25	20
For vinyl chloride and pneumoconiosis and fibrosis producing dusts	30	45	20
Single-use respirator without valves:			
For vinyl chloride	15	20	[2]
For vinyl chloride and pneumoconiosis and fibrosis producing dusts	25	40	[2]

[1] Measured at end of service life specified in tables 11 and 11a.
[2] Same as inhalation.

§ 11.203 [Amended]

8. Section 11.203 is amended as follows:

a. Revise paragraph (a) to read:

(a) Except for the tests prescribed in §§ 11.162–4 through 11.162–8, the minimum requirements and performance tests for chemical-cartridge respirators prescribed in Subpart L of this part are applicable to replaceable-cartridge and single-use vinyl chloride chemical-cartridge respirators.

* * * * *

b. Revise paragraphs (b)(3), (b)(4), and (b)(5) and add new paragraphs (b)(6) and (b)(7). The revised and added provisions read as follows:

(b) * * *

(3) The equilibrated cartridges will be resealed, kept in an upright position at room temperature, and tested according to paragraphs (b)(4) and (b)(5) for other than single-use respirators or according to paragraphs (b)(6) and (b)(7) for single-use respirators within 18 hours.

(4) The cartridges or pairs of cartridges for other than single-use respirators, equilibrated and stored as described in paragraphs (b)(1), (b)(2), and (b)(3) of this section, will be tested on an apparatus that allows the test atmosphere at 85 ± 5 percent relative humidity and 25±5°C, to enter the cartridges or pairs of cartridges continuously at a concentration of 10 ppm vinyl chloride monomer at a total flowrate of 64 liters per minute.

(5) The maximum allowable penetration after 90 minutes testing of cartridges or pairs of cartridges for other than single-use respirators, according to paragraph (b)(4) of this section, shall not exceed 1 ppm vinyl chloride.

(6) The single-use respirators, equilibrated and stored as described in paragraphs (b)(2) and (b)(3) of this section, will be tested on an apparatus that allows a test atmosphere at 85 ± 5 percent relative humidity and 25° ± 5° C to be cycled through the respirator by a breathing machine at a concentration of 10 ppm vinyl chloride monomer at the rate of 24 respirations per minute at a minute volume of 40 ± 0.6 liters. Air exhaled through the respirator will be 35 ± 2° C with 94 ± 3 percent relative humidity.

(7) The maximum allowable penetration after 144 minutes testing of respirators, according to paragraph (b)(6) of this section, shall not exceed 1 ppm vinyl chloride.

[FR Doc.77-37124 Filed 12-29-77; 8:45 am]

[3125–01]

Title 40—Protection of Environment

CHAPTER V—COUNCIL ON ENVIRONMENTAL QUALITY

PART 1515—FREEDOM OF INFORMATION ACT PROCEDURES

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule.

SUMMARY: This final rule provides procedures for the Council's compliance with the Freedom of Information Act, 5 U.S.C. 552, which will be referred to below as "FOIA" or "the Act". These procedures explain—from the standpoint of a member of the public—how to make a Freedom of Information Act request to the Council. They also explain the Council's organization and functions and the availability of the Council's general policies and procedures. These procedures will be codified in a new Part 1515 of Chapter V, Title 40 of the Code of Federal Regulations.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006, 202–633–7032.

SUPPLEMENTARY INFORMATION: The Council published a proposed rule (41 FR 54005) on Friday, December 10, 1976 containing Freedom of Information Act procedures. Until now, the Council has been included within the regulations issued by the Office of Management and Budget for units in the Executive Office of the President which do not have their own procedures (3 CFR 101.1 and 5 CFR 1303). In order to further the purposes of the Act, the Council decided to promulgate a set of procedures tailored to the specific operations of the Council. This final rule contains essentially the same policies set forth in the Council's proposed rule. The comments received and the differences between the proposed and final rules are discussed below.

Discussion of Comments

The Council received two comments on the proposed FOIA procedures. The Department of the Air Force made three technical suggestions on the processing of FOIA requests. The Air Force recommended that the procedures:

(1) Clarify that the ten working days for initial determinations are counted from receipt by the Freedom of Information Officer, rather than the appropriate staff member (1515.5(c));

(2) Change the deadline for appeal to 45 days from the date of the denial letter, rather than 30 days after receipt by the requester, which would be difficult for an agency to compute (1515.5(c)); and

(3) Clarify meaning of the fee sanction provision (1515.15(d)).

All of these recommendations have been adopted by the Council. The improvements may be found at sections 1515.5(b), 1515.5(d), and 1515.15(d), respectively.

The Pacific Legal Foundation called one typographical error to the attention of the Council (the re-numbering of the final procedures has resolved this problem) and made the following suggestions:

(1) Delete sections 1515.3 (b) and (d) because they "have the potential of using fees to discourage requests for information or as obstacles to disclosure of requested information";

(2) Require reduction or waiver of fees whenever the requester is from the communications media or "any other representative of the public interest," rather than vesting discretion with the FOI officer to make a decision on fee waiver or reduction (1515.15(g)); and

(3) Explain more fully the circumstances under which the Council will withhold requested material.

In response to these comments, the Council has modified the proposed procedures to accommodate the Pacific Legal Foundation's concern that a fee policy will discourage requests. The Council remains cognizant, however, of the need to maintain a standardized fee policy for the Executive Office of the President, as requested by the Office of Management and Budget. In order to allay fears that the Council might impose large fees upon requests for information, the final procedures reverse the order of paragraphs (b) and (c) in the proposed procedures so that the requester will be notified promptly of the possibility of large fees and be given an opportunity to work with the Council to reformulate a request, if necessary.

The Council believes these fee provisions are fully consistent with the Congressional intent of the Act, which contemplated reasonable fee schedules. Furthermore, as a matter of practice, the Council has had little occasion to charge fees at all and finds the Foundation's concerns on this matter inapplicable to the Council's experience in administering the Act.

The Council also agreed with the Foundation's recommendation that the procedures explain more fully the circumstances under which members of the public can expect the Council to withhold requested material. Because of the Council's role in the Executive Office of the President, the Council members believe it advisable to state a general policy on communications with the President in these procedures, in order to avoid any subsequent misunderstanding. A new subsection has been added at 1515.10(c) which explains how communications between the Council and the President (and their staffs) will be treated. In general, members of the public should presume that communications with the President are confidential and will not ordinarily be disclosed.

There may be exceptions to this general policy, as explained in section 1515.10(c). Members of the public should also understand that, since the Council has been placed by the Congress in the role of Presidential advisor, it frequently brings factual material to the President's attention, but the particular selection or aggregation of facts and the way they are presented may themselves represent policy advice (as an integral part of essential policymaking and decisionmaking process), and which could, therefore, come within the Act's exemptions from disclosure.

ADDITIONAL DIFFERENCES IN PROPOSED AND FINAL PROCEDURES

The major difference between the procedures proposed a year ago and the final procedures is that the procedures have been rewritten in plain English. They are now written from the standpoint of a member of the public requesting information from the Council. They do not use technical language. They do not assume any familiarity with the Freedom of Information Act (although it would be helpful for a member of the public to have a copy of the Act on hand when making a FOIA request). They encourage members of the public to call or to write to the Council's Public Affairs Office for general inquiries, as a useful first point of contact (section 1515.3(e)).

The second major difference is the routing of FOIA requests within the Council. Under the proposed procedures, the FOI Officer would have referred initial requests to the proper staff member for decision. The final procedures require the FOI Officer to make all initial determinations, after referring the request to the appropriate staff member for assistance in making the decision. The Council believes that this revision will ensure more prompt and consistent treatment of all requests, as compared with the decentralized approach of the proposed procedures.

NICHOLAS C. YOST,
Acting General Counsel.

40 CFR Chapter V is amended by adding the following new Part 1515:

PURPOSE

Sec.
1515.1 What are these procedures?

ORGANIZATION OF CEQ

1515.2 What is the Council on Environmental Quality (CEQ)?
1515.3 How is CEQ organized?

PROCEDURES FOR REQUESTING RECORDS

1515.5 How to make a Freedom of Information Act request.

AVAILABILITY OF INFORMATION

1515.10 What information is available, and how can it be obtained?

COSTS

1515.15 What fees may be charged, and how should they be paid?

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

PURPOSE

§ 1515.1 What are these procedures?

The Freedom of Information Act (5 U.S.C. 552, commonly known as FOIA) is a law which creates a procedure for any person to request official documents and other records from United States Government agencies. The law requires every federal agency to make available to the public the material requested, unless the material falls under one of the limited exceptions stated in Section 552 (b)(5) of the Act, and the agency has good reason to refuse the request. These procedures explain how the Council on Environmental Quality—one of several offices in the Executive Office of the President—will carry out the Freedom of Information Act. They are written from the standpoint of a member of the public requesting material from the Council.

ORGANIZATION OF CEQ

§ 1515.2 What is the Council on Environmental Quality (CEQ)?

(a) The Council on Environmental Quality ("CEQ" or "the Council") was created by the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347). The Council's authority is derived from that Act, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371–4374), Reorganization Plan No. 1 of 1977 (July 15, 1977), and Executive Order 11514, Protection and Enhancement of Environmental Quality, March 5, 1970, as amended by Executive Order 11991, May 24, 1977.

(b) The Council's primary responsibilities include the following:

(1) To review and evaluate the programs and activities of the Federal Government to determine how they are contributing to the attainment of the national environmental policy;

(2) To assist Federal agencies and departments in appraising the effectiveness of their existing and proposed facilities, programs, policies, and activities affecting environmental quality;

(3) To develop and recommend to the President policies to improve environmental quality to meet the conservation, social, economic, health, and other requirements and goals of the Nation;

(4) To advise and assist the President in achieving international cooperation for dealing with environmental problems;

(5) to assist in coordinating among Federal agencies and departments those programs which affect, protect, and improve environmental quality, including Federal compliance with the environmental impact statement process, and to seek resolution of significant environmental issues;

(6) to foster research relating to environmental quality and the impacts of new or changing technologies; and

(7) to analyze long and short term environmental problems and trends and assist in preparing an annual Environmental Quality Report to the President and the Congress.

(c) The Council maintains a "Quarterly Index" which lists its current policies and procedures, as required by Section 552(a)(2) of the Freedom of Information Act. This index is updated and published in the FEDERAL REGISTER quarterly, starting in 1976. The Quarterly Index—and the specific items listed in the index—are available on request from the Freedom of Information Officer. You may also inspect or copy any of these materials at the Council's office during the hours stated below in § 1515.3(f).

§ 1515.3 How is CEQ Organized?

(a) The Council is made up of three members appointed by the President and subject to approval by the Senate. One member is designated as chairman by the President. All three serve in a full-time capacity.

(b) The National Environmental Policy Act and the Environmental Quality Improvement Act give the Council the authority to hire any officers and staff that may be necessary to carry out responsibilities and functions specified in these two Acts. Also, the use of consultants and experts is permitted.

(c) In addition to the three members, the Council has program and legal staff.

(d) The Council has no field or regional offices.

(e) The Council has a public affairs office which is responsible for providing information to the general public, the Congress, and the press. If you are interested in general information about the Council or have questions about the Council's recent activities or policy positions, you should call this office at (202) 633–7005 or write to the "Public Affairs Office" of the Council at the address given in the next paragraph.

NOTE.—The CEQ public affairs office can respond fully and promptly to most questions you may have; the Council suggests that the Freedom of Information Act procedures be used when you are seeking a specific document and have had difficulty obtaining it.

(f) The Council is located at 722 Jackson Place NW., Washington, D.C. 20006. Office hours are 9–5:30, Monday through Friday, except legal holidays. If you wish to meet with any of the staff, please write or phone ahead for an appointment. The main number is 202–633–7027.

PROCEDURES FOR REQUESTING RECORDS

§ 1515.5 How to make a Freedom of Information Act request.

(a) The Chairman has appointed a Freedom of Information Officer who will be responsible for overseeing the Council's administration of the Freedom of Information Act and for receiving, routing, and overseeing the processing of all Freedom of Information requests. The Chairman has also appointed an Appeals Officer who is responsible for processing any appeals.

(b) Requesting Information from the Council. (1) When you make a Freedom of Information Act request to the Council, the Freedom of Information Officer shall decide how to respond to—or "make an initial determination on"—your request within 10 working days from the date the Officer receives the request. The Freedom of Information Officer will then provide you with written notification of the determination.

(2) You can make a Freedom of Information Act request by writing a letter which states that you are making a Freedom of Information Act request. Address your letter to:

Freedom of Information Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place, NW., Washington, D.C. 20006.

(3) In your request you should identify the desired record or reasonably describe it. The request should be as specific as possible so that the item can

be readily found. You should not make blanket requests, such as requests for "the entire file of" or "all materials relating to" a specified subject.

(4) The Council will make a reasonable effort to assist you in defining the request to eliminate extraneous and unwanted materials and to keep search and copying fees to a minimum. If you have budgetary constraints and anticipate that your request might be costly you may wish to indicate the maximum fee you are prepared to pay for acquiring the information. (See § 1515.15(c) also.)

(5) The 10 day period for making a determination on a request will begin when the records requested are specified or reasonably identifiable.

(6) Despite its name, the Freedom of Information Act does not require a government agency to create or research information that you would like or that you may think the agency should have. The Act only requires that existing records be made available to the public.

(c) Council's Response to a Request. (1) Upon receipt of any request under the Act, the Freedom of Information Officer shall direct the request to the appropriate staff member at the Council, who will review the request and advise the Freedom of Information Officer as soon as possible.

(2) If it is appropriate to grant the request, the staff member will immediately collect the requested materials in order to accompany, wherever possible, the Freedom of Information Officer's letter notifying you of the decision.

(3) If your request is denied, in part or in full, the letter notifying you of the decision will be signed by the Freedom of Information Officer, and will include the names of any other individuals who participated in the decision. The letter will include the reasons for any denial and the procedure for filing an appeal.

(d) Appeals.

(1) If you are not satisfied with the response you have received from the Freedom of Information Officer, you may ask the Council to reconsider the decision. You should explain what material you still wish to receive, and why you believe the Council should disclose this to you. This is called an "appeal." You must make your appeal within 45 days of the date on the letter which denied your request.

(2) You can make an appeal by writing a letter to:

FOIA Appeals Officer, Council on Environmental Quality, Executive Office of the President, 722 Jackson Place, NW., Washington, D.C. 20006.

(3) Your letter should specify the records being requested and ask the Appeals Officer to review the determination made by the Freedom of Information Officer. The letter should explain the basis for the appeal.

(4) The Appeals Officer shall decide the appeal—or "make a final determination"—within 20 working days from the date the Officer receives the appeal. The Appeals Officer (or designee) will send you a letter informing you of the decision as soon as it is made. If the Appeals Officer denies your request, in part or in whole, the letter will also notify you of the provisions for judicial review and the names of any persons who participated in the final determination of the appeal.

(e) Extending the Council's Time to Respond. In unusual circumstances, the time limits for response to your request (paragraphs (b) and (d) above) may be extended by the Council for not more than 10 working days. Extensions may be granted by the Freedom of Information Officer in the case of initial requests and by the Appeals Officer in the case of any appeals. The extension period may be split between the initial request and the appeal but may not exceed 10 working days overall. Any extension will be made or confirmed to you in writing and will set forth the reasons for the extension and the date that the final determination is expected. The term "unusual circumstances" means:

(i) The need to search for and collect the requested records from * * * establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(5 U.S.C. § 52(a)(6)(B).)

AVAILABILITY OF INFORMATION

§ 1515.10 What information is available, and how can it be obtained?

(a) When a request for information has been approved, in whole or in part, you may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Freedom of Information Officer at the address or phone number given in § 1515.3(f). You may be charged reasonable fees for copying materials, as explained by § 1515.15. The Council on Environmental Quality will permit copying of any available material but will reserve the right to limit the number of copies made with the Council's copying facilities.

(b) In general, all records of the Council are available to the public, as required by the Freedom of Information Act. The Council claims the right, where it is applicable, to withhold material under the provisions specified in the Freedom of Information Act as amended (5 U.S.C. 552(b)).

(c) The legislative history of the establishment of the Council states that the Congress intended the Council to be a confidential advisor to the President on matters of environmental policy. Therefore, members of the public should presume that communications between the Council and the President (and their staffs) are confidential and ordinarily will not be released; they will usually fall, at a minimum, within Exemption 5 of the Act. The Freedom of Information Officer shall review each request, however, to determine whether the record is exclusively factual or may have factual portions which may be reasonably segregated and made available to the requester. Furthermore, on the recommendation of the FOIA Officer or Appeals Officer, the Council will consider the release of an entire record, even if it comes within an exemption or contains policy advice, if its disclosure would not impair Executive policymaking processes or the Council's participation in decisionmaking.

COSTS

§ 1515.15 What fees may be charged, and how should they be paid?

(a) Following is the schedule of fees you may be charged for the search and reproduction of information available under the Freedom of Information Act, 5 U.S.C. 552, as amended.

(1) *Search for records.* Five dollars per hour when the search is conducted by a clerical employee. Eight dollars per hour when the search is conducted by a professional employee. There will be no charge for searches of less than one hour.

(2) *Duplication of records.* Records will be duplicated at a rate of $0.10 per page for copying of 10 pages or more. There will be no charge for duplicating 9 pages or less.

(3) *Other.* When no specific fee has been established for a service, or the request for a service does not fall under categories (1) and (2), the Administrative Officer is authorized to establish an appropriate fee based on "direct costs" as provided in the Freedom of Information Act. Examples of services covered by this provision include searches involving computer time or special travel, transportation, or communication costs.

(b) If the Council anticipates that the fees chargeable under this section will amount to more than $25, or the maximum amount specified in your request, you shall be promptly notified of the amount of the anticipated fee or the closest estimate of the amount. In such instances you will be advised of your option to consult with Council personnel in order to reformulate the request in a manner which will reduce the fees, yet still meet your needs. A reformulated request shall be considered a new request, thus beginning a new 10 working day period for processing.

(c) Fees must be paid in full prior to issuance of the requested copies. In the event you owe money for previous requests, copies of records will not be provided for any subsequent request until the debt has been paid in full.

(d) Search costs are due and payable even if the record which was requested cannot be located after all reasonable efforts have been made, or if the FOI Officer determines that a record which has been requested is exempt under the Freedom of Information Act as amended and is to be withheld.

(e) Payment shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Checks shall be made payable to General Services Ad-

ministration. You should mail or deliver any payment for services to the Administrative Office, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

(f) A receipt for fees paid will be given upon request. Refunds of fees paid for services actually rendered will not be made.

(g) The Council may waive all or part of any fee provided for in this section when the Freedom of Information Officer (or designee) deems it to be in either the Council's interest or in the general public's interest.

[FR Doc.77-37142 Filed 12-29-77;8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

AGENCY: General Services Administration.

ACTION: Temporary regulation H-18.

SUMMARY: This temporary regulation establishes policies and procedures governing the utilization, donation, and disposal of gifts and decorations from foreign governments. This regulation provides the necessary implementation of those provisions of Pub. L. 95-105 relating to the transfer, donation, and other disposal of foreign gifts and decorations which are under the purview of the Administrator of General Servces.

DATES: Effective: January 1, 1978. Expiration: December 31, 1978 unless revised or superseded sooner. Agency comments on or before April 30, 1978.

ADDRESSES: Agency comments to: General Services Administration (FAF), Washington, D.C. 20406.

FOR FURTHER INFORMATION CONTACT:

John I. Tait, 202-557-1914, Regulations and Management Control Division.

SUPPLEMENTARY INFORMATION:

APPLICABILITY

The provisions of this temporary regulation apply to all employing agencies as defined in 101-49.001-6.

BACKGROUND

Section 515 of Pub. L. 95-105, approved August 17, 1977, 91 Stat. 862, 5 U.S.C. 7342, provides generally for the transfer, donation, and other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended, of gifts of more than minimal value and decorations given to employees of the U.S. Government by foreign governments. This regulation provides the necessary implementation of those provisions of Pub. L. 95-105 relating to the transfer, donation, and other disposal of foreign gifts and decorations which are under the purview of the Administrator of General Services.

ASSISTANCE

Agencies may request the assistance of GSA in complying with the provisions of this regulation by contacting the General Services Administration (FW), Washington, D.C. 20406.

AGENCY COMMENTS

Agency comments with regard to the policies and procedures in this temporary regulation may be sent to the General Services Administration (FAF), Washington, D.C. 20406, no later than April 30, 1978, for possible incorporation into the permanent regulation.

AVAILABILITY OF REVISED STANDARD FORM 123

Supplies of revised Standard Form 123, October 1977, Transfer Order Surplus Personal Property, may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the regional office providing support to the requesting activity. Include on the requisition the national stock number 7540-00-965-2416 for Standard Form 123.

EFFECT ON OTHER ISSUANCES

When the provisions of other regulations and related directives are in conflict with the provisions of this temporary regulation, the provisions of the latter shall govern.

Dated: December 18, 1977.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

New Part 101-49 of 41 CFR: Subchapter H is added as set forth below.

Sec.

101-49.000 Scope of part.
101-49.001 Definitions of terms.
101-49.001-1 Employee.
101-49.001-2 Foreign government.
101-49.001-3 Gift.
101-49.001-4 Decoration.
101-49.001-5 Minimal value.
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Subpart 101-49.1—General Provisions

101-49.101 Custody of gifts and decorations.
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101-49.105 Appraisals.

Subpart 101-49.2—Utilization of Foreign Gifts and Decorations

101-49.200 Scope of subpart.
101-49.201 Reporting.
101-49.201-1 Gifts and decorations required to be reported.
101-49.201-2 Gifts and decorations not to be reported.
101-49.202 Transfers to other Federal agencies.
101-49.203 Costs incident to transfer.
101-49.204 Gifts and decorations no longer required by transferee agency.
101-49.205 Disposal of tangible gifts valued at $100 or less.
101-49.206 Deposit of intangible gifts and monies with the Department of the Treasury.

Subpart 101-49.3—Donation of Foreign Gifts and Decorations

101-49.300 Scope of subpart.
101-49.301 Donation of gifts and decorations.
101-49.302 Requests by public agencies and nonprofit educational and public health institutions and organizations.
101-49.303 Allocation.
101-49.304 Conditions of donation.
101-49.305 Costs incident to donation.
101-49.306 Withdrawal of donable gifts and decorations for Federal utilization.
101-49.307 Donation of gifts and decorations withdrawn from sale.

Subpart 101-49.4—Sale or Destruction of Foreign Gifts and Decorations

101-49.400 Scope of subpart.
101-49.401 Sale of gifts and decorations.
101-49.402 Approval of sales by the Secretary of State.
101-49.403 Responsibility for sale.
101-49.404 Proceeds from sales.
101-49.405 Destruction of gifts and decorations.
101-49.406 Sale or destruction of tangible gifts valued at $100 or less.

AUTHORITY: The provisions of this Part 101-49 are issued under Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c), and Sec. 515, 91 Stat. 862, 5 U.S.C. 7342.

§ 101-49.000 Scope of part.

This part prescribes policies and procedures governing the utilization, donation, and disposal of gifts and decorations from foreign governments in accordance with 5 U.S.C. 7342.

§ 101-49.001 Definitions of terms.

For the purposes of this Part 101-49, the following terms shall have the meanings set forth in this section.

§ 101-49.001-1 Employee.

"Employee" means:

(a) An employee as defined by 5 U.S.C. 2105 and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(b) An expert or consultant who is under contract under 5 U.S.C. 3109 with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(c) An individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(d) A member of a uniformed service;

(e) The President and the Vice President;

(f) A Member of Congress as defined by 5 U.S.C. 2106 (except the Vice President) and any Delegate to the Congress; and

(g) The spouse of an individual described in (a) through (f), above (unless such individual and his or her spouse are separated) or a dependent (within

the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under (a) through (f), above.

§ 101–49.001–2 Foreign government.

"Foreign government" means:

(a) Any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(b) Any international or multinational organization whose membership is composed of any unit of a foreign government described in (a), above; and

(c) Any agent or representative of any such unit or such organization, while acting as such.

§ 101–49.001–3 Gift.

"Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

§ 101–49.001–4 Decoration.

"Decoration" means an order, device, medal, badge, insignia, emblem or award tendered by, or received from, a foreign government.

§ 101–49.001–5 Minimal value.

"Minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that:

(a) On January 1, 1981, and at 3-year intervals thereafter, "minimal value" will be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(b) Regulations of an employing agency may define "minimal value" for its employees to be less than the value provided under this section.

§ 101–49.001–6 Employing agency.

"Employing agency" means: (a) The Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in 5 U.S.C. 7342 (c)(2)(A), (e), and (g)(2)(B) shall be carried out by the Clerk of the House;

(b) The Select Committee on Ethics of the Senate, for Senators and employees of the Senate;

(c) The Administrative Office of the United States Courts, for judges and judicial branch employees; and

(d) The department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

Subpart 101–49.1—General Provisions

§ 101–49.101 Custody of gifts and decorations.

(a) GSA generally will not take physical possession of gifts or decorations governed by this part. Such gifts and decorations shall remain in the custody and be the responsibility of the employing agency.

(b) GSA will direct the disposition of gifts and decorations when reported to GSA by the employing agency by:

(1) Transfer to Federal agencies;

(2) Donation for public display or reference purposes;

(3) Sale with the approval of the Secretary of State; or

(4) Destruction.

§ 101–49.102 Care and handling.

Each employing agency shall be responsible for and bear the cost of performing care and handling of gifts and decorations pending disposition and removal from their physical custody.

§ 101–49.103 Information on availability for Federal utilization or donation.

GSA will provide information on the availability of gifts and decorations when reported to GSA to Federal agencies and appropriate State agencies for surplus property that request such information.

§ 101–49.104 Cooperation of employing agencies.

Employing agencies shall cooperate fully in the inspection of gifts and decorations in their custody and in providing assistance in pickup and shipment upon receipt of GSA-approved documentation.

§ 101–49.105 Appraisals.

Employing agencies will be required to appraise specific gifts and decorations when requested by GSA.

Subpart 101–49.2—Utilization of Foreign Gifts and Decorations

§ 101–49.200 Scope of subpart.

This subpart 101–49.2 prescribes policies and procedures governing the utilization and transfer within the Federal Government of foreign gifts and decorations.

§ 101–49.201 Reporting.

§ 101–49.201–1 Gifts and decorations required to be reported.

(a) Except as provided in § 101–49.201–2, tangible gifts and decorations which are not retained for official use or returned to the donor shall be reported to GSA within 30 calendar days after deposit of the gift or decoration with the employing agency. Tangible gifts and decorations which have been retained for official use and have not been returned to the donor shall be reported to GSA within 30 calendar days after termination of the official use. Gifts and decorations shall be reported on Standard Form 120, Report of Excess Personal Property (see § 101–43.4901–120), to the General Services Administration (3FW), Washington, D.C. 20407. The Standard Form 120 shall be conspicuously marked "Foreign Gifts and/or Decorations" and include the following information:

(1) The name and position of the employee recipient;

(2) A full description of the gift or decoration;

(3) The identity, if known, of the foreign government and the name and position of the individual who presented the gift or decoration;

(4) The estimated value in the United States of the gift or decoration at the time of acceptance, or the appraised value, if known;

(5) The current location of the gift or decoration;

(6) The name, address, and telephone number of the responsible accountable official in the employing agency; and

(7) An indication whether the employee recipient is interested in participating in the sale of the gift or decoration if it is sold by GSA.

(b) Gifts and decorations received by the President or a member of the President's family will be reported to the General Services Administration (NL), Washington, D.C. 20408, using Standard Form 120, completed as described in (a), above.

(c) The Central Intelligence Agency may delete the information required in (a) (1) and (3) of this section if the Director of Central Intelligence certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

§ 101–49.201–2 Gifts and decorations not to be reported.

(a) The following gifts and decorations shall not be reported to GSA:

(1) Tangible gifts valued at $100 or less. (See § 101–49.205.)

(2) Decorations which are retained by the employee recipient with the approval of the employing agency.

(3) Gifts and decorations retained by the employing agency for official use, except upon termination of the official use.

(4) Gifts and decorations returned to the donor.

(5) Intangible gifts, such as checks, money orders, bonds, shares of stock, and other securities and negotiable instruments. (See § 101–49.206.)

(6) Cash, currency, and monies, except those with possible historic or numismatic value. (See § 101–49.206.)

(b) Gifts and decorations covered by (a) (2), (3), and (4), above, will be handled in accordance with employing agency regulations.

§ 101–49.202 Transfers to other Federal agencies.

(a) Gifts and decorations will be made available for transfer for a period of 60 calendar days following receipt by GSA of the Standard Form 120 to activities specified in § 101–43.315–1. Transfers will be made as deemed appropriate by GSA, generally on a first-come-first-served basis.

(b) Transfers will be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see § 101–43.4901–122), or any other transfer order form approved by GSA, to the General Services Administration (3FW), Washington, DC 20407. The Standard Form 122 or other transfer order form shall be conspicuously marked "Foreign Gifts and/or Decorations" and include all information furnished by the employing agency as specified in § 101–49.201–1(a).

§ 101–49.203 Costs incident to transfer.

All transfers of gifts and decorations will be made without reimbursement, except that direct costs incurred by the employing agency in actual packing, preparation for shipment, loading, and transportation may be recovered by the employing agency from the transferee agency if billed by the employing agency (see § 101–43.317–1).

§ 101–49.204 Gifts and decorations no longer required by transferee agency.

Gifts and decorations no longer required by the transferee agency shall be reported as provided in § 101–49.201–1.

§ 101–49.205 Disposal of tangible gifts valued at $100 or less.

Tangible gifts valued at $100 or less shall be returned to the employee recipient or disposed of by the employing agency in accordance with § 101–49.406.

§ 101–49.206 Deposit of intangible gifts and monies with the Department of the Treasury.

Intangible gifts and cash, currency, and monies not required to be reported to GSA shall be deposited with the Department of the Treasury by the employing agency in accordance with applicable laws and regulations.

Subpart 101–49.3—Donation of Foreign Gifts and Decorations

§ 101–49.300 Scope of subpart.

This Subpart 101–49.3 prescribes policies and procedures governing the donation of foreign gifts and decorations to public agencies and nonprofit educational and public health institutions and organizations for public display purposes and, in the case of books or manuscripts, for public display or reference purposes.

§ 101–49.301 Donation of gifts and decorations.

(a) Gifts and decorations for which there is no Federal requirement as determined by GSA will be made available at the discretion of GSA to appropriate public agencies and nonprofit educational and public health institutions and organizations for a period of 21 calendar days following the period of Federal utilization as provided in § 101–49.202(a).

(b) Donations of gifts and decorations will be made for public display purposes and, in the case of books or manuscripts, for public display or reference purposes. Donations will be made in accordance with Subpart 101–44.2, except as otherwise provided in this Subpart 101–49.3.

§ 101–49.302 Requests by public agencies and nonprofit educational and public health institutions and organizations.

Donations of gifts and decorations to public agencies and nonprofit educational and public health institutions and organizations will be accomplished by submitting for approval a Standard Form 123, Transfer Order Surplus Personal Property (see § 101–44.4901–123), to the General Services Administration (3FW), Washington, D.C. 20407, through the State Agency. The Standard Form 123 shall be prepared and distributed in accordance with the instructions in § 101–44.4901–123–1 and shall be conspicuously marked "Foreign Gifts and/or Decorations."

§ 101–49.303 Allocation.

Allocation of gifts and decorations will be made by GSA on a fair and equitable basis for the maximum public benefit. Eligible donees may be required to support requests for gifts or decorations with written justification. The following will be considered by GSA in effecting allocation and transfer of gifts and decorations among the States:

(a) Requests submitted through a State agency for a specific gift or decoration when the donee requesting the item has an association or relationship to the employee recipient. Such a request may be further supported by a letter from the employee recipient;

(b) Significance of the gift or decoration to the requesting donee;

(c) Requests submitted through a State agency by public museums;

(d) Quantity and value of the gift or decoration;

(e) Prior receipt of similar items; and

(f) Other criteria as deemed appropriate by GSA.

§ 101–49.304 Conditions of donation.

The State agency shall require the donee to agree, in writing, to the following special handling conditions and use limitations imposed by GSA on the donation of gifts or decorations:

(a) The donee, at its expense, shall be responsible for making arrangements for and removing the gift or decoration and for packing, handling, and reasonable insurance and transportation costs associated with the removal.

(b) The gift or decoration shall be used for public display purposes and, in the case of books or manuscripts, for public display or reference purposes at such times and in such manner as other similar items are displayed or used in the donee's exhibition or reference rooms. The gift or decoration shall not be used for the personal benefit of any individual.

(c) The donee shall place the gift or decoration into use for public display or reference purposes within 12 months following receipt and use the gift or decoration in accordance with this section for a period of restriction of 36 months after being placed in use.

(d) The donee shall comply with all additional restrictions covering the handling and use of any gift or decoration imposed by GSA.

(e) To determine whether the donee is complying with the conditions of the donation, the donee shall allow the right of access to the premises at reasonable times for inspection of the gift or decoration by duly authorized representatives of GSA or the State agency.

(f) The use of the gift or decoration shall be conducted in compliance with all the requirements imposed by GSA regulations (Subpart 101–6.2 and § 101.44.–118) issued under the provisions of title VI of the Civil Rights Act of 1964, title VI of the Federal Property and Administrative Services Act of 1949, as amended, and section 504 of the Rehabilitation Act of 1973, as amended.

(g) During the period of restriction, the donee shall make no attempt to pledge, assign, lease, sell, dispose of, or transfer title to the gitf or decoration, directly or indirectly, or do or allow anything to be done which would cause the gift or decoration to be seized, taken into execution, attached, stolen, damaged, or destroyed.

(h) In the event the donee no longer desires to use the gift or decoration for public display or reference purposes as provided in this section during the period of restriction prescribed in (c), above, the donee shall notify the General Services Administration (3FW), Washington, D.C. 20407, through the State agency and, upon demand by GSA, title and right to possession of the gift or decoration shall revert to the U.S. Government. In such event, the donee shall comply with transfer or disposition instructions furnished by GSA through the State agency, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or the Government as directed by GSA.

(i) Upon the donee's failure to comply with any of the above conditions, GSA may demand return of the gift or decoration, and upon such demand, title and right to possession of the gift or decoration shall revert to the U.S. Government. In such event, the donee shall return the gift or decoration in accordance with instructions furnished by GSA, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or the Government as directed by GSA.

§ 101–49.305 Costs incident to donation.

Costs incurred incident to donation of gifts and decorations shall be handled in accordance with § 101–44.104.

§ 101–49.306 Withdrawal of donable gifts and decorations for Federal utilization.

Gifts and decorations set aside or approved for donation may be withdrawn for Federal utilization in accordance with § 101–44.101.

§ 101–49.307 Donation of gifts and decorations withdrawn from sale.

Gifts and decorations which are being offered for sale may be withdrawn and approved for donation in accordance with § 101–44.107.

Subpart 101–49.4—Sale or Destruction of Foreign Gifts and Decorations

§ 101–49.400 Scope of subpart.

This Subpart 101–49.4 prescribes policies and procedures governing the disposal by sale or destruction of foreign gifts and decorations which GSA has determined are not needed for Federal utilization or donation.

§ 101–49.401 Sale of gifts and decorations.

Gifts and decorations shall be sold by competitive bid sales or negotiated sales

as deemed appropriate by the selling activity in accordance with Part 101–45, except as otherwise provided in this Subpart 101–49.4. The employee recipient of a gift or decoration who indicates an interest in purchasing the item will, to the extent feasible, be given an opportunity to participate in the sale of the item.

§ 101–49.402 Approval of sales by the Secretary of State.

The approval of the Secretary of State or his designee shall be obtained prior to offering any gift or decoration for sale.

§ 101–49.403 Responsibility for sale.

Except as provided in § 101–49.406, GSA will be responsible for the sale of gifts and decorations. Sales will be conducted by or at the direction of the General Services Administration (3FW), Washington, DC 20407. Employing agencies shall cooperate fully with GSA in the sale of gifts and decorations in their custody.

§ 101–49.404 Proceeds from sales.

The gross proceeds from the sale of gifts and decorations shall be deposited in the Treasury as miscellaneous receipts, unless otherwise authorized by law or regulation.

§ 101–49.405 Destruction of gifts and decorations.

Gifts and decorations which are not sold pursuant to this Subpart 101–49.4 may be destroyed and disposed of as scrap or for their material content.

§ 101–49.406 Sale or destruction of tangible gifts valued at $100 or less.

Employing agencies are hereby delegated authority to sell or destroy tangible gifts valued at $100 or less in accordance with this Subpart 101–49.4.

NOTE. The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

[FR Doc.77-37061 Filed 12-29-77;8:45 am]

[4110–87]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

CENTER FOR DISEASE CONTROL, NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

Mining Safety; Respiratory Protective Devices

CROSS REFERENCE: For a document on respiratory protective devices for miners, jointly issued by the Mining Enforcement and Safety Administration, Interior Department, and the National Institute for Occupational Safety and Health, Health, Education, and Welfare Department, see FR Doc. 77–37124, which appears under Title 30 in the Rules and Regulations section of this FEDERAL REGISTER. Refer to the table of contents at the front of this issue under "Mining Enforcement and Safety Administration" to find the correct page number.

[4110–35]

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—MEDICARE PROGRAM

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart E—Criteria for Determination of Reasonable Charges; Reimbursement for Services of Hospital Interns, Residents and Supervising Physicians

CRITERIA FOR DETERMINATION OF REASONABLE CHARGES UNDER THE END-STAGE RENAL DISEASE PROGRAM

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final regulation.

SUMMARY: This regulation specifies the criteria for determining reasonable charges under the End-Stage Renal Disease (ERD) program. It applies to services of free-standing (non-provider) renal dialysis facilities and of physicians caring for patients who are on maintenance dialysis, or are receiving self-dialysis training, or receive a kidney transplant.

The regulation retains, with a few modifications, the version of 20 CFR 405.502(e) which appeared in the notice of proposed rulemaking, published in the FEDERAL REGISTER on November 9, 1976 (41 FR 49499). However, section 405.502(e) has been divided into new, separate sections. In the final regulation, section 405.502(e) is a short, general provision on determination of reasonable charges. Section 405.541 (old section 405.502(e)(1)) covers criteria for determination of reasonable charges for non-provider renal dialysis facility services. Section 405.542 (old section 405.502(e)(2)) pertains to criteria for determination of reasonable charges for physicians' services rendered to renal dialysis patients. Section 405.543 (old section 405.502(e)(3)) includes criteria for determination of reasonable charges for physicians' renal transplantation services. And section 405.544 (old section 405.502(e)(4)) states criteria for determination of reasonable charges for durable medical equipment and supplies for home dialysis.

EFFECTIVE DATE: This amendment shall be effective on December 30, 1977. Section 553(d) of the Administrative Procedure Act permits an immediate effective date when good cause exists. This regulation puts in final form, with certain minor changes, criteria on reasonable charge determinations published as an NPRM on November 9, 1976. Under the terms of a recent order of the United States Court of Appeals for the District of Columbia, the Department cannot implement its reimbursement policies under the End Stage Renal Disease (ESRD) program after January 1, 1978, unless they are set forth in regulation. Consequently, an immediate effective date is required in order to assure continuity in the Department's administration of the ESRD Program.

FOR FURTHER INFORMATION CONTACT:

Milton N. Cikins, Branch Chief, Program Policy, Medicare Bureau, Health Care Financing Administration, 103 East High Rise, Baltimore, Md. 21235; telephone 301–594–5400.

SUPPLEMENTARY INFORMATION: This regulation formalizes administrative guidelines which have been applied since the outset of the End Stage Renal Disease program. The guidelines appeared in intermediary instructions issued by the Medicare Bureau (formerly Bureau of Health Insurance). On June 29, 1973 the Department published an interim regulation in the FEDERAL REGISTER (38 FR 17210). The interim regulation consisted of a short, simple rule, and the Department continued to apply its administrative policy guidelines. After the United States District Court for the District of Columbia ruled, in September 1976, that the Department could not enforce its administrative guidelines because they had not been subjected to the rulemaking requirements of the Administrative Procedure Act, the Department published a notice of proposed rulemaking (NPRM) on November 9, 1976 (41 FR 49499). The NPRM set forth a more extensive version of 20 CFR 405.502(e). In essence, it incorporated the Administrative Policy Guidelines into the regulation.

PUBLIC COMMENT ON NOTICE OF PROPOSED RULEMAKING

Interested parties were given 60 days from the date of publication of the notice of proposed rulemaking in which to submit any data, views or arguments thereon. Nineteen individuals and groups responded to the proposed rulemaking. Many of them commented on more than one issue. Almost all addressed the provisions dealing with reimbursement of non-provider renal dialysis facilities, while about half addressed the provisions concerning physician's reimbursement. We have made several changes in the proposed regulations, based on the comments received. We have also made several minor and technical changes which were not mentioned in the comments we received. These include a renumbering of the sections of the regulation, the other technical changes concern section 405.502(e)(2)(i) (which is now section 405.542(a)), section 405.502(e)(2)(i)(a) which is now section 405.542(a)(1)), section 405.502(e)(2)(ii) (which is now section 405.542(b)), and section 405.502(e)(2)(ii)(c) (which is now section 405.542(b)(3) and are summarized below in the discussion of reimbursement of physicians' services.

Several comments were submitted dealing with issues which we determined

to be beyond the scope of the proposed regulations, and therefore beyond our purview in evaluating possible modifications of the regulations. Since these comments indicate the possibility of a general misunderstanding of the purpose of the regulation, we emphasize here that the amendments set forth in final form below deal only with interim reimbursement policies. Final ESRD reimbursement policies, including incentives for efficient operation, will be published at a future date, after we have had an opportunity to analyze the kinds of cost data rtquired to implement the law and regulations.

DISCUSSION OF MAJOR COMMENTS

OBJECTIONS TO THE REQUIREMENT THAT NONPROVIDER RENAL DIALYSIS FACILITIES SUBMIT COST DATA AND TO RELATING FACILITY CHARGES TO COSTS

Several comments questioned §405.502 (e)(1) (now § 405.541) with respect to acquiring cost data from nonprovider renal dialysis facilities under Part B of Medcare on the grounds that title XVIII of the Social Security Act requires such data only for providers of services, such as hospitals. In this respect, the regulation is being issued under the authority in Section 1833(e) of the Social Security Act (42 U.S.C. 1395 (e)), which requires that no payment shall be made under Part B of Medicare to those who furnish services (providers of services or others, including nonproviders), unless the information necesary to determine the amounts due for a current or prior payment period has been furnished. Since under § § 45.541 (and 405.544) of the regulations charges are related to cost as the basis of reimbursement, the cost must be determined. Therefore, cost data must be submitted and are subject to such audit as may be necessary to assure proper payments under the ESRD program.

A number of comments expressed dissatisfaction with § 405.502(e)(1) (now §405.541) and stated that the method of reimbursement it establishes, which relates the reasonable charges for ESRD services provided by nonprovider renal disease facilities to the cost of providing these services, was inappropriate. Some suggested that relating charges to costs would result in higher operating expenses than would reimbursement on a reasonable charge basis, because reliance on costs would weaken a facility's incentive to operate efficiently. Some suggested that reliance on costs would set an undesirable precedent for Federal auditing of the fiscal records of physicians' and other nonproviders generally. Several comments, assuming that the policies concerning costs that would be applied to nonprovider renal dialysis facilities would be identical with the policies applied to providers of services under the Medicare program, expressed the opinion that the cost principles applied to hospitals and other providers (whether proprietary or nonprofit) should not be applied to renal dialysis facilities because such facilities have different financial requirements from Medicare providers. It was alleged that use of provider reimbursement principles would result in an unrealistically low profit margin and also adversely affect a facility's ability to attract investors. The Department first considered these views when it promulgated an existing regulation which requires cost data from nonprovider renal dialysis facilities (§ 405.2133 (41 FR 22515, June 3, 1976)); and again, on reviewing the comments on the proposed amendment.

Section 2991 of the Social Security Amendments of 1972, Pub. L. 92-603, which these regulations implement, authorizes the Secretary to limit reimbursement to facilities meeting such requirements as he may prescribe by regulation. Reimbursement under Part B of Medicare of physicians and other suppliers for covered items and services is generally based on "reasonable charges." Section 1842 of the Social Security Act (42 U.S.C. 1395u) requires that the criteria of "customary" and "prevailing" charges for similar services be taken into consideration in making the reasonable charge determination. However, it does not limit the consideration to these criteria.

Moreover, with respect to reimbursement for ESRD services, the use of additional criteria is supported by a statement by Senator Russell B. Long in his presentation to the Senate of the Conference Committee Report on Pub. L. 92-603, which included the ESRD provision:

> With respect to the coverage of kidney dialysis and transplantation the Secretary would have the authority to define reasonable charges in terms related to the reasonable costs of the treatment provided and comparable charges for physicians' time and skills, since obtaining customary and prevailing charges for new and complex procedures—many of which will be reimbursed in all instances by the program—would be quite difficult administratively (118 Cong. Rec. 36805 (1972)).

The Department has concluded that a reimbursement method that relates charges to costs is the most appropriate method of reimbursing nonprovider renal dialysis facilities, given the legislative intent expressed in Senator Long's statement when section 2991 of Pub. L. 92-603 was enacted; the absence of prior experience in reimbursing such facilities; and the fact that the use of "customary" and "prevailing" charge criteria was found to be an inadequate basis for determining reasonable charges of suppliers of renal dialysis services as such criteria have validity as tests of reasonableness only where Medicare charges can be compared to non-Medicare charges. The Department believes that relating a facility's charges to the cost of providing renal disease services will result in Medicare payments at a level consonant with its responsibility both to establish reasonable levels of reimbursement and to contribute to the availability of an adequate supply of treatment resources.

QUESTIONING OF THE NEED FOR COST DATA FROM NONPROVIDER RENAL DIALYSIS FACILITIES

Several comments also questioned the practical as well as the legal basis for the requirement that nonprovider renal dialysis facilities submit cost data, and several suggested that such data was needed only with respect to those nonprovider facilities which cannot operate below a certain level of reimbursement. (Others stated that they thought the data should be exempt from the Freedom of Information Act; these comments were considered to be beyond the scope of these regulations.)

The latter suggestion, regarding data needs, if accepted, would essentially continue the policy now in effect, under which facilities with costs which exceed the "screen" established by the intermediary must submit cost data which justifies reimbursement above the screen amount. (See § 405.541(b) for a definition of "screen.") After considering the comments concerning the need for cost data, the Department has concluded that it is essential to require such data from all nonprovider facilities. (Special rules concerning the reimbursement of end-stage renal disease services furnished by risk-basis health maintenance organizations (HMOs) or by certain HMO affiliated facilities were previously published on November 9, 1976 in a separate amendment to Subpart T of this Part 405 (41 FR 49595).)

There are several reasons why the submittal of cost data is necessary for appropriate administration of the ESRD program. First, under § 405.541 of the regulations charges are related to cost as the basis of reimbursement; unless cost information is submitted by all nonprovider renal dialysis facilities and is subject to such audit as may be necessary to assure proper payment, the program has no mechanism for assuring that the facilities' charges recognized by the Medicare intermediary are reasonably related to their reasonable costs, i.e., that facilities are not profiting unreasonably from the reimbursement rate set for them by the Medicare intermediary or providing services of inadequate quality of quantity simply to stay under the screen—that is, simply to realize a profit. (The possibility of unreasonable profits is relatively high with respect to renal services in part because the ESRD legislation has greatly lowered the risk to ESRD facilities that they will not be paid for their services.)

Contrary to some of the comments received, the Department has concluded that it is not possible to establish an equitable reimbursement amount on the basis of "customary" and "prevailing" charges established by available non-Medicare data, including data for the period prior to July 1, 1973. Prior to July 1, 1973, there were broad variations in charges for dialysis services that were often unrelated to the length or com-

plexity of the services rendered; at present, the renal dialysis services which are reimbursed outside the Medicare program are very limited and reimbursement for such services is often either based on the Medicare payment or is an indemnity payment which is set by the third-party payor's limitations, rather than by concepts of reasonableness.

Cost data from all nonprovided renal dialysis facilities are also needed to provide a data base for developing the final ESRD reimbursement policies, the objectives of which were announced by the Department on April 17, 1974, and published as a separate document under the title "Final Policies, Pub. L. 92-603, Section 299I, End-Stage Renal Disease Program of Medicare." (Copies of this document may be obtained by sending a request to Chronic Renal Disease Branch, Medicare Bureau, Health Care Financing Administration, Room 1-0-3, East Low-Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235.) The long-range policy objectives directed to reimbursement to facilities furnishing maintenance dialysis are summarized as follows: "* * * all facility reimbursement for dialysis services (will be related) to reasonable costs. However, in order to control the high cost units, we will establish upper limits * * * probably utilizing a classification scheme based on variables such as size, geographic locale, services provided, and mix of patients, analogous to that proposed for section 223 of Pub. L. 92-603. In addition, in order to provide an incentive to economize as well as to provide a realistic potential 'margin' necessary to maintain investor capital, 'target rates' below which a facility will receive a variable share of the difference, will also be established in the case of non-hospital units (nonprovider facilities). The target rates will also probably be based on a classification scheme."

Finally, several comments said that it would not be administratively feasible for nonprovider renal dialysis facilities to comply with the requirement for submitting cost data, because nonproviders were not previously required to keep records of cost data and may not have the data, or because some nonproviders kept only very simple records on a cash basis, or because the proposed rulemaking established requirements which are "vague," "imprecise," or not detailed enough. Others suggested that implementation of the amendments be delayed pending consultation with all affected parties. The amendments require submittal of cost data beginning with fiscal year 1973 (for facilities in operation during that year) where the data is needed in connection with determinations of reimbursement rates, justification of requests made for increases in reimbursement rates, or for overall program evaluation. It is recognized that not all facilities will have data for prior years, and that some facilities may maintain their fiscal records on a simple cash accounting basis. The Department has concluded, however, that a delay in implementation of the amendments would be unacceptable, both from the standpoint of monitoring the appropriateness of present program payments and from the standpoint of the need for better information on facility costs in connection with the development of reimbursement policies under the long-range program. Guidelines implementing the amendments will take account of the difficulty some facilities may have in initially meeting the cost reporting requirements.

With respect to the statements that the amendments are "vague" or "imprecise" or that they contain insufficient detail or that implementation of the amendments be delayed so that the advice of all affected parties can be obtained, such comments generally reflect a concern with the final ESRD reimbursement policies, which will be implemented at a future date and for the development of which the cost information in these amendments is required. As indicated above, the Department will consult with interested parties in developing the guidelines for implementing the long-range policies.

OBJECTIONS TO REIMBURSING PHYSICIANS FOR ESRD SERVICES IN A MANNER DIFFERENT FROM REIMBURSEMENT FOR OTHER SERVICES

The amendments provide two methods of reimbursing for the services physicians provide to persons who are receiving maintenance renal dialysis. Under one method (Reimbursement Method No. 1), payment for supervisory services related to maintenance dialysis sessions furnished in a renal disease facility is made through the facility as a part of its costs, while reimbursement for "nonroutine" services furnished in the same setting is made by the Medicare carrier under the generally applicable "customary" and "prevailing" reasonable charge criteria (as set forth in § 405.502 (a) through (d)) as are covered physicians' services rendered at other times. Generally, supervisory services for patients who are dialyzing in a facility include medical management and those nonepisodic physicians' services which are related directly to the dialysis procedure and to the care of the medically stable patient undergoing dialysis. Because the facility which provides maintenance dialysis services to Medicare beneficiaries is required to provide these services under the general supervision of a physician, reimbursement for supervisory services is made directly to the facility. "Nonroutine" services are certain services rendered during dialysis, such as declotting of shunts and care furnished during complications related to dialysis, and other medically necessary services rendered when the patient is not dialyzing. Under Physician Reimbursement Method No. 1 necessary services personally rendered to home dialysis patients are considered as "nonroutine." (For periods before the effective date of this amendment, the definition of "nonroutine" services included additional physicians' services which were personally rendered during maintenance dialysis. Generally, the additional services included direct patient care in cases that may not be immediately life-threatening, such as treating hypotension and hypertension.)

Under the other method (Reimbursement Method No. 2), the physicians may elect to receive a comprehensive monthly payment covering all of their services provided on an outpatient basis (except those specifically identified in this amendment) to all maintenance dialysis patients, both stable and medically complicated. This alternative method recognizes the dialysis patients' needs for continuing management over relatively long periods of time and is responsive to physicians' charging patterns for comparable services. Guidelines will be issued by the Department after necessary studies are completed—with, of course, appropriate professional involvement—regarding physician services rendered by individual physicians who elect this method of reimbursement to assure that at least those minimum services required by every dialysis patient are being delivered and that reimbursement under this method is commensurate with the level and scope of services delivered.

Some comments expressed the opinion that it is inappropriate to reimburse physicians who furnish ESRD services in a different way from those who furnish non-ESRD services and that it is inappropriate to provide two different methods of reimbursing physicians for ESRD services. With respect to Reimbursement Method No. 1, it was said that it is inappropriate to distinguish between supervisory and "nonroutine" services largely according to whether the service was rendered in a renal dialysis facility or outside of a renal dialysis facility, and to reimburse supervisory and "nonroutine" services in a different manner. It was alleged that Reimbursement Method No. 2 is undesirable because it represents a "flat rate" or fee schedule.

After carefully considering these comments, we have retained the methods of reimbursing physicians for ESRD services which were included in § 405.502 (e) (2) (i) and (ii) (now § 405.542 (a) and (b)). These methods were established only after extensive consultation with physicians involved in the care of ESRD patients. Moreover, in making payment for supervisory services through the facility, we were taking account of existing practice, as well as emphasizing the renal dialysis facility's responsibility for organizing and providing dialysis services of adequate quality and arranging for appropriate physician supervision. Finally, with respect to Reimbursement Method No. 2, we note that although there is a maximum on the amount payable under this method of reimbursement, the method of calculating the amount takes account of the fact that, due to custom and economic differences, physicians' charges for similar services vary considerably from locality to locality, and to some extent, from physician to physician in the same locality, as it utilizes the concept of "customary" and "prevailing" charge cri-

teria in determining the monthly payment amount.

CLARIFICATION OF PHYSICIANS' SERVICES RENDERED TO RENAL DIALYSIS PATIENTS

Several changes have been made in the proposed amendments to clarify the definition of physicians' services as they pertain to their supervisory services under Reimbursement Methods Nos. 1 and 2. Section 405.502(e)(2)(i)—(now § 405.542(a))—has been revised to state that to qualify for payment for supervisory services under Reimbursement Method No. 1, through the facility, the physician must actually provide the supervisory services in question, and that services provided by a physician are "professional services of physicians" although the distinction is made between those services benefiting the individual patient and those benefiting the patient population as a whole. Section 405.502(e)(2)(ii)—(now § 405.542(b))—has been revised to show that at least supervisory services must be furnished to receive monthly payments under Physician Reimbursement Method No. 2. Section 405.502(e)(2)(i)(*a*)—(now § 405.542(a)(1))—has been revised to show that pre- and post-dialysis examinations, as well as the other services listed in this section, may be covered as supervisory services when medically appropriate. Section 405.502(e)(2)(ii)(c)—(now § 405.542(b)(3))—has been revised to show that occasions when the monthly payment is reduced include those where the physician is not available to provide patient care or when the patient is not available to receive such care.

PHYSICIANS' MAINTENANCE DIALYSIS SERVICES DURING HOSPITALIZATION

One commenter suggested that § 405.502(e)(2)(i)(a) (now § 405.542(a)(1)) be revised to state that supervisory services would include supervisory services of patients who received maintenance dialysis services while they were hospitalized. The intention of this suggestion was to prohibit fee-for-service reimbursement for supervision of maintenance dialysis received by hospital inpatients. We have not accepted this suggestion, the substance of which is equally relevant to Reimbursement Method No. 1 and Reimbursement Method No. 2. Experience has shown that when patients are hospitalized for reasons other than maintenance dialysis treatments, but receive such treatments during hospitalization, the inpatients are very likely experiencing some complication that affects the nature of dialysis and therefore there is usually a greater need for various aspects of supervisory services as well as nonroutine services than generally exists when maintenance dialysis is provided on an outpatient basis. In recognition of this, the personal services of the physician, including personal services in the supervision of dialysis services received by hospital inpatients may be reimbursed on a fee-for-service basis under both Reimbursement Method No. 1 and Reimbursement Method No. 2. (However, where patients are hospitalized solely for routine maintenance dialysis, physicians' supervisory services are not reimbursed on a fee-for-service basis.) Since guidelines currently in effect generally equate reimbursement for physicians' services furnished inpatients receiving maintenance dialysis with reimbursement for a routine inpatient hospital visit unless there are unusual complications warranting consideration of another level of care, we believe that we are appropriately taking account of the fees for such services, while at the same time permitting the special circumstances which arise in some cases to be taken into account in determining the reasonableness of the charge for such services.

REIMBURSEMENT FOR TRANSPLANT PHYSICIANS' SERVICES

There was one objection to the provision concerning reimbursement for services of surgeons in connection with transplantation services; the commenter interpreted this provision as placing a 60-day maximum on physician-followup care after transplant. No such limitation is contemplated by the amendment. The objective of the rule setting forth the reasonable amount for renal transplant surgeons' services is to provide a payment level that is fair and reasonable for the range of services usually provided by a surgeon to a kidney transplant recipient over the period he undergoes this particular operation and the 60 days immediately thereafter. The rule does not prohibit payment under the traditional reasonable charge rules to the surgeon for all reasonable and necessary services he provides to the patient subsequent to this 60-day period.

There are several reasons for adopting this particular method of payment for surgeons' services associated with renal transplantation. Although renal transplants have been performed for over a decade, the techniques involved in this operation vary from place to place and continue to change. Consequently, the range of services provided in connection with this special type of surgery, and the duration of the postoperative care considered to be an appropriate part of the surgical service provided to the patients by the attending surgeons, vary considerably throughout the country. In addition, the patients requiring this rather unique medical service generally travel long distances to relatively few transplant centers where most such services are performed. Finally, Medicare is now essentially the sole insurer providing protection against most of the medical costs incurred by the renal transplant patient, regardless of age. Thus, the medical marketplace does not offer an adequate independent base for determining the appropriate reimbursement level for this service.

This particular method of payment was adopted after lengthy and frequent consultations with surgeons, who have had many years of experience in performing renal transplantations as well as in providing the necessary professional services connected with the post-surgical care and immunosuppressant therapy that are required by the transplant recipients. From these consultations, a consensus was reached that the fairest method for paying for the surgeons' services during the critical period commencing immediately preceding the operation, during the operation, and that part of the postoperative period when close medical management is most vital, would be a comprehensive, e.g., "package," type of payment. This payment method was therefore not conceived arbitrarily. Instead, it reflects an amalgam of the views expressed by the surgeons, who perform an essential service for the ESRD patient, and those delegated with the statutory authority to contain the costs of a program that provides broad coverage to a select group of Medicare beneficiaries whose health requirements demand some of the most expensive services in medicine today.

The maximum amounts allowed under the rules set forth in this regulation are adjusted periodically to take into account variation in surgeons' charging practices throughout the country, and are designed to yield a payment which reflects an averaging out of the postoperative care that surgeons usually provide to transplant recipients. Some patients may not respond well to the operation and will require extensive postoperative attention, while others will have a reasonably uneventful recovery period. The program payment to the transplant surgeon takes into account these varying possibilities and provides for a payment that is intended to be reasonable for the average case. It is not reduced because the patient does not need frequent physicians' services during the postoperative period, nor is it increased for cases requiring above average services within the 60 day postoperative period.

RESTRICT THE DEFINITION OF NONSUPERVISORY PHYSICIAN SERVICES

The suggestion was made that the definition of nonsupervisory services under Reimbursement Method No. 1, in § 405.502(e)(2)(i)(c) (Now § 405.542(a)(3)) be restricted to declotting of shunts and treating nonrenal-related conditions, in order to limit fee-for-service billing under Reimbursement Method No. 1 to clearly nonrountine services. We have decided to retain the definitions of nonsupervisory services in the proposed amendments at this time since they reflect services which are not typical of routine maintenance dialysis. However, the Department is consulting with experts in ESRD care concerning the definitions of physicians' services furnished to dialysis patients and the methods of reimbursement for them, with a view toward assessing the need for future changes in these provisions.

PERMIT PERIODIC ADJUSTMENTS IN MONTHLY PAYMENTS TO PHYSICIANS

It was suggested that section 405.502(e)(2)(ii)(*d*) (now § 405.542(b)(4)) of the proposed amendments be changed to state that periodic adjustments will be made in the monthly payment when car-

riers update their customary and prevailing charge screens. We are not accepting this suggested change at this time because there is a need to obtain a clearer picture of what services are being rendered for the monthly payment. This kind of clarification will be possible when we have completed a study obtaining data, not presently available, on the totality of services being performed by physicians receiving the monthly payment.

THE REGULATIONS SHOULD INCLUDE INCENTIVES FOR FACILITIES TO TRAIN AND MAINTAIN PATIENTS ON HOME DIALYSIS

Several comments suggested that these amendments should be a vehicle to provide incentives for encouraging home dialysis. The Department is currently exploring possibilities for encouraging home dialysis including facility incentives, and has strongly supported current legislative proposals for providing incentives for home dialysis. A broadened legislative authority with respect to incentives to home dialysis, where appropriate, rather than regulations under the authority primarily of P.L. 92-603, would appear to provide a more substantial basis for further administrative efforts to remove disincentives to home dialysis.

THESE REGULATIONS SHOULD NOT REQUIRE FACILITIES TO ACCEPT MEDICARE AS PAYMENT IN FULL

One comment suggested that facilities should not be required to accept Medicare payment as payment in full for covered services under Medicare. This requirement has been in effect since the beginning of the program, and we have no evidence that it has worked a hardship on the facilities. It is a necessary requirement to protect Medicare beneficiaries against potentially large charges made by a facility which may not be satisfied with the "screen" amount determined for the facility and which may also be the only dialysis facility reasonably available to the beneficiary. If the facility is not satisfied with the reimbursement amount, it has the opportunity to submit documentation to justify an increase in the amount payable by Medicare.

THE PROVISIONS CONCERNING FACILITY COSTS SHOULD NOT BE ISSUED WHILE A COURT CASE IS PENDING

One commenter suggested that the regulations be withheld until all avenues of appeal have been explored in connection with a decision rendered by the United States District Court for the District of Columbia concerning nonprovider facility reimbursement. The court set aside the guidelines for the calculation of an estimated customary charge for nonproviders under the ESRD program because they had not been promulgated in accordance with the rulemaking requirements of the Administrative Procedure Act. These guidelines appear in Part A Intermediary Letter No. 73-25 and Part B Intermediary Letter No. 73-22. However, the court stayed that portion of its order until final promulgation of a regulation to replace those guidelines. The court further held that the reimbursement formula was otherwise reasonable and within the Secretary's authority to adopt. On November 2, 1977, the United States Court of Appeals for the District of Columbia Circuit expressed agreement with the district court opinion and affirmed its judgment. The court of appeals further held that the stay of the district court order would expire not more than 60 days from the date of the judgment on appeal. Neither the district court opinion nor the court of appeals judgment contains any indication that promulgation of these regulations should be withheld.

Part 405 of Chapter IV of Title 42 of the Code of Federal Regulations, as amended, is further amended as follows:

1. Section 405.502 is amended by revising paragraph (e) to read as follows:

§ 405.502 Criteria for determining reasonable charges.

* * * * *

(e) *Determination of reasonable charges under the End-Stage Renal Disease (ESRD) Program.* With respect to reimbursement for covered items and services in connection with renal dialysis and kidney transplantation, the normal medical market in which customary and prevailing charges can be determined will not be available; most such services will be reimbursed by the health insurance program. Therefore, with respect to nonprovider facilities, reasonable charges for these items and services shall be defined in terms related to charges or costs prior to July 1, 1973, and to the costs and allowances that are reasonable when the treatments are provided in an effective and economical manner. With respect to physicians' services to patients on renal dialysis or in connection with kidney transplantation, reasonable charges shall be defined in terms related to charges made for other services taking into account comparable physicians' time and skill requirements. (For provisions applicable to providers of services see, generally, Subpart D of this part.) The provisions contained in § 405.541 through § 405.544 describe in detail the criteria for determining the reasonable charges for items and services in connection with transplantation or dialysis, and the limits which are established on charges and services above which reimbursement is made only upon additional justification. For special rules concerning the reimbursement of ESRD services furnished by risk-basis health maintenance organizations (HMO's) or by facilities owned or operated by or related to such HMO's by common ownership or control, see §§ 405.2042(b)(14) and 405.2050(c).

2. A new § 405.541 is added to read as follows:

§ 405.541 Criteria for determination of reasonable charges for nonprovider renal dialysis facility services.

A nonprovider renal dialysis facility which is approved to furnish maintenance renal dialysis treatments or provide self-dialysis training is reimbursed through the intermediary servicing the provider affiliated with it under the ESRD program (see § 405.2160). The reimbursement shall be accepted by the facility as payment in full, subject to the deductible and coinsurance (see §§ 405.240 and 405.245), for covered services furnished to the beneficiary. (See also § 405.231(h).) Reimbursement for services furnished after June 30, 1973, will be made under this section.

(a) *Determination of a facility's customary charge.* In the case of a renal dialysis facility, the following replaces the criteria in § 405.503. The customary charge of a facility for a dialysis treatment and training is derived from the weighted average of reimbursements from all parties made to the facility for such treatments furnished during the 12-month period preceding July 1, 1973. If a customary charge cannot be derived on this basis because the facility was not in operation during the 12-month period preceding July 1, 1973, the facility's proposed schedule of charges and those of other comparable facilities in its area, will be considered in determining the reimbursable amount. Whichever method is used, the amount payable is subject to the limitation described in paragraphs (b) and (c) of this section.

(b) *Determination of reimbursable amount for maintenance dialysis.* Subject to the deductible and coinsurance, the reimbursable amount to a nonprovider renal dialysis facility for a maintenance dialysis treatment shall be the lower of the customary charge as derived in paragraph (a) of this section, or an administratively determined "screen," i.e., an amount derived from available data that may be periodically revised to reflect changes in the data, and used for identifying costs or charges which appear atypically high and therefore require documentation to justify their reasonableness. In determining the screen amounts, costs or charges of facilities which include laboratory services and/or physicians' supervisory services are taken into account. A separate screen is determined for nonprovider facilities which furnish extended peritoneal dialysis treatments (i.e., at least 30 hours in duration). A facility may request an equity adjustment in the reimbursable amount in accordance with paragraphs (e) and (f)(2) of this section. See also paragraph (d) of this section regarding the effect on the amount payable where the physician elects Physician Reimbursement Method No. 2.

(c) *Determination of reimbursable amount for self dialysis training.* Subject to the deductible and coinsurance, the amount payable for a self-dialysis training session to a nonprovider facility shall be the lower of the customary charge described in paragraph (a) of this section, or the screen amount for a self-dialysis training session. In determining the screen amounts, costs or charges of facilities which include laboratory services and/or physicians' supervisory services are taken into account. For services furnished after June 30, 1974, reimburse-

ment for physicians' services for self-dialysis training shall be made directly to the physicians in accordance with § 405.542(c) rather than being included in the facility's training session payment.

(d) *Reimbursable amount when physicians elect Physician Reimbursement Method No. 2.* Where the physicians rendering services to patients in a facility elect Physician Reimbursement Method No. 2, described in § 405.542(b) the screen amounts described in paragraphs (b) and (c) of this section will be reduced by a standard amount determined from available data or by the payment that was being made through the facility for the physician's supervisory services rendered to maintenance dialysis and self-dialysis training patients, whichever reduction yields the lesser rate. Where the facility was reimbursed at a rate below the screen amounts described in paragraphs (b) and (c) of this section, this rate should be reduced either by an amount equivalent to the portion that was previously being paid for physicians' supervisory services described in § 405.542(a)(1) or to the screen amount adjusted for the standard amount as in the foregoing sentence, whichever reduction yields the lesser rate.

(e) *Adjustment of reimbursable amount in case of unusual hardship.* A facility which can demonstrate unusual hardship because of the amount of payment made under the ESRD program may submit documentation of its costs and request a determination with respect to an equity adjustment in the payment.

(f) *Required cost data.* Beginning with the facility's first accounting year that ended after June 30, 1973, the effective date of the ESRD program, nonprovider renal dialysis facilities are required to furnish adequate cost information, in accordance with section 1833(e) of the Act (42 U.S.C. 13951(e)). This information will be used for the following purposes:

(1) Determination of rates of reimbursement for maintenance renal dialysis treatments, self dialysis training and other reasonable and medically necessary services rendered in connection with these treatments.

(2) Justification of requests made for adjustments in reimbursement rates under paragraph (e) of this section.

(3) Accumulation of data for overall program evaluation.

The cost information shall be furnished by the nonprovider facilities in accordance with the cost reporting, recordkeeping, and audit requirements set forth in § 405.406.

3. A new § 405.542 is added to read as follows:

§ 405.542 Criteria for determination of reasonable charges for physicians' services rendered to renal dialysis patients.

Physicians' services rendered to renal dialysis patients are reimbursable, if determined to be reasonable and medically necessary and if otherwise covered by the Medicare program. Physicians may elect to receive a comprehensive monthly payment for their services rendered in connection with patients who are on maintenance dialysis in a facility or at home, or who are training for self dialysis. This comprehensive monthly payment is the "Physician Reimbursement Method No. 2" that is described in paragraph (b) of this section. Where physicians have not elected to receive the comprehensive monthly payment, their services are reimbursable under the "Physician Reimbursement Method No. 1" that is described in paragraph (a) of this section. (The instructions in this section apply to physician services to patients on maintenance dialysis or self dialysis training in either a provider or nonprovider facility.)

(a) *Physician reimbursement method No. 1.* Under this method, supervisory services, as defined in paragraph (a)(1) of this section, provided by physicians to maintenance dialysis patients dialyzing or training for self dialysis in facilities are reimbursable to the facility by the intermediary as a facility service part of the dialysis session if the physician has actually furnished the service. Physicians' administrative services are considered to be facility costs (see paragraph (a)(2) of this section) included in the rates of payment for dialysis treatments and are reimbursable to the facility. Nonroutine services rendered to patients during and related to the dialysis procedure (see paragraph (a)(3)(i) of this section) and services which must be rendered at a time other than during the dialysis procedure (see paragraph (a)(3)(ii) of this section) are reimbursable to the physician (or to the beneficiary) by the carrier in accordance with the reasonable charge criteria set forth in § 405.502 (a) through (d). Physicians' services rendered to hospital inpatients who were not admitted solely to receive maintenance dialysis and to patients who are self-dialyzing at home are also reimbursable under these reasonable charge criteria.

(1) *Supervisory services defined.* Supervisory services for patients who are receiving maintenance dialysis or self dialysis training in a facility are those physicians' services which are related to the care of the patient and the need for medical management over the period of time the patient is on maintenance or training dialysis. They are non-episodic services which are furnished during the dialysis session; they reflect the facility's responsibility to provide services under the general supervision of a physician. They include all patient care services not specifically defined as nonroutine in paragraph (a)(3)(i) of this section. Supervisory services include, at least all of the following when medically appropriate:

(i) Being available to patients and to staff for consultation on the care of the patients;

(ii) Overseeing the performance of dialysis on individual patients, including but not limited to review of laboratory tests and adjustments of dialysis procedures;

(iii) Monitoring the patient's medical status and vital signs, including needed adjustments in medications;

(iv) Determining the need for supplies and medications and authorizing them;

(v) Reviewing dietary issues and modifying dietary control as needed;

(vi) Evaluating the appropriateness of the patient's proposed treatment modality;

(vii) Reviewing psychosocial issues;

(viii) Making pre- and post-dialysis examinations where medically appropriate; and

(ix) Repeated insertions of a catheter for patients on maintenance peritoneal dialysis who are not provided an indwelling catheter.

(2) *Administrative services defined.* The administrative services that are rendered by physicians and that are directly related to the support of the facility are a part of the facility's cost or charge for dialysis. These services are differentiated from supervisory services and other physicians' services related to patient care because they are not related directly to the patient's care, but are of benefit to all of the patients as a whole as well as to the facility. Examples of such services include staff training, participating in the management of the facility, advising on procurement of facility supplies, supervising staff for other than direct patient care services, and staff conferences.

(3) *Services not included in supervisory or administrative services.* Physician services not considered as supervisory services (or administrative services) are: (i) Services rendered during dialysis which are nonroutine i.e., declotting of shunts, needle insertions into fistulae, supervision of blood transfusions, care during immediately life-threatening complications related to the dialysis procedure, and care of nonrenal conditions; and (ii) services which must be rendered at a time other than during the dialysis procedure, e.g., monthly and semi-annual examinations to review health status and treatment. (For periods before the effective date of this amendment, physician services not considered as supervisory services were for purposes of this paragraph defined to include certain services which are personally rendered by the physician during outpatient maintenance dialysis. They included but were not limited to, the following kinds of services: monthly and semi-annual examinations; treatment of medical disabilities associated with renal disease, such as hypotension and hypertension—including acute medical emergencies as well as incidental diagnosis and treatment of other acute and chronic medical conditions; administration of blood; insertion of fistula needles in difficult cases; shunt (cannula) declotting; and management during the dialysis procedure of medical problems which are not necessarily related to the dialysis process or to renal disease.)

(b) *Physician reimbursement method No. 2.* Reimbursement by the carrier on a monthly basis for all outpatient care services (including at least supervisory services as defined in (a)(1) of this section when medically appropriate), other than those specified in paragraph (b)(1) of this section, rendered to each patient

receiving maintenance dialysis or self-dialysis training may be voluntarily elected by physicians as an alternative to the reimbursement method described in paragraph (a) of this section. Payment of the monthly amount, subject to the deductible and coinsurance, for all such services provided for that month is made by the carrier either to the physician, if the physician accepts assignment, or to the patient, if the physician does not accept assignment. This reimbursement method recognizes the need of patients on maintenance renal dialysis for continuing medical management over relatively long periods of time, reflects the reduced need for physician services for self-dialysis patients with a reduced monthly amount, and is responsive to physicians' charging patterns in their localities. The physician must provide to a patient at least the supervisory services listed in (a) (1) of this section in a month to qualify for this reimbursement method in that month. The same scope of services for facility dialysis patients should be appropriate for self-dialysis patients except for the frequency of services that would be appropriate for the needs of self-dialysis patients.

(1) *Services not included in monthly payment.* Physician services not covered by the monthly payment which may be reimbursed in accordance with the usual reasonable charge criteria, when the patient's attending physician has elected Physician Reimbursement Method No. 2 are limited to:

(i) Declotting of shunts.

(ii) Covered physicians' services furnished by another physician during periods when the patient or his attending physician is not available for outpatient services as set out in paragraph (b) (3) of this section.

(iii) Needed physician services which are rendered either by the physician providing renal care or by another physician and which are beyond those related to the treatment of the patient's renal condition and which are not incidental to services during a dialysis session or office visit necessitated by the renal conditions. The physician should provide documentation that the illness is not related to the renal condition and that added visits are required. The carrier's medical staff, acting also on the basis of medical consultation obtained by the carrier as may be appropriate, determines whether additional reimbursement is warranted for treatment of the unrelated illness.

(2) *Physician election.* A physician may elect this comprehensive monthly payment method only where all of the physicians in the facility who render services to patients either on maintenance dialysis or undergoing self-dialysis training elect to do so with respect to that facility. The election of this method of reimbursement covers also self-dialysis patients the physician attends. Physicians will submit a statement of agreement concerning their election of the monthly payment method. This payment method shall be applied to dialysis services furnished in the first month following the month in which all physicians in the facility elect it. Physicians may terminate this payment method by written notice to the servicing carrier at least 60 days before the first day of the calendar month in which the termination is to take effect.

(3) *Reduction of monthly payment.* The monthly payment amount is reduced in proportion to the number of days the patient is; hospitalized and the physician bills for each service rendered during hospitalization; or dialyzed in an outpatient facility other than his usual treatment setting where the monthly payment has not been elected by the physicians; or not attended by the physician or his substitute for any reason, including where the physician is not available to provide patient care or when the patient is not available to receive such care.

(4) *Determination of monthly payment amount.* The factors used in determining the monthly payment amounts will be related to program experience and to the charging practices of comparable physicians for comparable services. The factors will be reevaluated periodically on the basis of program experience and may be adjusted as necessary to reflect changes in these charging practices and modes of furnishing services and to assure fairness.

(c) *Physician reimbursement for self-dialysis training.* Reimbursement for physicians' services rendered to dialysis patients undergoing self-dialysis training will be limited to a flat amount, to be determined from program experience—and reviewed periodically—for each patient under the physician's supervision during the training course, subject to the deductible and coinsurance provisions. Payment will be made upon completion of the training course, and will be in addition to any amounts payable under either of the reimbursement methods, described in paragraphs (a) and (b) of this section, for physicians' services rendered to a renal dialysis patient. Where the training course is not completed, e.g., the patient can no longer be trained, or where the training began before the patient became entitled to Medicare, payment will be proportionate to the time spent in training. Where a training course began before July 1, 1974 (the effective date of the flat training fee provision), payment should be similarly prorated for any part of the course which extended beyond June 30, 1974. All those physicians' services determined to be required to create the capacity for self-dialysis are covered by this payment.

4. A new § 405.543 is added to read as follows:

§ 405.543 Criteria for determination of reasonable charges for physicians renal transplantation services.

(a) *Payment for the period July 1, 1973 through April 14, 1975.* For the period July 1, 1973 through April 14, 1975, the reimbursable amount for physicians' services in connection with a renal transplantation, other than recipient nephrectomies including pre- and post-operative care for 180 days, was not to exceed $900, subject to the deductible and coinsurance. Additional payments in amounts established on the basis of program experience were allowed for other surgical procedures performed concurrently with the transplant operation.

(b) *Payment for period after April 14, 1975.* Based on a review of charge experience for renal transplantation services during the initial year of the ESRD program, these criteria were revised effective April 15, 1975. Beginning after April 14, 1975, comprehensive payments are made, subject to the deductible and the coinsurance, for all the surgeon's services in connection with a renal transplantation, including the usual pre- and post-operative surgical care, and for immunosuppressant therapy, when supervised by the attending transplant surgeon, for a period of 60 days. Additional sums in amounts established on the basis of program experience, may be included in the comprehensive payment for other surgery performed concurrently with the transplant operation. The comprehensive payments to be made may not be based on amounts that exceed either the actual charges made for the transplantation services, or amounts the carriers derive from overall national payment levels established under the ESRD program and adjusted to give effect to variations in physicians' charges throughout the nation (These adjusted amounts are the maximum allowances in a carrier's service area for renal transplantation surgery and related services by surgeons.) The maximum allowances, computed under these instructions, will be revised July 1, 1977, and at the beginning of each 12 month fee screen year thereafter to the extent permitted by the lesser of: changes in the economic index as described in § 405.504(a) (3) (i), or percentage changes, from one year to the succeeding year, in the weighted average of the servicing carrier's prevailing charges (before adjustment by the economic index) ofor a unilateral nephrectomy (or for another medical or surgical service that may be designated by the Secretary for this purpose). Payments for covered medical services provided to the transplant recipient by other specialists, as well as for services by the transplant surgeon after the 60-day period covered by the comprehensive payment, shall be made under the reasonable charge criteria set forth in § 405.502 (a) thru (d). The payments for physicians' services in connection with renal transplantations will be changed on the basis of program experience and the expected advances in the medical art for this operation.

5. A new § 405.544 is added to read as follows:

§ 405.544 Criteria for determination of reasonable charges for durable medical equipment and supplies for home dialysis.

Providers of services that furnish durable medical equipment are reimbursed in accordance with Subpart D of this part. When other suppliers furnish durable medical equipment (and supplies essential to the effective use of the equipment) necessary for self-dialysis treat-

ments, payment shall be made in accordance with § 405.502 (a) through (d). A variety of contractual undertakings may be entered into by the patient for the leasing or purchase of a dialysis machine and delivery of disposable supplies. Some agreements contain provisions whereby all supplies are furnished through the Medicare approved facility in the locality that provides support services to home dialysis patients. If the suppliers and the facility which furnishes support services agree to have the supplies routed through that facility, the reimbursement for the necessary supplies will be made to the facility by its carrier (i.e., the intermediary servicing the Renal Dialysis Center with which it has an affiliation agreement or arrangement (see § 405.2160)) on a reasonable cost basis.

(Secs. 226(g), 1102, 1833(e) and (f), 1842, 1861(b) and (s), 1862, and 1871 of the Social Security Act; 86 Stat. 1464, 49 Stat. 647, as amended, 79 Stat. 302, as amended, 79 Stat. 309 as amended, 79 Stat. 313 as amended, 79 Stat. 325, 79 Stat. 331, and 81 Stat. 850 as amended; 42 U.S.C. 426(g), 1302, 31951(e) and (f), 1395u, 1395x(b) and (s), 1395y, and 1395hh.)

(Catalog of Federal Domestic Assistance Program No. 13.801, Medicare—Supplementary Medical Insurance.)

NOTE.—The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Dated: December 15, 1977.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: December 23, 1977.
JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc.77-37136 Filed 12-29-77;8:45 am]

[4310-10]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 33—ALLOCATION OF DUTY-FREE WATCHES FROM THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA

NOTE.—Pub. L. 89-805 (19 U.S.C. 1202) authorizes the Secretary of the Interior and the Secretary of Commerce to issue joint regulations governing the allocation of duty-free quotas for watches and watch movements assembled in the Virgin Islands, Guam, and American Samoa. For the page number for amendments to the text of joint regulations which were published on this subject at 42 FR 62907, December 14, 1977, refer to the table of contents in this issue under "Domestic and International Business Administration."

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: New Part 1011 of title 49 of the Code of Federal Regulations provides for the assignment of responsibilities and authority vested by law in the Interstate Commerce Commission or the Chairman of the Commission. Under these provisions, certain actions are reserved to the Commission itself, and others are assigned to divisions of the Commission, to individual Commissioners, and to boards composed of Commission employees. The matters dealt with in this part were formerly the subject of the Commission's Organization Minutes (39 FR 25569) and have not been previously codified. Upon the effective date of this Part, the former Organization Minutes are superseded and are of no further force and effect. Because these rules involve the internal organization and procedures of the Commission, they are issued in final form, and public comments are not being requested.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Chandler, Director, Policy Review Office, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-1912.

Accordingly, Part 1011 is added to title 49 of the Code of Federal Regulations, as follows:

Sec.
1011.1 General.
1011.2 The Commission.
1011.3 Divisions of the Commission.
1011.4 The Chairman, Vice Chairman, and Senior Commissioner present.
1011.5 Delegations to individual Commissioners.
1011.6 Employee Boards.

AUTHORITY: Interstate Commerce Act, 49 U.S.C. 1 et seq., and especially 49 U.S.C. 17; in Reorganization Plan No. 1 of 1969, 5 U.S.C. Appendix (38 Stat. 59); and in 5 U.S.C. 553 (b)(A).

§ 1011.1. General.

(a) This part describes the organization of the Commission, and the assignment of jurisdiction and responsibilities to the Commission, divisions of the Commission, individual Commissioners, and employee boards.

(b) As used in this part "matter" includes any case, proceeding, question, or other matter within the Commission's jurisdiction; "decision" includes any decision, ruling, order, or requirement of the Commission, a division, a single Commissioner, or an employee board; and "Act" means the Interstate Commerce Act, 49 U.S.C. Section 1 et seq.

§ 1011.2. The Commission.

(a) The Commission reserves to itself for consideration and disposition—

(1) All rulemaking and similar proceedings involving the promulgation of rules or the issuance of statements of general policy.

(2) All investigations and other proceedings instituted by the Commission, except as may be ordered in individual situations.

(3) All administrative appeals in a matter previously considered by the Commission.

(4) Matters involving inconsistent decisions by the divisions.

(5) All cases involving general rate increases; all matters arising under section 1(16)(b) of the Act; all cases arising under section 5(2) of the Act involving a Class I railroad; and all cases arising under section 5(3) of the Act.

(6) Except for matters assigned to the Chairman of the Commission under § 1011.5(a)(7), (i) the determination whether to reconsider a decision being challenged in court; (ii) the disposition of matters which have been the subject of an adverse decision by a court; and (iii) the determination whether to file any memorandum or brief on behalf of the Commission as amicus curiae in any court.

(7) The decision of all matters found to involve issues of general transportation importance, and the determination whether issues of general transportation importance are involved in any matter.

(b) The Commission may bring before it any matter assigned to a division, a single Commissioner, or any employee board. It may assign any matter reserved to it to a division for administrative handling or decision or both.

§ 1011.3. Divisions of the Commission.

(a) There are two divisions of the Commission, each with three members, designated as division 1 and division 2.

(b) The divisions have concurrent original and appellate jurisdictions over all matters submitted for decision of the Commission except those reserved to the Commission or assigned to a single Commissioner or an employee board.

(c) Where the Commission's rules permit an appeal to a division from a decision rendered by a division, the appeal shall be heard by the same Commissioners who constituted the division which made the decision appealed from.

(d) Assignment of matters to the divisions shall be made so as to equalize their work to the extent practicable. Proceedings with odd-numbered docket numbers (or "sub-numbers" in sub-numbered proceedings) are assigned to one division, and those with even-numbered docket numbers (or sub-numbers) to the other. In the case of consolidated pro-

ceedings, the final digit of the earliest proceeding filed governs the assignment. Proceedings related to other previously assigned proceedings are assigned to the same division.

(e) A division may certify to the Commission any matter assigned to it.

(f) Division assignments are made as follows:

(1) Division chairmanships are filled according to seniority of service among those Commissioners requesting such assignments, except that the Chairman and Vice Chairman of the Commission are not eligible to serve as division chairmen.

(2) Each Commissioner, other than the Chairman of the Commission and the Chairmen of the divisions, is assigned to a division by lot.

(3) Membership of the divisions is changed to become effective on January 1 and July 1 of each year.

(g) The members of a division, who were members when an oral argument was held, a draft report or order was circulated, or a matter first came under active consideration by the division, constitute the division designated to act on that matter.

(h) Divisions as constituted prior to January 1, 1978, shall remain in existence for the purpose of disposing of matters circulated to them, or which have been the subject of oral argument, before that date.

§ 1011.4. The Chairman, Vice Chairman, and Senior Commissioner present.

(a) (1) The Chairman of the Commission is appointed by the President as provided by Reorganization Plan No. 1 of 1969. The Chairman has the authority, duties, and responsibilities assigned to him under that Plan and described in this part.

(2) The Vice Chairman is elected by the Commission for the term of one calendar year.

(3) In the absence of the Chairman, the Vice Chairman is Acting Chairman, and has the authority and responsibilities of the Chairman. In the absence of the Vice Chairman, the Chairman, if present, has the authority and responsibilities of the Vice Chairman. In the absence of both the Chairman and Vice Chairman, the senior Commissioner present, based on time of continuous service as a member of the Commission, is Acting Chairman, and has the authority and responsibilities of the Chairman and the Vice Chairman.

(b) (1) The Chairman is the executive head of the Commission and has general responsibility for (i) the over-all management and functioning of the Commission, (ii) the formulation of plans and policies designed to assure the effectiveness of the Commission in the administration of the Interstate Commerce Act and related Acts, (iv) prompt identification and early resolution, at the appropriate level, of major substantive regulatory problems, and (v) the development and utilization of effective staff support to carry out the duties and functions of the Commission. All heads of bureaus and offices report to the Chairman.

(2) Subject to the provisions of Reorganization Plan No. 1 of 1969, the Chairman of the Commission exercises the executive and administrative functions of the Commission, including (i) the appointment, supervision, and removal of personnel employed by the Commission, except those in the immediate offices of Commissioners other than the Chairman, subject to Civil Service rules and regulations, (ii) the distribution of business among such personnel and among administrative units of the Commission, and (iii) the use and expenditure of funds.

(3) In carrying out his functions the Chairman is governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission by law is authorized to make.

(4) The appointment by the Chairman of the heads of offices and bureaus is subject to the approval of the Commission.

(c) (1) The Chairman presides at all sessions of the Commission and sees that every vote and official act of the Commission required by law to be recorded is accurately and promptly recorded by the Secretary or the person designated by the Commission for that purpose.

(2) Except regular sessions, which are provided for by regulations prescribed by the Commission, the Chairman may call the Commission into special session whenever in his opinion any matter or business of the Commission so requires. He shall call a special session for the consideration of any matter or business on request of a majority of the members.

(3) The Chairman exercises general control over the Commission's argument calendar and conference agenda.

(4) The Chairman acts as correspondent and spokesman for the Commission in all matters where an official expression of the Commission is required.

(5) The Chairman brings to the attention of any Commissioner, division, or board any delay or failure in the work under his, her, or its supervision and initiates ways and means of correcting or preventing avoidable delays in the performance of any work or the disposition of any matter.

(6) The Chairman may appoint such standing or ad hoc committees of the Commission as he considers necessary.

(7) In accordance with Section 1003 (a) of the Federal Aviation Act of 1958, 49 U.S.C. 1483, the Chairman, when the occasion arises, in conjunction with corresponding action by the Chairman of the Civil Aeronautics Board, designates a like number of Commissioners to function as members of a joint board to consider and pass on matters referred to it as provided under subsection (c) of that section.

(8) The Chairman may reassign related proceedings to a single division or board of employees and may remove a matter from a division, a single Commissioner, or an employee board for consideration and disposition by the Commission.

(9) The Chairman may authorize any officer, employee, or administrative unit of the Commission to perform a function vested in or delegated to the Chairman.

(10) The Chairman authorizes the institution of investigations on the Commission's own motion, and their discontinuance at any time prior to hearing, except for investigations under sections 15(7), 216(g), 218(c), 307 (g) and (i), or 406(e) of the Act.

(11 The Chairman approves for publication all publicly-issued documents by a bureau or office, except (i) publications authorized or adopted by the Commission, a division, or a single Commissioner that involve decisions in formal proceedings; (ii) decisions or informal opinions of a bureau or office, or an initial decision of a hearing officer; and (iii) documents prepared for court cases or for introduction into evidence in a formal proceeding.

§ 1011.5. Delegations to individual Commissioners.

(a) The following matters are referred to the Chairman of the Commission:

(1) Entry of reparation orders responsive to findings authorizing the filing of statements of claimed damages as provided in Rule 95 of the General Rules of Practice (49 CFR 1100.95).

(2) Extensions of time for compliance with orders and procedural matters in any formal case or pending matter, except appeals taken from the decision of a hearing officer on requests for discovery.

(3) Postponement of the effective date of orders in proceedings that are the subject of suits brought in a court to enjoin, suspend, or set aside the decision.

(4) Dismissal of complaints on request of complainants.

(5) Requests for access to waybills and to statistics reported under orders of the Commission.

(6) Matters relating to closing of transactions in accordance with conditions prescribed by the Commission under Part V of the Act, including the execution on behalf of the Commission of contracts and other instruments incident to the closing of such transactions; and matters relating to the administration of loans and other financing guaranteed under Part V of the Act, including the giving of consents by the Commission under guaranty agreements and the construction of provisions contained in those agreements and other agreements entered into in connection with those loans or other financing.

(7) Exercise of control over litigation arising under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), except for determinations whether to seek further judicial review of (i) a decision in which a court finds under 5 U.S.C. 552(a)(4)(F) that Commission personnel may have acted arbitrarily or capriciously in improperly withholding records from disclosure, or (ii) a decision in which a court finds under 5 U.S.C. 552a(g)(4) that Commission personnel acted intentionally or willfully in violating the provisions of the Privacy Act.

(b) The following matters are referred to the Vice Chairman of the Commission:

(1) Matters within the jurisdiction of the Accounting Board and the Valuation Board if certified to the Vice Chairman by the Board or if removed from the Board by the Vice Chairman.

(2) Reduced rates authorizations in cases of calamitous visitation under section 22 of the Act and, in related matters, relief from the provisions of sections 4 and 20(11) of the Act.

(3) Determination of Special Docket Proceedings under Rule 23(e) of the General Rules of Practice.

(4) Matters involving the admission, disbarment, or discipline of practitioners before the Commission under rules 7 through 11 of the General Rules of Practice (49 CFR 1100.7–1100.11).

§ 1011.6. Employee Boards.

The following matters are assigned to boards of employees. Except as provided in paragraphs (h) and (i) of this section, a board may certify any matter assigned to it to the Commission.

(a) *Suspension and Fourth Section Board.* (1) Matters arising under sections 15(7), 15(8), 216(g), 218(c), 307 (g) and (i), and 406(e) of the Act: The Board is authorized (i) initially to dispose of these matters, by declining to suspend a rate or a classification, rule, or practice related to a rate, or by suspending such rate, classification, rule, or practice and ordering an investigation; (ii) to institute investigations into rates, fares, charges, and practices of regulated carriers; and (iii) prior to the submission of evidence, to discontinue any proceeding when the proposed rate, classification, rule, or practice has been cancelled. This delegation of authority does not include authority over petitions or requests, relating to rates, classifications, rules or practices filed in purported compliance with decisions of the Commission or a division, or actions in connection with suspensions to be taken during or after formal hearings or investigations.

(2) Matters arising under section 4 of the Act, except proceedings made the subject of formal hearing, matters prompted by an order of requirement of the Commission or a division, or matters arising from general increase proceedings.

(b) *Motor Carrier Board.* (1) Matters arising under sections 210a and 311 of the Act, relating to applications for temporary authority by common or contract carriers by motor vehicle or water, except matters involving broad questions of policy, matters in which the decision of the Board would be inconsistent with an order of the Commission or a division, and matters in which substantially the same question is already before the Commission or a division.

(2) Entry of show-cause orders under sections 204(c) and 212(a) of the Act directed to motor carriers who have failed to file annual reports.

(3) Determination of uncontested motor carrier, broker, water carrier, and freight forwarder suspension, change, or revocation proceedings under sections 212(a), 312(a), and 410(f) of the Act which have not involved taking testimony at a public hearing.

(4) Determination of applications, which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under (i) section 204(a)(4) of the Act, relating to transfer of brokers' licenses and changes in control of corporations or associations holding brokers' licenses; (ii) sections 206(a) (6) and (7) relating to transfer of certificates of registration and rights to operate pending determination of applications for certificates of registration; (iii) sections 212(b) and 312 relating to transfer of certificates and permits; and (iv) section 410(g) relating to transfer of permits.

(5) Determination of applications seeking the elimination of gateways, where the applications are filed as matters directly related to applications under section 212(b) of the Act and seek only to eliminate gateways created as a result of a grant of authority in the 212 (b) proceeding involving a unification of irregular route operating rights.

(6) A matter referred to the Board that is subsequently assigned for public hearing shall be withdrawn from the Board.

(c) *Finance Board.* (1) Determination of applications, under (i) sections 20a (1) through (11) and 214 of the Act relating to securities when not connected with an application under section 1a, 5(2), or 5(3), and (ii) section 20a(12), for authority to hold the position of officer or director of more than one corporation, provided that these applications have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) A matter referred to the Finance Board that is subsequently assigned for taking testimony at a public hearing shall be withdrawn from the Board.

(d) *Operations Boards.* (1) Insurance Board:

(i) Matters arising under section 211 (c) of the Act, relating to bonds or other security to assure financial responsibility of brokers; section 215, with respect to the furnishing by motor carriers of bonds, insurance, or other security, for the protection of the public; and sections 403 (c) and (d), with respect to the furnishing by freight forwarders of bonds, insurance, or other security, for the protection of the public, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(ii) Matters arising under sections 221 (a) and (c) of the Act relating to the designation by motor carriers and brokers of persons on whom orders and notices may be served and the designation of agents upon whom service of process may be made, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) Motor Carrier Leasing Board. Matters arising under sections 204 (e) and (f) and 204(a)(6) of the Act, insofar as they relate to the lease and interchange of vehicles by motor carriers, and the lease and interchange regulations (49 CFR Part 1057), except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(3) Railroad Service Board. Matters relating to car-service except controversies between carriers as to compensation, under provisions of sections 1(15) and (16)(a) which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(4) Any matter referred to an Operations Board that is subsequently assigned for taking testimony at a public hearing shall be withdrawn from the Board.

(e) *Special Permission Board.* Special permission or other permissible waivers of rules regarding tariffs or schedules, under sections 6(3), 217(c), 218(a), 306 (d), 306(e), and 405(d) of the Act, including authorization for the cancellation of suspended tariffs or schedules, that have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(f) *Released Rates Board.* Matters arising under sections 20(11), 219, and 413 of the Act insofar as they relate to applications for authorization to establish released rates and ratings that have not involved taking testimony at a public hearing or the submission of evidence affidavits.

(g) *Review Boards Nos. 1, 2, 3, 4, and 5.* Determination of matters not expressly reserved to the Commission or assigned to another employee board, other than those proceedings in which a Commissioner or a member of the Board has presided at the hearing or issued an initial decision and those proceedings that are considered to be the relatively more important cases, including those which appear to involve issues of general transportation importance. In determining what matters are of relatively greater importance, consideration will be given, among other things, to the significance of the matters involved in terms of impact on, or importance to, the national transportation system; the potential significance of the matter as precedent; the question whether a matter of first impression is involved; and the complexity of the record and the issues involved.

(h) *Accounting Board.* (1) Authority (i) to permit the use of prescribed accounts, by carriers and other persons under the Act, in situations where those accounts may be used only if prior permission is obtained; (ii) to permit departure from general rules, prescribing uniform systems of accounts for carriers and other persons under the Act, and from the Regulations to Govern the Forms and Recording of Passes for carriers and other persons under Parts I and II of the Act; (iii) to prescribe rates of depreciation to be used by railroad

and water carriers; (iv) to issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the Act; and (v) to grant extensions of time for filing annual, periodical, and special reports in matters which do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) The Board may certify any matter assigned to it to the Vice Chairman of the Commission.

(i) *The Valuation Board.* (1) Authority to issue valuation reports in matters which do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(2) The Board may certify any matter assigned to it to the Vice Chairman of the Commission.

(j) *Tariff Rules Board.* Matters arising under sections 6(6), 217(a), 306(b), and 405(b) of the Act, related to the prescription of regulations concerning the form and manner in which tariffs required to be filed shall be published, filed, and posted, including the institution of rulemaking proceedings for the purpose of prescribing new or changed regulations, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

By the Commission, Vice Chairman Clapp not participating.

H. G. HOMME, Jr.,
Acting Secretary.

DECEMBER 22, 1977.

[FR Doc.77-37234 Filed 12-29-77;8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Docket No. 36778]

PART 1131—TEMPORARY AUTHORITY APPLICATIONS UNDER SECTION 210a(a) OF THE INTERSTATE COMMERCE ACT

Exception to Competitive Rate Level Standards in Connection With Short Notice Authority To Establish Temporary Authority Rates

AGENCY: Interstate Commerce Commission.

ACTION: Amend existing rules.

SUMMARY: This document amends Part 1131 for the purpose of providing an exception to the competitive rate, fare, and charge level standards. This exception is necessary in order that the competitive standards in Special Permission and Special Tariff Authority No. 78-1000-TA will apply instead of those in Part 1131 when Authority No. 78-1000-TA is used. That special authority authorizes the establishment on less than 30 days' notice of rates, fares, or charges to apply on shipments transported under temporary operating authority.

This document also updates Part 1131 to take into account the term "Special Tariff Authority" as used in Part 1310.

EFFECTIVE: February 10, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7739.

SUPPLEMENTARY INFORMATION: Section 1131.5(a) provides the competitive rate, fare, and charge level standards for the establishment on less than 30 days' notice of rates, fares, or charges applicable on shipments transported under temporary operating authority under Section 210a(a) of the Interstate Commerce Act. This section also includes requirements pertaining to the filing of special permission applications requesting authority to establish temporary authority rates, fares, or charges on less than 30 days' notice.

Section 1131.5(b) provides the requirements for the establishment of rates, fares, or charges applicable on shipments transported under emergency temporary operating authority. This section includes references to § 1311.5(a) for competitive standards and special permission application requirements.

The Commission has issued a special permission and special tariff authority order (No. 78-1000-TA) authorizing the establishment of temporary authority rates, fares, or charges on not less than 5 or 10 days' notice, depending on the circumstances. The competitive rate, fare, or charge level standards in the special authority differ from those in § 1131.5(a).

The regulations in Part 1310 pertaining to applications requesting authority to publish on less than 30 days' notice are referred to as "Special Tariff Authority Applications" instead of "Special Permission Applications."

It is therefore necessary to amend §1131.5(a) to provide an exception to the competitive standards therein in order that the standards in the special authority will prevail when publications are made under that authority, and to include reference to "Special Tariff Authority." It is necesary to also amend § 1131.5(b) to correct references therein to certain subparagraphs of §1131.5(a), which have been renumbered.

§ 1131.5(b) is amended as follows:

In subparagraph (2), change the reference to "paragraph (a) (1) or (2)" to read "paragraph (a) (2) or (3)".

In subparagraph (3)(ii), change the reference to "paragraph (a)(4)" to read "paragraph (a)(5)", and change the reference to "paragraph (a) (1) or (2)" to read "paragraph (a) (2) or (3)" both places it is shown.

These amendments shall become effective February 10, 1978.

(Secs. 204, 217, 218, 49 Stat. 546, as amended, 560, as amended, 561, as amended, 52 Stat. 1238, as amended; (49 U.S.C. 304, 317, 318, 319a).)

A copy of this order shall be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and another copy shall be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

Decided: December 20, 1977.

By the Commission, Tariff Rules Board, Members Foley, Walker, and Geisenkotter.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-37233 Filed 12-29-77;8:45 am]

[7035-01]

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1300—FREIGHT TARIFFS; RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

[Ex Parte No. 326]

Regulations Governing the Transfer of General Increases From Master Tariffs Into the Individual Tariffs of Railroads or Rail Ratemaking Organizations

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has amended its Tariff Circular No. 20 by the addition of new regulations governing the transfer of general increases from master tariffs into the individual tariffs of railroads or rail ratemaking organizations. Revised regulations were necessary to conform Commission procedure to section 209 of the Railroad Revitalization and Regulatory Reform Act of 1976, which sets statutory time limits within which all rates must be incorporated into individual tariffs. The amendments to the tariff circular were changed, in part, from those proposed in the Notice of Proposed Rulemaking and Order (41 FR 28799) in response to comments submitted by interested parties.

DATES: The effective date of the prescribed rules is December 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693 or 275-7656.

SUPPLEMENTARY INFORMATION: The Commission has issued a report and order in Ex Parte No. 326, *Regulations Governing the Transfer of General Increases from Master Tariffs into the Individual Tariffs of Railroads or Rail Ratemaking Organizations.* The report and order, served December 19, 1977, discusses issues raised by interested parties in this rulemaking proceeding. In response to these comments, paragraph (e) of the proposed regulations was

amended by the addition of a paragraph providing for notification of parties in the event a petition for extension of the time period is filed for the transfer of general increases from master tariffs to other tariffs. In addition, paragraph (d) (1) (i) was amended to correct a typographical omission in the proposed rules.

(49 U.S.C. Section 6(6).)

H. G. HOMME, Jr.,
Acting Secretary.

Accordingly, § 1300.32 is added and reads as follows:

§ 1300.32 Transfer of Railroad General Increases from Master Tariffs.

(a) *General application.* The regulations in this section govern the transfer of railroad general increases from master tariffs into basic tariffs as required by section 6(6) of the act, as amended February 5, 1976.

(b) *Definitions.* (1) The term "general increase," as used in this section, refers to increases in railroad rates and charges published and filed in accordance with procedures set forth in Part 1102 of this chapter;

(2) The term "master tariff," as used in this section, refers to a separate tariff providing for a general increase in rates and charges which form of publication is authorized by the Commission.

(c) *General increases must be transferred.* A general increase published by means of a master tariff must be transferred into the basic tariffs referring thereto within the time period provided under Paragraph (d) of this section.

(d) *Time period for transfer of general increases.* (1) A general increase shall be transferred from a master tariff to the basic tariffs: (i) within 2 years from the effective date of the master tariff if the Commission authorizes the general increase to become effective without suspension or investigation; or (ii) if the increase is suspended or an investigation is instituted within 2 years from the date of service of the Commission's final order authorizing the increase in whole or in part;

(2) If a general increase is under investigation by the Commission at the time a later general increase becomes effective, the date for compliance with paragraph (d) (1) of this section shall be determined by reference to the date of service of the Commission's final order relating to the prior increase. Thus, the date determined under Paragraph (d) (1) for transfer of the prior increase shall also govern transfer of the later increase.

(e) *Extension of time period.* Extension of the time period provided under paragraph (d) of this section for transfer of general increases from master tariffs to other tariffs is not contemplated. Should the filing of a petition requesting authority to extend the time period become necessary, such petition must be filed with the Commission at least 90 days before the time period is due to expire. A copy of the petition shall be simultaneously mailed by first-class mail to each party of record in the general rate increase proceeding for which the extension is being requested and that fact shall be evidenced by a certificate of service filed with the petition. A copy of the petition shall be furnished to any interested person upon request. Any reply shall be filed with the Commission promptly after the petition is filed, but in no case more than 20 days after the filing of the petition.

[FR Doc.77-37235 Filed 12-29-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE

PART 259—CAPITAL CONSTRUCTION FUND

Interim Fishing Vessel Capital Construction Fund Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Fishing Vessel Capital Construction Fund program provides for the deferment of Federal Income Tax on income from the operation of vessels when that income is reserved for the construction or reconstruction of fishing vessels. This rule will expand the definition of "eligible" and "qualified" vessels to include vessels carrying fishing parties for hire upon a satisfactory demonstration that their use is primarily commercial.

The regulations are also amended to include vessels under 5 net tons, but not under 2 net tons, as provided for by the Tax Reform Act of 1976.

EFFECTIVE DATE: October 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7496.

SUPPLEMENTARY INFORMATION: Existing rules governing administration of the Fishing Vessel Capital Construction Fund program appear at 50 CFR Part 259. The program is authorized by Section 607 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177).

The FEDERAL REGISTER, September 1, 1977, proposed to change the National Marine Fisheries Service's existing rules as published in 50 CFR Part 259 governing the administration of the Fishing Vessel Capital Construction Fund program to amend the definition of an "eligible" and "qualified" vessel to include vessels carrying fishing parties for hire if, in addition to documentation in the coastwide trade, such vessels are also documented in the fisheries.

The proposal also specified that vessels carrying fishing parties for hire to be included in the program would be restricted to those certified by the U.S. Coast Guard to carry more than six passengers.

Since the cost of vessel construction and equipment necessary to obtain that certification is considerable, this restriction was proposed as a practical way of assuring that only those vessels carrying fishing parties for hire which were used principally for commercial purposes would be qualified for the program (thus, excluding vessels used principally for private pleasure purposes, but sometimes used also for carrying fishing parties for hire).

The public was given until October 3, 1977, to comment on this proposal.

A number of comments were received and most were favorable.

One commentator endorsed the proposal in general, but objected to the exclusion of vessels carrying fishing parties for hire which were not certified to carry more than six passengers. The point was that many legitimate vessels carrying fishing parties for hire operated in situations where less than six passengers are carried and, thus, had no need of a certification for six or more passengers.

This is true, and this amendment of procedures will recognize the validity of this comment by providing that, although those vessels having the Coast Guard certification will be automatically qualified as far as commercial usage is concerned, those vessels not having such certification may also qualify upon a satisfactory demonstration that their use is primarily commercial.

One commentator objected to this amendment. The principal reason for the objection was the belief that by including vessels carrying parties for hire under this program such vessels would also share the same priority to fuel as other commercial fishing vessels during periods of oil shortages. Since fuel priorities are not established by the National Marine Fisheries Service this objection was not considered as valid.

The amendment follows:

Substitute for § 259.30 (a) and (b) the following:

§ 259.30 Application for Interim Capital Construction Fund Agreement ("Interim CCF Agreement").

(a) General qualifications. To be eligible to enter into an Interim CCF Agreement an applicant must:

(1) Be a citizen of the United States (citizenship requirements are those for documenting vessels in the coastwise trade within the meaning of Section 2 of the Shipping Act, 1916, as amended);

(2) Own or lease one or more eligible vessels (as defined in Section 607(k) (1) of the Act) operating in the foreign or domestic commerce of the United States.

(3) Have an acceptable program for the acquisition, construction, or reconstruction of one or more qualified vessels (as defined in Section 607(k) (2) of the Act). Qualified vessels must be for commercial operation in the fisheries of the United States. If the qualified vessel is 5 net tons or over, it must be documented in the fisheries of the United States. Dual documentation in both the fisheries and the coastwise trade of the United States is permissible. Any vessel which will carry fishing parties for hire must be inspected and certified (under 46 CFR Part 176) by the U.S. Coast Guard as qualified to

carry more than six passengers or demonstrate to the Secretary's satisfaction that the carrying of fishing parties for hire will constitute its primary activity. The program must be a firm representation of the applicant's actual intentions. Vague or contingent objectives will not be acceptable.

(b) Content of application. Applicants seeking an Interim CCF Agreement may make application by letter providing the following information:

(1) Proof of U.S. citizenship.

(2) The first taxable year for which the Interim CCF Agreement is to apply (see § 259.33 for the latest time at which applications for an Interim CCF Agreement relating to a previous taxable year may be received);

(3) The following information regarding each "eligible vessel" which is to be incorporated in Schedule A of the Interim CCF Agreement for purposes of making deposits into a CCF pursuant to Section 607 of the Act:

(i) Name of vessel,

(ii) Official number, or, in the case of vessels under 5 net tons, the State registration number where required,

(iii) Type of vessel (i.e., catching vessel, processing vessel, transporting vessel, charter vessel, barge, passenger carrying fishing vessel, etc.),

(iv) General characteristic (i.e., net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried or in the case of vessels operating in the foreign or domestic commerce the various uses of the vessel, etc.),

(v) Whether owned or leased and, if leased, the name of the owner, and a copy of the lease,

(vi) Date and place of construction,

(vii) If reconstructed, date of redelivery and place of reconstruction,

(viii) Trade (or trades) in which vessel is documented and date last documented,

(ix) If a fishing vessel, the fishery of operation (which in this section means each species or group of species—each species must be specifically identified by acceptable common names—of fish, shellfish, or other living marine resources which each vessel catches, processes, or transports or will catch, process, or transport for commercial purposes such as marketing or processing the catch),

(x) If a fishing vessel, the area of operation (which for fishing vessels means the general geographic areas in which each vessel will catch, process, transport, or charter for each species or group of species of fish, shellfish, or other living marine resources).

(4) The specific objectives to be achieved by the accumulation of assets in a Capital Construction Fund (to be incorporated in Schedule B of the Interim CCF Agreement) including:

(i) Number of vessels,

(ii) Type of vessel (i.e., catching, processing, transporting, or passenger carrying fishing vessel),

(iii) General characteristics (i.e., net tonnage, fish-carrying capacity, age, length, type of fishing gear, number of passengers carried),

(iv) Cost of projects,

(v) Amount of indebtedness to be paid for vessels to be constructed, acquired, or reconstructed (all notes, mortgages, or other evidences of the indebtedness must be submitted as soon as available, together with sufficient additional evidence to establish that full proceeds of the indebtedness to be paid from a CCF under an Interim CCF Agreement, were used solely for the purpose of the construction, acquisition, or reconstruction of Schedule B vessels),

(vi) Date of construction, acquisition, or reconstruction,

(vii) Fishery of operation (which in this section means each species or group of species—each species must be specifically identified by acceptable common name—of fish, shellfish, or other living marine resources),

(viii) Area of operation (which in this section means the general geographic areas in which each vessel will operate for each species or group of species of fish, shellfish, or other living marine resources).

Dated: December 22, 1977.

DAVID H. WALLACE,
Acting Assistant Administrator for Fisheries.

[FR Doc.77-37104 Filed 12-29-77;8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH COD, HADDOCK AND YELLOWTAIL FLOUNDER

Emergency Regulations

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency Regulations.

SUMMARY: The Secretary of Commerce, having found that an emergency exists in the haddock, cod, and yellowtail flounder fisheries situated in the fishery conservation zone (FCZ) of the northwest Atlantic Ocean, hereby promulgates emergency regulations which will amend the final regulations for haddock, cod, and yellowtail flounder (42 FR 29876) for 1977, which were published June 10, 1977, to extend them from January 1, 1978, to February 14, 1978. These emergency regulations establish quotas for all three species during this 45-day emergency period; identify criteria for terminating the directed fisheries for cod and yellowtail flounder (there is no directed fishery for haddock), and for prohibiting the retention of any of these species when its quota has been caught. These emergency regulations also continue the trip limitations on the amounts of cod and yellowtail flounder that can be landed incidentally after the directed fishery quotas have been reached.

EFFECTIVE DATES: 0001 hours, e.s.t., January 1, 1978, until 2400 hours, e.s.t., February 14, 1978, as emergency regulations.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: The Atlantic Groundfish Plan (for haddock, cod, and yellowtail flounder) was approved and published in the FEDERAL REGISTER (42 FR 13998) on March 14, 1977, by the Secretary of Commerce (Secretary), acting under the authority of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, et seq.), as amended (Act). Permanent regulations implementing that Plan became effective on June 10, 1977. It is that set of regulations, as amended, which this publication carries forward as the initial 1978 regulations, on an emergency basis.

The New England Fishery Management Council has not yet developed a Fishery Management Plan for Groundfish for 1978, because certain scientific information necessary to determine optimum yields for the three species will not be available until mid-January. In the interim, the Act provides a mechanism for continuing management of the fishery.

Section 305(e)(2) of the Act permits the Secretary, upon finding that an emergency exists in a fishery resource, to promulgate emergency regulations which implement an existing fishery management plan, to the extent required by the emergency. Such regulations remain in force and effect for up to 45-days and are treated as amendments to the plan for the period the regulations are in effect. They may be repromulgated for a second 45-day period.

Failure to continue the management regime in this fishery, for any significant period of time, would almost certainly lead to overfishing. The New England Fishery Management Council deems it necessary to have these emergency regulations in effect on January 1, 1978, in order to provide continuity of management of these species and to present overfishing of the resources. We agree that due to the capability of U.S. fishermen to overfish the resource in the absence of regulation, this action is warranted.

While these emergency regulations are in effect, the New England Council will be preparing a 1978 Fishery Management Plan for Groundfish (Plan), based on the newly available scientific data. Regulations to implement the Plan may be similar to the emergency regulations being promulgated today. The Council expects to hold hearings on the Plan and these regulations proposed to implement it in late January and early February.

The emergency regulations published today will generally carry forward the 1977 regulations into the first quarter of 1978, with the following changes, among others:

1. Divide the annual quota for cod and the incidental catch quota for haddock into quarterly increments;

2. Establish criteria for determining when directed fisheries should be terminated;

3. Limit the incidental catch that can be landed after the directed fishery for cod or yellowtail flounder is closed, as well as establish a limit on the incidental catch for haddock;

4. Prohibit the retention of haddock, cod, or yellowtail flounder, as the case may be, when its quota for the period has been reached.

The reasons for the changes are the following:

1. To spread the employment and income of persons engaged in these fisheries over the entire year;

2. To clarify how decisions to close a directed fishery will be made;

3. To continue the changes in the incidental catch regulations which were published November 9, 1977;

4. To prevent the quarterly quotas from being exceeded.

The other amendments are merely technical.

The Secretary recognizes the critical conservation needs of these fisheries and has determined that a emergency exists which justifies the promulgation of emergency regulations under section 305(e) of the Act. The Secretary also finds that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because of the emergency described above.

Dated this 27th day of December, 1977, at Washington, D.C.

ROBERT W. SCHONING,
Acting Deputy Assistant, Administrator for Fisheries.

Part 651 published on June 10, 1977 (FR 29876), is amended as follows:

§ 651.3 [Amended]

1. In § 651.3(a) delete "1977 for licensed" from the first sentence.

2. Section 651.3 (a) (1) and (2) are revised as follows:

§ 651.3 Catch quota.

(a) * * *

(1) *Haddock.* Commercial and recreational catch—5,000 metric tons. This quota is an incidental catch quota which may be taken by domestic fishermen. There shall be no directed fishery for haddock. The quota shall be allocated as follows:

Quarter:	*Catch quota (metric tons)*
Jan. 1–Mar. 31	1,250
Apr. 1–June 30	(Reserved)
July 1–Sept. 30	(Do.)
Oct. 1–Dec. 31	(Do.)

(2) *Cod.* Commercial catch—5,000 metric tons for the Gulf of Maine and 16,650 metric tons for Georges Bank and southern New England. The quota shall be allocated as follows:

Quarter	Catch quota (metric tons)	
	Gulf of Maine	Georges Bank and Southern New England
Jan. 1 to Mar. 31	1,250	4,163.
Apr. 1 to June 30	(Reserved)	(Reserved.)
July 1 to Sept. 30	do	Do.
Oct. 1 to Dec. 31	do	Do.

3. Section 651.7 (c) and (d) are revised as follows:

§ 651.7 Landing restrictions.

* * * * *

(c) It shall be unlawful for any person or vessel to land yellowtail flounder, from the area east of 69°00 W. Longitude, in amounts greater than 5,510 pounds (2.5 metric tons) or 10 percent by weight of all other fish on board per trip, whichever is greater, after the directed fishery is closed.

(d) It shall be unlawful for any person or vessel to land haddock (at any time) or cod (after the directed fishery for cod is closed) in amounts greater than the following:

(1) For vessels under 50 gross registered tons: 2,000 pounds landed weight of that species per day of fishing or 10 percent by weight of all other fish on board per trip, whichever is greater;

(2) For vessels of 50–125 gross registered tons: 2,500 pounds landed weight of that species per day of fishing or 10 percent by weight of other fish on board per trip, whichever is greater.

(3) For vessels over 125 gross registered tons: 3,000 pounds landed weight of that species per day of fishing or 10 percent by weight of other fish on board per trip, whichever is greater.

(4) For vessels using fixed gear (hooks or gillnets) of any size: 16,000 pounds per week beginning on Sunday and ending on Saturday.

For vessels making trips of more than three days, two days will be deducted for steaming time. For example, on a sevenday trip, a vessel of 126 gross registered tons may land 15,000 pounds of each species or 10 percent by weight of all other fish on board, whichever is greater. (Seven days minus two days for steaming equals five days at 3,000 pounds per day or 15,000 pounds.)

4. Section 651.8(a) (2) and (3) are revised and (a) (4) added as follows:

§ 651.8 Closed seasons.

(a) * * *

(2) When the cumulative catch of cod, or the catch of yellowtail flounder east of 69°20 W. Longitude, equals 70 percent of the quarterly allocation, the Assistant Administrator for Fisheries shall publish a notice in the FEDERAL REGISTER terminating the directed fishery for that species for the remainder of the quarter.

(3) When the total quarterly allocation of any species is taken, all taking of that species shall cease for that quarter, following publication of a notice in the FEDERAL REGISTER. During the period in which taking is prohibited, the crew of a vessel must sort a catch containing such prohibited species and return them to the sea immediately. It shall be a rebuttable presumption that any species found on board a vessel following the publication of the notice prohibiting the taking of that species was caught and retained in violation of this part.

(4) It shall be unlawful to land, in any quantity, any species for which the taking has been prohibited.

§ 651.11 [Amended]

5. Add to paragraph (e): *Provided, however,* That vessels carrying fishing parties on a per capita basis or by charter may use markings that meet the above requirements, except for the requirement that they be permanently affixed. These non-permanent markings must be displayed in conformity with the above requirements when the vessels are engaged in the groundfish fishery.

6. Section 651.12 is revised as follows:

§ 651.12 Foreign fishing.

Fishing for haddock, cod, or yellowtail flounder by any vessel other than a vessel of the United States is prohibited.

7. Appendix A is deleted.

[FR Doc.77-37317 Filed 12-29-77;8:45 am]

[3510-12]

PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

Emergency Regulations Repromulgated

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency regulations.

SUMMARY: This rule extends the emergency regulations for the surf clam and ocean quahog fisheries for an additional 45-day period beginning on January 1, 1978, and ending on February 14, 1978, inclusive. The emergency described in Part III of the FEDERAL REGISTER for November 22, 1977 (42 FR 59918) continues to exist.

EFFECTIVE DATE: January 1, 1978, at 0001 hours EST.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone No. 617-281-3600.

SUPPLEMENTARY INFORMATION: On November 16, 1977, the Acting Deputy Administrator for Fisheries, acting pursuant to a delegation of authority from the Secretary of Commerce, and under the authority of Section 305(e) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended, found and determined that an emergency involving the surf clam

fishery resource existed. Suitable conservation regulations designed to implement the fishery management plan for the surf clam and ocean quahog fisheries which had been prepared by the Mid-Atlantic Fishery Management Council and approved by the Secretary were put into effect on November 17, 1977.

The section dealing with catch quotas is necessarily amended by changing the date. The quotas for this second 45-day period remain the same. Section 652.8(a) has also been amended by removing the restriction which prevented fishing vessels from fishing more than two days per week.

The Acting Assistant Administrator has determined that the emergency continues to exist and that the current regulations should be continued for an additional 45-day period unless sooner amended or terminated by appropriate public notice. The Acting Assistant Administrator also finds that formal notice of proposed rulemaking is impractical, unnecessary, and contrary to the public interest because of the conservation emergency existing in that fishery.

Signed at Washington, D.C. this 27th day of December, 1977.

WINFRED M. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

Section 652.6(a) is hereby amended by striking the words "November 16, 1977" and substituting the words "January 1, 1978".

Section 652.8(a) is hereby amended by deleting the second and third sentences, so that the subsection now reads: "(a) *Surf Clams.* Fishing for surf clams shall be permitted during four days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday, except as adjusted under Sec. 652.6(b). Fishing for any part of a day will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds."

[FR Doc.77-37244 Filed 12-29-77;8:45 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.

[4110–03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1040]

[Docket No. 75N–0047]

SUNLAMP PRODUCTS

Performance Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes a performance standard for sunlamp products and ultraviolet lamps intended for use in these products. The proposed standard is intended to reduce the possibility of sunlamp-related injury by reducing unnecessary exposure and overexposure to sunlamp radiation by: (1) limiting shorter wavelength emissions which pose unreasonable risk, (2) providing for more adequate label warnings and user instructions containing safety information, and (3) requiring special lamp bases, protective goggles, timers, and controls to help users limit the duration and amount of exposure.

A sunlamp product would be subject to these requirements if it is a nonprescription electronic product designed to incorporate one or more ultraviolet lamps (bulbs and is intended for irradiation of any part of the living human body by ultraviolet radiation within a specified range of wavelengths to induce skin tanning or otherwise affect the structure or any function of the body. Ultraviolet lamps subject to the proposal are those which produce radiation within a prescribed range of wavelengths and are intended for use in sunlamp products.

DATES: Comments by February 28, 1978. The Commissioner proposes that the final regulation be effective 30 days after its date of publication in the FEDERAL REGISTER and that it apply to sunlamp products and ultraviolet lamps intended for use in sunlamp products that are manufactured on or after the effective date.

ADDRESS: Comments concerning the proposed standard should be sent (preferably four copies) to the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Conklin, 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: Sunlamp products have been widely used in this country. About 800,000 to 1,000,000 sunlamps are sold in the United States every year. Use of these products has been associated with skin and eye injuries. Based on the injury reports collected by the National Electronic Injury Surveillance System of the Consumer Product Safety Commission, the estimated number of sunlamp-related skin and eye injuries treated in hospital emergency rooms in the 48 contiguous States was approximately 10,000 in 1974 and 12,000 in 1975. Although a small number of these injuries may be related to causes other than burns, the reports show the majority are the result of acute overexposure to ultraviolet (UV) radiation from such lamps. Also, the Commissioner believes that certain UV wavelengths in sunlamp radiation have the potential for producing skin cancer. This belief is supported by studies in which skin cancer was produced in laboratory animals by single or repeated exposure to UV wavelengths and epidemiologic studies implicating solar UV radiation as a factor in causing human skin cancer. These studies, which indicate the potential for serious damage to human tissue, including skin cancer and premature aging of the skin, together with the actual reports of acute skin and eye injuries, justify measures to improve the safety of sunlamp products.

The Commissioner has considered alternative means to address the hazards of sunlamp radiation, including (1) use of the defect provisions of section 359 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263g), (2) development of voluntary recommendations, and (3) the promulgation of a product performance standard. The defect provisions cannot be used as the sole means of assuring radiation safety because they do not address future production. A voluntary approach lacks the enforcement capability that the Commissioner considers necessary to assure that sunlamp products incorporate all necessary safety features. Thus, the Commissioner believes that a mandatory product performance standard is needed. Accompanying the effort to develop such a standard will be a safety education program directed to users of sunlamp products.

The Commissioner further notes that the requirements of this proposal do not prevent misuse or remove all the dangers of sunlamp products. Therefore, FDA will continue to consider additional means to address sunlamp protection, possibly including (1) expanded user education programs, (2) establishing use restrictions, and (3) banning of sunlamp products except for prescription use. The Commissioner invites comments and suggestions for action beyond the promulgation of this standard.

The Commissioner has taken several actions allowing interested persons to participate in the development of the proposed standard. The basic concepts were presented by the agency's Bureau of Radiological Health on September 18, 1974, at the 12th meeting of the Technical Electronic Product Radiation Safety Standards Committee. Drafts of the proposal were reviewed at meetings of this advisory committee on two later occasions. A notice of intent to develop a performance standard, published in the FEDERAL REGISTER of June 19, 1975 (40 FR 25830), invited public comments on technical matters as well as the possible environmental and economic impact of establishing a standard. Drafts of the proposed regulation also have been distributed for review and comment to manufacturers, professional associations, consumer groups, private and government agencies, and other interested persons on the Bureau's mailing lists. The drafts, the comments received, and the summary of advisory committee meetings are on file with the Hearing Clerk, Food and Drug Administration.

In developing this proposal, FDA has considered all comments received on the drafts of the proposed regulation, the latest available scientific and medical data concerning radiation hazards associated with sunlamp products, the results of FDA testing and research, and other radiation protection guidelines, such as the booklet "Criteria for a Recommended Standard—Occupational Exposure to Ultraviolet Radiation" (GPO Stock No. 1733–00012) by the National Institute for Occupational Safety and Health (a copy can be obtained by sending $1.75 to Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402) and the voluntary Standard for Portable Sun/Heat Lamps (UL 482) developed by Underwriters Laboratories, Inc., 1285 Walt Whitman Rd., Melville, N.Y. 11746. Copies of both articles are on file with the Hearing Clerk, Food and Drug Administration.

EFFECTIVE DATE

The Commissioner advises that proposed § 1040.20 would be applicable to sunlamp products and ultraviolet lamps intended for use in such products manufactured on or after 30 days after publication of the final regulation in the

FEDERAL REGISTER. An early effective date is in the public interest because of the urgent need to eliminate the short-wavelength ultraviolet radiation that is unnecessary for the intended purpose of the product and to control better the duration of human exposure to the radiation. Until the final regulation becomes effective, the Commissioner urges manufacturers to take action to prevent further injuries from sunlamp products. For example, these products should be equipped with safety accessories, such as timers and protective eyewear, and have adequate instructions to assure safe use. The agency will continue to monitor commercially available sunlamp products for such deficiencies and for other radiation safety defects that may result in injury to the public, and it will take appropriate regulatory action under section 359 of the Radiation Control for Health and Safety Act of 1968.

APPLICABILITY OF PROPOSAL

The applicability of the standard and the definitions would be specified in proposed § 1040.20 (a) and (b).

Under the proposed definition, a sunlamp product may, or may not, be a complete product with ultraviolet lamp(s) incorporated at the time of sale. In addition, any combination of components intended to achieve the function of a sunlamp product would be considered a sunlamp product. The definition of a "sunlamp product" under § 1040.20(b)(9) would not include prescription ultraviolet devices that meet the requirements of § 801.109 (21 CFR 801.109) and are not intended for use in skin tanning. The Commissioner specifically invites comments on potential injuries to patients or operators from such prescription ultraviolet devices, the nature of these devices and their applications. Comments are invited on the need for appropriate radiation safety requirements for such devices and on the degree to which the provisions of this proposed standard would be technically feasible and reasonable if applied to these prescription ultraviolet devices. Based on comments received and other available information, the Commissioner will determine whether the standard should continue to exclude prescription ultraviolet devices.

Comments on the early drafts of this proposal asserted that the standard should not be applied to radiation-emitting electronic products for which irradiation of the human body is not the intended purpose. Such products are intended for industrial processing, germicidal uses, mineralogy, or entertainment and display uses. The Commissioner agrees that FDA does not now have sufficient information on performance characteristics and injury potential from these products to establish that they should be subject to the performance requirements in this standard.

The Commissioner also recognizes there are ultraviolet lamps that are not intended for use in sunlamp products and that these emit radiation of wavelength exceeding 320 nanometers, e.g., black lights. The agency may address them in future regulations, but these products would not be included in the definition of ultraviolet lamps in proposed § 1040.20(b)(10) and would not be subject to the proposed requirements.

One comment objected to the proposed standard being applied to fluorescent sunlamps. The comment alleged that sales to the general public are limited because the lamps are listed only in a special schedule and sold almost entirely to commercial users through electrical distributors.

Although the Commissioner recognizes that certain sales or listing practices may tend to limit the number of such products purchased by members of the general public, this limitation does not preclude the use of these products by consumers or mean that FDA should not try to improve the radiation safety of such products wherever they are used. Thus, if fluorescent sunlamps are intended for tanning or related effects and they are not prescription devices intended for tanning or related effects tanning, they would be subject to the standard.

The standard would apply to installations of ultraviolet products for skin tanning in health spas and other similar facilities. However, FDA is concerned about health spas that use prestandard sunlamp products and urges the owners or managers of such health spas to comply voluntarily with the standard because the users of these facilities are generally not the purchasers and would not have control over the compliance of the products. The Commissioner invites suggestions for alternative or additional measures to assure safe performance of sunlamp products in health spas.

Finally, the Commissioner advises that when the standard becomes effective, manufacturers of sunlamp products and ultraviolet lamps intended for use in sunlamp products would also be required to comply with the requirements of certification and identification of their products under 21 CFR 1010.2 and 1010.3.

IRRADIANCE RATIO

The performance requirements for sunlamps are set forth in proposed § 1040.20(c). The agency's goal of limiting potentially harmful radiation unnecessary for a product's intended purpose is reflected in the irradiance ratio requirement in § 1040.20(c)(1). This requirement would limit the irradiance of a sunlamp within the wavelength range of 180 through 260 nanometers to a value of one thousandth (0.001) of the irradiance within the wavelength range of greater than 260 through 320 nanometers for the same product. By using 260 nanometers as a dividing line, and 0.001 as the reduction factor, a sunlamp product's radiation emission below the lower end of the solar spectrum would be reduced, and the resulting radiation spectrum would closely match the solar spectrum. The factor of 0.001 is based upon the need to assure radiation safety, as discussed below, and upon information from measurements on certain sunlamp models. Data obtained from those measurements confirm that the proposed irradiance ratio requirement is being met in some available commercial products and that it is reasonable. A wavelength of 260 nanometers, rather than a higher value, was selected as a dividing line between the two wavelength ranges because materials used for filtration do not normally provide a sharp cutoff of the shorter wavelength radiation. The agency is not proposing any upper limit on the irradiance level of the output in any wavelength band. Thus, the proposed irradiance ratio requirement would still allow for design variations in the level of useful ultraviolet radiation while restricting the unnecessary and potentially damaging radiation.

Comments on the proposed irradiance ratio by some persons considered the proposed ratio too low and suggested instead a higher ratio of 1 to 3 percent (0.01 to 0.03).

The Commissioner rejects these comments because the limits suggested would present risks to public health and safety without compensating benefits. The proposed requirement is intended to minimize radiation from sunlamp products that is unnecessary to accomplishing the intended purpose and creates a risk of injury. Studies of the biological effects of short-wavelength UV radiation indicate that a dose of 0.1 millijoule per square centimeter at 254 nanometers may have deleterious effects on most mammalian cells, including human tissue. Accordingly, FDA has attempted in developing the proposed standard to keep the short-wavelength UV radiation from sunlamps below this level. Information submitted by sunlamp manufacturers on the emission characteristics of their products reveals that this potentially harmful level would be exceeded for some sunlamp products if a ratio such as the suggested 0.01 to 0.03 ratio were adopted.

Other comments on the proposed irradiance ratio contended that because erythema (skin redness) due to exposure to short-wavelength radiation appears soon after exposure and causes virtually no damage to the skin, a user can rely on this mild, quickly vanishing erythema as a safety signal to discontinue use of a sunlamp. The comments suggested the ratio limits could be entirely abolished.

The Commissioner also rejects these comments because even if such erythema appears relatively soon after exposure, it does not reach a peak until 6 to 8 hours after exposure and is not an effective safety signal to discontinue sunlamp use. With some sunlamp products, overexposure of only a few minutes may result in a severe burn, depending upon the intensity of the lamp. Furthermore, even though erythema due to the hazardous short wavelength range appears more quickly, it also vanishes more quickly, contributing very little to the tanning effect for which the products are intended and used. The Commissioner believes that radiation from this short wavelength range is unnecessary for accomplishing the intended purpose of the

products and, in view of the documented detrimental effects of radiation in this range, should be restricted to reduce risk of injury.

TIMER REQUIREMENTS

Proposed § 1040.20(c)(2) would provide a means for users to control the duration of exposure to aid in preventing acute overexposure. Paragraph (c)(2)(i) would require each sunlamp product to incorporae a timer with multiple timer settings adequate for the product's recommended uses. Paragraph (c)(2)(ii) would limit the maximum timer interval to the manufacturer's recommended maximum exposure time or 10 minutes, whichever is less. The Commissioner intends that the maximum timer interval would include the warmup time for certain types of sunlamps.

The proposed upper limit of the maximum timer interval reflects consideration of the light energy needed to induce tanning of persons with average skin sensitivity, the need to assure radiation safety for persons with more sensitive skin, and the irradiance outputs of existing sunlamp products. To fix a single timer interval and expect it to be appropriate under all use conditions would be very difficult, if not totally impractical because human skin varies greatly from individual to individual in sensitivity to burning. Sensitive individuals could use a timer setting at less than the maximum timer interval. Several radiation injuries have resulted when persons have not estimated their exposure time accurately or have not used a timer because none came with the product or because the timer was faulty. The Commissioner believes that the proposed maximum timer interval will reduce injuries due to overexposure if other instructions for safe use of the products are properly followed. However, submission of views and information on the proposed maximum timer interval would be particularly helpful.

Case studies have identified timer failure as one cause of injury. Therefore, the Commissioner believes that the manufacturers of sunlamp products should provide a reasonable assurance to FDA in reports required by 21 CFR Part 1002 regarding the reliability of the timers used in such products. Because compliance with the standard is required for the useful life of a product, a manufacturer's failure to provide such assurance to FDA may result in the agency's disapproval of the manufacturer's testing program under 21 CFR 1010.2(c).

CONTROL REQUIREMENTS

Proposed § 1040.20(c)(3) would require each sunlamp product to incorporate a control device on the product, other than the electrical plug, for the user to terminate radiation emission at any time. Proposed § 1040.20(c)(4) would require that the radiation emission, once terminated, not resume unless the product is reactivated manually by the user. This provision is intended to help prevent acute overexposure to UV radiation.

EYEWEAR REQUIREMENTS

Proposed § 1040.20(c)(5) would require that protective eyewear be provided with each sunlamp product to reduce the transmission of UV radiation to the eyes. Ultraviolet wavelengths can cause serious burns of the eyes, and exposure to the shorter wavelength region of the UV spectrum (below 320 nm) is especially dangerous. Although maximum spectral transmittance of protective eyeware for different wavelength ranges is specified in paragraph (c)(5)(ii) to provide for radiation protection across the entire spectrum, exposure of the eyes to either UV or visible radiation is not the intended function of the product. Therefore, this proposed regulation could permit opaque goggles to be supplied with sunlamp products if they provide the required protection for the eyes. The Commissioner recognizes, however, that goggles that permit transmission of visible wavelengths may be beneficial to permit users to see during the time the sunlamp product is being used. Although § 1040.20(c)(5), as currently proposed, does permit opaque goggles to be supplied with sunlamp products, the Commissioner encourages comments on this issue to assess the relative benefits and risks of permitting this type of goggles to be supplied with sunlamp products.

LAMP BASE REQUIREMENT

Proposed § 1040.20(c)(6) would require all UV lamps subject to this section to be incapable of insertion and operation in conventional incandescent lampholders (sockets) called "single-contact medium screw" and "double-contact medium screw" and fluorescent lamp-holders called "medium bipin," whose specific designs are described in the American National Standards Institute Standards No. C81.10–1976 and C81.20–1976. This requirement is designated to prevent use of sunlamps in lamps used for general illumination and commonly accessible to users at home and other places and thus to ensure that sunlamps are used only in fixtures with appropriate timers, controls, and warning labeling. Analysis of the sunlamp-related injury data indicates that warnings alone, such as those accompanying UV lamps, often are not effective in preventing injuries. Although people would tend to use the timer if readily available, they may not want to make a special effort to obtain a timer if the sunlamp can operate in a conventional lampholder. The value of the timer requirement would be greatly reduced without the provision requiring use of a special lampholder in combination with the timer.

Several comments on drafts of this proposal supported the proposed base requirement for sunlamps as necessary for the protection of public health and safety. Other comments, however, objected to the proposed requirement, arguing that it would tend to result in higher prices for all sunlamps. It was also argued that fixture manufacturers may either not produce fixtures for fluorescent sunlamps, or be forced to charge a prohibitively higher price. The Commissioner notes that, with a reported annual sales volume of 100,000 to 200,000 for fluorescent sunlamp bulbs, the market for the required fixtures does not appear to be so small as to result in markedly increased prices. Furthermore, the Commissioner doubts that the availability of new fixtures would be seriously affected by an increase in their cost. Moreover, as previously discussed, most fluorescent sunlamps reportedly are used in public facilities, such as health spas, where many people may be exposed. Therefore, the potential for injury from excessive radiation from fluorescent lamps used in sunlamp products that do not comply with the standard can be an especially serious public health problem.

LABEL REQUIREMENTS

Warnings needed for the safe use of sunlamp products and ultraviolet lamps would be required in proposed § 1040.20(d). Paragraph (d)(1) would require warning labels for sunlamp products, and paragraph (d)(2) would require warning labels for UV lamps used in these products. The regulation would require these labels to be clearly visible during operation of the products. In addition to the information needed for safe operation, such as recommendations for minimum distance between user and lamp, maximum exposure time, the use of goggles, and the frequency and spacing of exposures, the warning labels for sunlamp products must caution users about possible deleterious effects of UV radiation, including premature aging of the skin and skin cancer. Also, warning labels for sunlamp products must provide recommendations for consulting a physician before using the lamp if the user is taking any medication or if the user's skin might be sensitive to UV light or sunlight.

The Commissioner has received comments objecting to the proposed requirement in § 1040.20(f) that the words "skin cancer" appear in the sunlamp product warning labels and in the user instructions required for sunlamp products and UV lamps. The comments alleged that skin cancer is a result of exposure to the radiation from natural sunshine, not from sunlamps, and a cancer warning might frighten people away from using sunlamps despite their desired effects. The Commissioner believes that the hazards of radiation from a sunlamp product are similar to those from the sun and that sunlamps pose additional risks in that some produce shorter wavelength UV radiation, which is biologically effective in producing deleterious effects but is not found in the solar spectrum at the earth's surface. He also believes that sunlamps do pose a risk of skin cancer and that possible adverse effects concerning the use of sunlamp products should be made known to users.

COMPLIANCE TESTS

Proposed § 1040.20(e) would prescribe requirements for tests on sunlamps that must be conducted by manufacturers to determine compliance with the standard

for purposes of certification under 21 CFR 1010.2.

USER INSTRUCTION REQUIREMENTS

Proposed § 1040.20(f) would require manufacturers to provide user instructions for sunlamp products and ultraviolet lamps. For sunlamp products, the instructions would include the reproduction of the labels prescribed by § 1040.20 (d) to assure that the informtion contained in the labels is more widely distributed; a prescribed warning on risk of eye injury, sunburn, premature aging of the skin, and skin cancer; a summary listing of the known deleterious effects of UV radiation on humans; recommendations for consulting a physician before using the lamp if the user is taking any medication or if the user's skin might be sensitive to UV light or sunlight; and instructions for obtaining repairs and recommended replacement components and accessories. Similar instructions would also be required for UV lamps intended for use in sunlamp products.

Because a sunlamp product also is a "device" under the Federal Food, Drug, and Cosmetic Act, as amended, sunlamp products and ultraviolet lamps intended for use in such products also must comply with the device labeling requirement in 21 CFR Part 801, as is indicated in proposed § 1040.20(d).

Background information on the proposed performance standard for sunlamp products is on file with the Hearing Clerk, Food and Drug Administration. Included is a documentation report that provides a summary of the rationale for the technical requirements of the proposal and a listing of references to published reports that relate to the rationale. In addition, a copy of each of the references is on file.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 (42 U.S.C. 263f)) and the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201, 501, 502, and 701, 52 Stat. 1040–1042 as amended, 1049–1051 as amended, 1055–1056 as amended (21 U.S.C. 321, 351, 352, and 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Part 1040 be amended by adding new § 1040.20, to read as follows:

§ 1040.20 Sunlamp products and ultraviolet lamps intended for use in sunlamp products.

(a) *Applicability.* The provisions of this section are applicable as specified herein to the following products manufactured on or after (insert date 30 days after date of publication of the final regulation in the FEDERAL REGISTER):

(1) Any sunlamp product.

(2) Any ultraviolet lamp intended for use in any sunlamp product.

(b) *Definitions.* As used in this section the following definitions apply:

(1) "Intended" means the same as "intended uses" in § 801.4 of this chapter.

(2) "Irradiance" means the radiant power incident on a surface divided by the area of the surface, as the area becomes vanishingly small, expressed in units of watts per square centimeter (W cm^{-2}).

(3) "Maximum exposure time" means the greatest continuous exposure time interval recommended by the manufacturer of the product.

(4) "Maximum timer interval" means the greatest time interval setting on the timer of a product.

(5) "Minimum use distance" means that distance the manufacturer of a product recommends as the least at which the user should be exposed to radiation fro mthe product.

(6) "Protective eyewear" means any device designed to be worn by users of a product to reduce exposure of the eyes to radiation emitted by the product.

(7) "Spectral irradiance" means the irradiance resulting from radiations within a wavelength range divided by the wavelength range as the range becomes vanishingly small, expressed in units of watts per square centimeter per nanometer (W cm^{-2} nm^{-1}).

(8) "Spectral transmittance" means the spectral irradiance transmitted through protective eyewear divided by the spectral irradiance incident on the protective eyewear.

(9) "Sunlamp product" means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradition of any part of the living human body, by ultraviolet radiation with wavelengths in air between 180 and 320 nanometers, to induce skin tanning or otherwise affect the structure or any function of the body; but does not include any prescription ultraviolet product which is intended solely for purposes other than to induce skin tanning and which is subject to and in compliance with § 801.109 of this chapter. "Sunlamp product" does not include ultraviolet radiation-emitting electronic products intended solely for purposes other than to induce skin tanning or otherwise to affect the structure or any function of the living human body, such as industrial processing, germicidal effects, mineralogy, and entertainment and display purposes.

(10) "Timer" means any device incorporated into a product that terminates radiation emission after a preset time interval.

(11) "Ultraviolet lamp" means any lamp which produces radiation in the wavelength interval of 180 to 320 nanometers in air and is intended for use in any sunlamp product as defined in paragraph (b) (9) of this section.

(c) *Performance requirements*—(1) *Irradiance ratio limits.* For each sunlamp product and ultraviolet lamp the ratio of the irradiance within the wavelength range of greater than 180 nanometers through 260 nanometers to the irradiance within the wavelength range of greater than 260 nanometers through 320 nanometers shall not exceed 0.001 at any distance and direction from the product or lamp.

(2) *Timer.* (i) Each sunlamp product shall incorporate a timer with multiple timer settings, adequate for the recommended exposure time intervals for different exposure distances and expected results of the product as specified in the label required by paragraph (d) of this section.

(ii) The maximum timer interval shall not exceed the recommended maximum exposure time as indicated on the label required by paragraph (d) (1) (vii) of this section, or 10 minutes, whichever is less. This requirement does not preclude a product from allowing a user to reset the timer before the end of the preset time interval. No timer interval shall have an error greater than ±10 percent of the maximum timer interval of the product.

(3) *Control for termination of radiation emission.* Each sunlamp product shall incorporate a control on the product to enable the user manually to terminate radiation emission from the prdouct at any time without disconnecting the electrical plug or removing the ultraviolet lamp.

(4) *Resumption of radiation emission.* When radiation emission from a sunlamp product has been terminated for any reason, resumption of such emission shall not be possible until the product is reactivated manually by the user.

(5) *Protective eyewear.* (i) Each sunlamp product shall be accompanied by the number of sets of protective eyewear that is equal to the maximum number of persons that the user's instructions recommend be exposed simultaneously to radiation from such product.

(ii) The spectral transmittance of the protective eyewear required by paragraph (c) (5) (i) of this section shall not exceed a value of 0.001 over the wavelength range of greater than 180 nanometers through 320 nonometers, a value of 0.01 over the wavelength range of greater than 320 nonometers through 360 nanometers, and a value of 0.02 over the wavelengths greater than 360 nanometers.

(6) *Compatibility of lamps.* An ultraviolet lamp may not be capable of insertion and operation in any of the following lampholders:

(i) "Single-contact medium screw," described in American National Standard C81.10–1976.

(ii) "Double-contact medium screw," described in American National Standard C81.10–1976.

(iii) "Medium bipin," described in American National Standard C81.20–1976.

(d) *Label requirements.* In addition to the labeling requirements in Part 801

of this chapter and the certification and identification requirements of §§ 1010.2 and 1010.3 of this chapter, each sunlamp product and ultraviolet lamp shall be subject to the labeling requirements prescribed in this paragraph and paragraph (f) of this section. All labels shall be prominently displayed and permanently affixed or inscribed on an exterior surface in a clearly visible and legible fashion.

(1) Each sunlamp product shall have a label which contains:

(i) The words "DANGER—Ultraviolet radiation. Follow instructions. As with natural sunlight, overexposure can cause eye injury and sunburn; repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult physician before using lamp if taking any medication or if you believe yourself to be sensitive to sunlight."

(ii) Designation of the ultraviolet lamp type which is to be used in the product.

(iii) The recommended minimum-use distance specified both in meters and in feet (or in inches).

(iv) Directions for measuring the minimum-use distance.

(v) A warning that exposure at distances less than the minimum-use distance is not recommended.

(vi) A warning to use protective eyewear whenever the product is energized.

(vii) The recommended maximum exposure time in minutes.

(viii) Recommendation for duration, frequency, and spacing of sequential exposures.

(ix) A statement of the time it may take before the expected results appear.

(2) Each ultraviolet lamp shall have a label which contains:

(i) The words "Sunlamp—DANGER—Ultraviolet radiation. Follow instructions."

(ii) The model identification.

(iii) The words "For use ONLY in fixture equipped with a timer."

(e) *Test for determination of compliance.* Tests on which certification pursuant to § 1010.2 of this chapter is based shall account for all measurement errors and statistical uncertainties in the measurement process and, wherever applicable, for changes in radiation emission or degradattion in radiation safety with age of the product. The measurements shall be made under those operational conditions and procedures that maximize the emission of radiation and with the measuring instrument so positioned and so oriented as to result in the maximum detection of the radiation by the instrument. Such measurements shall be made at a test voltage up to 130 root-mean-square volts if the sunlamp product or ultraviolet lamp is designed to operate from nominal 100 to 120 root-mean-square volt power sources. If the sunlamp product or ultraviolet lamp is designed to operate from a power source having some voltage other than from nominal 100 to 120 root-mean-square volts, the measurement shall be made at a voltage up to 110 percent of the maximum nominal root-mean-square voltage specified by the manufacturer for the power source.

(f) *Instructions to be provided for users.* Each manufacturer of a sunlamp product and ultraviolet lamp shall provide or cause to be provided to purchasers and, upon request, to others at a cost not to exceed the cost of publication and distribution, instructions for safe use, including the following technical and safety information as applicable:

(1) *Sunlamp products.* The users' instructions for a sunlamp product shall contain:

(i) Reproductions (color optional) of the labels required in paragraph (d)(1) of this section prominently displayed at the beginning of the instructions.

(ii) A prominently displayed statement containing the words "DANGER—Ultraviolet radiation. Follow instructions. As with natural sunlight, overexposure can cause eye injury and sunburn; repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult physician before using lamp if taking any medication or if you believe yourself sensitive to sunlight."

(iii) A summary listing of the known deleterious effects that overexposure to ultraviolet radiation has on humans. The summary listing shall include sunburn, photokeratitis (inflammation of the cornea), corneal cataracts, skin erythema (redness), photoallergenic or photosensitive reactions (reaction from allergy or other sensitivity to light), skin cancer, skin aging (including wrinkling, mottling, dilution of blood vessels, dryness, loss of resiliency and the appearance of various excrescences, or abnormal outgrowths), and reactions experienced by individuals who are predisposed to ultraviolet radiation damage including those with xeroderma pigmentosum (a rare and fatal disease characterized by brown spots and skin ulcers, muscular and skin atrophy, and dilated blood vessels), erythropoietic porphyria (a disease characterized by photosensitivity, in which the patient's bone marrow produces abnormal hemoglobin), or lupus erythematosus (a degeneration of the skin characterized by lesions and other systemic effects).

(iv) A statement of the maximum number of people who may be exposed to the product at the same time and a warning that only that number of protective eyewear has been provided.

(v) Instructions for obtaining repairs and recommended replacement components and accessories which are compatible with the product, including compatible protective eyewear, ultraviolet lamps, timers, reflectors and filters, and which will, if installed or used as instructed, result in continued compliance with the standard.

(2) *Ultraviolet lamps.* The users' instructions for an ultraviolet lamp not accompanying a sunlamp product shall contain:

(i) Reproductions (color optional) of the labels required in paragraph (d)(2) of this section, prominently displayed at the beginning of the instructions.

(ii) A statement prominently displayed contained the words "DANGER—Ultraviolet radiation. Follow instructions. As with natural sunlight, overexposure can cause eye injury and sunburn; repeated exposure may cause premature aging of the skin and skin cancer. Medications or cosmetics applied to the skin may increase your sensitivity to ultraviolet light. Consult physician before using lamp if taking any medication or if you believe yourself to be sensitive to sunlight."

(iii) A summary listing of the known deleterious effects that overexposure to ultraviolet radiation has on humans. The summary listing shall include sunburn, photokeratitis (inflammation of the cornea), corneal cataracts, skin erythema (redness), photoallergenic or photosensitive reactions (reactions from allergy or other sensitivity to light), skin cancer, aging of the skin (including wrinkling, mottling, dilation of blood vessels, dryness, loss of resiliency and the appearance of various excrescences, or abnormal outgrowths), and reactions experienced by individuals who are predisposed to ultraviolet radiation damage including those with xeroderma pigmentosum (a rare and fatal disease characterize by brown spots and skin ulcers, muscular and skin atrophy, and dilated blood vessels), erythropoietic porphyria (a disease characterized by photosensitivity, in which the patient's bone marrow produces abnormal hemoglobin), or lupus erythtmatosus (a degeneration of the skin characterized by lesions and other systemic effects).

(iv) A warning that the instructions accompanying the sunlamp product should always be followed to avoid or to minimize potential injury.

Interested persons may, on or before February 28, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: December 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-36862 Filed 12-29-77;8:45 am]

[4110–87]

Center for Disease Control

[42 CFR Part 81]

CERTIFICATION OF PERSONAL NOISE DOSIMETER SETS

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would provide for a voluntary program whereby manufacturers could elect to submit production models of personal noise dosimeter sets to NIOSH for testing and certification. Personal noise dosimeters are designed to be worn by the worker and are used for measuring and recording the worker's exposure to noise during a work period. Unless these instruments are reliable and accurate, workers could be exposed to unsafe noise levels in the workplace. Under the certification program, NIOSH would evaluate the performance of the devices to determine if they meet basic performance criteria.

DATE: Written comments must be received on or before February 13, 1978. All comments received will be considered before further action is taken on the proposal.

ADDRESS: Comments concerning the proposed regulations may be submitted in writing to: Regulations Assistant, National Institute for Occupational Safety and Health, Center for Disease Control, 5600 Fishers Lane, Room 8–11, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ms. Mary Hough, Regulations Assistant, NIOSH, phone 301–443–3745.

SUPPLEMENTARY INFORMATION:

Background

The increased awareness of the impact of noise on the health of the American workforce has resulted in a proliferation of commercially available noise measurement instrumentation. The public, as well as government agencies, needs a means of ascertaining whether the devices which they purchase conform to basic criteria, consequently assuring them of adequate performance in satisfying their measurement requirements. The public interest in this program is reflected by the numerous requests for copies of the August 11, 1976, draft of the proposed rule.

The use of instrumentation which meets the performance standards of the NIOSH certification program would assist in assuring compliance with occupational safety and health standards promulgated under the Occupational Safety and Health Act of 1970. Section 20(a)(5) of the Act (29 U.S.C. 669(a)(5)) authorizes the Secretary of HEW to prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which may endanger their health or safety. To obtain valid scientific data on the existence of hazardous physical agents in the workplace, accurate and reliable measurement instrumentation is essential.

Modifications of Earlier Draft

An earlier draft of the proposed rules, dated August 11, 1976, was made available to the public subsequent to the publication in the Federal Register of a notice of availability (41 FR 39057). As a result of comments received, the following changes were made in the proposal:

(1) The requirement that the noise dosimeter shall have a holding upper limit indicating device which shall be triggered by levels greater than 115 dB (A, Slow) has been added as § 81.60(o), along with a corresponding test for such a device in § 81.63(j).

(2) Section 81.62 has been changed to allow a ±5 percent tolerance on the time period if the output of the acoustical calibrator is controlled by a timing device.

(3) In § 81.63, Table 1, the tolerance limits of the A-weighted relative response as a function of frequency have been adopted from those specified by ANSI S1.4–1971, "Specification for Sound Level Meters," for Type 2 response. These tolerances are consistent with those of Type 2 sound level meters normally used in occupational noise surveys.

(4) Section 81.63(f) has been changed to allow evaluation of the crest factor capability of the dosimeter amplifier simultaneously with that of the square law and averaging circuits, while § 81.63(g) provides for testing the dosimeter for overload with impulses by driving the instrument with a high crest factor signal at a level of 115 dB(A, Slow). The remaining paragraphs of § 81.63 have been redesignated to accommodate any additions and deletions resulting from these changes.

While the proposed rule contains the detailed test methods and certification requirements, the final rule will be shortened considerably. It is the Department's intent to publish only the broad policies regarding certification and quality control in the final rule. The exact test specifications and requirements for certification will be prepared in a separate technical report which will be incorporated by reference in the regulation and made available upon request.

It is, therefore, proposed to establish a new Part 81 of Title 42, Code of Federal Regulations, as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, and OMB Circular A–107.

Dated: September 21, 1977.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: December 21, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary.

PART 81—CERTIFICATION OF PERSONAL NOISE DOSIMETER SETS

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Subpart A—General Provisions

§ 81.1 Purpose.

The regulations in this part set forth the requirements and fees for the certification of personal noise dosimeter sets which are used to monitor employee noise exposure within the working environment.

§ 81.2 Lists of certified personal noise dosimeter sets.

The Institute will publish and otherwise make available lists of personal noise dosimeter sets that have been tested and certified as meeting the minimum requirements of this part.

§ 81.3 Definitions.

Any term defined in the Occupational Safety and Health Act of 1970 and not defined below shall have the meaning given it in the Act. As used in this part:

(a) "Act" means the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) "Institute" means the National Institute for Occupational Safety and Health, Center for Disease Control, Public Health Service, Department of Health, Education, and Welfare.

(c) "Testing and Certification Branch" means the Testing and Certification Branch of the Division of Safety Research, National Institute for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

(d) "Applicant" means an individual, partnership, company, corporation, association, or other organization that designs, manufactures, assembles, or markets a personal noise dosimeter set and seeks a certificate therefor.

(e) A "Certificate" is a formal document, issued by the Institute, stating that an individual personal noise dosimeter set has met the minimum requirements of this part, and that the applicant is authorized to use and attach a seal as evidence of such certification to any device manufactured or assembled in conformance with the plans and specifications upon which certification was based.

(f) "Incoming Inspection" means the manufacturer's activity of receiving, examining, and accepting only those components and materials whose quality conforms to specification requirements.

(g) "In Process Inspection" means the control of products at the source of production and at each step of the manufacturing process, so that departures from specifications can be corrected before defective components or materials are assembled into the finished product.

(h) "Final Inspection" means an inspection of a product after all manufacturing and assembly operations are completed to insure completeness and adherence to performance of other specifications, including satisfactory appearance.

(i) "MIL–STD" means a specific military standards document approved by the U.S. Department of Defense.

(j) "Sound Pressure Level" means 20 times the logarithm to the base of 10 of the ratio of the pressure of a sound to the reference pressure. The reference pressure used shall be 20 micropascals (2×10^{-4} microbars). The unit of the resulting measurement is the decibel, dB.

(k) "A-weighting" means the prescribed frequency response (Table 1, Subpart G, § 81.63(a)) provided in a personal noise dosimeter.

(l) "Sound Level, Noise Level" means the weighted sound pressure level measured by the use of designated metering and weighting characteristics with A-weighting and slow response being understood to apply unless another weighting is indicated. The units of the resulting measurement are: decibel, dB; decibel (A), dBA; A-weighted decibel measured with slow response, dB(A, Slow).

(m) "dB(A, Slow)" means a unit of sound level as would be indicated by a sound level meter with the A-weighting specified in this part and otherwise conforming to the slow dynamic characteristic specified for Type 2 sound level meters in Section 5.4 of ANSI S1.4–1971, with the exception of Section 5.4.4 which need not apply. The time constant of the exponential averaging device connected to the output of the square law device is nominally 1 second corresponding to the SLOW response to a sound level meter meeting ANSI S1.4–1971 Type 2 specifications.

(n) "Relative Response Level" means the amount in decibels by which the sound level exceeds the sound pressure level. The relative response may be negative.

(o) "Random-incidence Response" means the mean square response over time and angle to a sound whose angle of incidence is a random variable.

(p) "Regulatory Duration Limit", (T), for a specific noise nevel, (L), is defined as the maximum exposure time allowed at that noise level per workday. The regulatory duration limit allows 16 hours of exposure at 85 dB(A, Slow), with an increase of 5 bB(A, Slow) permitted for each halving of exposure time, up to a limit of 0.25 hours at 115 dB(A, Slow). The duration limit is described by the equation:

$$T = 16 \div 2^{\left(\frac{L-85}{5}\right)}.$$

where T is in hours and L is in dB(A, Slow). This equation is applicable only for levels between 85 dB(A, Slow) and 115 dB(A, Slow).

(q) "Accumulated Noise Dose" (N), means that value of N derived from the equation:

$$N = \frac{C_1}{T_1} + \frac{C_2}{T_2} + \cdots + \frac{C_n}{T_n}.$$

where C_1, C_2 * * * , C_n are the actual durations of exposure for an exposed worker at the various noise levels; and T_1, T_2, * * *, T_n are the respective regulatory duration limits at those same noise levels. For purposes of accumulated dose computation, the actual duration increments may be assumed to be infinitesimally small, i.e., continuous integration shall be performed.

(r) "Personal Noise Dosimeter Set" means a device or devices, which computes, stores, and displays the accumulated noise dose and which includes a compatible acoustical calibrator and associated instruction manuals.

(s) "Personal Noise Dosimeter" means that portion of the personal noise dosimeter set which must actually be worn by the worker, including the microphone. If the readout is a physically separate device, it is not considered to be part of the personal noise dosimeter.

(t) "Readout" means that portion of the personal noise dosimeter set which displays the accumulated noise dose in digital form.

NOTE.—The personal noise dosimeter and readout may both be physically located in the same housing, or the readout may be a separate device.

(u) "Acoustical Calibrator" means a device compatible with the microphone of a personal noise dosimeter which emits one or more pure tones at one or more sound pressure levels, providing a calibration check on the general operation of a personal noise dosimeter set.

(v) "Calibration Check" means a check of the performance of a personal noise dosimeter set in which the accuracy of the indicated accumulated noise dose is verified, but no adjustments are made to alter the accuracy of the indicated reading.

(w) "Sensitivity Adjustment" means a procedure to improve the accuracy of the personal noise dosimeter by mechanical adjustment of gain controls or other methods designated by the applicant.

(x) "Indicated Level, Indicated Noise Level" means that noise level, L, calculated from the equation of § 81.3(p), where T is the time in hours required for the personal noise dosimeter to accumulate a noise dose of 1.00 based on the dose accumulation rate (i.e, T=1.00 dose/dose accumulation rate).

(y) "Rapid Readout of Indicated Noise Level" means a method in accordance with § 81.53(b) for rapidly determining the indicated level in dB (A, Slow) of pure tone signals introduced into the personal noise dosimeter for laboratory tests of performance.

(z) "Storage Device" means the component(s) of a personal noise dosimeter which stores the information that represents the accumulated noise dose.

(aa) "Crest Factor" means the ratio of the peak voltage to the root-mean-square (RMS) voltage of a waveform where both values are measured in reference to the arithmetic mean value of the waveform.

(bb) "Microphone Configuration" means the physical attachment and support for the microphone, as well as any environmental shield or screen used to cover the microphone during operation, and also includes the selection of a particular microphone if the personal noise dosimeter is designed to be used with an assortment of microphones.

(cc) "Normal Microphone Configuration" means that the microphone of the personal noise dosimeter is not on a length of cable other than that length needed to use the device for personal monitoring (e.g., excluding extension cables) and is not covered by an optional windscreen or other environmental shield.

§ 81.4 Incorporation by reference.

In accordance with 5 U.S.C. 552(a)(1), the following technical publications to which reference is made in this part are hereby incoporated by reference and made a part hereof:

ANSI Y14.5–1973, "Dimensioning and Tolerancing of Engineering Drawings" (issued November 1, 1973).

ANSI S1.10–1966, "Methods for the Calibration of Microphones" (issued March 14, 1966).

ANSI S1.4—1971, "Specification for Sound Level Meters" (issued April 27, 1971).

Military Standard 105D, "Sampling Procedures and Tables for Inspection by Attributes" (issued April 29, 1963).

Military Standard 414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective" (issued June 11, 1957).

The referenced American National Standards Institute (ANSI) documents can be purchased from ANSI, 1430 Broadway, New York, NY 10018, and the referenced military standards are avail-

able to the public without charge from the U.S. Naval Publications & Forms Center, 1501 Tabor Avenue, Philadelphia, Pa. 19120. These documents are also available for examination at the Testing and Certification Branch and the Regulations Office, National Institute for Occupational Safety and Health, Rom 3-32 Park Building, 5600 Fishers Lane, Rockville, Md. 20857. Incorporation by reference provisions approved by the Director of the FEDERAL REGISTER on _____.

Subpart B—Application for Certification

§ 81.10 Application procedures.

(a) Inspection, examination, and testing leading to certification of a personal noise dosimeter set shall be undertaken by the Institute only pursuant to a written application filed in accordance with the requirements of this subpart. Such application shall be in the English language except as provided in § 81.11 (a).

(b) The application and all related materials and correspondence concerning it shall be sent to the Testing and Certification Branch and shall be accompanied by a check, bankdraft, or money order in the amount specified in Subpart C of this part, payable to the National Institute for Occupational Safety and Health.

(c) Except as provided in § 81.52, the examination, inspection, and testing of all personal noise dosimeter sets shall be under the sole direction and control of the Institute.

(d) Applicants or their representatives may visit or communicate with the Testing and Certification Branch in order to discuss the requirements for certification of any personal noise dosimeter set or the proposed designs thereof. No charge shall be made for such consultation and no written report shall be issued to applicants or their representatives by the Institute as a result of such consultation.

§ 81.11 Contents of application.

Each application for certification shall contain: (a) A complete written description of the personal noise dosimeter set for which certification is requested, together with classification of defects (as prescribed in § 81.42(d)), drawing, schematics (diagrams of electrical circuitry) and specifications (and indices of such drawings, schematics, and specifications) showing full details of construction and of the materials used. Classification of defects, drawings, schematics, and specifications (and indices thereof) shall be submitted in triplicate.

(1) Drawings and schematics shall be titled, numbered, and dated; any revision dates shall be shown on the drawings and schematics. The purpose of each revision shall be shown on the drawing or schematic or attachments thereto.

(2) Drawings may be dimensioned either in metric or English units. However, where non-English words are used on such drawings, the foreign language call-outs on drawings shall be translated either directly on the drawings or on overlays. Drafting symbols not specified by American National Standards Institute standard drafting practices ANSI Y14.5 (1973) "Dimensioning and Tolerancing of Engineering Drawings", shall be interpreted in the English language.

(b) A plan for quality assurance which meets the minimum requirements set forth in Subpart E of this part. The quality assurance plan shall be submitted in triplicate.

(c) A statement that the personal noise dosimeter set has been pretested by the applicant as prescribed in § 81.52, a description of the test methods employed, and the results of such tests together with a statement that, based on the test results, the personal noise dosimeter set meets the applicable requirements of this part.

(d) A statement that the personal noise dosimeter set submitted is either (1) a prototype, or (2) made on regular production tooling, with only those materials, operations, tests, inspections, or calibrations included which will be incorporated in regular production processing.

(e) A sketch or description of the proposed location of the certification seal required by the Institute.

(f) A plot of the nominal free field relative response level of the personal noise dosimeter, at any single angle specified by the applicant, versus frequency. The frequency range shall be at least from 63 Hz to 8000 Hz and the specified angle shall be no greater than 90° relative to the forward axis of symmetry of the microphone. This angle shall be chosen so that the response approximates random-incidence response. At low frequencies where the wavelength of the sound is at least ten times the maximum linear dimension of the microphone, a pressure calibration may be used. The applicant shall also indicate on this plot the manufacturer's tolerances which must be satisfied to ensure that the personal noise dosimeter set complies with the requirements of paragraphs (a) and (b) of § 81.63. If the personal noise dosimeter set for which certification is sought is provided with several optional microphone configurations, then similar plots shall be provided for each optional microphone configuration.

§ 81.12 Delivery of test material by applicant.

(a) Each applicant will, when an application is filed pursuant to § 81.10, be advised by the Institute of the total number of personal noise dosimeters, readouts (if separate devices), acoustical calibrators, instruction manuals, and accessories required for the testing and certification of the set.

(b) The applicant shall deliver, at its own expense, the test material specified in paragraph (a) of this section to the Testing and Certification Branch within 90 days after being advised of the required test material.

§ 81.13 Withdrawal of application.

Any applicant may, upon written request submitted to the Institute, withdraw any application for certification or modification of certificate for a personal noise dosimeter set. Settlement of fees shall be in accordance with § 81.22.

§ 81.14 Public record.

After the testing of a personal noise dosimeter set pursuant to application filed under this part, the application and matters relating to the personal noise dosimeter set, including all test results, shall be public records and available for public inspection. However, any information which is designated by the applicant as a trade secret will be held confidential, provided that the applicant demonstrates to the Institute, upon request, that the information is a trade secret.

§ 81.15 Material required for record.

(a) One completely assembled personal noise dosimeter set certified under the provisions of this part may be retained without cost by the Institute as a record of the performance investigation. Material not required for the record will be return to the applicant at the applicant's expense, upon written request within 30 days after certification. If a request is not made, the test material will be disposed of by the Institute in an appropriate manner.

(b) If a personal noise dosimeter set fails to meet the requirements for certification set forth in this part, or if an application for certification or for modification of certificate is withdrawn, all test material delivered by the applicant in accordance with § 81.12 will be returned to the applicant at the applicant's expense, upon written request to the Institute within 30 days after notice of denial of certification or withdrawal of application. If a request is not made, the test material will be disposed of by the Institute in an appropriate manner.

Subpart C—Fees and Deposits

§ 81.20 Fees.

(a) The Institute will charge a maximum fee of $700 for the examination, inspection, and testing for certification of a personal noise dosimeter set with the normal microphone configuration. An additional maximum fee of $200 will be charged for each alternate acoustical calibrator submitted as part of a personal noise dosimeter set. These fees shall be submitted as part of an application for certification as prescribed in § 81.10(b).

(b) The fees stipulated in paragraph (a) of this section are based upon estimated man-hours necessary to complete certification. Upon completion of all examinations, inspections, and testing for certification of personal noise dosimeter sets submitted under this section, the Institute will compute the total man-hours expended by the Institute staff. If the total expenditure, computed at the rate of $50 per man-day, is less than the amount submitted under § 81.20(a), the balance will be refunded to the applicant.

§ 81.21 Deposits.

(a) An applicant shall submit a deposit of $700 to the Institute under the following circumstances:

(1) Upon applying for the certification of personal noise dosimeter sets with microphone configurations other than the normal microphone configuration, or with several optional microphone configurations.

(2) Upon applying for examination, inspection, and testing of a prototype.

(3) Upon submitting a personal noise dosimeter set made on regular production tooling subsequent to testing as a prototype.

(4) Upon applying for retesting of a personal noise dosimeter set subsequent to denial of certification.

(b) The following deposits shall be submitted to the Institute for examination, inspection, and testing of component parts leading to a modification of certificate:

	Dollars
(1) Personal noise dosimeter	450
(2) Readout (if separate from personal noise dosimeter)	300
(3) Acoustical calibrator	200
(4) Instruction manual	50

(c) Deposits stipulated in paragraphs (a) and (b) of this section shall be submitted as part of the application for certification as prescribed in § 81.10(b) and will be credited by the Institute toward actual certification costs based upon a fee computation rate of $50 per man-day expended by the Institute staff. Only upon mutual consent of the applicant and the Institute will testing proceed beyond that point at which the deposit submitted under this section will have been depleted based on the fee computation rate.

(d) Upon completion of all examinations, inspections, and tests of personal noise dosimeter sets or component parts, submitted under § 81.21, the Institute will compute the total fee using the computation rate in § 81.21(c). The Institute will then advise the applicant in writing of the total cost assessed and the additional amount, if any, which shall be paid to the Institute prior to the issuance of the certificate or other action by the Institute. If the total cost is less than the deposit, the Institute will refund the overpayment upon issuance of the certificate, modification of certificate, prototype testing results, or notice that the set or component fails to comply with the applicable requirements of this part.

§ 81.22 Settlement of fees upon withdrawal of application.

Upon receipt of a written request for the withdrawal of an application, the Institute will determine the total man-days expended and the amount due for services already performed during the course of any examinations, inspections, or tests conducted pursuant to such application. The total amount due shall be computed at a rate of $50 per man-day expended by the Institute staff and assessed against the deposits or fees submitted by the applicant. The Institute will then refund or request payment as appropriate.

Subpart D—Certification and Denial of Certification

§ 81.30 Issuance of certificates.

(a) The Institute will issue certificates pursuant to the provisions of this subpart, only for individual, completely assembled personal noise dosimeter sets which have been examined, inspected, and tested and which meet the requirements set forth in this part.

(b) The Institute will not issue certificates for any component part.

(c) The Institute will not issue informal certificates. However, if the application submitted in accordance with § 81.11 states that the submitted personal noise dosimeter set is a prototype, the Institute will examine, inspect, and test the prototype in accordance with the provisions of this part. Upon completion of such examinations, inspections, and tests, the Institute will inform the applicant, in writing, of the results of the examinations, inspections, and tests. If it is found that the prototype meets the minimum requirements set forth in this part, the Institute will then require the applicant to submit personal noise dosimeter sets made on regular production tooling, with only those materials, operations, tests, inspections, or calibrations included which will be incorporated in regular production processing, for further examination, inspection and testing, prior to issuance of a certificate.

(d) Applicants required to submit personal noise dosimeter sets made on regular production tooling, subsequent to testing as a prototype, shall be charged additional fees in accordance with § 81.21.

§ 81.31 Certificate contents.

Every certificate issued under this part will:

(a) Contain a description of the personal noise dosimeter set for which it is issued.

(b) Specifically set forth any restrictions or limitations on the use of the personal noise dosimeter set in workplaces.

(c) Be accompanied by indices of drawings, schematics, and specifications submitted by the applicant in accordance with § 81.11. These listed drawings, schematics, and specifications shall be incorporated by reference in the certificate and shall be maintained by the applicant. The drawings, schematics, and specifications listed in each certificate shall set forth in detail the design and construction requirements which shall be met by the applicant in producing the personal noise dosimeter set commercially.

(d) Be accompanied by a fullscale reproduction of the certification seal design as provided in § 81.33.

(e) Incorporate by reference the approved quality assurance plan as specified in Subpart E.

§ 81.32 Denial of certification.

(a) If, based upon examinations, inspections, and tests required to be conducted in accordance with the provisions of this part, it is found that the personal noise dosimeter set does not meet the minimum requirements set forth in this part, the Institute will issue a written notice so advising the applicant.

(b) Each such notice will be accompanied by all pertinent data or findings regarding the observed deficiencies in performance of the personal noise dosimeter set for which certification was sought, with a view to possible correction of such deficiencies.

(c) If, after receiving a notice of denial of certification, the applicant corrects the deficiencies, the applicant may submit the personal noise dosimeter set for retesting. Application for retesting shall be made as specified by Subpart B of this part. Deposits and fee computation shall be in accordance with § 81.21.

§ 81.33 Certification seals.

(a) Each certified personal noise dosimeter set shall be marked with the appropriate certification seal designed by the Institute. The seal shall appear on the personal noise dosimeter, readout (if a separate device), acoustical calibrator(s), and instruction manual(s) of the set and shall bear the applicant's name, the Institute's name, the seal of the Department of Health, Education, and Welfare, and a certification number consisting of the letters TC, followed by the numeral 81, and a certificate number (e.g. TC–81–197).

(b) The seal required in paragraph (a) of this section shall be applied in a permanent manner such that it cannot be readily defaced or removed without leaving evidence of its presence. The seal shall not in any way interfere with the operation of the personal noise dosimeter set.

(c) The Institute will, where necessary, notify the applicant when modification or addition of seals, labels, markings, or instructions is required.

(d) Certification seals shall be used only by the applicant to whom they were issued and shall be applied only to those devices that have been constructed in accordance with the specifications of the certified device and produced in accordance with the applicable quality assurance plan approved by NIOSH.

(e) Use of the Institute's certification seals obligates the applicant to whom they are issued to maintain or cause to be maintained the approved quality assurance sampling schedule and the acceptable quality level for each characteristic tested, and to assure that the certified personal noise dosimeter set is manufactured according to the drawings and specifications upon which the certificate is based.

(f) Each certificated personal noise dosimeter, readout (if a separate device), and acoustical calibrator(s) shall also be labeled to show the lot number, serial number, or approximate date of manufacture.

§ 81.34 Withdrawal of certification.

(a) The Institute may, after affording the certificate holder reasonable notice in writing and an opportunity to present its views or evidence, withdraw, for cause, any certificate which the Institute has issued under the provisions of this part. Such causes for withdrawal include, but are not limited to, misuse of certification markings, misleading advertising, and failure to maintain or cause to be maintained the quality assurance requirements of the certificate.

(1) The views and evidence of the holder of the certificate shall be presented in writing unless the Institute determines that an oral presentation is desirable.

(2) Such views and evidence shall be confined to matters relevant to whether cause exists for the withdrawal of the certificate.

(b) Upon receipt of the Institute's written notice of intent to withdraw certification, the applicant shall cease to manufacture, market, or distribute for sale personal noise dosimeter sets bearing the certification seal for which notice of intent to withdraw certification has been given.

§ 81.35 Changes after certification.

Prior to changing any feature of a certified personal noise dosimeter set or of a component thereof, the applicant shall obtain the certification of the modified set from the Institute pursuant to the following procedures:

(a) Application may be made at any time as for an original certificate as specified by Subpart B of this part. The application shall request that the existing certificate be extended to encompass the proposed change.

(b) The application and accompanying material will be examined by the Institute to determine whether testing of the modified personal noise dosimeter set will be required. The Institute will inform the applicant whether such testing is required and, if so, when the modified device may be submitted for testing.

(c) The fees charged by the Institute for examination, inspection, and testing leading to a modification of the certificate shall be as specified by § 81.21 (b), (c), and (d).

(d) If the proposed modification meets the requirements of this part, a modified certificate will be issued, accompanied where necessary by a list of new and revised drawings, schematics, and specifications covering the change(s) and any revised certification markings.

Subpart E—Quality Assurance Plans

§ 81.40 Filing requirements.

A quality assurance plan, written in the English language, shall be filed by the applicant as a part of each application submitted pursuant to § 81.10. The plan shall be designed to assure the accuracy of accumulated noise dose measurement provided by the personal noise dosimeter set for which certification is sought.

§ 81.41 Contents of plans.

(a) Each quality assurance plan shall contain provisions for the management of quality, including: (1) requirements for the production of quality data and the use of quality assurance records; (2) control of engineering drawings, documentations, and changes; (3) control and calibration of measuring and test equipment; (4) control of purchased material to include incoming inspection; (5) lot identification, control of processes, manufacturing, fabrication and assembly work conducted in the applicant's plant; (6) audit of final inspection of the completed product; and (7) the organizational structure necessary to carry out these provisions.

(b) Each provision for incoming and final inspection in the quality assurance plan shall include a procedure for the selection of a sample of personal noise dosimeters, readouts (if a separate device), acoustical calibrators, and the components thereof for testing and/or inspection, in accordance with procedures set forth in MIL–STD–105D, "Sampling Procedures and Tables for Inspection by Attributes," or MIL–STD–414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective," or an approved equivalent sampling procedure, or an approved combination of sampling procedures.

(c) The sampling procedure shall include a list of the characteristics to be tested and/or inspected by the applicant or its agent.

(d) The characteristics listed in accordance with paragraph (c) of this section shall be classified according to the potential effect of such defect and grouped into the following classes:

(1) *Major.* A defect that is likely to result in reduced performance; and

(2) *Minor.* A defect that (i) is not likely to reduce the usability of the personal noise dosimeter set for its intended purpose, or (ii) is a departure from established manufacturer's specifications and has little bearing or the effective use of the personal noise dosimeter set.

(e) The quality assurance inspection test method to be used by the applicant or its agent for each characteristic required to be tested and/or inspected shall be described in detail.

(f) Each complete personal noise dosimeter set manufactured shall be 100 percent inspected for specific major defects to be selected by the manufacturer and all defective items shall be rejected.

(g) The Acceptable Quality Level (AQL) for each major or minor defect so classified by the applicant shall be:

	Percent
(1) Major	0.65
(2) Minor	2.5

(h) Inspection level II as described in MIL–STD–105D, or inspection level IV as described in MIL–STD–414, shall be used for major and minor characteristics except that 100 percent inspection shall be used for specific major characteristics selected by the manufacturer.

§ 81.42 Approval of plans.

(a) Each quality assurance plan submitted in accordance with this subpart will be reviewed by the Institute to determine its effectiveness in insuring the quality of performance of the personal noise dosimeter set for which a certificate or modification of certificate is sought.

(b) If the Institute determines that the quality assurance plan submitted by the applicant will not insure adequate quality assurance, the Institute will require the applicant to modify the procedures and testing requirements of the plan prior to approval of the plan and issuance of any certificate.

(c) Approved quality assurance plans shall constitute a part of and be considered incorporated into any certificate or modification of certificate issued by the Institute, and compliance with such plans by the applicant shall be a condition of certification.

§ 81.43 Maintenance and review of records.

(a) The applicant shall maintain quality assurance inspection records sufficient to carry out the procedures required in MIL–STD–105D or MIL–STD–414, or an approved equivalent sampling procedure, for each batch or lot, for not less than 4 years following acceptance or rejection of the batch or lot.

(b) The Institute shall have the right, at reasonable times, to have its representatives enter the applicant's facilities to survey the applicant's quality assurance system, inspection and test methods, equipment, and records. The representatives may interview any of the applicant's employees or agents concerned with the quality assurance program regarding the quality assurance system and equipment.

Subpart F—General Construction and Test Requirements

§ 81.50 General construction requirements.

(a) Personal noise dosimeter sets will not be accepted by the Institute for examination, inspection, and testing unless they are designed on sound engineering and scientific principles, constructed of suitable materials, and evidence good workmanship.

(b) Any personal noise dosimeter set certified by the Institute for use in mines where "permissibility" is required shall meet the requirements for electric permissibility and intrinsic safety set forth in Part 18 of Title 30 CFR (Bureau of Mines Schedule 2G)—as tested and approved by the Mining Enforcement and Safety Administration.

(c) The personal noise dosimeter set shall be designed so that it is unlikely that either accidentally or inadvertently the dosimeter can be turned off during normal use or turned on while being transported or the accumulated noise dose can be erased before being read.

§ 81.51 Minimum construction requirements for component parts.

The component parts of each personal noise dosimeter set shall be: (a) Designed and constructed to insure against creation of any hazard to the user.

(b) Assembled in a manner which permits access for inspection and repair of functional parts and which permits easy access to parts requiring periodic maintenance.

§ 81.52 Pretesting by applicant.

(a) Prior to filing any application for certification or modificaiton of a certificate, the applicant shall conduct sufficient tests and evaluations which in the judgment of the applicant would verify that the personal noise dosimeter set meets the performance requirements of this part.

(b) The Institute may, upon written request by the applicant, provide drawings and descriptions of its test equipment and otherwise render technical assistance to the applicant in establishing a test laboratory or securing the services of a testing agency.

§ 81.53 Assistance by applicant.

(a) The Institute may require the assistance of the applicant or agents of the applicant during the assembly, disassembly, preparation or operation of any personal noise dosimeter set prior to or during testing.

(b) The applicant shall specify a procedure for rapid readout of indicated noise level. This procedure shall be based on electrical measurements made at the storage device input. The time period permitted for determining the noise level shall be in accordance with the following table:

Maximum Time Period Permitted for Determination of Noise Level	*Indicated Noise Level (dB (A, Slow))*
4 minutes	85–89.9
2 minutes	90–94.9
1 minute	95–99.9
30 seconds	100–104.9
15 seconds	105–115

The applicant may assume that the following instruments are available at the Testing and Certification Branch for this purpose: an oscilloscope, a time/counter capable of measuring pulse intervals, a microamp-to-volt converter, and a wide range DC voltmeter. If the applicant's procedure requires the use of measurements of pulse interval or charging current, then the applicant shall supply charts or formulas for converting those measurements to indicated noise level.

(c) It shall be possible to rapidly detect a signal dropout caused by intermittent failure of the microphone cable or its connections. The applicant shall specify a procedure to permit detection of such a signal dropout.

(d) The applicant may describe a suggested procedure for applying an external signal across a resistor inserted in series with the microphone (or equivalent electrical impedance) for electrical testing as required in § 81.63. The applicant shall provide any special fittings that may be necessary to perform the prescribed tests on a production or prototype model personal noise dosimeter.

§ 81.54 Observers and public demonstrations.

(a) Only Institute personnal, persons assisting the Institute pursuant to paragraph (a) of § 81.53 and such other persons as are requested by the Institute or the applicant to be observers, may be present during any examination, inspection, or test conducted prior to the issuance of a certificate by the Institute for the equipment under consideration.

(b) Following the issuance of a certificate for a personal noise dosimeter set, the Institute may conduct such public tests and demonstrations of the certified device as are deemed appropriate.

Subpart G—Detailed Certification Requirements and Tests for Personal Noise Dosimeter Sets

§ 81.60 Personal noise dosimeter sets.

Each personal noise dosimeter set shall, as a minimum, have the following features:

(a) The personal noise dosimeter shall be configured to meet the regulatory duration limit requirements specified in this part.

(b) The personal noise dosimeter and readout shall be capable of storing and displaying an accumulated noise dose of at least 2.99 or higher.

(c) The storage device of the personal noise dosimeter shall not automatically reset to zero once the limit of its storing capability has been reached.

(d) If the storage device is electromechanical, it shall have a life-time in excess of 1,000,000 counts.

(e) The readout shall have a resolution of .01 or better.

(f) The personal noise dosimeter shall be battery operated.

(g) Those portions of the personal noise dosimeter set that are battery operated shall have battery condition indicators which indicate the battery condition under normal load. An indicator shall not give a positive indication unless sufficient battery reserve is present for proper operation (i.e., operation within the performance requirements of this part).

(h) It shall either be impossible to apply battery power in a reverse polarity condition, or if such incorrect connection is possible, it shall not damage any component part of the personal noise dosimeter set.

(i) The personal noise dosimeter shall have a cylindrical microphone attached to an electrical cable and separate from the rest of the personal noise dosimeter.

(j) The microphone cable shall be at least 70 cm (27.5 inches) long.

(k) If it is not possible to turn off the accumulating function of the personal noise dosimeter without erasing or destroying the accumulated noise dose, then either the readout shall be part of the personal noise dosimeter or the readout device shall meet the following requirements of portability:

(1) The readout device shall weigh less than 4 kg (8.8 lb.),

(2) Shall be battery operated, and

(3) Shall not occupy more than 8000 cm^3 (488 $in.^3$).

(l) It shall be possible to perform an acoustical calibration check of the personal noise dosimeter during normal field use.

(m) The personal noise dosimeter set shall contain a compartible acoustical calibrator of the coupler type.

(n) The personal noise dosimeter set shall contain an instruction manual(s) detailing the operation, proper use, and limitations of the personal noise dosimeter set.

(o) The personal noise dosimeter shall have a holding upper limit indicating device which shall be triggered by levels greater than 115 dB (A, Slow).

§ 81.61 Personal noise dosimeter set instruction manuals.

(a) A personal noise dosimeter set submitted to the Institute for certification shall contain an instruction manual which meets the requirements of this section. Separate instruction manuals for the component parts of a personal noise dosimeter set will be considered as one manual for purposes of this section.

(b) The instruction manual submitted for certification as part of a personal noise dosimeter set shall, at a minimum, contain the following information:

(1) A general description of the personal noise dosimeter set, including its construction and principles of operation.

(2) Operating instructions describing the steps to follow for proper use of the personal noise dosimeter set, including precautions that are necessary to prevent accidental erasure of accumulated noise dose measurements and a discussion of the proper placement of the microphone.

(3) The formulas upon which the accumulated noise dose is based, the maximum dose that may be accumulated by the set, the range of sound levels the set is intended to measure, and a discussion of the decibel and reference sound pressure.

(4) The effect of A-weighted, "SLOW" response on noise dose measurements, including the types of noise for which the dosimeter is inappropriate as a monitoring instrument (e.g., impulse noise).

(5) Microphone characteristics, including the microphone type (piezoelectric, condenser, electret ,etc.), and the maximum sound pressure level to which the personal noise dosimeter may be exposed without damage.

(6) What calibration checks are to be performed to confirm the accuracy of the personal noise dosimeter, and the steps to be taken should the personal noise dosimeter fail to perform properly in the calibration check. If the acoustical calibrator used to check the accuracy of the personal noise dosimeter generates tones at multiple frequencies or multiple sound pressure levels, then the preferred calibration frequency and sound pressure level shall be stated. If sensitivity adjustment is provided, the adjustment procedure shall also be described.

(7) A description of any periodic maintenance that is expected to be performed by the user to maintain the effectiveness of the personal noise dosimeter set.

(8) The type of battery(ies) necessary for the proper operation of those portions of the personal noise dosimeter set which are battery operated, the battery check procedure, the expected battery life, and a statement on the validity or invalidity of an accumulated noise dose if the bat-

tery indicator of the personal noise dosimeter indicates an unacceptable battery condition at the end of a dose measurement period but indicated an acceptable battery condition at the beginning of the dose measurement period.

(9) The type of signal output available and permissible load impedance if the personal noise dosimeter is equipped with output connections for use with equipment other than the readout.

(10) The effects of temperature on the personal noise dosimeter, including overall accuracy and battery life, in at least the temperature range of −10° C to 50° C. Also listed shall be the temperatures beyond which permanent damage may occur to the personal noise dosimeter set.

(11) The operational humidity range of the personal noise dosimeter and the limits of relative humidity beyond which permanent damage to the personal noise dosimeter set may occur.

(12) A discussion of the effects of magnetic fields, variation in the barometric pressure (i.e., effect of altitude), vibration, and other environmental factors on the personal noise dosimeter set.

(13) A statement as to the height from which the personal noise dosimeter (less microphone) can be dropped to meet the requirements of § 81.63(o).

(14) The effect of variations in the atmospheric pressure on the acoustical calibrator and the personal noise dosimeter and corrections, if any, necessary to compensate for these variations.

(15) A listing of the microphone configurations of the personal noise dosimeter which have been certified under this part. The manual shall also state if some alternate microphone configurations have not been certified.

(16) The date of the most recent revision of the instruction manual.

(17) A discussion of the accuracy of measurements taken with the personal noise dosimeter.

§ 81.62 Acoustical calibrators.

(a) Each acoustical calibrator intended for use as part of a personal noise dosimeter set shall be of the pure-tone, coupler type and be compatible with the personal noise dosimeter with which it is to be certified as a set.

(b) The acoustical calibrator shall generate at least one tone in the frequency range 200–1250 Hz, preferably at 1000 Hz. The frequency of each tone shall be marked on the acoustical calibrator and shall have an accuracy within ±5 percent of the nominal frequency stated by the applicant. If the acoustical calibrator operates at more than one frequency, means shall be provided to indicate which frequency is in use.

(c) If the acoustical calibrator operates at more than one sound pressure level, means shall be provided to indicate which sound pressure level is in use. The accuracy of the calibration sound pressure level of the acoustical calibrator shall be within ±1 dB, utilizing any corrections for atmospheric pressure specified by the instruction manual. In the case of multiple level acoustical calibrators, at least the preferred sound pressure level shall be tested.

(d) If the acoustical calibrator is battery operated, means shall be provided to indicate whether battery voltage is adequate to maintain the performance specified for the acoustical calibrator. The requirements described in paragraphs (b) and (c) of this section shall be tested under minimally adequate battery voltage (i.e., the minimum battery voltage necessary to ensure adequate operation).

(e) The tests of frequency and sound pressure level shall be made with a compatible microphone whose calibration has been transferred from a laboratory standard microphone calibrated by the reciprocity technique described in ANSI S1.10–1966, "Method For the Calibration of Microphones."

(f) If the output of an acoustical calibrator is controlled by a timing device, the accuracy of that timing device shall be within ±5 percent of the time period indicated. If more than one time period may be chosen, means shall be provided to indicate which time period is in use.

(g) If the acoustical calibrator operates at multiple sound pressure levels, frequencies, or time periods, then the preferred sound pressure level, frequency, and time period, if any, shall be specified by the applicant for use in calibrating the personal noise dosimeter for testing for compliance with the requirements of § 81.63.

§ 81.63 Personal noise dosimeters.

Each personal noise dosimeter submitted for certification shall meet the following requirements and tests:

(a) The accuracy of the A-weighted frequency response of the personal noise dosimeter shall lie within the tolerance limits specified in Table 1 of this section. The relative response level is given at discrete frequencies in Table 1 but the desired response shall correspond to a smooth curve passing through the particular frequencies. The free field relative response level shall be determined with sufficient accuracy and number of frequencies to establish that the random-incidence response level (as determined by the method detailed in Appendix A of ANSI S1.4–1971 "Specification For Sound Level Meters") of the personal noise dosimeter meets the required frequency response characteristics and total tolerance limits as specified in Table 1. Testing shall be performed in an anechoic chamber with no observer present in the chamber. Tests to determine that the personal noise dosimeter meets acoustic low frequency response tolerances will be performed using a low frequency calibration chamber.

TABLE 1.—*Random-incidence relative response level and total tolerance limits as a function of frequency*

Frequency (hertz)	A-weighting relative response (decibel)	Tolerance limit (decibel)
63	−26.2	±3.0
80	−22.5	±3.0
100	−19.1	±2.5
125	−16.1	±2.5
160	−13.4	±2.5
200	−10.9	±2.5
250	−8.6	±2.5
315	−6.6	±2.0
400	−4.8	±2.0
500	−3.2	±2.0
630	−1.9	±2.0
800	−0.8	±1.5
1000	0	±2.0
1250	+0.6	±2.0
1600	+1.0	±2.5
2000	+1.2	±3.0
2500	+1.3	+4.0, −3.5
3150	+1.2	+5.0, −4.0
4000	+1.0	+5.5, −4.5
5000	+0.5	+6.0, −5.0
6300	−0.1	+6.5, −5.5
8000	−1.1	+6.5, −6.5

(b) Supplementary diffuse field or free-field tests as well as pure tone testing in an acoustic coupler cavity will be performed by the Testing and Certification Branch as required to verify overall random incidence response tolerance limits at noise levels selected by the Institute up to 115 dB(A, Slow). The frequency weighting of the personal noise dosimeter shall also be checked against the applicant-provided plot and manufacturer's tolerances supplied in accordance with § 81.11(f). The tests specified in paragraphs (a) and (b) of this section shall be performed after the personal noise dosimeter has been subjected to any sensitivity adjustment prescribed by the instruction manual for normal use.

(c) The cutoff level of the personal noise dosimeter shall be tested as follows:

A sinusoidal signal shall be presented so as to produce an indicated level of 90 dB(A, Slow), as determined by rapid readout of the indicated noise level. The input signal shall then be reduced by 4.0 decibels. The dose accumulating rate, as determined by rapid readout, at this reduced level shall be such that the personal noise dosimeter would accumulate a dose of 0.50 or greater in 8 hours. The input signal shall then be reduced by an additional 2.0 decibels. The dose accumulating rate, as determined by rapid readout, at this further reduced level shall be such that the personal noise dosimeter would accumulate a dose of 0.10 or less in 8 hours. This test shall be performed at least at the frequency 1000 Hz.

(d) The response of the personal noise dosimeter to a quasi-steady waveform shall be tested as follows:

A 1,000 Hz sinusoidal signal, shifting between a level corresponding to 90 dB(A, Slow) as determined by rapid readout of the indicated noise level and a level which is 10.0 decibels lower, shall be applied across a resistor inserted in series with the acoustically isolated microphone (or equivalent electrical impedance). This 1,000 Hz signal shall be a periodic signal with a 300 ms peri-

od with its amplitude corresponding to a level of 90 dB(A, Slow) for 100 ms and to a level 10.0 decibels lower for a period of 200 ms. This periodic signal shall be applied for a duration of 2 hours. The dose at the end of the 2-hour period, when converted to an indicated level, shall give an indicated level of 86 dB(A, Slow) (±1 dB(A, Slow)).

(e) The rise and decay time of the averaging circuit of the personal noise dosimeter shall be tested as follows:

First, a sinusoidal signal shall be applied across a resistor inserted in series with the acoustically isolated microphone (or equivalent electrical impedance) so as to produce an indicated level of 115 dB(A, Slow) based on the rapid readout procedure. The signal shall be applied for 15 minutes to obtain a reference accumulated noise dose. The readout shall then be reset.

Next, a sinusoidal signal of alternating amplitude shall be applied across the resistor in series with the microphone (or equivalent electrical impedance). The amplitude shall alternate in the following manner: For 1 second, the amplitude shall be such that an indicated level of 115 dB(A, Slow) would be produced if applied continuously; for the next 8 seconds, the amplitude is reduced to a level that would produce an indicated level of 95 dB(A, Slow) if applied continuously. This alternating signal shall be applied for the same duration as the signal used to produce the reference accumulated noise dose (i.e., 15 minutes). The accumulated noise dose so obtained shall be 0.20 to 0.25 times the reference accumulated noise dose obtained previously. This test shall be performed at least at the frequency 1,000 Hz.

(f) The crest factor capacity of the amplifier of the personal noise dosimeter shall be tested simultaneously with that of the square law and averaging circuits as follows:

The steady-state accuracy of the square law and averaging circuits is tested by comparing the indication for tone bursts with that for a reference sine wave signal. A 1,000 Hz sinusoidal signal shall be applied across a resistor inserted in series with the acoustically isolated microphone (or equivalent electrical impedance) so as to produce a reference indicated level of 114 dB(A, Slow) based on the rapid readout procedure. Then a tone burst having a frequency of 1,000 Hz with 5 cycles on, starting and ending at zero crossings, and 17 cycles off shall be applied. (This burst has a crest factor of approximately 3, after passing through an A-weighting network.) Because of the effect of A-weighting on this tone burst, it shall be set to have an rms value 0.1 dB higher than that of the 1,000 Hz sinusoidal signal. The indicated level produced by the tone burst signal shall be within ±1.5 dB(A, Slow) of the reference indicated level produced by the sinusoidal signal. This test shall be repeated for a reference indicated level of 90 dB(A, Slow).

(g) The personal noise dosimeter shall be tested for overload with impulses. The following test will check that the instrument does not give readings higher than normal when driven by a high crest factor signal with a level corresponding to 115 dB(A, Slow):

A 1,000 Hz sinusoidal signal shall be applied across a resistor inserted in series with the acoustically isolated microphone (or equivalent electrical impedance) so as to produce a reference indicated level of 115 dB(A, Slow) based on the rapid readout procedure. Then a continuous tone burst signal consisting of 5 cycles of a 1,000 Hz sine wave signal, starting and ending at zero crossings, and 245 cycles off shall be applied. This tone burst signal shall have an rms value equal to that of the 1,000 Hz sinusoidal signal used to produce the 115 dB(A, Slow) reference indicated level. The indicated level when the tone burst is applied shall be no greater than the reference indicated level.

(h) The computation of the exponential formula of § 81.3(p) by the personal noise dosimeter shall be tested as follows:

A sinusoidal signal shall be presented so as to produce an indicated level of 95 dB (A, Slow) based on the rapid readout procedure. A precision attenuator shall then be used to modify the input signal amplitude by K decibel increments, i.e., $K=5.0$ implies that the input signal has been increased by 5.0 decibels while $K=-3.0$ implies that it has been decreased by 3.0 decibels. The dose accumulating rate at this modified level shall be such that the personal noise dosimeter would accumulate a 1.00 dose in a time "t" which satisfies the following tolerance limits:

$$0.871 \leq t \cdot \frac{2^{(K/5)}}{4} \leq 1.149$$

Determination of the requirement shall be based on dose accumulation rate measurements made at the storage device input. The above tolerances shall be satisfied for all values of K in the range $-8.0 \leq K \leq 21.0$. This test shall be performed at least at the frequencies of 63 Hz, 1,000 Hz, and 6,300 Hz.

(i) The personal noise dosimeter shall indicate that an input signal of over 115 dB(A, Slow) is at least 115 dB(A, Slow) and not less. This shall be confirmed as follows:

A sinusoidal signal shall be presented to the personal noise dosimeter so as to produce an indicated level of 115 dB(A, Slow) as determined by the rapid readout procedure. The signal shall be increased in 1.0 decibel increments and the indicated level produced noted up to a total increase in signal strength of 5.0 decibels. This test shall be performed at least at the frequency of 1,000 Hz.

(j) The holding upper limit indicator of the personal noise dosimeter shall be tested as follows:

A 1,000 Hz sinusoidal signal shall be applied across a resistor inserted in series with the acoustically isolated microphone (or an equivalent electrical impedance) so as to produce an indicated level of 115 dB(A, Slow) based on the rapid readout procedure. The holding upper limit indicator shall not trigger. The input signal shall then be increased by 2.0 decibels and then reapplied. The indicator shall trigger within 2 seconds after signal application.

(k) The personal noise dosimeter shall use an accurate integration scheme such that the following accuracy of integration can be achieved:

If a 114 dB(A, Slow), 1,000 Hz tone is applied to the personal noise dosimeter for a one-minute period, it shall be possible to multiply the accumulated noise dose so obtained by 15.0 and have the resultant calculated noise dose be within ±0.05 of the accumulated noise dose that occurs when the same input is applied to the personal noise dosimeter for 15 minutes. That is:

$$15.0 \times D_1 = D_{15} \pm 0.05$$

where: D_1 = accumulated noise dose after 1 minute.
D_{15} = accumulated noise dose after 15 minutes.

(l) The personal noise dosimeter battery life shall be at least 16 hours when tested in the following manner:

A 1,000 Hz sinusoidal tone shall be applied so as to produce an indicated level of 100 dB(A, Slow) as determined by the rapid readout procedure. The same input shall then be applied for 16 hours; after 16 hours, the indicated level shall be a more than 0.5 dB(A Slow) different from the indicated level at the beginning of the test. The test shall be performed in two successive 8-hour periods. During each 8-hour period, the storage device will be reset to zero at 4-hour intervals. The personal noise dosimeter shall be turned off in the interval between test periods.

(m) The accuracy of the personal noise dosimeter under minimally adequate battery voltage (i.e. the lowest voltage at which the battery indicator of the personal noise dosimeter will indicate acceptable battery condition for proper operation of the personal noise dosimeter) shall be checked as follows:

With normal battery voltage, a sinusoidal signal shall be presented so as to produce a reference indicated level as determined by the rapid readout procedure. Then, with minimally adequate battery voltage, the same signal shall again be applied. The variation in the indicated level shall not exceed ±0.5 dB(A, Slow). If the personal noise dosimeter has more than one battery, the various combinations of minimally adequate battery voltage will be used to perform the above test. The test shall be performed at least at a frequency 1,000 Hz using a reference indicated level of 105 dB(A, Slow). Additional reference levels and frequencies may be selected by the Institute.

(n) If the accumulating function of the personal noise dosimeter may be turned off without erasing or destroying the accumulated noise dose N, then it shall be capable of holding and displaying, with the readout device, the accumulated noise dose for at least 24 hours with no change in the value of the stored accumulated noise dose of more than $0.03 \times N$ for values of $N > 1.00$.

(o) The personal noise dosimeter shall not fail to meet the requirements of this part after being dropped (except for the microphone) 10 times onto a concrete floor from a height specified by the applicant. This requirement shall be met regardless of the personal noise dosimeter orientation on release.

(p) The microphone cable shall remain intact and shall not cause the personal noise dosimeter to fail to meet any of the requirements of this part after being subjected to the following static load test:

A 15-pound weight shall be attached at the approximate midpoint of the cable with the personal noise dosimeter and microphone unit arranged so that approximately 45-degree angles are formed between a horizontal line through the weight attachment

point and the cable leading to the personal noise dosimeter and to the microphone unit. The weight shall be applied for 1 minute.

(q) The personal noise dosimeter shall not fail to meet any requirements of this part after being cycled between −20° C and 60° C with the personal noise dosimeter turned off. The battery(ies) shall be in the personal noise dosimeter during the temperature cycling. The personal noise dosimeter shall be placed in a −20° C environment for 3 hours, removed to room temperature (approximately 20° C) for 1 hour, placed in a 60° C environment for 3 hours, and then removed to room temperature.

(r) The effect of temperature on the electronic circuitry of the personal noise dosimeter during operation shall be tested as follows:

The personal noise dosimeter shall be placed in a temperature controlled chamber at room temperature (approximately 20° C) and a sinusoidal signal between 63 Hz and 8,000 Hz shall be applied across a resistor inserted in series with the microphone so as to produce a reference indicated level of 105 dB(A, Slow) as determined by the rapid readout procedure. The temperature shall then be varied over the range −10° C to 50° C. The indicated level of the personal noise dosimeter shall not deviate more than ±0.5 dB(A, Slow) from the reference indicated level as the temperature is varied over the specified range. The test shall be performed at least at the frequency of 1,000 Hz.

(s) The effect of humidity on the electronic circuitry of the personal noise dosimeter during operation shall be tested as follows:

The personal noise dosimeter shall be placed in a humidity controlled chamber at 40° C (±2° C) and approximately 50 percent relative humidity and a sinusoidal signal between 63 Hz and 8,000 Hz shall be applied across a resistor in series with the acoustically isolated microphone (or equivalent electrical impedance) so as to produce a reference indicated level of 105 dB(A, Slow) as determined by the rapid readout procedure. The humidity shall then be varied over the humidity range specified by the applicant. The indicated level shall not deviate more than ±0.5 dB(A, Slow) from the reference indicated level as the humidity is varied over the specified range. The test shall be performed at least at the frequency of 1,000 Hz.

(t) The personal noise dosimeter shall not be affected by an alternating magnetic field of 80 amp-turns/meter (1 oersted) at the frequencies of 6 Hz and 400 Hz. The personal noise dosimeter, including the microphone, shall be tested in such an environment.

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[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 15]

NONDISCRIMINATION—DIRECT USDA PROGRAMS AND ACTIVITIES

Proposed Prohibition of Age Discrimination

AGENCY: Department of Agriculture.

ACTION: Proposed rule change.

SUMMARY: The Department of Agriculture proposes to amend Subpart B of its rules and regulations governing nondiscrimination in direct USDA programs and activities. This amendment is made in order to bring the Department's nondiscrimination regulations affecting direct assistance in line with the Age Discrimination Act of 1975. The rule change will prohibit discrimination based on age in any direct assistance program or activity administered by the Department.

DATES: Comments must be received on or before January 30, 1978.

ADDRESSES: Comments must be submitted to: James Frazier, Director, Office of Equal Opportunity, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: 202-447-4256.

Comments available for inspection: Office of Equal Opportunity, Program Planning and Evaluation Division, Room 4103, Auditors Building, 201 14th Street SW., Washington, D.C. 20250, Monday-Friday, 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT:

William C. Payne or Raymond C. Small, Program Planning and Evaluation Division, Office of Equal Opportunity, Washington, D.C. 20250, Phone: 202-447-4807.

SUPPLEMENTARY INFORMATION: On November 28, 1975, the Age Discrimination Act was enacted as part of the Older Americans Amendments (Pub. L. 94-135). On January 1, 1979, this law will become effective and will prohibit age discrimination in programs and activities receiving Federal financial assistance. In testimony before the U.S. Commission on Civil Rights on September 27, 1977, the Department informed the Commission that USDA would act upon its own authority in prohibiting age discrimination in USDA direct assistance programs and activities.

It is proposed that Title 7, Part 15, Subpart B, of the Code of Federal Regulations be amended by adding the word "age" after the word "sex" in § 15.51 (a) and (b). It is further proposed that a new subsection (c) be added which sets out certain exemptions corresponding to the exemptions contained in section 304(b) of the Age Discrimination Act. Accordingly, it is proposed that 7 CFR 15.51 be amended to read as follows:

§ 15.51 Discrimination prohibited.

(a) No agency, officer, or employee of the United States Department of Agriculture, shall exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color, religion, sex, age, or national origin under any program or activity administered by such agency, officer, or employee.

(b) No agency, officer, or employee of the Department shall on the ground of race, color, religion, sex, age, or national origin deny to any person in the United States (1) equal access to buildings, facilities, structures, or lands under the control of any agency in this Department and (2) under any program or activity of the Department, equal opportunity for employment, for participation in meetings, demonstrations, training activities or programs, fairs, awards, field days, encampments, for receipt of information disseminated by publication, news, radio and other media, for obtaining contracts, grants, loans, or other financial assistance or for selection to assist in the administration of programs or activities of this Department.

(c) It shall not be a violation of this section if (1) as a matter of policy, age is taken into account as a factor necessary to the normal operation of the achievement of any statutory objective of any program or activity; or (2) the program or activity is established under a law which (i) provides any benefits or assistance to persons based upon the age of such persons, or (ii) establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms.

Dated: December 27, 1977.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc.77-37236 Filed 12-29-77;8:45 am]

[3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

FIRE CURED (TYPE 21), FIRE CURED (TYPES 22-24), DARK AIR CURED (TYPES 35-36), VIRGINIA SUN CURED (TYPE 37), CIGAR BINDER (TYPES 51 AND 52) AND CIGAR FILLER & BINDER (TYPES 42-44; 53-55) TOBACCOS

Proposed Determinations of Marketing Quotas For the 1978-79, 1979-80 and 1980-81 Marketing Years

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture is preparing to determine and announce national marketing quotas for the minor kinds of tobacco for the 1978-79 marketing year. The quotas must be announced by February 1, 1978. Interested persons are invited to submit written comments, views and recommendations concerning the proclamation and announcement of quotas, the referendums to be held, and other related matters.

DATES: Written comments must be received by January 20, 1978 in order to be sure of consideration.

ADDRESSES: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert L. Tarczy, 202-447-7954.

SUPPLEMENTARY INFORMATION: The Agricultural Adjustment Act of 1938, (hereinafter referred to as the "Act"), requires the Secretary (1) with respect to cigar-binder (types 51 and 52) tobacco and cigar filler and binder (types 42–44; 53–55) tobacco to proclaim national marketing quotas for the 1978–79, 1979–80, and 1980–81 marketing years and to conduct, within 30 days after the proclamation of such national marketing quotas, referendums of farmers engaged in the 1977 production of such respective kinds of tobacco to determine whether they favor or oppose marketing quotas for such years; and (2) with respect to fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar-binder (types 51 and 52), and cigar filler and binder (types 42–44 and 53–55) tobacco, to determine and announce the amounts of the national marketing quotas for each of such kinds of tobacco for the 1978–79 marketing year; to convert such marketing quotas into national acreage allotments and announce the allotments; to apportion such allotments, less reserves of not to exceed 1 per centum of each respectively, through the local ASCS county committees among old farms and to apportion the reserve for use in (a) establishing acreage allotments for new farms and (b) making corrections and adjusting inequities in old farm allotments.

Sec. 312(a) of the Act (7 U.S.C. 1312 (a)) requires the Secretary to proclaim marketing quotas, not later than February 1, 1978, for cigar binder (types 51 and 52) tobacco and cigar filler and binder (types 42–44; 53–55) tobacco for the three marketing years beginning October 1, 1978, because the 1977–78 marketing year is the last year of the three consecutive years for which marketing quotas previously proclaimed will be in effect for these kinds of tobacco.

Quotas were previously proclaimed, referendums conducted, and quotas approved by growers as follows: fire-cured and dark air-cured tobacco for the 1976–77, 1977–78, and 1978–79 marketing years (41 FR 4881); Virginia sun-cured tobacco for the 1977–78, 1978–79, and 1979–80 marketing years (42 FR 6819); and cigar binder tobacco (types 51 and 52) and cigar-filler and binder tobacco (types 42–44 and 53–55) for the 1975–76, and 1977–78 marketing years (40 FR 14737).

Section 301(b) (15) of the Act (7 U.S.C. 1301(b) (15)) defines "tobacco" as each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 (Part 30 of this title) of the former Bureau of Agricultural Economics of the Department:

Flue-cured tobacco, comprising types 11, 12, 13 and 14;

Fire-cured tobacco, comprising type 21;

Fire-cured tobacco, comprising types 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55; and

Cigar-filler tobacco, comprising type 41.

Section 301(b)(15) also provides that any one or more of the types comprising any such kind of tobacco shall be treated as a "kind to tobacco" for the purposes of the act if the Secretary finds that there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand. Pursuant to this authority, the Secretary has determined (15 FR 8214) that type 46 tobacco shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Pursuant to such authority, the Secretary has also determined (22 FR 367) that cigar-binder (types 51 and 52) tobacco, beginning with the 1957–58 marketing year, shall be treated as a separate kind of tobacco for purposes of marketing quotas and price supports. Type 45 tobacco is no longer grown. No further action under this section is contemplated at this time.

Section 312(b) of the Act (7 U.S.C. 1312(b)) provides that the Secretary shall determine and announce, not later than the first day of February 1978 with respect to kinds other than flue-cured tobacco, the amount of the national marketing quota which will be in effect for the 1978–79 marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of each kind of tobacco equal to the reserve supply level. Section 312(b) of the act provides further that the amount of the 1978–79 national marketing quota so announced may, not later than March 1, 1978, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level.

Sec. 301(b) of the act (7 U.S.C. 1301 (b)) defines the "total supply" of any kind of tobacco (except type 46) for any marketing year as the carry-over at the beginning of the marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production in the United States during the calendar year in which such marketing begins. "Reserve supply level" is defined as the normal supply plus 5 per centum thereof. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports. A "normal year's domestic consumption" is defined as the yearly average quantity produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for curent trends in such consumption. A "normal year's" exports is defined as the yearly average quantity produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

Sec. 312(c) of the act (7 U.S.C. 1312 (c)) requires that within 30 days after a national marketing quota is proclaimed under § 312(a) of the act for a kind of tobacco, the Secretary shall conduct a referendum of farmers engaged in the production of the crop of such kind of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to quotas for the next three succeeding marketing years. If more than one-third of the farmers voting in a referendum for a kind of tobacco oppose the quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no way affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in § 312, of a national marketing quota.

Sec. 313(g) of the Act (7 U.S.C. 1313 (g)) authorizes the Secretary to convert the national marketing quota into a national acreage allotment on the basis of the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed and to apportion the national acreage allotment (less a reserve of not to exceed 1 per centum thereof for new farms and for making corrections and adjusting inequities in old farm allotments) among old farms.

PROPOSED RULE

The Secretary is preparing to determine and announce for the 1978–79 marketing year for the minor kinds of tobacco:

1. The amount of the reserve supply level for fire-cured (type 21), fire-cured (types 22–24), dark air-cured, Virginia sun-cured, cigar binder (types 51 and 52) and cigar filler and binder (types 42–44 and 53–55) tobaccos.

2. The amount of the national marketing quota for each of these kinds of tobacco for the 1978–79 marketing year.

3. The national factors for apportioning national acreage allotments to old farms.

4. The amounts of the national acreage allotments to be reserved for new farms and for making corrections and adjusting inequities in old farm allotments.

5. The date(s) or period(s) of the referendums on quotas for the 1978–79, 1979–80, and 1980–81 marketing year for cigar binder (types 51 and 52) tobacco and cigar filler and binder (types 42–44; 53–55) tobacco, and whether the referendums should be conducted at polling places rather than by mail ballot (31 FR 12011).

Prior to making any determination, the Department will give consideration to comments, views, and recommendations submitted in writing to the Director, Price Support and Loan Division. All written submissions made pursuant to the notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741 South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C. on December 22, 1977.

STEWART N. SMITH,
Associate Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.77-36993 Filed 12-29-77;8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 9]

FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed amendment.

SUMMARY: The proposed amendment would rescind certain reporting requirements of the Comptroller of the Currency so as not to duplicate new reporting requirements issued by the SEC covering essentially the same subject matter. This proposed amendment would rescind 12 CFR §§ 9.101, 9.102, 9.103 and 9.104.

DATES: Written comments must be received on or before February 28, 1978.

ADDRESSES: Comments should be addressed to Mr. Dean E. Miller, Deputy Comptroller for Trust Operations, Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Mr. Dean E. Miller, Deputy Comptroller for Trust Operations, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., Washington, D.C. 20219, 202-447-1731.

SUPPLEMENTARY INFORMATION: Currently this Office requires national banks which hold in their trust departments equity securities having a market value of $75,000,000 or more to file two reports relating to those securities.

The first report is an annual report of holdings, as of December 31 of the previous year, listing all issues of which the bank holds 10,000 shares or more or which have a market value of $500,000 or more. The second report is a quarterly report of transactions. Each affected bank must file a report of all transactions in equity securities in excess of 10,000 shares or having a market value of $500,000 or more. These requirements apply only to national banks, as other agencies have not adopted similar reporting systems.

Under section 13(f) of the Securities Exchange Act, as adopted in 1975, the SEC now has authority to require somewhat similar reports from all institutional investors. That section also requires agencies having similar reports to take steps to ensure that unnecessary duplication and reporting burdens are not imposed. Earlier this year, the SEC published a proposed reporting system for comment, which has not yet been finalized. (FEDERAL REGISTER Vol. 42 No. 61, page 16831 (Release Number 34-13396) March 30, 1977.) It appears that this reporting system will fall somewhat short of the system required of national banks, yet will have a moderate degree of compatability.

The principal difference between what our reports provide and what the SEC material will reveal relates to the transactional reports.

The SEC does not propose to obtain this data. According to Commissioner Loomis, the SEC views these reports as being of marginal value. In commenting, please give particular attention to the differences in the treatment of transactional data between the Comptroller's rule and the proposed SEC rules under section 13(f) of the Securities Exchange Act.

DRAFTING INFORMATION: The principal drafter of this document was Ms. Jessica J. Josephson, Staff Attorney, Legal Advisory Services Division.

PROPOSED AMENDMENT

Accordingly, the Comptroller proposes to amend 12 CFR Part 9 by rescinding §§ 9.101, 9.102, 9.103, and 9.104.

Dated: November 29, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-37239 Filed 12-29-77;8:45 am]

[4830-01]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Requirements Relating to Certain Exchanges Involving a Foreign Corporation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this FEDERAL REGISTER, the Internal Revenue Service is issuing a temporary income tax regulation relating to requirements relating to certain exchanges involving a foreign corporation. The temporary regulation also serves as a notice of proposed rulemaking for final income tax regulations.

DATES: The temporary regulations apply generally to exchanges beginning on or after January 1, 1978, but also apply to certain other transfers which begin earlier. The regulations are prescribed primarily under changes to the applicable tax law which were made by the Tax Reform Act of 1976. The proposed regulations are to be effective for the same period. Written comments and requests for public hearing must be delivered or mailed by February 28, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue Service, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Katherine A. Newell of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3478.

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the FEDERAL REGISTER amends 26 CFR Parts 1 and 7. The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR Part 1.

For the text of the temporary regulation, see FR Doc. 77-37139 [T.D. 7530] published in the Rules and Regulation portion of this issue of the FEDERAL REGISTER.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc.77-37140 Filed 12-27-77;2:07 pm]

[4810-31]

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 6 and 8]

[Notice No. 315]

UNLAWFUL TRADE PRACTICES UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

Advance Notice of Proposed Rulemaking

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is issuing this advance notice to obtain information from industry members and the public on: (1) Contemplated revisions to current regulations in Part 6 (Inducements Furnished to Retailers) and Part 8 (Credit Period to be Extended to Retailers of Alcoholic Beverages); (2) the transfer, where appropriate, of past ATF decisions on trade practice matters from rulings and circulars into regulations; and (3) the addition of regulations on other subjects relating to trade practices. ATF will use this information to develop regulations implementing subsections 5 (a), (b), (c), and (d) of the Federal Alcohol Administration Act (FAA Act).

DATES: Comments must be received on or before February 28, 1978.

ADDRESSES: Comments must be submitted to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (Attn: Chief, Regulations and Procedures Division).

FOR FURTHER INFORMATION CONTACT:

Charles N. Bacon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: ATF has decided to invite interested parties to participate early in the rulemaking process. This early participation will assist ATF in revising current trade practice regulations and in developing new trade practice regulations by (1) supplementing the information now available to ATF; (2) identifying subject areas which ATF may not have considered; and (3) providing alternate courses of action in addition to those discussed in this advance notice.

Background

Requirements of law. The Federal Alcohol Administration Act, which was enacted on August 29, 1935, provides for Federal regulation of the alcoholic beverage industry. Its major objectives are to further protect the Federal Revenue derived from taxes on distilled spirits, wines, and malt beverages and to prevent the recurrence of those abuses in the liquor traffic which, in part, led to National Prohibition Subsections 5(a) through 5(d) of the FAA Act prohibit certain marketing practices which are considered unfair competition. Specifically, the practices which are prohibited are:

(a) "Exclusive Outlets". (27 U.S.C. 205(a)) This subsection provides that it is unlawful, within the jurisdictional limits set forth therein, for any producer, wholesaler or importer (i.e., industry member) to require, by agreement or otherwise, that any retailer purchase alcoholic beverages from the industry member to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other producers, importers or wholesalers.

(b) "Tied House". (27 U.S.C. 205(b)) This subsection provides that it is unlawful, within the jurisdictional limits set forth therein, for any producer, wholesaler or importer to induce any retailer to purchase alcoholic beverages from the industry member to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other producers, importers or wholesalers in the following ways:

(1) By acquiring or holding any interest in any license with respect to the premises of the retailer;

(2) By acquiring any interest in the real or personal property owned, occupied, or used by the retailer in the conduct of the business;

(3) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services or other thing of value, subject to the exceptions prescribed by regulations;

(4) By paying or crediting the retailer for any advertising, display, or distribution service;

(5) By guaranteeing any loan or the repayment of any financial obligation of the retailer;

(6) By extending to the retailer credit for a period in excess of the credit period usual and customary to the industry for the particular class of transactions as prescribed by regulations; or
tions; or

(7) By requiring the retailer to take and dispose of a certain quota of any alcoholic beverages.

(c) "Commercial Bribery". (27 U.S.C. 205(c)) This subsection provides that it is unlawful, within the jurisdictional limits set forth therein, for any producer, wholesaler, or importer to induce any retailer or wholesaler to purchase alcoholic beverages from the industry member to the exclusion, in whole or in part, of alcoholic beverages sold or offered for sale by other producers, importers, or wholesalers: (1) By commercial bribery; or (2) by offering or giving any bonus, premimum, or compensation to any officer, or employee, or representative of the retailer or wholesaler.

(d) "Consignment Sales". (27 U.S.C. 205(d)) This subsection provides that it is unlawful, within the jurisdictional limits set forth therein, for any producer, wholesaler or importer to sell, offer for sale, or contract to sell alcoholic beverages to any retailer or wholesaler, or for any retailer or wholesaler to purchase, offer to purchase, or contract to purchase, any alcoholic beverages on consignment or under conditional sale or with the privilege of return or on any basis otherwise than a bona fide sale, or where any part of such transaction involves, directly or indirectly, the acquisition by such person, from the trade buyer, of other distilled spirits, wine, or malt beverages.

Present regulations. Subsection 5(b)(3) of the FAA Act requires the issuance of regulations to provide exceptions to the general prohibition against furnishing, giving, renting, lending, or selling to a retailer any equipment, fixtures, signs, supplies, money, services, or other things of value. Regulations (27 CFR Part 6) were originally adopted on March 9, 1936, and have remained substantially unchanged since that time. These regulations specify certain equipment, signs, supplies, and other things of value which an industry member may sell or otherwise furnish to a retailer, under the conditions and within the limitations prescribed.

Subsection 5(b)(6) of the FAA Act requires the issuance of regulations to prescribe the credit period usual and customary to the industry for the particular class of transactions. These regulations (27 CFR Part 8), unchanged since their adoption on November 29, 1938, prescribe thirty days from the date of delivery as the credit period usual and customary to the industry.

Rather than issuing regulations to carry out the other provisions of subsections 5 (a) through (d) of the FAA Act, ATF and its predecessor agencies have utilized rulings and circulars in order to keep industry members informed of the requirements and applications of the law. These publications now span 40 years and number in excess of 50 still in effect.

Need for new or revised regulations. ATF is considering revising existing regulations and issuing new regulations for the following reasons:

(a) The provisions of Part 6 are based on hearings held in the mid-1930's. Some of the provisions of these regulations may be out of date due to technological advances or changes in general business practices.

(b) Some sections in Part 6 are unclear as to the mechanics of their application and as a result have caused confusion within the industry. (For example: section 6.28 places dollar limitations on the aggregate cost to any industry member of retailer advertising specialties furnished in connection with any one retail establishment. Some industry members have misinterpreted this to mean that several suppliers can "pool" their dollar limitations.)

(c) There are terms used in Part 6 which are not clearly defined. (For example: section 6.23 uses the term "graphic display." Nowhere is there a clear explanation of what this term includes.)

(d) The subject matter of some rulings and circulars would be better dealt with by regulation.

(e) The incorporation of appropriate rulings into the regulations would provide a single source of information and eliminate the need of searching through numerous publications for the answer to a question.

Questions

To assist ATF in identifying and implementing the best course of action, written comments and *supporting data* are specifically requested on the following topics:

A. Revision of 27 CFR Part 6.

1. *Inside Signs and Retailer Advertising Specialties.* Current regulations establish maximum dollar values for inside signs and retailer advertising specialties which an industry member may give, rent, loan, or sell to any one retailer. However, the maximum dollar values of all items (and the inclusion of transportation and installation charges for inside signs) differ for items relating to malt beverages, to wine, and to distilled spirits. For example, section 6.23 sets $10 as the maximum value for inside signs relating to malt beverages, but sections 6.23a and 6.23b set $75 as the maximum value for these items relative to distilled spirits or to wine. Section 6.28 sets a maximum value of $10 for all retailer advertising specialties furnished to a retailer in any one calendar year relating to malt beverages. However, this section sets $20 as the maximum value for those

items relating to distilled spirits or to wine.

(a) Are the current dollar values established by regulations considered realistic in today's industry? (Recommendations should be accompanied by supporting data.)

(b) What justification would there be for not applying a uniform dollar value to all alcoholic beverages?

(c) What justification would there be for not combining the regulatory requirements relating to inside signs and retailer advertising specialties into one section?

(d) What would be the impact of determining the true value to the retailer of inside signs and retailer advertising specialties if their true value were determined by the fair market value as opposed to the industry member's cost of these items?

2. *Equipment and Supplies.* Sections 6.22 (Equipment) and 6.24 (Supplies) allow industry members to sell certain supplies and items of equipment to retailers.

(a) Are all of the items listed still used today?

(b) Are there other items that should be provided for?

(c) What would be the impact of determining the true value to the retailer of equipment if its true value was determined by its fair market value rather than by the cost to the industry member of the equipment?

3. *Displays.* (a) What is the primary function of a display?

(b) What is a reasonable limit to the quantity of alcoholic beverages allowed to be used in a display?

4. *General.* Are there any other sections of Part 6 that are in need of change?

B. *New Sections.* ATF is considering proposing several new regulatory sections. In particular we are interested in your comments with respect to the following subjects:

1. *Free Goods, Discounts (including cumulative), Rebates, and Price Reductions.* What should the required documentation be for these transactions?

2. *Stocking and Rotation of Alcoholic Beverages.* To what extent should stocking and rotation of alcoholic beverages be allowed?

3. *Participation in Retail Association Activities.* To what extent should industry members be allowed to participate in retail association activities?

4. *Return of Merchandise.* What reasons for the return of merchandise to a supplier would be "ordinary and usual commercial reasons" arising after the merchandise has been sold, within the context of current business practices?

5. Should other trade practices prohibited by sections 5(a) through 5(d) of the FAA Act be covered by new regulations?

DRAFTING INFORMATION

The principal authors of this document are John Daffron, Michael Desrochers, and Gerard LaRusso, Bureau of Alcohol, Tobacco and Firearms. However, other personnel of ATF and the Treasury Department participated in developing the document, both on matters of substance and style.

DISCLOSURE OF COMMENTS

The provisions of 27 CFR 71.31(b) apply to the designation of portions of comments or suggestions as exempt from disclosure. Written comments or suggestions not exempt from disclosure by the Bureau of Alcohol, Tobacco and Firearms, may be inspected by any person at the ATF Reading Room, Room 4406, Ben Franklin Post Office Building, 1200 Pennsylvania Avenue NW., Washington, D.C. during normal business hours.

After consideration of all comments and suggestions, ATF may issue a notice of proposed rulemaking. The proposals discussed in this advance notice may be modified due to the comments and suggestions received.

AUTHORITY

This advance notice of proposed rulemaking is issued under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981, as amended (27 U.S.C. 205).

Signed: November 11, 1977.

REX D. DAVIS,
Director.

Approved: December 19, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-37116 Filed 12-29-77;8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

KENTUCKY OCCUPATIONAL AND SAFETY HEALTH PLAN

Approved State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on Supplements to the Kenutcky Occupational Safety and Health Plan which consists of three parts: Volume I-B, the revised narrative portion of the Plan; Volumes II-A, II-B and II-C, the newly added appendices; and Volume III-A, the revised Program Operations Manual.

DATES: Comments and requests for hearings should be submitted by January 23, 1978.

ADDRESS: Written comments and requests for hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Department of Labor, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Larry Liberatore, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3112, Washington, D.C. 20210, 202-523-8041.

A copy of the supplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, N-3112 Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3620, Washington, D.C. 20210; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street NE., Atlanta, Ga., 30309; Office of the Commissioner of Labor, Kentucky Department of Labor, Capitol Plaza Towers, 12th Floor, Frankfort, Ky. 40601.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Kentucky Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667 (c)) (hereinafter called the act) and Part 1902 of this Chapter on July 31, 1973 (38 FR 20322; Subpart Q, 29 CFR Part 1952). On July 15, 1976, October 22, 1976 and July 1, 1977, the State of Kentucky submitted supplements to the plan involving up-dated developmental and State-initiated changes to the plan. Subparts B and E of Part 1953 of this Chapter provide procedures for the review and approval of developmental and State initiated change supplements by the Assistant Secretary of Labor of Occupational Safety and Health (hereinafter called the Assistant Secretary).

DESCRIPTION OF THE SUPPLEMENTS

The supplements submitted by the State concern the completion of developmental steps and plan assurances.

The first supplement, Volume I-B, is a significant revision to the narrative portion of the plan. It includes changes that have occurred as a result of State initiated action, such as the transfer of functions previously delegated to the Public Service Commission, and changes in developmental supplements relating to standards and review procedures, administrative rules and regulations, an Affirmative Action Plan, adoption of agricultural standards (29 CFR 1928), and an updated standards comparison.

Volume II-A, and II-B and II-C contain the new appendices for the changes reflected in Volume I-B. The materials contained in the appendices include Kentucky administrative regulations regarding toxic substances (employer responsibilities), citations, registration of carcinogens, variances, posting and review procedures.

Volume III-A is the revised Program Operations Manual which is the State counterpart of the Federal Field Operations Manual (FOM). This volume contains procedures for the operation of the Kentucky occupational safety and

health programs, including the State Management Information system.

PUBLIC PARTICIPATION

Any interested person may recommend or request an informal hearing concerning the proposed supplements by filing particularized written objections within the time allowed for comments with the Director of the Office of Federal Compliance and State Programs at the above address. If, in the opinion of the Assistant Secretary, substantial objections are filed which warrant public discussion, an informal hearing on the subjects and issues involved may be held.

DECISION

The Assistant Secretary will consider all relevant comments, arguments and requests submitted concerning the supplements and will thereafter issue a decision approving or disapproving them. The Assistant Secretary's decision will be published in the FEDERAL REGISTER.

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

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-36905 Filed 12-29-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 836-5]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Malfunction Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to disapprove the malfunction rules of twenty-two Air Pollution Control Dis tricts (APCDs) in California. The malfunction rules of eighteen of these APCDs have previously been approved, and this notice proposes to rescind the previous approval. It is also proposed that the malfunction rules of two of these APCDs which were recently submitted for inclusion in the California State Implementation Plan (SIP) be disapproved. The malfunction rules of the other two of these APCDs include previously approved rules which are being announced for recision of the previous approval and rules recently submitted for inclusion in the California SIP for which it is proposed to disapprove. The EPA invites public comments regarding the desirability of disapproving the rules and regulations being considered, especailly as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to January 30, 1978.

ADDRESSES: Send comments to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section, EPA, Region IX, 215 Fremont St., San Francisco, Calif 94105.

Availability of documents: Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Amador County Air Pollution Control District, 810 Court St., Jackson, Calif. 95642;
Bay Area Air Pollution Control District, 939 Ellis St., San Francisco, Calif. 94109;
Calaveras County Air Pollution Control District, Government Center, San Andreas, Calif. 95249;
Colusa County Air Pollution Control District, 751 Fremont St., Colusa, Calif. 95932;
Del Norte County Air Pollution Control, District Courthouse, Crescent City, Calif. 95531;
Fresno County Department of Health, Environmental Health Services, 1246 "L" Street, Fresno, Calif. 93721;
Humboldt County Air Pollution Control District, 5600 S. Broadway, Eureka, Calif. 95501;
Madera County Air Pollution Control District, 135 W. Yosemite Ave., Madera, Calif. 93637;
Mendocino County Air Pollution Control, District Courthouse, 890 North Bush St., Ukiah, Calif. 95482;
Merced County Department of Public Health, 210 E. 13th Street, Merced, Calif. 95340;
Nevada County Air Pollution Control District, 201 Church St., Nevada City, Calif. 95959;
Placer County Air Pollution Control District, 11491 "B" Avenue, Auburn, Calif. 95603;
San Joaquin County Air Pollution Control District, 1601 E. Hazelton St., Stockton, Calif. 95201;
San Luis Obispo County Air Pollution Control District, County Airport, Edna Rd., San Luis Obispo, Calif. 93401;
Shasta County Air Pollution Control District, 1855 Placer St., Redding, Calif. 96001;
Sierra County Air Pollution Control Board, County Courthouse, Downieville, Calif. 95936;
Stanislaus County Air Pollution Control District, 1213 14th St., Suite 3, Modesto, Calif. 95354;
Tehama County Air Pollution Control District, 1760 Walnut St., Red Bluff, Calif. 96080;
Trinity County Air Pollution Control District, Post Office Drawer AJ, Weaverville, Calif. 96093;
Ventura County Air Pollution Control District, 625 E. Santa Clara St., Ventura, Calif. 93001;
Yuba County Air Pollution Control District, 1420 "I" Street, Marysville, Calif. 95901;
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814;
Public Information Reference Unit, Room 2922, (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont St., San Francisco, Calif. 94105, Attention: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: It is the purpose of this notice to propose disapproval of the following Air Pollution Control District rules:

1. Amador County APCD Rule 4F, Exceptions submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

2. Bay Area APCD Regulation 2, Section 3212, Upset Conditions, Breakdown or Scheduled Maintenance submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

3. Calaveras County APCD Rules 110, Equipment Shutdown, Startup and Breakdown and 402(f), Exceptions submitted on July 25, 1973 and previously aproved under 40 CFR 52.223 (42 FR 23803);

4. Colusa County APCD Rule 4.4g, Exceptions submitted on July 25, 1973 and Rule 4.4g, Exceptions submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

5. Del Norte County APCD Rule 45, Report of Breakdown submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

6. Fresno County APCD Rule 110, Equipment Shutdown, Startup and Breakdown submitted on October 23, 1974;

7. Humboldt County APCD Rule 59, Report of Breakdown submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

8. Madera County APCD Rule 110, Equipment Shutdown, Startup and Breakdown submitted on January 10, 1975;

9. Mendocino County APCD Section 1, Maintenance and Section 2, Malfunction of Equipment of Part VI, Maintenance, Malfunction, Evasion, Inspection submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

10. Merced County APCD Rule 109, Equipment Shutdown, Startup and Breakdown submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

11. Nevada County Rule 55(f), Exceptions submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

12. Placer County APCD Rule 55(f), Exceptions submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

13. San Joaquin County APCD Rule 110, Equipment Shutdown, Startup and Breakdown submitted on October 23, 1974 and Rule 110, Equipment Shutdown, Startup and Breakdown submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

14. San Luis Obispo County APCD Rule 102, Breakdown and Upset Conditions submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

15. Shasta County APCD Rule 3:10, Breakdown or Upset Conditions submited on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

16. Sierra County APCD Rule 51, Air Pollution Equipment-Scheduled Main-

tenance submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 203(j), Exceptions submitted on January 10, 1975 and previously approved under 40 CFR 52.223 (42 FR 23805);

17. San Bernadino County APCD Rule 55, Upset Conditions or Breakdowns, submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842);

18. Stanislaus County APCD Rule 110 Equipment Shutdown, Startup and Breakdown submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812) and Rule 110, Equipment Shutdown Startup and Breakdown submitted on July-19, 1974 and previously approved under 40 CFR 52.223 (42 FR 25501);

19. Tehama County APCD Rule 4:1g, Exceptions submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

20. Trinity County APCD Rule 44, Report of Breakdown submitted on June 30, 1972 and previously approved under 40 CFR g2.223 (37 FR 19812);

21. Ventura County APCD Rule 32, Upset Conditions, Breakdown or Scheduled Maintenance submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812);

22. Yuba County APCD Rule 4.5, Air Pollution Equipment—Scheduled Maintenance submitted on July 25, 1973 and previously approved under 40 CFR 52.223 (42 FR 23803).

EPA is proposing to disapprove the APCD malfunction rules previously identified because these rules would permit sources to be exempted from applicable emission limitations. These rules do not satisfy the enforcement imperatives of Section 110 of the Clean Air Act because they render emission limitations potentially unenforceable.

The Regional Administrator hereby issues this notice setting forth these rules and regulations as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before January 30, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Sections 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a).)

Dated: November 28, 1977.

PAUL DE FALCO,
Regional Administrator.

[FR Doc.77-37253 Filed 12-29-77;8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 837-7]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Mississippi: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to revise the Mississippi implementation plan by changing the regulations which apply to the incineration of cotton gin waste; the incineration of such waste would no longer be covered by a mass emission standard of 0.2 grains/sdcf, but only by a visible emission standard of 40 percent opacity. It is also proposed to revise the regulations governing open burning; procedures are changed and more specific conditions are set for certain types of open burning.

DATE: Comments must be received on or before January 30, 1978.

ADDRESSES: Written comments on the proposed revisions should be addressed to Tom Helms, Chief of EPA Region IV's Air Programs Branch (see address below). Copies of the materials submitted by the State of Mississippi may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Ga. 30308;

Air and Water Pollution Control Commission, Robert E. Lee Bldg., Jackson, Miss. 39205.

FOR FURTHER INFORMATION CONTACT:

Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Ga. 30308, telephone 404-881-2864; FTS 257-2864.

SUPPLEMENTARY INFORMATION: On May 26, 1976, following notice and public hearing in conformity with 40 CFR 51.4, the Mississippi Air and Water Pollution Control Commission adopted changes in § 3.8, Incineration, of its air pollution control regulation APC-S-1. The revised § 3.8 was submitted for EPA's approval on August 30, 1977; a clarifying submittal was made on November 14, 1977. The original § 3.8 is retained as subsection 3.8(a) and is unchanged except for references to the exemption provided in a new subsection 3.8(b) for the incineration of waste from the ginning of cotton. Such incineration is no longer covered by the incinerator emission standard of 0.2 grains of particulate matter per dry standard cubic foot, but by a visible emission standard of 40% opacity. Startup operation may produce emissions of greater opacity for up to 15 minutes per startup in any one hour, except that there may be no more than three startups in any one 24-hour period. In submitting this revision, the State asserts that its implementation will not adversely affect the attainment and maintenance of the national ambient air quality standards since a more appropriate and enforceable emission standard is provided.

On September 27, 1977, the Mississippi Air and Water Pollution Control Commission, following notice and public hearing in conformity with 40 CFR 51.4, adopted changes in § 3.7, Open Burning, of its air pollution control regulation APC-S-1. These changes were submitted for EPA's approval on October 31, 1977. The primary effect of these changes is on procedures; they do not create less restrictive emission limits. Also, more specific conditions are established for certain types of open burning. These are now detailed.

Fires set in accordance with recognized agricultural and forestry practices (subsection (a)) must (1) receive approval of the Mississippi Forestry Commission, (2) be conducted in the period extending from one hour after sunrise to one hour before sunset or at any other time when weather conditions will permit good dispersion of air pollutants, and (3) not be started with fuels which would produce excessive visible emissions.

Waste vegetation resulting from site or right of way clearing (subsection (g)) may be burned under the following conditions. (1) Starter fuels must not cause excessive visible emissions. (2) The burning must be permitted by local ordinance. (3) The burning must be conducted at least 500 yards from an occupied dwelling; this restriction may be reduced to 50 yards if forced draft air is provided for combustion. (4) The burning must be conducted at least 500 yards from commercial airport property, private airfields or marked aircraft approach corridors; closer burning may be permitted only with the approval of airport authorities. (5) The burning must not produce a traffic hazard. (6) No burning may be done during a High Fire Danger Alert issued by the Mississippi Forestry Commission or an Emergency Air Pollution Episode Alert issued by the Mississippi Air and Water Pollution Control Commission.

The open burning of oil field waste products (subsection (k)) is limited to tank bottoms and other refuse, other than liquid oil, which cannot practicably be disposed of otherwise; the Air and Water Pollution Control Commission may approve the burning of spilled oil if it cannot be recovered. The following conditions apply to the burning of oil field wastes. (1) The permission of the State Oil and Gas Board must be obtained. (2) Burning must occur between 8:00 am and 5:00 pm and last no longer than 45 minutes. (3) No burning shall be conducted under the alert conditions described in the preceding paragraph.

The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions in the Mississippi plan (see information under 'date' and 'addresses' above). After considering all relevant comments received, the Administrator will take action on the revisions described in this notice.

(Section 110 of the Clean Air Act (42 U.S.C. 7410).)

Dated: December 21, 1977.

JOHN C. WHITE,
Regional Administrator.

[FR Doc.77-37254 Filed 12-29-77;8:45 am]

[6560-01]

[FRL 816-1]

[40 CFR Parts 124 and 125]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to develop rulemaking.

SUMMARY: Past experience in the implementation of the National Pollutant Discharge Elimination System (NPDES) permit program has revealed a gap in permit coverage and control. In order to remedy this situation, the Environmental Protection Agency is considering the promulgation of regulations which would indicate that the amounts of pollutants in any existing discharge, as disclosed in a permit application, would be incorporated as NPDES permit limitations unless otherwise modified in the permit; no discharge of pollutants other than those indicated in the permit would be authorized except in amounts equal to those found in intake waters. The Agency believes that this approach is consistent with the goals and directives of the Federal Water Pollution Control Act and will bolster its efforts to regulate discharges of toxic or hazardous pollutants.

FOR FURTHER INFORMATION CONTACT:

Edward Kramer (EN-336), Office of Water Enforcement, Environmental Protection Agency, Washington, D.C. 20460, 202-755-0750.

SUPPLEMENTARY INFORMATION: Due to a gap in coverage under current NPDES regulations, the discharge of pollutants in addition to those limited in an NPDES permit is not clearly unlawful, even where those pollutants have been indicated in a discharger's permit application. Such a reading of EPA permits, policy, and regulations is inconsistent with statutory directive of the Federal Water Pollution Control Act (i.e., that the discharge of any pollutant is unlawful except in compliance with the terms of an NPDES permit (Section 301(a))), and has resulted in permit enforcement problems, particularly with respect to toxic and hazardous pollutants. The proposed regulations would clarify that the limitations incorporated into an NPDES permit are the sole authorizations to discharge.

The purpose of this notice is to advise interested members of the public of the Agency contact point for the development of these regulations. The contact person may also be consulted regarding the status and progress in the development of the regulations.

Dated: December 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-37115 Filed 12-29-77;8:45 am]

[6560-01]

[40 CFR Part 763]

[FRL 835-8]

POLYBROMINATED BIPHENYLS (PBBs)

Public Participation Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public participation meeting.

SUMMARY: EPA will convene a public participation meeting on February 3, 1978, to solicit comments and information from industry, environmentalists, and the public on polybrominated biphenyls. The information obtained at this meeting will aid EPA and other concerned Agencies in making regulatory decisions on PBBs.

ADDRESS: The meeting will begin at 9:30 a.m. and will be held at: Main Conference Room, EPA, Region II, Surveillance and Analysis Division, GSA Raritan Depot, Woodridge Avenue, Edison, N.J. 08817.

FOR FURTHER INFORMATION AND TO REGISTER AS A PARTICIPANT CONTACT:

Larry C. Dorsey, U.S. Environmental Protection Agency, Office of Toxic Substances (TS-788), 401 M Street SW., Washington, D.C. 20460. Phone: 202-755-1188, or

Richard Cahill, Office of Public Awareness, EPA, Region II, 26 Federal Plaza, New York, N.Y. 10007, phone: 212-264-2515.

SUPPLEMENTARY INFORMATION: The major issues, identified to date, concerning the need to control PBBs are listed below. Participants in the public meeting are encouraged to address and comment on these issues:

1. Should the manufacture and processing of PBBs be banned?
2. Should the use of PBBs be banned or should specific uses of PBBs be allowed?
3. What would be the impact of a PBB ban on State laws? On industry?
4. What type of controls, if any, should be placed on articles containing PBBs?
5. What type of controls, if any, should be placed on disposal of PBBs?

Dated: December 23, 1977.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc.77-37106 Filed 12-29-77;8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for Five Fishes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Waccamaw darter (*Etheostoma perlongum*), Waccamaw killifish (*Fundulus waccamensis*), Waccamaw silverside (*Menidia extensa*), Barrens topminnow (*Fundulus* sp.), and Ouachita madtom (*Noturus lachneri*) to be Endangered species and to identify Critical Habitat for these species. This action is being taken because of their decreased population levels and the threatened modification of their habitat. The proposed action, if completed, would protect the populations of these fishes and their habitat. The Waccamaw darter, Waccamaw killifish, and Waccamaw silverside are native to Lake Waccamaw, N.C. The Ouachita madtom is known only from Arkansas and the Barrens topminnow is presently known only from Coffee County, Tenn.

DATES: Comments from the public must be received by February 28, 1978. Comments from the Governors of States involved with this action must be received by March 30, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On March 18, 1975, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (40 FR 12297-12298) to the effect that a review of the status of 29 fishes was being conducted. The Waccamaw darter, Waccamaw killifish, Waccamaw silverside, and Ouachita madtom were part of that review. As a result of the notice of review, responses were received from North Carolina and Arkansas and a biologist. These comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

The Governor of Arkansas responded to the notice of review and recommended that the Ouachita madtom and yellowcheek darter be listed as Endangered, and the Caddo madtom and paleback darter be listed as Threatened species. The Arkansas Natural Area Plan, which includes a discussion of Endangered and Threatened species in the State, was included with his response.

On professional biologist from Arkansas responded to the notice of review. He suggested that the colorless shiner, Ouachita madtom, yellowcheek darter,

and paleback darter should be considered Endangered in Arkansas. He recommended Threatened status for the Caddo madtom.

North Carolina, through the Wildlife Resources Commission, responded to the notice of review. The State's preliminary list of Endangered species indicated that the Waccamaw killifish, Waccamaw silverside, Waccamaw darter, sharphead darter, and longhead darter are Endangered in North Carolina. The orangefin madtom was listed as rare in North Carolina.

Section 4(a) of the Endangered Species Act of 1973 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 the five criteria of Section 4(a) of the Act. These factors, and their application to the five species of fishes, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* (1) Waccamaw darter (*Etheostoma perlongum*) Proposed Endangered. The Waccamaw darter is known only from Lake Waccamaw in Columbus County, North Carolina. This shallow, mostly sand bottomed, coastal plain lake is spring fed and has very clear water in contrast to the bog-stained "black-water" that is typical of most lakes and ponds in the area. The lake has a surface area of approximately 6,000 acres with a maximum depth of ten feet. The lake level fluctuates a few feet depending on rainfall and the operation of a small dam approximately three feet high at the outlet into the Waccamaw River.

Although the darter still inhabits most of the open sandy areas, it is endangered by the rapidly changing conditions in the lake. The very delicate trophic balance of the lake is being altered by the rapidly growing seasonal tourist and resident population. The area is without a modern waste disposal system and much of the domestic waste seeps into the lake. The lake is further enriched by runoff from fertilizer applied to gardens and lawns along the developed northern lake shore. The excavation of drainage canals around the eastern lake shore for real estate development is further jeopardizing this fish. The increased growth of algae and rooted aquatic plants due to the influx of nutrients could lead to rapid eutrophication which would endanger the endemic Waccamaw darter. An additional threat reported by the State of North Carolina is the use of herbicides for vegetation control in canals which drain into the lake. Biologists in North Carolina reviewing the status of the Waccamaw darter assigned it an Endangered status.

(2) Waccamaw killifish (*Fundulus waccamensis*), Proposed Endangered. he Waccamaw killifish is known only from Lake Waccamaw in Columbus County, and Phelps Lake in Washington and Tyrrell Counties, North Carolina. Lake Waccamaw is described above, and Phelps Lake is a similar clear, shallow, sand-bottomed freshwater lake. Phelps Lake has a surface area of more than 9,000 acres.

The Waccamaw killifish inhabits open water over firm sandy bottom frequently along the outer edge of emergent vegetation. The environmental factors affecting Lake Waccamaw are described above. These factors also are jeopardizing the Waccamaw killifish. Biologists in North Carolina reviewing the Waccamaw killifish assigned it an Endangered status.

Phelps Lake, like Lake Waccamaw, is rapidly deteriorating due to the impacts of man's activities. These activities include clearing and drainage of areas adjacent to the lake for real estate and agricultural development. These disturbances have resulted in an increase in the amount of organic material and silt entering the lake. These alterations accelerate the eutrophication process which endangers the Waccamaw killifish.

(3) Waccamaw silverside (*Menidia extensa*), Proposed Endangered. The Waccamaw silverside is known only from Lake Waccamaw in Columbus County, North Carolina.

The silverside inhabits most of the open waters over hard, sandy bottom areas which are devoid of aquatic vegetation. It is endangered by the same factors as the previous two species.

(4) Ouachita madtom (*Noturus lachneri*), Proposed Endangered. The Ouachita madtom is known only from the headwater tributaries of the Saline River drainage of the Ouachita River system in Garland and Saline Counties in southcentral Arkansas. In this area it inhabits gravel-bottomed streams with some sand and cobbles. Stream flow is variable and some headwater tributaries are probably intermittent. Most of the watershed of the upper Saline has mixed pine and hardwood cover which contributes clean silt-free runoff, which in turn helps to maintain high water quality.

The continued existence of the Ouachita madtom is threatened by stream alteration projects and construction activities. One planned new community, Hot Springs Village, would result in massive construction activities in the headwater tributaries of the Saline drainage. Any siltation of streams in the upper Saline drainage would seriously threaten the Ouachita madtom.

The Ouachita madtom was included in the notice of review published in the Federal Register (Vol. 40, No. 53) on March 18, 1975. In response to this review, the State of Arkansas recommended Endangered status for this species.

(5) Barrens topminnow (*Fundulus* sp.), Proposed Endangered. The undescribed Barrens topminnow is believed to be most closely related to the extinct whiteline topminnow (*Fundulus albolineatus*) known only from Big Spring in Huntsville, Alabama, and its immediate run in Huntsville, Alabama. The Barrens topminnow inhabits springs and spring-fed creeks in the headwaters of the Duck River and west fork of Hickory Creek, and headwaters of the Collins River in Coffee County, Tennessee.

The Barrens topminnow's limited habitat is threatened by various local alterations of springs and streams. Several localities where the Barrens topminnow was taken in the late 1930's no longer support populations due to the destruction of habitat caused by channel alterations and drainage. There are presently three known localities for this species, all in Coffee County, Tennessee.

The Barrens topminnow is considered Endangered by Tennessee.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued survival.* Not applicable.

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 the affected States, to be critical.

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the Federal Register of April 22, 1975 (40 FR 17764–17765). Generally, Critical Habitat is habitat containing an element which, if lost, would appreciably decrease the likelihood of the survival and recovery of a species or a segment of its population.

The areas delineated do not necessarily include the entire Critical Habitat of these fishes 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 adverse modification of the Critical Habitat of the Waccamaw darter, Waccamaw killifish, Waccamaw silverside, Ouachita madtom, and Barrens topminnow.

All Federal departments and agencies shall, 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. 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.

EFFECT OF THE RULEMAKING

In addition to the effects discussed above, 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 are summarized below.

With respect to the Waccamaw darter, Waccamaw killifish, Waccamaw silverside, Ouachita madtom, and Barrens topminnow in the United States, all prohibitions of Section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

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 Governors of Arkansas, North Carolina, and Tennessee, with respect to this proposal and request their comments and recommendations before making final determinations.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any Endangered or Threatened species. 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 species included in this proposal;

(2) The location of the reasons why any habitat of these species 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 these species.

Final promulgation of the regulations on the Waccamaw darter, Waccamaw killifish, Waccamaw silverside, Ouachita madtom and Barrens topminnow 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 or can be obtained by mail. 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.

The primary author of this proposed rulemaking is Dr. James D. Williams, Office of Endangered Species (202–343–7814).

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

1. 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			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered			
Darter, Waccamaw	*Etheostoma perlongum*	NA	USA (North Carolina)	USA (North Carolina)	E		NA
Killifish, Waccamaw	*Fundulus waccamensis*	NA	do	do	E		NA
Madtom, Ouachita	*Noturus lachneri*	NA	USA (Arkansas)	USA (Arkansas)	E		NA
Silverside, Waccamaw	*Menidia extensa*	NA	USA (North Carolina)	USA (North Carolina)	E		NA
Topminnow, Barrens	*Fundulus sp*	NA	USA (Tennessee)	USA (Tennessee)	E		NA

2. Also, the Service proposes to amend § 17.95(e) by adding Critical Habitat of the Waccamaw darter after that of the slackwater darter as follows:

(e) Fishes.

* * * * *

WACCAMAW DARTER

(*Etheostoma perlongum*)

North Carolina. Columbus County. Lake Waccamaw.

CRITICAL HABITAT FOR THE WACCAMAW DARTER

3. § 17.95(e) is further amended by adding Critical Habitat of the Waccamaw killifish after that of the yellowfin madtom as follows:

* * * * *

WACCAMAW KILLIFISH

(*Fundulus waccamensis*)

North Carolina. Columbus County. Lake Waccamaw.

CRITICAL HABITAT FOR THE WACCAMAW KILLIFISH

4. § 17.95(e) is further amended by adding Critical Habitat of the Ouachita madtom after that of the yellowfin madtom as follows:

* * * * *

OUACHITA MADTOM

(*Noturus lachneri*)

Arkansas. Saline and Garland Counties, headwaters of Saline River. North Fork Saline River and its tributaries and Alum Fork Saline River and its tributaries in Saline County. Middle Fork Saline River and its tributaries and South Fork Saline River and its tributaries in Saline and Garland Counties, Ark.

CRITICAL HABITAT FOR THE OUACHITA MADTOM

5. § 17.95(e) is further amended by adding Critical Habitat of the Waccamaw silverside after that of the Alabama cavefish as follows:

* * * * *

WACCAMAW SILVERSIDE

(*Menidia extensa*)

North Carolina. Columbus County. Lake Waccamaw.

CRITICAL HABITAT FOR THE WACCAMAW SILVERSIDE

6. § 17.95(e) is further amended by adding Critical Habitat of the Barrens topminnow after spotfin chub as follows:

* * * * *

BARRENS TOPMINNOW

(*Fundulus sp.*)

Tennessee. Coffee County. Little Duck River and tributaries upstream from U.S. Highway 41 crossing at Manchester. West Fork Hickory Creek and tributaries upstream from the Coffee-Warren County line, Tenn.

CRITICAL HABITAT FOR THE BARRENS TOPMINNOW

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 21, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-37041 Filed 12-29-77;8:45 am]

[4310–55]

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status for the Socorro Isopod (Exosphaeroma thermophilum)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Socorro isopod (*Exosphaeroma thermophilum*), known only from near Socorro, N. Mex., be listed as an endangered species. A review of the status of this isopod reveals (1) that less than 2,500 individuals exist; (2) that its entire natural habitat has been so modified that, in its current condition, it is not useable by the species; and (3) that the species continues to survive precariously in an artificial habitat that it has adopted. This rule would provide needed protection for the Socorro isopod in its present artificial habitat and could possibly lead to a reestablishment of the species elsewhere in the wild.

DATES: Comments from the public must be received by February 28, 1978. Comments from the Governors of States involved with this action must be received by March 30, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202–343–4646.

SUPPLEMENTARY INFORMATION:

Background

The Socorro isoped occupies the outflow of a thermal aquatic habitat called Sedillo Spring which is located near the base of the Socorro Mountains southwest of Socorro, N. Mex. The species is of particular interest and importance in that it is one of only two fully freshwater isopods in the family of *Sphaeromidae*. The problem of how this species arrived at its present state of evolutionary adaptation is of concern to isopod specialists, and the concept of landlocked fauna is of concern to biologists as a whole. The Service proposes to list the Socorro isopod as an endangered species pursuant to section 4 of the Endangered Species Act of 1973, 16 U.S.C. § 1533.

Summary of the Factors Affecting the Species

The Socorro isopod is endangered today because of destruction and modification of its habitat. The Socorro thermal area extends at least two miles along the front of the Socorro Mountains and at least half a mile westward of it. Within this thermal area, water issues from three springs (Socorro, Sedillo, and Cook). Sedillo Spring appears to have followed a separate drainageway for a short distance before being dissipated into underlying permeable fan gravels. During late Pleistocene and early Holocene time, waters from Socorro and Cook Springs fed into a cienega that extended about one-half mile eastward from Cook Spring. In recent years these springs have been greatly altered by municipal and private water development projects. All of the flow is presently intercepted at the surface and is capped off, the water being piped primarily to the city of Socorro. This capping off of the springs has resulted in the loss of the entire original inhabitat of the Socorro isopod.

Today, the Socorro isopod survives only within the confines of the partially open conduit system of an abandoned bathhouse referred to as "Evergreen." This artificial habitat is supplied with water from Sedillo Spring and, because that spring is only a few hundred feet away, the water emerges with much of the original water quality and thermal characteristics retained. Because of the direct link between Sedillo Spring and the "Evergreen" bathhouse, the present population of isopods is thought to have originated from Sedillo Spring. Apparently, when the spring was capped and their natural habitat destroyed, some of the isopods made their way into the conduits and were able to survive in that environment. It is not known whether these isopods ever occurred in Cook or Socorro Springs. The conduits in which the species now occurs consist of less than 90 feet of iron pipe, and are entirely on privately owned land.

At present, the population of the Socorro isopod in the conduits is estimated to number only 2449 animals. Current threats to these animals, in addition to their dependence on a highly restricted and fragile ecosystem, include reduced water flow in time of drought (such a condition existed this summer), and periodic cleaning and dredging of the conduit system.

The new Mexico Department of Game and Fish has urged the rapid listing of this species, and has provided the data upon which the above summary is based. These data were gathered by Michael Hatch of the New Mexico Department of Game and Fish, and are available in the Office of Endangered Species for examination. Stephen Schuster has also provided extensive support data which is available for examination as well.

Effect of the Rulemaking

If this rulemaking is finalized, it will give the Socorro isopod all of the protection from "take" provided by section 9 of the act. In addition, listing of this species will allow for such benefits of the act as cooperative research, Federal aid and land acquisition which could assist in the establishment of the species in a natural ecosystem elsewhere.

Under section 7 of the act, all Federal agencies would be required to assure that their actions do not jeopardize the continued existence of this species. They would also, where possible, be required to utilize their authorities in furtherance of the purposes of the act by carrying out programs for the conservation of the Socorro isopod.

Public Comments Solicited

The Director intends that the rules finally adopted be as effective as possible in the conservation of the Socorro isopod. Therefore, the Director desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party, on these proposed rules. Final promulgation of regulations will take into consideration the comments received by the Director. Such comments, and any additional information received, may lead the Director to adopt final regulations that differ from this proposal.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would signficantly affect the quality of section 102(2)(C) of the National Environmental Policy Act of 1969. This proposed rulemaking is issued under the authority contained in the Endangered Species Act of 1973.

The primary author of this document is John L. Paradiso, Office of Endangered Species 202–343–7814.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subpart B, Title 50 of the Code of Federal Regulations as set forth below:

It is proposed to amend § 17.11 by adding the following species to the List of Endangered and Threatened Wildlife and Plants:

§ 17.11 Endangered and threatened wildlife.

Species			Range				
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Crustacea, Isopod, Socorro.	*Exosphaeroma thermophilus.*	NA	USA(New Mexico)	Entire	E		NA

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 16, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

[FR Doc.77-37042 Filed 12-29-77;8:45 am]

[4310-55]

[50 CFR Part 32]

UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE, MINNESOTA, WISCONSIN, IOWA AND ILLINOIS

Proposed Special Regulation Describing Upper Mississippi River Wild Life and Fish Refuge as an Area in Which Nontoxic Shot Will Be Required in Waterfowl Hunting Seasons Commencing in 1978

AGENCY: Fish and Wildlife Service.

ACTION: Proposed Special Regulation.

SUMMARY: It is prohibited to use or possess 12-gauge shot shells loaded with lead or other toxic shot pellets while hunting waterfowl or coots on all lands within the Upper Mississippi River Wild Life and Fish Refuge. The intended effect is to minimize the adverse impact on waterfowl by reducing the potential for lead poisoning which exists when waterfowl ingest spent lead pellets.

DATE: Comments on this proposed rulemaking will be accepted until January 31, 1978.

ADDRESS: Submit comments to Regional Director (FWS/MBM), U.S. Fish and Wildlife Service, Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

FOR FURTHER INFORMATION CONTACT:

John W. Ellis, Migratory Bird Coordinator, Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111, 612-725-3315.

SUPPLEMENTARY INFORMATION:

The initial background information relating to the problems associated with the use of lead shot nationwide is presented in the November 23, 1977, issue of the FEDERAL REGISTER (42 FR 59987-59988). That proposal was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, 202-343-8827.

Information concerning the use of lead shot specifically on the Upper Mississippi River Wild Life and Fish Refuge follows: This refuge has an estimated 25,000,000 waterfowl use days (1975) and 413,000 waterfowl hunter activity hours (1975) during the October through December period. The combination of high waterfowl concentrations and heavy deposition of lead pellets from intense hunting can lead to substantial waterfowl loss through lead poisoning.

In 1977 steel shot regulations varied from state to state resulting in conflicting regulations along state borders on the upper Mississippi River. Wisconsin and Illinois State regulations required the use of steel shot in 12-gauge guns used for waterfowl hunting along the Mississippi River, while State regulations in Minnesota and Iowa permitted the use of lead shot in all gauges. This lack of uniformity resulted in problems of credibility, and resentment among hunters who could not understand why steel shot was needed along one shore and not along the other. The poor relations which developed while enforcing these regulations can be avoided in 1978 by standardizing the nontoxic shot regulations along the river. Since the Upper Mississippi River Wild Life and Fish Refuge covers most of this area, a refuge regulation would standardize the requirements and alleviate most of the problems. For these reasons this special regulation is being proposed.

The proposed 1978 regulations for the Upper Mississippi River Wild Life and Fish Refuge will require the use of steel shot in 12-gauge guns for hunting waterfowl and coots. The use and possession of lead shot shells or shells loaded with other types of shot will be permitted in gauges other than 12-gauge in 1978. This exemption is made because nontoxic ammunition is not expected to be widely available in shells larger or smaller than 12-gauge during the 1978 waterfowl hunting season. Approximately 85 percent of the waterfowl hunters on the refuge use 12-gauge shotguns. The use of nontoxic shot in these guns will eliminate the deposition of most lead shot on the refuge. As nontoxic shot becomes available for other shell gauges, it will be desirable to utilize such shot and eliminate all deposition of lead from shots fired by waterfowl hunters.

Accordingly, it is proposed to amend 50 CFR 32.12 Special Regulations; migratory game birds; for the Upper Mississippi River Wild Life and Fish Refuge to read as follows: It is prohibited to use or possess 12-gauge shot shells loaded with any shot other than steel or such material as may be approved by the Director of the U.S. Fish and Wildlife Service pursuant to the procedures set forth in 50 CFR 20.134, while hunting waterfowl or coots on the Upper Mississippi River Wild Life and Fish Refuge.

This proposed rule was authored by John Ellis, Migratory Bird Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111, 612-725-3315.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: December 21, 1977.

JACK E. HEMPHILL,
Regional Director,
Fish and Wildlife Service.

[FR Doc.77-37230 Filed 12-29-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 141]

ENTRY OF MERCHANDISE

Proposed Amendments to the Customs Regulations Relating to the Documents and Information Required To Be Filed at the Time of Importation of Certain Articles of Steel

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is proposed to amend the Customs Regulations to require that a special invoice be presented to Customs for each shipment of certain articles of steel having an aggrate purchase price over $2,500. The additional information provided by the special invoice would be used in the administration and enforcement of the Antidumping Act, 1921, as amended.

DATE: Comments must be received on or before January 27, 1978.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

With respect to the trigger price mechanism (described under "supplementary Information," below), Peter D. Ehrenhaft, Deputy Assistant Secretary and Special Counsel (Tariff Affairs), Department of the Treasury, Washington, D.C. 20220, 202-566-2806. With respect to other aspects of the proposal, Ben L. Irvin, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-8121.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Acting under the authority of section 201(a) of the Antidumping Act of 1921, as amended (19 U.S.C. 160(a)), and section 153.25 of the Customs Regulations, the Secretary of the Treasury will implement a "trigger price mechanism" as

recommended to, and approved by, the President on December 6, 1977. The trigger price mechanism ("TPM") will consist of four parts: (1) The establishment of trigger prices for steel mill products imported into the United States; (2) adoption of a new Special Summary Steel Invoice ("SSSI") applicable to imports of all steel mill products; (3) the continuous collection and analysis of data concerning (a) the cost of production and prices of steel mill products in the countries that are the principal exporters of such products to the United States, and (b) the condition of the domestic steel industry; and (4) where appropriate, the expedited initiation and disposition of proceedings under the Antidumping Act of 1921 with respect to imports below the trigger prices.

(1) *Establishment of trigger prices.* The Secretary of the Treasury intends to publish shortly "trigger prices" for the steel mill products so identified by the American Iron and Steel Institute (AISI) that are imported in significant quantities. Each such "trigger price" will be calculated from the best evidence available concerning the cost of production of that product by the industry considered to be the world's most efficient. At this time, this has been determined to be the Japanese steel industry. Initial trigger prices are now being developed from information collected from the six largest and some non-integrated smaller producers, and made available to the Treasury Department by the Japanese Ministry of International Trade and Industry. Such data has been adjusted to reflect yields of production and capacity utilization over the average business cycles of three years. The establishment of a trigger price for any particular steel mill product is not intended to suggest that the cost of production of such product may not be higher or lower in the case of any particular exporting company.

The Secretary will also publish a complete set of trigger prices for the "extras" usual in the steel trade, applicable to the steel mill products for which base prices are fixed. (Trigger prices for alloy and wire products will be announced shortly.)

For the purposes of the trigger price mechanism, stainless steel products, presently subject to import restraints, will be excluded from the TPM, as will other specialty steel products which have not entered the United States in significant quantities in the recent past, even if categorized as "steel mill products." Similarly, fabricated articles and other items not presently included as "steel mill products" by the AISI will be excluded. However, consideration will be given to including additional products should circumstances warrant following the initiation of the program.

The trigger base prices and extras will be reviewed quarterly as more current cost information becomes available. Trigger prices will be published sometime in advance of the calendar quarter to which they will apply. The unit invoice prices of all imports, whenever entered, will be compared with the trigger prices in effect as of the date the shipment was loaded for export to United States ports. The initial trigger prices will be applicable to all shipments between the date of their publication through the second quarter of 1978. The application of the trigger prices to contracts concluded before the announcement of the trigger prices will be addressed in a subsequent notice.

For purposes of determining whether or not to initiate an investigation, the total unit invoice price of each import will be compared with the aggregate trigger base price plus all extras for that product. Such unit invoice price, as well as the base price plus extras, are to be shown on the SSSI. The fact that any particular item reflected on the SSSI is not at or above the trigger prices established by the Secretary will not, by itself, result in any action by the Department.

(2) *Use of the SSSI.* This notice sets forth proposed regulations prescribing the use of the SSSI in connection with imports of all steel mill products subject to the TPM. This form is modeled on the present Special Customs Invoice (Customs Form 5515), and is intended to permit the identification of base prices and all extras. The proposed regulations would require that an SSSI be presented for each shipment having an aggregate purchase price over $2,500 and containing any of the steel mill products subject to the TPM.

A duplicate copy of the SSSI will be forwarded immediately upon receipt by the Customs Service to the Special Customs Steel Task Force in Washington for analysis. Forms reflecting substantial or repeated shipments below trigger prices may result in prompt informal inquiries or such other action as the Secretary deems appropriate, as more fully described in (4) below. It is essential to the operation of the monitoring system that exporters forward commercial invoices and the SSSI's immediately upon the export of the products, so that they may arrive prior to the shipment to which they apply. In any case, SSSI's will be required as a condition of entry. For shipments which are released from Customs custody under immediate delivery procedures, importers should be aware that if they are unable to produce the SSSI, entry may not be made and redelivery of the merchandise would be required.

(3) *Collection and analysis of data.* Throughout the duration of the TPM, the Special Customs Steel Task Force will collect information concerning the costs of production and prices in the home markets (or quoted for export to third countries) by producers in the principal steel exporting countries of the world. Such data will be used in the periodic review of trigger prices and in the evaluation of cases in which SSSI's reflect sales below trigger prices.

In addition, information will be collected on a continuous basis concerning the condition of the United States industry. Data with respect to capacity utilization, employment, profitability, shipments, shares of the market, and other indicia of the economic condition of the industry will be monitored to determine whether imports of steel mill products are causing or threatening to cause injury to the United States industry.

(4) *Initiation and disposition of proceedings under the Antidumping Act.* All SSSI's reflecting imports below the trigger prices applicable to the quarter in which the shipment was made will be evaluated by the Special Customs Steel Task Force. Informal inquiry may then—but need not—be made of the importer to determine the basis for the entry below the trigger price. Unless the Secretary is promptly satisfied, on the basis of such informal inquiry, that no reasonable possibility of sales at less than fair value of such merchandise may be found, the Secretary will promptly publish an Antidumping Proceeding Notice pursuant to section 153.31(a) of the Customs Regulations. It is the intention of the Department of the Treasury to expedite a full scale antidumping investigation of such possible sales at less than fair value, so that a Tentative Determination as to the belief or suspicion of the existence of such sales at less than fair value can be made within a period substantially shorter than the six months provided in section 153.32 of the Customs Regulations. In appropriate cases, the Secretary may also issue a "Withholding of Appraisement Notice" providing for the retroactive withholding of appraisement pursuant to section 1535.35(d) of the Customs Regulations. In all other respects, foreign exporters, importers and the affected United States industry will retain any and all rights otherwise available under the Antidumping Act and its implementing regulations.

SPECIAL SUMMARY STEEL INVOICE

A sample of the proposed new form, to be titled the "Special Summary Steel Invoice" (SSSI), follows:

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE
19 U.S.C. 1481, 1482, 1484

SPECIAL SUMMARY STEEL INVOICE *(Prepare in Duplicate)*

1. SELLER	2. DOCUMENT NO. / 3. INVOICE NO. AND DATE 4. REFERENCES	ADDITIONAL SPACE FOR EXTRAS SHOWN IN BOX 11.
5. CONSIGNEE	6. BUYER *(if other than consignee)* 7. ORIGIN OF GOODS	
8. DATE PRICE TERMS AGREED / 8b. DATE OF EXPORTATION	9. TERMS OF SALE, DISCOUNTS	

10. ☐ If the production of these goods involved furnishing goods or services to the seller *(e.g., assists such as dies, molds, tools, engineering work)* and the value is not included in the invoice price, check box (10) and explain below.

12. DECLARATION OF SELLER/SHIPPER (OR AGENT)

I declare:

(A) ☐ If there are any rebates, drawbacks or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately below.

(B) ☐ If any unrelated incentives or reimbursement of dumping duties, or other inducements not reflected in this invoice have been, or will be, paid or granted, I have checked box (B) and explained below.

I further declare that there is no other invoice differing from this one (unless otherwise described below) and that all statements contained in this invoice and declaration are true and correct.

(c) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

11. CODE FOR OTHER EXTRAS*
- A. Thickness
- B. Edging
- C. Surface Treatment
- D. Special Specifications
- E. Special Packing
- F. Other (specify)

22. PACKING COSTS	
23. OCEAN OR INTERNATIONAL FREIGHT	
24. DOMESTIC FREIGHT CHARGES	
25. INSURANCE COSTS	
26. OTHER COSTS *(Specify Below)*	

13. MARKS AND NUMBERS ON SHIPPING PACKAGES	14. AISI CATEGORY	15 DESCRIPTION OF GOODS	16. QUANTITY	17. BASE PRICE	18. EXTRAS a. WIDTH	b. LENGTH	c. CODE	d. $	UNIT PRICE 19. HOME MARKET	20 INVOICE	21 INVOICE TOTALS

Proposed Customs Form (12-15-77)

INSTRUCTIONS FOR PREPARATION OF SPECIAL SUMMARY STEEL INVOICE (ON REVERSE SIDE OF FORM)

(REQUIRED FOR ALL SHIPMENTS OF IRON OR STEEL VALUED OVER $2,500)

NOTE.—Where this summary invoice covers several types of merchandise priced in different ways, each should be shown separately. Prepare in duplicate.

Section 1–7, 9, 10, 12, 13, 15, 16, and 19–26 may be completed in the same manner as the equivalent sections on Special Customs Invoice, Customs Form 5515.

Section 8A. Data Price Terms Agreed: Show here the date on which the final sales price for this shipment was agreed.

Section 8B. Date of Exportation: Show here the date on which the merchandise left the last port in the country of exportation.

Section 11. Codes for extras: This section refers to the additional price charged for extras other than width and length. The code(s) for the extras shown should be reflected in section 18c, and the amount, total for combinations of extras, should be shown in 18d. The extras listed are expressed in terms as now understood in the U.S. market. K–N of section 11 should be completed for extras not itemized.

Section 14. AISI Category: This column should be completed with the appropriate category number from the list below.

Section 17. Base Price: Show here for each steel category the base price on which the total sales price was based.

Section 18. Extras: Show here the charge for each category of any extra added to the base price. Use appropriate codes from section 11 where appropriate.

Category No. and Products

I.—Ingots, blooms, billets, slabs, etc.
II.—Wire rods.
III. Structural shapes—plain 3 inches and over.
IV.—Sheet piling.
V.—Plates.
VI.—Rail and tract accessories.
VII.—Wheels and axles.
VIII.—Concrete reinforcing bars.
IX.—Bar shapes under 3 inches.
X.—Bars—hot rolled—carbon.
XI.—Bars—hot rolled—alloy.
XII.—Bars—cold finished.
XIII.—Hollow drill steel.
XIV.—Welded pipe and tubing.
XV.—Other pipe and tubing.
XVI.—Round and shaped wire.
XVII.—Flat wire.
XVIII.—Bale ties.
XIX.—Galvanized wire fencing.
XX.—Wire nails.
XXI.—Barbed wire.
XXII.—Black plate.
XXIII.—Tin plate.
XXIV.—Terne plate.
XXV.—Sheets—hot rolled.
XXVI.—Sheets—cold rolled.
XXVII.—Sheets—coated (including galvanized).
XXVIII.—Sheets—coated—alloy.
XXIX.—Strip—hot rolled.
XXX.—Strip—cold rolled.
XXXI.—Strip—hot and cold rolled—alloy.
XXXII.—Sheets other—electric coated.

AUTHORITY

The authority for the proposed amendments is R.S. 251, as amended (19 U.S.C. 66), section 407, 42 Stat. 18 (19 U.S.C. 173), sections 481, 484, 624, 46 Stat. 719, 722, as amended, 759 (19 U.S.C. 1481, 1484, 1624), 77A Stat. 14, Tariff Schedules of the United States (19 U.S.C. 1202, General Headnote 11).

COMMENTS

The Customs Service invites written comments from all interested parties on the proposed amendments. Comments submitted will be available for public inspection in accordance with section 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C.

DRAFTING INFORMATION

The principal authors of this document were Edward T. Rosse and Paul G. Hegland, Regulations and Legal Publications Division, U.S. Customs Service. However, other personnel in the Customs Service and the Department of the Treasury assisted in its development.

PROPOSED AMENDMENTS

1. It is proposed to amend the first sentence of section 141.81 of the Customs Regulations (19 CFR 141.81) to read as follows:

§ 141.81 Invoice for each shipment.

A special Customs invoice, a special summary invoice, or a commercial invoice shall be presented for each shipment of merchandise at the time of entry, subject to the conditions set forth in these regulations. * * *

2. It is proposed to add a new paragraph (e) to § 141.82 of the Customs Regulations (19 CFR 141.82(e)) to read as follows:

§ 141.82 Invoice for installment shipments arriving within a period of 10 days.

* * * * *

(e) *Special summary invoice.* The provisions of this section shall not apply if a special summary invoice is required by § 141.83(b).

3. It is proposed to redesignate present paragraphs (b) and (c) of § 141.83 of the Customs Regulations (19 CFR 141.83 (b), (c)) as paragraphs (c) and (d), respectively, of that section, and to add a new paragraph (b) to § 141.83 to read as follows:

§ 141.83 Type of invoice required.

* * * * *

(b) *Special summary invoice.* A special summary invoice shall be presented for each shipment of merchandis described in § 141.89(b). The district may waive production of a special Customs invoice (Customs Form 5515) if a special summary invoice is required.

* * * * *

4. It is proposed to amend § 141.89 of the Customs Regulations (19 CFR 141.89) by designating the present provisions of that section as paragraph (a) and adding a new paragraph (b) to that section to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

* * * * *

(b) *Special summary steel invoice.* (1) A Special Summary Steel Invoice (Customs Form) shall be presented in duplicate for each shipment which is determined by the district director to have an aggregate purchase price over $2,500 including all expenses incident to placing the merchandise in condition packed ready for shipment to the United States, and which contains any of the articles of steel listed in paragraph (b)(2) of this section. In addition to the information required by § 141.86, the Special Summary Steel Invoice shall set forth the following:

(A) The date price terms were agreed upon (the date of agreement on the final sales price for the shipment).

(B) Description and cost of extras (a description of, and the additional price charged for, extras, other than width and length, with extras described in terms understood in the United States market).

(C) American Iron and Steel Institute (AISI) category.

(D) Base price (the base price for each steel category on which the total sales price was based).

(2) The following articles of steel are subject to the special invoice requirements of § 141.89(b)(1):

(A) Ingots, blooms, billets, slabs, etc.
(B) Wire rods.
(C) Structural shapes, plain 3 inches and over.
(D) Sheet piling.
(E) Plates.
(F) Rail and track accessories.
(G) Wheels and axles.
(H) Concrete reinforcing bars.
(I) Bar shapes under 3 inches.
(J) Bars, hot rolled, carbon.
(K) Bars, hot rolled, alloy.
(L) Bars, cold finished.
(M) Hollow drill steel.
(N) Welded pipe and tubing.
(O) Other pipe and tubing.
(P) Round and shaped wire.
(Q) Flat wire.
(R) Bale ties.
(S) Galvanized wire fencing.
(T) Wire nails.
(U) Barber wire.
(V) Black plate.
(W) Tin plate.
(X) Terne plate.
(Y) Sheets, hot rolled.
(Z) Sheets, cold rolled.
(AA) Sheets, coated including galvanized.
(BB) Sheets, coated, alloy.
(CC) Strip, hot rolled.
(DD) Strip, cold rolled.
(EE) Strip, hot and cold rolled—alloy.
(FF) Sheets other, Electric coated.

5. It is proposed to amend the introductory clause of § 141.91 of the Customs Regulations (19 CFR 141.91) to read as follows:

§ 141.91 Entry without required invoice.

If a required invoice, other than a special summary invoice, is not available in proper form at the time of entry and a waiver in accordance with § 141.92 is not granted, the entry shall be accepted only under the following conditions: * * *

* * * * *

6. It is proposed to amend the introductory clause of section 141.92(a) of the Customs Regulations (19 CFR 141.92(a)) to read as follows:

§ 141.92 Waiver of invoice requirements.

(a) *When waiver may be granted.* The district director may waive production of a required invoice, except a special summary invoice required by § 141.83(b), when he is satisfied that either: * * *

* * * * *

R. E. CHASEN,
Commissioner of Customs.

Approved: December 28, 1977.

ANTHONY M. SOLOMON,
Acting Secretary of the Treasury.

[FR Doc.77-37338 Filed 12-29-77;8:45 am]

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 917]

NATIONAL SEA GRANT PROGRAM FUNDING REGULATIONS

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: These proposed regulations set forth explanations of the several Sea Grant funding programs established by the Sea Grant Program Improvement Act of 1976, as amended and eligibility requirements for these programs. The regulations also set forth terms and conditions for funding made under these programs and other general considerations pertaining to Sea Grant funding.

DATE: Deadline for submission of written comments, January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. Ned A. Ostenso, Director, Office of Sea Grant, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-4120.

SUPPLEMENTAL INFORMATION: The National Oceanic and Atmospheric Administration proposes to adopt regulations for funding made by the Office of Sea Grant pursuant to the provisions of the Sea Grant Program Improvement Act of 1976, as amended (33 U.S.C. 1121 et seq.), referred to as the "Act," for the purpose of setting forth eligibility requirements and terms and conditions for Sea Grant funding under these sections.

To implement these provisions of the Act, NOAA proposes a new Part 917. Part 917 will implement the funding authority given to the Sea Grant Program to support projects of marine research, marine education and training, and marine advisory services which deal with state, regional, and national needs relative to ocean and coastal resources or which involve programs of international cooperation with respect to these resources.

The basic purpose for which Sea Grant "Matched Program" funding (33 USC 1124(a)) may be used is for Sea Grant programs and projects which implement the objectives of the Act and which generally respond to the needs of individual states or regions. This includes the funding of the Sea Grant Fellowship Program established by 33 USC 1127, which is specifically designed to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education in fields related to ocean and coastal resources.

The basic purpose for which Sea Grant National Program funding (33 USC 1125) may be used is for projects which respond to specific national needs and problems relative to ocean and coastal resources that are identified by the Administrator of the National Oceanic and Atmospheric Administration. It is designed to utilize the capabilities developed within Sea Grant funded institutions (since the inception of the Sea Grant Program in 1966) and to utilize capabilities existing outside of these Sea Grant institutions.

The Administrator will, periodically, publish in the FEDERAL REGISTER what he/she has determined to be national needs and problems with respect to ocean and coastal resources pursuant to the terms of the Act. The Administrator has determined that the development and experimental verification of the hydrodynamic laws governing the transport of marine sediments in the flow fields occurring in coastal waters is currently a national need appropriate for funding under the Sea Grant National Program because:

a. It has been estimated that 28 percent of the Nation's shorelines (49 percent if Alaska is excluded) are undergoing significant or critical erosion. Approximately 65 percent of the areas where erosion is a problem are privately-owned and not eligible for Federal assistance under existing statutes. The transient nature of shorelines because of erosion and deposition is a major problem faced by coastal zone management authorities in almost every state.

b. The present, and historical, approach to erosion problems is through engineering efforts that include: vegetation plantings, breakwaters (fixed or floating), groin fields, sand by-pass operations, etc. Considerable, well-directed, experimental studies are currently underway mainly under the direction or supervision of the U.S. Army Corps of Engineers. It is universally agreed, however, that engineering solutions have been, and are, hampered by deficiencies in our understanding of the detailed mechanisms by which waves and currents move coastal sediments. In the past, many expensive engineering efforts have failed or caused undesirable and unpredicted side effects because of this deficiency in understanding.

c. Research carried out over the last decade, sponsored by the Corps of Engineers, the Navy, the National Science Foundation, and the National Sea Grant Program, among others, has developed a small number of competent academic groups well positioned to make contributions that could revolutionize this field of study.

d. Recent advances in instrumentation and analytical technique make it possible to attack the problem in new ways tht have promise.

e. The cadre of top flight investigators is small enough that interaction is at once desirable and relatively easy to orchestrate.

The basic purpose for which Sea Grant International Program (33 U.S.C. 1124a) funding may be used is for projects designed to enhance the research and technical capability of developing foreign nations with respect to ocean and coastal resources and to promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources. This program is also intended to utilize the capabilities built up in Sea Grant funded institutions (since the inception of the Sea Grant Program in 1966) and to utilize capabilities existing outside of these institutions.

Subpart A of Part 917, entitled "General," discusses the basic purposes for which Sea Grant funding may be awarded, pursuant to the provisions of the Act. It also defines major terms used in the regulations: "Act"; "Secretary"; "Administrator"; "Office of Sea Grant"; "objective of the Act"; "ocean and coastal resources"; "marine environment"; "person"; "Sea Grant College"; "Sea Grant Program"; "Sea Grant Regional Consortium"; "state"; and "developing foreign nations". Qualifications for the achievement of Sea Grant College and Sea Grant Regional Consortia status will be promulgated in a new part 918 at a later time.

Subpart B, entitled "Sea Grant Matched Program" discusses the guidelines for the awarding of Sea Grant Felships (provided for in 33 U.S.C. 1127), which are part of the Matched Program. Matched Program projects are subject to a requirement of matching funds from non-Federal sources in the amount of at least 33⅓ percent of the total cost of the project.

Subpart C, entitled "Sea Grant National Program" discusses the scope of the funding program set forth in 33 U.S.C. 1125. Sea Grant funding for projects under this section can be up to 100 percent of the cost of the project.

It should be noted by prospective applicants for Sea Grant Fellowships, National Program and International Program funding that the amount of funding available for these programs is limited.

Environmental and inflationary impact statements: NOAA has reviewed these regulations pursuant to the National Environmental Policy Act of 1969 and has determined that promulgation of these regulations will not have a significant impact on the human environment.

NOAA 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.

Public review and comment: NOAA invites public review and comment on these proposed regulations, so that they may again be modified, where necessary and legally permissible, to satisfy fully the requirements of the Act in a manner which addresses the concerns of all parties affected by the regulations. Written comments should be submitted to Dr. Ned A. Ostenso, Director, Office of Sea Grant, Page Building 1, 3300 Whitehaven Street NW., Washington, D.C., on or before January 31, 1977. Following the close of the comment period, and after review of comments, these proposed regulations may be amended and will be published as final regulations in the FEDERAL REGISTER.

Dated: December 27, 1977.

T. P. GLEITER,
Assistant Administrator for Administration.

In consideration of the foregoing, Part 917 is proposed as follows:

PART 917—NATIONAL SEA GRANT PROGRAM FUNDING REGULATIONS

Subpart A—General

917.1 Basic provisions.
917.2 Definitions.

Subpart B—Sea Grant Matched Program

917.10 General.
917.11 Guidelines for Sea Grant Fellowships.

Subpart C—Sea Grant National Program

917.20 General.

Subpart D—Sea Grant International Program

917.30 General.

Subpart E—General Considerations Pertaining to Sea Grant Funding

917.40 General.
917.41 Application guidance for Sea Grant Funding.
917.42 Categories of support available for the conducing of Sea Grant Activities.
917.43 Terms and conditions of Sea Grant Funding.

Subpart A—General

§ 917.1 Basic provisions.

(a) This section sets forth the basic purposes for which Sea Grant funding may be made pursuant to the following sections of the Act: 33 U.S.C. ff. 1124, 1127, 1125, and 1124a. The principal intent of these sections is to fund programs and projects in fields related to ocean and coastal resources and which involve marine research, marine education and training, and marine advisory services. However, there is a significant difference in focus among these sections since Section 1124(a) is concerned chiefly with regional and state needs relative to ocean and coastal resources (including the funding of Sea Grant Fellowships under Section 1127) while Section 1125 is concerned with national needs and problems relative to ocean and coastal resources and Section 1124a is concerned with programs of international cooperation with respect to those resources.

(b) *Comment:* Statutory citation 33 U.S.C. 1124(a):

In General.—The Secretary may make grants and enter into contracts under this subsection to assist any Sea Grant program or project if the Secretary finds that such program or project will—

(1) Implement the objective set forth in Section 202(b); and

(2) Be responsive to the needs or problems of individual states or regions.

The total amount paid pursuant to any such grant or contract may equal 66⅔ percent, or any lesser percent, of the total cost of the Sea Grant program or project involved.

(c) *Comment:* Statutory citation 33 U.S.C. 1127(a):

In General.—The Secretary shall support a Sea Grant Fellowship Program to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education in fields related to ocean and coastal resources * * *.

(d) *Comment:* Statutory citation 33 U.S.C. 1125(a):

In General.—The Secretary shall identify specific national needs and problems with respect to ocean and coastal resources. The Secretary may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(e) *Comment:* Statutory citation 33 U.S.C. 1124a(a):

In General.—The Secretary may enter into contracts and make grants under this section to—

(1) Enhance the research and development capability of developing foreign nations with respect to ocean and coastal resources, as such term is defined in Section 203 of the National Sea Grant Program Act; and

(2) Promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources.

§ 917.2 Definitions.

(a) The term "Act" means the Sea Grant Program Improvement Act of 1976, as amended (33 U.S.C. 1121 et seq.).

(b) The term "Secretary" means the Secretary of Commerce.

(c) The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(d) The term "Office of Sea Grant" means the National Oceanic and Atmospheric Administration's Office of Sea Grant, which administers the National Sea Grant Program provided for in the Act.

(e) The term "objective of the Act" means the objective set forth at 33 U.S.C. 1121(b) and is "to increase the understanding, assessment, development, utilization, and conservation of the Nation's ocean and coastal resources by providing assistance to promote a strong educational base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques."

(f) The term "ocean and coastal resource(s)" is as defined at 33 U.S.C. 1122(7) and means:

Any resource (whether living, nonliving, manmade, tangible, intangible, actual, or potential) which is located in, derived from, or traceable to, the marine environment. Such term includes the habitat of any such living resource, the coastal space, the ecosystems, the nutrient rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values. Living resources include natural and cultured plant life, fish, shellfish, marine mammals, and wildlife. Nonliving resources include energy sources, minerals, and chemical substances.

(g) The term "marine environment" used in the definition for "ocean and coastal resources" in 917.2(e) is as defined at 33 U.S.C. 1122(6) and means:

The coastal zone, as defined in Section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)); the seabed, subsoil, and waters of the territorial sea of the United States; the waters of any zone over which the United States asserts exclusive fishery management authority; the waters of the high seas; and the seabed and subsoil of and beyond the outer Continental Shelf.

(h) The term "person" is as defined at 33 U.S.C. 1122(9) and means:

Any individual; any public or private corporation, partnership, or other association or entity (including any Sea Grant College, Sea Grant Regional Consortium, institution of higher education, institute, or laboratory); or any state, political subdivision of a state, or agency or officer thereof.

(i) The term "Sea Grant College" is as defined at 33 U.S.C. 1122(10) and means: "Any public or private institution of higher education which is designated as such by the Secretary * * *" pursuant to regulations promulgated at 15 CFR Part 918.

(j) The term "Sea Grant program" is as defined at 33 U.S.C. 1122(11) and means:

Any program which (A) is administered by a Sea Grant College, Sea Grant Regional Consortium, institution or higher education, institute, laboratory, or state or local agency; and (B) includes two or more projects involving one or more of the following activities in fields related to ocean and coastal resources:

(i) Research,
(ii) Education
(iii) Training, or
(iv) Advisory services.

(k) The term "Sea Grant Regional Consortium" is as defined at 33 U.S.C. 1122(12) and means: "Any association or alliance which is designated as such by the Secretary * * *" pursuant to regulations promulgated at 15 CFR Part 918.

(l) The term "state" is as defined at 33 U.S.C. 1122(14) and means:

Any state of the United States, the District of Columbia, the Commonwealth of Pureto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

(m) The term "developing foreign nations" includes any foreign nation that is eligible for designation under Section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)).

Subpart B—Sea Grant Matched Grant Program

§ 917.10 General.

(a) 33 U.S.C. 1124(a) establishes a program for the funding of Sea Grant programs and projects dealing with marine research, marine education and training, and/or marine advisory services that are designed to achieve the objective of the Act and that generally respond to the needs of individual states or regions. Included as a part of this program is the Sea Grant Fellowship Program, established by 33 U.S.C. 1127. Any person may apply to the Office of Sea Grant Matched Program funding, except for Sea Grant Fellowship funding. Sea Grant Fellowship funding may be granted only to Sea Grant Colleges, Sea Grant Regional Consortia, institutions of higher education, and professional associations and institutions.

(b) Federal Sea Grant funding for the Section 1124(a) Matched Program cannot exceed 66⅔ percent of the total cost of the project involved.

§ 917.11 Guidelines for Sea Grant Fellowships.

(a) Sea Grant Fellowships are designed to provide educational and training assistance to qualified individuals at the undergraduate and graduate levels of education in fields related to ocean and coastal resources. The objective of the program is to increase the national supply of individuals educated and trained in the assessment, development, utilization, and conservation of ocean and coastal resources. The purpose of this section is to provide guidelines regarding the content of applications for Sea Grant Fellowship funding.

(b) Grants will be made to eligible entities (see 917.10 supra) that are selected to award and administer Sea Grant Fellowships. Fellowships will not be awarded directly to students by the Office of Sea Grant. The grantee will select the students to be awarded the Fellowships and will handle the administration of the Fellowships.

(c) Proposals for Fellowship funding will be expected to address (1) the nature and focus of the proposal Fellowship Program, (2) the utilization of institutional or other appropriate resources in the education and training of Sea Grant Fellows, (3) the methods of advertising availability of the Fellowships, (4) the methods of selection of recipients, and (5) the terms of tenure and method of determining continuity of tenure.

(d) Innovation and uniqueness will be significant factors in the determination of which proposals will be funded. Another factor considered will be the potential of the proposed program to stimulate intrest in marine related careers among those individuals, for example, minorities, women, and the handicapped, whose previous background or training might not have generated such an interest.

(e) The total amount which may be provided for grants under the Sea Grant Fellowship Program during any fiscal year cannot exceed an amount equal to five percent of the total funds appropriated for the Matching Grant Program for that year. Fellowship programs are subject to the requirement of a minimum of 33⅓ percent matching funds from non-Federal sources to which all Matching Grant Program projects are subject. Indirect costs are not allowable for the Fellowship Program. Considering the variations in the cost-of-living and the differences in tuition, fees, etc., between one college or university and another, the amount of money requested and awarded per fellowship may vary.

Subpart C—Sea Grant National Program

§ 917.20 General.

(a) 33 U.S.C. 1125 sets up a program of national Projects for the funding of projects of applied marine research, marine education and training, and marine advisory services designed to deal with specific national needs and problems—relative to ocean and coastal resources that are identified by the Administrator. Any person may apply to the Office of Sea Grant for National Program funding. In addition, the Office of Sea Grant may invite application for funding under this program.

(1) This program is designed to utilize the capabilities developed within the Sea Grant-funded institutions since the inception of the National Sea Grant Program and the capabilities existing outside of these Sea Grant institutions to deal with these national needs and problems.

(2) The objectives of the National Program are: (*1*) to initiate or accelerate effort in areas of high national priority which are receiving inadequate or no attention; (2) to support programs that are of national interest but lack specific relevance to any geographic region and thus cannot reasonably attract matching funds.

(3) The suite of "needs" and "problems" that could be identified as significant to the Nation is extremely broad. In order to make Sea Grant national projects effective in accomplishing their purpose, it is considered necessary that only a few narrowly defined areas be addressed, and that they be chosen so that within funding limitations, a significant impact over a short period of time seems probable.

(b) National project proposals will be expected to address (1) the nature and focus of the proposed project, (2) the relevance of the proposed project to either of the objectives set forth in 917.20(a)(2), above, (3) the utilization of existing capability and coordination with other relevant projects, and (4) a demonstrated capacity to perform the proposed task in a competent and cost-effective manner.

Although innovation and uniqueness will be significant factors in the determination of which proposals will be funded, the most important factor will be the specific relevance of the proposed task to a national need under any one of these criteria.

(c) The Administrator will, periodically, publish in the FEDERAL REGISTER what he/she determines to be national needs and problems with respect to ocean and coastal resources pursuant to the terms of the Act. The publication of national needs and problems will not mean that needs and problems with respect to ocean and coastal resources are limited to those published. Suggestions from the general public as to what the national needs and problems are may be submitted to the Office of Sea Grant at any time. These suggestions will be reviewed by the Office of Sea Grant and the Sea Grant Review Panel, and those receiving a positive critique will be forwarded to the Administrator.

(d) The Administrator has determined that the development and experimental verification of the hydrodynamic laws governing the transport of marine sediments in the flow fields occurring in coastal waters is currently a national need appropriate for funding under the Sea Grant National Program.

(e) The total amount provided for funding under the National Program during any fiscal year can never exceed an amount equal to 10 percent of the total funds appropriated for the Matching Grants Program. Federal Sea Grant funding for national projects can be up to 100 percent of the total cost of the project involved.

Subpart D—Sea Grant International Program

(a) 33 U.S.C. 1124a sets up a program of international cooperation in marine research, marine education and training, and marine advisory services designed to enhance the research and technical capability of developing foreign nations with respect to ocean and coastal resources and to promote the international exchange of information and data with respect to the assessment, development, utilization, and conservation of such resources. Any Sea Grant College or Sea Grant Regional Consortium or any institution of higher education, laboratory, or institute (if such institution, laboratory, or institute is located within any state) may apply for and receive funding under the Sea Grant International Program.

(b) International program proposals will be expected to address: (1) the nature and focus of the proposed programs, (2) the utilization of institutional and other appropriate resources in the implementation of an International Program, (3) a clear indication

of the foreign participant's (individual or institution) commitment to the project, (4) identification of accomplishments expected from a single granting interval, (5) implicit or explicit out-year commitment of resources, and (6) impact on the grantee institution of the proposed project.

(c) The international projects supported under the program are intended to be genuinely cooperative. Innovation and uniqueness will be significant factors in the determination of which proposals will be funded. In the case of a proposed international project which is submitted from an institution where a Sea Grant program is in existence, the extent to which the proposed project takes advantage of the Sea Grant institutional capability existing at that institution and thereby strengthens it, as opposed to being a mere appendage to the ongoing Sea Grant program will also be an important evaluation factor. The State Department will be given the opportunity to review all international projects and none will be funded without this consultation. Because the United Nations Educational, Scientific, and Cultural Organization (UNESCO) also funds international projects of the type covered by the Sea Grant International Program, and, in order to effect coordination in this area between Sea Grant and UNESCO, the Division of Marine Sciences (UNESCO) will be informed of all projects funded.

Subpart E—General Considerations Pertaining to Sea Grant Funding

§ 917.40 General.

(a) This subpart sets forth general conderations pertaining to Sea Grant funding.

§ 917.41 Application Guidance for Sea Grant Funding.

(a) Detailed guidance for submission of applications for Sea Grant funding is given in the publication, "The National Sea Grant Program: Program Description and Suggestions for Preparing Proposals," available on request from: Office of Sea Grant Programs, 3300 Whitehaven Street NW., Washington, D.C. 20235.

(1) It is noted here that application for Sea Grant funding shall be made pursuant to the following Federal provisions:

(i) OMB Circular A–110 "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

(ii) OMB Circular A–111, "Designation of Federal Programs Suitable for Joint Funding Purposes."

(iii) GSA FMC 73–6, "Coordinating Indirect Cost Rates and Audit at Educational Institutions."

(iv) GSA FMC 73–7, "Administration of College and University Research Grants."

(v) GSA FMC 73–8, "Cost Principles for Educational Institutions."

(vi) GSA FMC 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

(vii) OMB Circular A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."

(viii) NOAA General Provisions implementing OMB Circular A–110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations."

§ 917.42 Categories of Support Available for the Conducting of Sea Grant Activities.

(a) Three categories of support are available for the conducting of Sea Grant activities: Projects, coherent area projects, and Institutional programs (which include programs at Sea Grant Colleges and Sea Grant Regional Consortia). In general, grants for institutional programs and coherent area projects are made with expectation of renewal, so long as the grantee maintains a high level of quality and relevance in its activities. Projects generally are for a single item of research but may be renewed under certain conditions, each renewal is negotiated individually.

(1) Project support is for a clearly defined activity to be conducted over a definite period of time to achieve a specified goal. The project may be in research, education, training, or advisory services. Support for a project is made to an individual investigator or project director through his organization.

(2) Intermediate between the institutional programs and projects are coherent area projects. These have two main purposes:

(i) To bring into the National Sea Grant Program institutions of higher education which have a strong core of capability in some aspects of marine affairs, but which do not qualify or not wish to qualify for institutional support at this time. The purpose of support in such cases is to enable the institution to apply its existing competence to its regional problems and oportunities while developing the broader base or the organization that will lead to institutional support. This program category requires a definite commitment on the part of the institution to develop an institutional program and to present a multiproject, multidisciplinary program involving the existing competence of an institution in a unified, or coherent, attack on well-defined local or regional problems. Such a coherent area project should include research, education, and advisory services to the extent of the institution's capability.

(ii) To bring into the Sea Grant Program, on a more or less continuing basis, qualified entities which have rare or unique capability in a specialized field of marine affairs. Such entities need not be institutions of higher education.

(3) Institutional grants are made to institutions of higher education or a combination of institutions which have an existing broad base of competence in marine affairs. To qualify, an institution must make a positive, long-range commitment to objectives of the Sea Grant Program as evidenced by commitment of the institution's own resources in the form of matching funds, creation of the organization necessary for management of the Sea Grant Program, quality education programs in marine areas, establishment of interdisciplinary research teams, and development of advisory service mechanisms for strong interaction with marine communities in its region. A Sea Grant institutional program (including Sea Grant Colleges and Sea Grant Regional Consortia) is expected to provide intellectual leadership in assisting its region to solve problems and to realize opportunities of its coastal and marine environment. To the extent possible, an institutional program should involve all appropriate elements of the institution, whether colleges or departments, and devise cooperative or mutually supporting programs with other institutions of higher education, and with Federal and state agencies, local agencies, and industry. An institutional program should have substantial strength in the three basic Sea Grant activities: research, education and training, and advisory services. Sea Grant institutional programs that meet the qualifications for Sea Grant College or Sea Grant Regional Consortium status set forth by the Secretary at 15 CFR 918 will be so designated by the Secretary.

§ 917.43 Terms and Conditions of Sea Grant Funding.

(a) All Sea Grant funding will be subject to the following limitations and conditions:

(1) No funding may be applied to: (i) The purchase or rental of any land or

(ii) The purchase, rental, construction, preservation, or repair of any building, dock, or vessel except that payment under any such grant or contract may, if approved by the Assistant Administrator for Administration of the National Oceanic and Atmospheric Administration or his/her designee, be applied to the purchase, rental, construction, preservation, or repair of non-self-propelled habitats, buoys, platforms, and other similar devices or structures, or to the rental of any research vessel which is used in direct support of activities under any Sea Grant program or project.

(b) In addition, Sea Grant funding under the Sea Grant Matched Program will be subject to the following limitation:

(1) The total amount which may be obligated within any one state to persons under the Sea Grant Matched Program in any fiscal year shall not exceed an amount equal to 15 percent of the funds appropriated for the Sea Grant Matched Program.

(c) Any person who receives or utilizes Sea Grant funding shall keep the records required by OMB Circular A–110, "Grant and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and by NOAA General Provision, implementing OMB Circular A–110, by OMB Circular A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," including records which

fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers, and records of receipt which, in the opinion of the Secretary or the Comptroller General, may be related or pertinent to such grants and contracts.

[FR Doc.77-37190 Filed 12-29-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 50]

[FRL 838-2; Docket No. OAQPS 77-1]

LEAD

Public Hearing on Proposed National Ambient Air Quality Standard

A public hearing on the proposed National Ambient Air Quality Standard for lead and the accompanying regulations for State Implementation Plans will be held February 15, 1978, beginning at 9:00 a.m. EST at the U.S. Environmental Protection Agency, Waterside Mall, Room 3906, 401 M Street SW., Washington, D.C. The meeting will be extended through February 16, if necessary. This is a change from the January 17, 1978 date announced in the December 14, 1977 Notice of Proposed Rulemaking (42 FR 63076). The extension is intended to provide additional time for public review of the proposed regulatory package prior to the hearing.

The February hearing is intended to provide an opportunity for interested persons to present their views and comments on issues related to the level of the standard and the regulations for State Implementation Plans, both of which were proposed in the December 14 FEDERAL REGISTER announcement, and to submit information for consideration in the preparation of the promulgated rule. Individuals wishing to make oral presentations at the hearing should contact Mr. Joseph Padgett, Director, Strategies and Air Standards Division, U.S. Environmental Protection Agency, MD-12, Research Triangle Park, North Carolina 27711 (Phone: 919-541-5204), no later than February 3, 1978. The submission of three copies of material to be presented will greatly facilitate the preparation of a public record.

All persons who wish to submit data, views, or comments in writing rather than at the hearing, are requested to send them to the Agency postmarked no later than March 17, 1978. All comments received and a verbatim transcript of the hearings will be available for public inspection and copying during normal working hours at the U.S. Environmental Protection Agency's Public Information and Reference Unit, Room 2922, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Docket No. OAQPS 77-1).

Communications and correspondence should be addressed to U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, MD-12, Research Triangle Park, North Carolina 27711, Attention: Mr. Joseph Padgett.

Dated: December 27, 1977.

RAYMOND SMITH,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc. 77-37255 Filed 12-29-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

DEPUTY ADMINISTRATOR, PACKERS AND STOCKYARDS, AND DEPUTY ADMINISTRATOR, MARKETING PROGRAM OPERATIONS

Organization, Functions, and Delegations of Authority

The Agricultural Marketing Service organization, functions and delegations of authority have been revised to include the functions of the Packers and Stockyards Administration. In order to provide for the effective administration of these functions the positions of Deputy Administrator, Packers and Stockyards and Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service, have been established. The Deputy Administrator's functions and delegations of authority are delineated as follows:

1. Deputy Administrator, Packers and stockyards.

(a). *Functions.* The Deputy Administrator, Packers and Stockyards participates with the Administrator in the overall planning, direction, and coordination of Packers and Stockyards programs and activities delegated to the Administrator, Agricultural Marketing Service.

(b) *Delegations of Authority.* The Deputy Administrator, Packers and Stockyards is hereby delegated the authority to perform all the duties and to exercise all the functions and powers pertaining to Packers and Stockyards which are now or which may hereafter be vested in the Administrator (including the power of redelegation except where prohibited) except such authority as is reserved to the Administrator.

2. Deputy Administrator, Marketing Program Operations.

(a) *Functions.* The Deputy Administrator, Marketing Program Operations, participates with the Administrator in the overall planning, direction and coordination of Marketing and regulatory programs and activities (except those pertaining to Packers and Stockyards) delegated to the Administrator, Agricultural Marketing Service.

(b) *Delegations of Authority.* The Deputy Administrator, Marketing Program Operations is hereby delegated the authority to perform all the duties and to exercise all the functions and powers which are now or which may hereafter be vested in the Administrator except those involving Packers and Stockyards Administration, (including the power of redelegation unless otherwise prohibited) and such authority as is reserved to the Administrator.

Effective Date: December 30, 1977.

Dated: December 22, 1977.

BARBARA LINDEMANN SCHLEI,
Administrator.

[FR Doc. 77-37148 Filed 12-29-77; 8:45 am]

[3410-07]

Farmers Home Administration

[Notice of Designation Number A543]

NORTH DAKOTA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain North Dakota Counties as a result of various adverse weather conditions shown in the following chart:

NORTH DAKOTA; 16 COUNTIES

County	1976-77 drought	1977 excessive rainfall	1977 intermittent hailstorms
	Drought in all 16 counties started during 1976 crop year and continued through:		
Barnes	June 1, 1977	Aug. 1-Oct. 15	June, July, Aug., and Sept.
Burke	June 30, 1977	Aug. 18-Oct. 18	
Cass	June 1, 1977	Aug. 1-Sept. 30	June and Sept.
Cavalier	June 30, 1977	Aug. 19-Oct. 18	Aug.
Emmons	June 1, 1977	Aug. 1-Oct. 15	June and July.
Griggs	June 30, 1977	Aug. 1-Sept. 30	Aug. and Sept.
LaMoure	June 30, 1977	Aug. 1-Sept. 30	June (also wind and tornadoes).
Logan	June 30, 1977	Aug. 1-Sept. 30 (also flooding).	May, June, July, and Aug.
McHenry	June 30, 1977	Aug. 1-Oct. 15	June and July.
McLean	Aug. 14, 1977	Aug. 15-Oct. 13	June and July.
Pembina	June 1, 1977	Aug. 1-Sept. 30	July, Aug., and Sept.
Renville	May 2, 1977 and	May 3 and May 4 and	July (also wind).
	May 5, 1977 thru June 30, 1977.	Aug. 1-Oct. 15	
Slope	Aug. 14, 1977	Aug. 15-Oct. 15	July and Aug.
Steele	Aug. 30, 1977	Aug. 1-Sept. 30	June, July, and Sept.
Traill	June 30, 1977	Aug. 1-Oct. 15	May and June.
Walsh	June 30, 1977	Aug. 1-Sept. 30 (also wind).	Aug.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Arthur A. Link that such designation be made.

Applications for emergency loans must be received by this Department no later than June 12, 1978, for physical losses and December 13, 1978, 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 areas 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 21st day of December 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc. 77-37008 Filed 12-29-77; 8:45 am]

[3410-37]

Food Safety and Quality Service

MECHANICALLY DEBONED MEAT

Availability of Report

On October 6, 1977, the Administrator published a notice of proposed rulemaking titled "Standards and Labeling Requirements for Tissue from Ground Bone." It appeared in Volume 42, No. 194, pages 54437-54442 of the FEDERAL REGISTER with a comment period which closed December 5, 1977.

That document referred to a report by an expert Panel which evaluated the health and safety aspects of mechanically deboned meat. After discussing the findings, the proposal stated that the report could be obtained by writing the Office of Information, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. Those writing for this report received Volume I titled "Final Report and Recommendations of Select Panel on Health and Safety Aspects of the Use of Mechanically Deboned Meat," and a promise of Volume II titled "Background Materials and Details of Data, Health and Safety Aspects of the Use of Mechanically Deboned Meat" as soon as it was printed.

Volume II contains the background material, details of data and methodology for the recommendations made in Volume I. Volume II is now available and persons wishing to obtain Volume I or Volume II, or both, may do so by contacting the Office of Information, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on: December 23, 1977.

JOSEPH A. POWERS,
Acting Administrator,
Food Safety and Quality Service.

[FR Doc. 77-37187 Filed 12-29-77; 8:45 am]

[3410-37]

Food Safety and Quality Service

QUALITY CONTROL FOR IMPORTED DATES

Memorandum of Understanding With the Food and Drug Administration

CROSS REFERENCE: For a document giving notice of a Memorandum of Understanding between the Food Safety and Quality Service and the Food and Drug Administration regarding certain related objectives in carrying out their respective responsibilities in the inspection, sampling, and examination of imported dates and date material, see FR Doc. 77-36860 appearing under the Food and Drug Administration, Department of Health, Education, and Welfare, in the notices section of this FEDERAL REGISTER. Refer to the table of contents at the front of this issue under "Food and Drug Administration" for the correct page number.

[3410-11]

Forest Service

ISLAND PARK PLANNING UNIT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Island Park Planning Unit, Targhee National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-78-3.

The Island Park Planning Unit is an area of approximately 501,000 acres of the Targhee National Forest in southeastern Idaho. It is located entirely within Fremont County. Under the proposed plan, existing recreation facilities would be maintained, wildlife habitat diversity would increase, Lionhead wilderness study areas No. 351 and 351A and 351B would be managed to protect their wilderness character until a wilderness study can be completed. Inventoried roadless area No. 350 would be managed as unroaded and undeveloped. Other inventoried roadless areas would be managed for a full range of resource values. Annual timber harvest would be about 25 million board feet.

Th is draft environmental statement was transmitted to EPA on December 20, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, D.C. 20250.
Regional Planning & Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324-25th Street, Ogden, Utah 84401.
Forest Supervisor, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho 83445.
District Ranger, Island Park Ranger District, Island Park, Idaho 83429.
District Ranger, Ashton Ranger District, Ashton, Idaho 83420.

A limited number of single copies are available upon request to forest Supervisor David Jay, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho 83445.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor David Jay, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho 83445.

Comments must be received by February 20, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: December 20, 1977.

VERN HAMRE,
Regional Forester.

[FR Doc. 77-37183 Filed 12-29-77; 8:45 am]

[3410-11]

RESOURCE MANAGEMENT PLAN—TIMBER MANAGEMENT PLAN, TAHOE NATIONAL FOREST

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the proposed revision of the 10-year Timber Management Plan for the Tahoe National Forest. USDA-FS-R5-DES(Adm)-78-03. Portions of the forest are located in Nevada, Sierra, Placer, Yuba, and Plumas Counties, Calif.

The environmental statement concerns a proposed revision of the existing Timber Management Plan which establishes a timber harvesting level and schedule for the Tahoe National Forest for the next dacade beginning fiscal year 1978.

The draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on December 23, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave. SW, Washington, D.C. 20250.
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, Calif. 94111.
Tahoe National Forest, Highway 49, Nevada City, Calif. 95959.

A limited number of single copies are available, upon request, from Forest Supervisor, Bob Lancaster, Tahoe National Forest, Highway 49, Nevada City, Calif. 95959.

Copies of the environmental statements have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and

from Federal Agencies having jurisdiction by law or special expertise with respect to any environmental effects for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor, Tahoe National Forest, Highway 49, Nevada City, Calif. 95959.

Comments must be received within 60 days after transmittal to CEQ in order to be considered in the preparation of the final environmental statement.

ROBERT W. CERMAK,
Deputy Regional Forester.

DECEMBER 23, 1977.

[FR Doc. 77-37165 Filed 12-29-77; 8:45 am]

[3410-11]

SIX RIVERS NATIONAL FOREST

Extension of Comment Period

On November 7, 1977, the Forest Service, Department of Agriculture, transmitted to the Council on Environmental Quality (CEQ) a draft environmental statement for the Chimney Rock Section, Gasquet-Orleans Road, Six Rivers National Forest, Calif., USDA-FS-F5-DES(Adm)-78-02, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969. Notice of availability of this draft environmental statement was published in the FEDERAL REGISTER on November 14, 1977 (42 FR 58965). Comments were requested within 60 days after transmittal to CEQ.

To provide additional opportunity for public review and for the holding of public workshops, the comment period for this draft environmental statement is being extended an additional 30 days to February 6, 1978. The Six Rivers National Forest will be scheduling public workshops in Eureka and Crescent City in late January.

Copies of the draft environmental statement are available for inspection at the locations listed in the Notice of availability of Draft Environmental Statement (42 FR 58965).

Copies of a summary booklet, as well as a limited number of single copies of the environmental statement, are available, upon request, from Forest Supervisor Richard E. Burke, Six Rivers National Forest, 710 E Street, Eureka, Calif. 95501.

Comments concerning the proposed action should be addressed to Supervisor Burke and should be received by February 6, 1978, in order to be considered in the preparation of the final environmental statement.

CURTIS L. SMITH,
Deputy Regional Forester.

DECEMBER 23, 1977.

[FR Doc. 77-37174 Filed 12-29-77; 8:45 am]

[3510-15]

Rural Electrification Administration

ARKANSAS ELECTRIC COOPERATIVE CORP.

Draft Environmental Impact Statement

Notice is hereby given that the Environmental Protection Agency, acting as lead agency on behalf of itself and REA, intends to prepare a Draft Environmental Impact Statement in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with the joint participation by Arkansas Electric Cooperative Corp., Arkansas Power & Light Co. and the City Water and Light Plant of Jonesboro, Ark., in the construction of the Independence Power Plant, to be located on the White River near Newark (Independence County), Ark. The proposed plant would consist of two 800 MW (net) coal-fired, steam electric generating units.

REA anticipates receiving an application for a loan guarantee to Arkansas Electric Cooperative Corp., P.O. Box 9499, Little Rock, Ark. 72209, for AECC's share of the project.

Interested parties are invited to submit comments which will be helpful in preparing the EIS to the Assistant Administrator-Electric, Rural Electrificaton Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address is given above. Additional information may be obtained at the borrower's office during regular business hours.

Dated at Washington, D.C., this 19th day of December 1977.

RICHARD F. RICHTER,
Acting Administrator,
Rural Electrification Administration.

[FR Doc. 77-36904 Filed 12-29-77; 8:45 am]

[3410-16]

Soil Conservation Service

GERLACH DRAINAGE R. C. & D. MEASURE, NEVADA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines 97 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Gerlach Drainage R. C. & D. Measure, Washoe County, Nev.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Gerald Thola, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan for controlling a high water table condition in the townsite of Gerlach, Nev. The planned works of improvement include approximately 1,800 feet of open drain, approximately 2,000 feet of tile drain, and one culvert.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 1281 Terminal Way, Suite 204, Reno, Nev. 89502. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until January 30, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, 16 U.S.C. 590a-f, g.)

Dated: December 16, 1977.

VICTOR H. BARRY, JR.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 77-37085 Filed 12-29-77; 8:45 am]

[3410-16]

HADLEY VALLEY CRITICAL AREA TREATMENT R. C. & D. MEASURE, MINNESOTA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact state-

ment is not being prepared for the Hadley Valley Critical Area Treatment R. C. & D. Measure, Olmstead County, Minn.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan for the reduction of gully erosion in Hadley Valley. The planned works of improvement include two earthfill grade stabilization structures, two drop spillway structures, and approximately 14,000 feet of grassed waterway.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Room 102, 1220 4th Avenue SW., Rochester, Minn. 55901. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until January 30, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Pub. L. 87-703, 16 U.S.C. 590a-*f*, g.)

Dated: December 16, 1977.

VICTOR H. BARRY, Jr.,
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 77-37083 Filed 12-29-77; 8:45 am]

[3410-16]

KORAN COMMUNITY R.C. & D. MEASURE, LOUISIANA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Koran Community R.C. & D. measure, Bossier Parish, La.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Alton Mangum, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan for flood prevention. The planned works of improvement include construction of two channels for a total of 6,000 feet along the outer perimeter of a residential area to remove excess water.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Bossier Parish Courthouse, Benton, La. 71006. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until January 30, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, g.)

VICTOR H. BARRY, Jr.
Deputy Administrator for Programs, Soil Conservation Service.

[FR Doc. 77-37084 Filed 12-29-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31870, 31791 and Order 77-12-115]

BALTIMORE/WASHINGTON-HOUSTON LOW-FARE ROUTE CASE AND TEXAS INTERNATIONAL AIRLINES

Order Instituting Investigation; Houston-Baltimore/Washington Low Fare "Peanuts" Route Extension

DECEMBER 22, 1977.

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C., on the 22nd day of December 1977.

On December 6, 1977, Texas International Airlines filed an application and a motion for hearing requesting nonstop route authority between Houston and Baltimore/Washington. This market generated over 150,000 local and interline connecting passengers in 1976. The applicant proposes to provide three daily nonstop round trips between Houston and Baltimore, at fares 20 to 50 percent under existing DPFI fare levels.[1]

Among other things, Texas International states that the existing services in the Houston-Baltimore/Washington market are seriously deficient. The two incumbents, Delta and Eastern, provide only three daily nonstop round trips, none of which serve the Baltimore/Washington International Airport. Most of the existing flights are one-stop serving National Airport in Washington. Texas International Proposes to operate DC-9-30 aircraft configured to high density seating in order to achieve the economies of operations necessary to offer low fares. The carrier estimates a first year profit of over $3.5 million, which would result in a substantial reduction in its subsidy need.

Several answers were filed in response to the motion for hearing. Three civic parties—the City of Houston, the City of Harlingen, Tex., and the State of Maryland—answered in support. Each cited the improvement in service and the lower fares as reasons for their support. Houston urged that the investigation include consideration of service from Washington's Dulles Airport as well as Baltimore/Washington International. The State of Maryland suggested that if resources are a problem, the Board's staff should participate only through the prehearing conference stage.

Supporting answers were also filed by the Department of Justice and the Department of Transportation. Both request the Board to proceed by show-cause type procedures or modified proceedings involving certification of the record directly to the Board. DOJ takes the position that the application should be summarily approved. It calls for expedition "to insure that the competitive edge is not lost in the interim by the procedural delays usually attendant upon the ordinary regulatory process." DOT argues that the scope of the case can be greatly narrowed since in authorizing the incumbent carriers to provide non-stop service, the Board has already determined that the public convenience and necessity require nonstop service in the market.

Opposing Texas International's motion for hearing are Delta Air Lines and Eastern Air Lines. Delta contends that the proposal is "an unreasonably optimistic and significantly flawed request." It argues that the applicant's calculations ignore available one-stop services; that the stimulation factor

[1] Texas International proposes a three-tiered price structure. During the peak times, passengers will save 20 percent off the normal coach fare ($98 one-way instead of $122); some evenings the fares will be 35 percent off normal coach ($79); other evenings there will be a 50-percent savings ($61).

used is unjustifiable; that the number of estimated backhaul passengers is too high; and that the overall passenger forecast is unrealistic. Delta urges the Board not to commit its resources to processing applications for competitive low-fare cases to the neglect of traditional service-need cases. While opposing a certification proceeding, Delta states that it would not object to an exemption which would be limited to one year, restricted to the Baltimore/Washington International Airport, require use of the proposed fares, prevent subsidy leakage, require a minimum of three daily round trips, and permit matching fares by carriers with Houston-Baltimore/Washington authority.

Joining Delta in opposition to hearing is Eastern. In support of its position, Eastern contends that service between the two metropolitan areas in question is adequate and that it is in fact superior to many other city pairs involving Washington/Baltimore with greater traffic volume. Further, Eastern argues that Texas International's proposed fares are a "gimmick" since they are less restrictive than the fares offered on its present services. Like Delta, Eastern also raises questions about Texas International's forecasting techniques.

We have decided to grant Texas International's motion for hearing. It is clear that this proposal, if put into effect, could result in substantial savings and improved service for the travelling public. Moreover, it is possible that instituting this proceeding will influence the price policies of the incumbent carriers in both the markets in issue and others.

For the purpose of processing this and any competing applications, we are instituting the Baltimore/Washington-Houston Low-Fare Route Case, Docket 31870. As requested by several of the parties filing answers, the Board intends to process this application quickly; however, the procedures to be used will depend upon whether any other applications are filed and, if so, the nature of the services proposed. Therefore, we will wait until after the date for filing competing applications before determining how to proceed.[3] We reject Delta's proposal for a limited one-year exemption in exchange for not going ahead with a certification proceeding. Texas International has proposed not an experiment of limited duration, but permanent low-fare service. While, superficially, an exemption is attractive because its effects would be immediate, the potential long-term impact of low-fare certificated service outweighs the temporary benefits of a limited exemption which has not even been requested by the applicant. Further, the full investigation—even with non-oral evidentiary hearing procedures—would permit the Board to consider the needs of the entire Baltimore/Washington-Houston market as requested by the City of Houston.

A decisive factor in our decision to set this application for hearing promptly is the demonstrated commitment by the applicant to low fares. Texas International's "Peanuts Fares" are now offered in more than 70 directional markets on over half of its daily flights. The Board believes that this performance is evidence of the fact that the applicant is not using the offer of low fares as a mere device for obtaining an immediate hearing on this application, but that it pursues a general corporate policy of competing on the basis of price as well as service. The Board favors such competition and seeks its extension. Even if they are less restrictive than low fares offered on the rest of Texas International's system, we do not accept Eastern's argument that the fares proposed here are merely a "gimmick," a term that in any event lacks a clear definition.

The investigation will consider whether the public convenience and necessity require the authorization of an additional carrier or carriers to engage in air transportation between Baltimore/Washington and Houston.[4] One of the issues to be resolved is whether any authority granted should be restricted to specific airports or whether service to one coterminal should be made dependent upon the provision of a minimum level of service to the other coterminal. Further, as in the Chicago-Albany/Syracuse-Boston Competitive Service Investigation, Order 77-12-50, we direct the participants in the case consider how lower prices and price competition can be maintained once the case is concluded, whether by temporary awards, awards contingent upon the price performance of the carrier receiving new authority, or some other means.[5] The participants are also directed to consider whether any new authority should be permissive; whether multiple awards should be made if there is more than one applicant; and whether multiple awards, under the present statute, are consistent with encouraging real price competition.

Accordingly, *It is ordered*, That:

1. The motion for hearing of Texas International Airlines be granted;

2. A proceeding to be known as the Baltimore/Washington-Houston Low-Fare Case, Docket 31870, be instituted under sections 401 and 204 of the Federal Aviation Act of 1958, as amended;

3. The proceeding instituted in paragraph 2, above, shall consider whether the public convenience and necessity require that new nonstop authority be granted between Baltimore-Washington and Houston;

4. If the answer to the issue in paragraph 3, above, is affirmative, the proceeding shall consider which air carrier or carriers should be authorized and whether the new or existing authority should be subject to any terms, conditions, or limitations;

5. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

6. The application of Texas International Airlines in Docket 31791 be consolidated with the proceeding instituted by paragraph 2, above;

7. All other applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days of the service date of this order and answers thereto shall be filed within 10 days therafter;

8. Any other carrier filing applications in this proceeding shall also file environmental evaluations in conformance with section 312.12 of the Board's Procedural Regulations within 30 days of the service date of this order;

9. Texas International Airlines, Delta Air Lines, Eastern Air Lines, the Department of Justice, the Department of Transportation, the City of Houston, the City of Harlingen, and the State of Maryland be made parties to the proceeding instituted by paragraph 2, above; and

10. This order shall be served upon all parties to the proceeding instituted by paragraph 2, above, and all persons contained in the service list attached to the motion of Texas International Airlines for hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR
Secretary.

FR Doc. 77-37251 Filed 12-29-77; 8:45 am]

[3] If we decide to hold an oral evidentiary hearing, a notice of hearing will be issued; otherwise another order will be forthcoming.

[4] Any authority awarded in this proceeding will be ineligible for subsidy.

[5] It may be concluded that the system-wide price performance of the successful applicant or applicants is a sufficient guarantee.

[6320-01]

[Docket No. 31808]

CHICAGO-ALBANY/SYRACUSE-BOSTON COMPETITIVE SERVICE INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding will be held on February 7, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

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 Operating Rights will circulate its material on or before January 19, 1978, and the other parties on or before January 30, 1978. 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., December 22, 1977.

GREER M. MURPHY,
Administrative Law Judge.

[FR Doc. 77-37248 Filed 12-29-77; 8:45 am]

[6320-01]

[Docket Nos. 31400; 28342; 31270; 31501; 31546; 31548 and Order 77-12-130]

COLORADO SKI-POINTS INVESTIGATION ET AL.

Order

DECEMBER 23, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23d day of December 1977.

Application of Rocky Mountain Airways, Inc., for a certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended. Application of Aspen Airways, Inc., for an amendment of its certificate of public convenience and necessity to add the intermediate points of Montrose/Delta, Colo., and Gunnison, Colo., to Route 155. Application of Aspen Airways, Inc., for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended. Application of Frontier Airlines, Inc., for the amendment of its certificate of public convenience and necessity. Application of Aspen Airways, Inc., for an amendment of a certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended.

On September 15, 1977, the Board initiated the Colorado Ski-Points Investigation in Docket 31400, to consider service in three markets: Denver-Aspen, Denver-Vail/Eagle, and Denver-Steamboat Springs. (Order 77-9-52.) Pending a decision in that case, the Board granted Rocky Mountain Airways an exemption to operate Dash 7 aircraft in these three markets. Aspen Airways requested a stay of Order 77-9-52 insofar as the order granted a Denver-Aspen exemption to Rocky Mountain, until the U.S. Court of Appeals reviewed this exemption. On December 5, 1977, the Board denied Aspen's request for a stay (Order 77-12-26).

This order is concerned with motions to consolidate other dockets with Docket 31400 and to expand the scope of the proceeding in Docket 31400, a petition to reconsider Order 77-9-52 with respect to the scope of the proceeding in Docket 31400, and an application filed by Aspen in Docket 31501 for a temporary exemption to serve the Denver-Gunnison market.

1. Aspen Airways, Inc., filed a motion to consolidate its applications in Docket 31270 and Docket 31548 with Docket 31400, and to expand the issues in Docket 31400.

In Docket 31270 Aspen filed an application to amend its certificate to include the intermediate points Gunnison and Montrose on its Route 155. (Aspen had filed a motion requesting the Board to issue an order to show cause why the certificate should not be so amended, and why these points should not be deleted from Frontier's Route 73. Aspen is substituting this motion for the motion previously filed in Docket 31270.)

Frontier opposes consolidation of Docket 31270 and Docket 31400. Frontier serves Gunnison and Montrose/Delta at this time. Rocky Mountain and Aspen have temporary authority to provide intrastate service in the Denver-Gunnison market. Crested Butte, a ski resort 28 miles from Gunnison, has requested additional service. Crested Butte serves about 5 percent of the Colorado skiers. During skiing season, passengers in the Denver-Gunnison market increase. Aspen's motion to consolidate Docket 31270 with Docket 31400, to the extent that it would include the Denver-Gunnison-Aspen market in Docket 31400, will be granted. We will also consider the issue of Frontier's deletion, as requested by Aspen.

Both Montrose and Delta object to their cities being included in the Colorado Ski-Points Investigation. They are now served by Frontier, and are satisfied with the service. The City of Montrose points out that it is not a major ski point terminal, although there is some traffic to Telluride. Telluride supports Aspen's request for consolidation, and desires additional service through Montrose/Delta. In 1975-1976, Telluride served only 1 percent of the Colorado skiers. In the Denver-Montrose market, daily passengers in each direction drop by 5 or 6 during the skiing season. This market is not an appropriate market to be considered in Docket 31400. To the extent that Aspen's motion to consolidate would include Montrose/Delta, the motion is denied.

2. Aspen filed an application in Docket 31548 for an amendment of its certificate, or a new certificate, to authorize it to engage in air transportation on a permissive basis between Denver, on the one hand, and Eagle/Vail, Hayden/Steamboat Springs, and Durango/Cortez on the other, and between Aspen, on the one hand, and Grand Junction, Colo., Las Vegas, Nev., and Salt Lake City, Utah, on the other.

Frontier opposes consolidation of Docket 31548 and Docket 31400. IMA, Inc. (Intermountain Airways), opposes this request to the extent that it would expand the scope of Docket 31400 to include the Denver-Durango market.

Docket 31400 already includes the Denver-Eagle/Vail market, the Denver-Steamboat Springs market, and the Denver-Aspen market. Although Hayden is about 25 miles from the ski resort area, and Steamboat Springs is closer to the ski resort, they are hyphenated points and service to Hayden is an issue here.

The Denver-Durango market is served by Frontier and by Intermountain Airways. The Denver-Cortez market is served by Frontier. Aspen seeks to provide Denver-Durango service, but not Denver-Cortez service. Only a small percentage of Colorado skiers could be served from Durango. Wolf Creek Pass serves 1 percent of Colorado skiers. Purgatory Pass gets about 5 percent of the Colorado skiers, but it is a considerable distance away from Durango. Daily passengers in each direction between Denver and Durango drop by about 11 passengers during skiing season. Aspen has not adequately supported its request that the Denver-Cortez/Durango market be considered in Docket 31400.

Aspen asks that the Aspen-Grand Junction, Aspen-Las Vegas, and Aspen-Salt Lake City markets be included in Docket 31400 because these western gateways could improve service to Colorado skiing areas by allowing direct service to Aspen. To include the latter two relatively long-haul markets would expand the scope of the Colorado Ski-Points Investigation to the point where it would become unwieldly and extend far beyond its contemplated area. However, we believe that the Grand Junction-Aspen market is appropriate for consideration here. It is within the geographic area under consideration, receives no air service now, and may be a logical western terminus or gateway for any route pattern that might develop out of this case. Nonstop Denver-Grand Junction would not be in issue.

Aspen's motion to consolidate Docket 31270 with Docket 31400 will be granted only to the extent that it includes the Denver-Gunnison and Grand Junction-Aspen markets.

3. In the same motion, Aspen requested that the issue of continued

Federal subsidy be included in the Colorado Ski-Points Investigation with respect to all subsidy-eligible segments to be considered in that case. Frontier opposes this motion.

This part of Aspen's motion is granted. The question of whether any new awards in this case should be awarded on a subsidy-ineligible basis is clearly on issue here and will be considered in determining which carrier or carriers, if any, should be granted authority in any particular market.

To the extent that new certificated, but subsidy-ineligible, service becomes available as a result of this case, the question arises whether it is in the public interest that Frontier should continue to receive subsidy for paralleling service. We think this issue deserves exploration in this case. By the same token, and to retain our procedural flexibility, Frontier's deletion in such markets should be considered, in the event it appears that Frontier could not or would not operate in the markets absent subsidy.

4. On October 19, 1977, Rocky Mountain Airways, Inc., filed a motion to consolidate its amended application in Docket 28342 with Docket 31400 to include Denver-Gunnison, and a motion to expand the issues in Docket 31400 to include:

(a) Nonstop air transportation, either by a certificate of public convenience and necessity or a large aircraft exemption, between Denver and Gunnison, and

(b) Intermediate stop service in the Denver-Aspen, Denver-Vail/Eagle, Denver-Steamboat Springs and Denver-Gunnison markets.

Frontier opposes these motions. The Denver-Gunnison market is put in issue for the reasons stated above. By putting all types of service at all points in issue, the Board will have more flexibility in determining the type of service needed in these markets.

These motions are granted.

5. The Denver parties filed a petition for reconsideration of Order 77-9-52, to add Denver-Gunnison to the markets already included in the Colorado Ski-Points Investigation. This petition is granted.

6. Frontier Airlines, Inc., filed a motion to consolidate its application in Docket 31546 for nonstop authority between Denver and Aspen with Docket 31400. Since nonstop authority between these points is in issue in Docket 31400, this motion is granted.

To the extent that the above motions are granted, the issues in Docket 31400 will be expanded to include the question of whether the public convenience and necessity require the certification of an air carrier or carriers to engage in new or additional air transportation between and among the following points, or the deletion of any air carrier(s) between any pair of points in issue:

(a) Denver,
(b) Vail/Eagle,
(c) Hayden/Steamboat Springs,
(d) Gunnison,
(e) Aspen, and between
(f) Aspen, and Grand Junction.

Aspen Airways, Inc., a certificated carrier with a temporary route from Denver to Aspen, has filed an application in Docket 31501 for a temporary exemption under section 416(b) to allow it to provide scheduled air transportation between Denver and Gunnison, Colo., pending the Board's final decision in Docket 31270. (Docket 31270 will be consolidated with the Colorado Ski-Points Investigation, Docket 31400, to the extent that the scope in Docket 31400 is expanded to include the issues in Docket 31270.)

The Colorado Public Utilities Commission found an immediate and urgent need for additional service between Denver and Gunnison, and granted Aspen and Rocky Mountain Airways (a commuter carrier), temporary authority to provide scheduled intrastate service between Denver and Gunnison. Aspen began scheduled intrastate service between Denver and Gunnison on October 21, 1977. The record does not show whether Rocky Mountain has initiated service in this market.

Aspen's purpose in seeking Board authority to engage in scheduled air transportation between Denver and Gunnison is to enable passengers to purchase interline tickets originating outside Colorado and terminating in Gunnison, including Denver-Gunnison flights on Aspen. Without this authority, an out-of-state traveler wishing to use Aspen between Denver and Gunnison would have to fly to Denver, buy a new ticket at Denver, and move his baggage to the Aspen plane. Aspen argues that it will be unable to compete with Frontier (the certificated carrier on this route), or Rocky Mountain (which operates under a Part 298 commuter air carrier exemption giving it the right to provide interstate services in this market), unless Aspen also is granted interline rights in this market.

Aspen's exemption application is supported by Crested Butte Development Corp., and opposed by Rocky Mountain and Frontier.

Section 416(b) provides that the Board may exempt any air carrier from the requirements of the Act or regulations if it finds that the enforcement of the Act or regulations is an undue burden on the carrier by reason of the limited extent of, or unusual circumstances affecting, the operations of the carrier and is not in the public interest.

Aspen is now operating under a temporary intrastate license granted by the Colorado PUC, which found that the Denver-Gunnison market has an immediate and urgent need for additional service. It appears that this will be a good year for Colorado skiing resorts, and the number of skiers expected to travel in the Denver-Gunnsion market should increase substantially this season. The exemption would allow Aspen to convenience the members of the traveling public which it is now carrying by permitting interline ticketing and through baggage handling. This is a substantial consumer benefit. Aspen may also be able to capture some additional traffic from surface modes of transporation, to the extent that unknowledgeable travelers are now unaware of its intrastate frequencies. By the same token, while we expect that some diversion from Frontier would occur, such diversion is unlikely to be substantial.[1] The principles of *Kodiak*[2] also do not preclude this award. The authority requested is quite limited and would not require any significant investment by Aspen, since it is already operating in the market. In addition, grant of the exemption pending resolution of the Colorado Ski-Points Case does not require the Board to resolve any controversial or complex issues of carrier selection at this time which would recur, since both Frontier and RMA already have interlining authority in the market and this exemption simply places Aspen in a more equal position vis-a-vis the other two carriers. In short, there are no important regulatory purposes which outweigh the public benefits of the very limited authority requested, and enforcement of the certification provisions for the interim period is not in the public interest.

Moreover, to require a carrier of Aspen's size to undergo certification proceedings simply to permit interlining in this one market pending decision in the Ski-Points case would subject it to financial burdens wholly disproportionate to the scope of the authority sought and to the limited extent of its total operations, and might have the effect of precluding the proposed benefits altogether. Aspen is now certificated only on the Denver-Aspen route and is a very small air carrier, even compared to the local-service carriers such as Frontier. Aspen's operations are also affected by unusual circumstances since the points involved lie wholly within the borders of Colorado and the question is simply one of permitting interlining between the certificated system and Aspen's existing intrastate operations in the

[1] Indeed, Frontier has not claimed that substantial diversion would occur.

[2] *Kodiak Airways, Inc.* v. *CAB*, 447 F. 2d 341 (D.C. Cir. 1971).

market.[3] For these reasons, we find that enforcement of the Act's provisions would be an undue burden on the carrier by reason of the limited extent, of and unusual circumstances affecting, its operations.

8. On the Board's own motion, Docket 31501, in which Aspen will be granted a temporary exemption to serve the Denver-Gunnison market, will be consolidated with Docket 31400, in which authority in the Denver-Gunnison market will be in issue.

Accordingly, *it is ordered*, That: 1. The proceeding instituted by Order 77-9-52 shall include, but not be limited to, the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in new or additional air transportation between and among Denver, Vail/Eagle, Hayden/Steamboat Springs, Gunnison, Aspen, and between Aspen and Grand Junction, Colo.;

(b) If the answer to (a) is in the affirmative, which carrier(s) should be authorized to engage in such service;

(c) If the answer to (a) is in the affirmative and a certificate(s) should be issued, is it in the pulic interest to authorize the carrier(s) to operate as an air taxi(s) pursuant to 14 CFR Part 298 in markets which such carrier(s) is (are) not certificated to serve;

(d) If the answer to (a) is in the negative, is it in the public interest to issue exemption authority to an air carrier or air carriers, pursuant to section 416 of the Federal Aviation Act, to engage in nonstop air transportation with large aircraft between and among Denver, Vail/Eagle, Hayden/Steamboat Springs, Gunnison, Aspen, and Grand Junction, Colo., between Grand Junction and Aspen, Colo.;

(e) If the answer to (d) is in the affirmative, which carrier(s) should be authorized to engage in such service;

(f) What terms, conditions, and limitations, if any, should be placed on the operations of such carrier(s), to include the issue of whether any existing and new authority should be made ineligible for subsidy;

(g) Is it in the public interest that any air carrier(s) should be deleted in any of the segments in issue?

2. The motion of Aspen Airways, Inc., to consolidate its applications in Dockets 31270 and 31548 with Docket 31400 and to expand the issues in this case is granted to the extent that it is consistent with paragraph 1 hereof;

3. The motion of Rocky Mountain Airways to consolidate its amended application in Docket 28342 with Docket 31400, and its motion to expand the issues to be considered in Docket 31400 be granted to the extent that they are consistent with paragraph 1 hereof;

4. The petition for reconsideration of Order 77-9-52 filed by the Denver parties be granted;

5. The motion of Frontier Airlines, Inc., to consolidate its application in Docket 31546 with Docket 31400 be granted;

6. The application of Aspen Airways, Inc., for a temporary exemption in Docket 31501 be granted;

7. On the Board's own motion, Dockets 31501 and 31400 be consolidated; and

8. All motions and petitions, to the extent not granted here, be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-37252 Filed 12-29-77; 8:45 am]

[3] C.f., *Air Cargo Enterprises, Exemption*, Order 77-12-30 (December 1, 1977).

[4] All Members concurred except Member Minetti who did not participate.

[6320-01]

[Docket No. 31421]

INTERNATIONAL AVIATION SERVICES (U.K.), LTD., d.b.a. IAS CARGO AIRLINES

Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on January 18, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before January 10, 1978.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., December 21, 1977.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc. 77-37249 Filed 12-29-77; 8:45 am]

[6320-01]

[Docket 25659; Order 77-12-108]

INVESTIGATION OF THE LOCAL SERVICE CLASS SUBSIDY RATE

Class Rate VII; Order

DECEMBER 21, 1977.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of December 1977.

On June 8, 1977, the Board adopted Order 77-6-37 which required Piedmont Aviation, Inc. (Piedmont), to refund to the Civil Aeronautics Board $1,788,000 of subsidy. This amount reflected the effects of completely removing the tax allowance from the carrier's subsidy rate for calendar year 1975.

On July 5, 1977,[1] Piedmont filed exceptions disputing the findings in Order 77-6-37. Specifically, the carrier claims that, contrary to the findings in Order 77-6-37, it "was in a 'tax position' despite losses in 1975, because those losses have not exhausted its opportunities for tax loss carryback for periods subsequent to July 1, 1973,"[2] and that the Board should not eliminate the tax allowance used to compute the profits from subsidy ineligible services.

Upon consideration of the arguments presented by the carrier, we remain convinced that Piedmont was not in a tax position for subsidy purposes in 1975. Furthermore, we believe that the Board's method of determining the amounts of ineligible excess profits to be shared with the government is correct. Therefore, we reaffirm our decision in Order 77-6-37. Piedmont's arguments are discussed below.

PIEDMONT WAS NOT IN A "TAX POSITION"

Piedmont's allegation that it was in a tax position for subsidy purposes in 1975 is not supported by its pro forma and actual tax returns filed with the board, and squarely conflicts with the language found in section III.A. of the rate formula for class rate VII.[3] Section III.A.2. states that "'Tax Position' shall mean that the carrier is actually incurring liability under the Tax Code for the payment of Federal income taxes exclusive of allowable investment tax credits."[4] This definition of "Tax Position," taken together with Piedmont's concession that "it did not incur a tax liability for 1975 if viewed in isolation"[5] because it "incurred a tax loss of $1,899,343 in 1975,"[6] is

[1] By a notice dated June 15, 1977, Piedmont's request for a one-week extension of time to file its exceptions to Order 77-6-37 (i.e., by no later than July 5, 1977) was granted by the Acting Chief Administrative Law Judge.

[2] See Piedmont's exceptions, page 1.

[3] See Order 74-1-123, page 14.

[4] Section III.A.1. of the rate formula defines Tax Code as "the Internal Revenue Code of 1954, as amended." See Order 74-1-123, page 14.

[5] See Piedmont's exceptions, page 2. The implication in this statement is that the Board looked at 1975 results standing alone. However, we looked at preceding and succeeding years' results also to see if there was any effect on Piedmont's tax status in those years. Finding none, we limited the refund to 1975, the "isolated" year in which the loss occurred.

[6] See Piedmont's exceptions, page 2.

prima facie evidence that Piedmont was not in a tax position in 1975. In fact, not only did Piedmont incur no tax liability for 1975, the carrier also reduced its prior years' liabilities for Federal taxes.

Piedmont's contention that it was in a tax position in 1975, in spite of the facts cited above, apparently rests on a belief that: (1) A carrier's tax position is governed by whether or not it can continue to use the tax loss carryback provisions of the Tax Code, which Piedmont states "are designed to ameliorate the impact of losses by providing for averaging of taxable income";[7] and, (2) the "same averaging principle should be applied [by the Board] in determining whether or not Piedmont was in a 'tax position' on and after July 1, 1973."[8] The Board can find no support for these arguments, either in the rate formula or in prior Board policy. Piedmont is confused in its belief that the continued ability to carry back current or prospective losses to years before 1975 will somehow turn the carrier's 1975 tax loss into a tax liability. The mere fact that Piedmont's 1975 tax loss did not exhaust its opportunities for tax loss carryback is irrelevant here. The plain fact is that the carrier can never show profitable results for 1975 and, therefore, cannot show a tax liability for the year, regardless of results from prior or subsequent years. Furthermore, the "averaging principle" that Piedmont espouses is not appropriate in subsidy computations. The cases cited by Piedmont[9] with regard to the "averaging principle" deal solely with the application of the tax loss carryback and carry-forward provisions of the Tax Code for tax purposes. Our decision in Order 77-6-37 in no way prevents Piedmont from realizing the benefits of the carry-back provisions of the Tax Code for tax purposes. In fact, the carrier has already filed for refunds of taxes paid in years before 1975.[10] The Board's action in Order 77-6-37 was proper and, as stated in that order, was governed by section III.G.4.[11] of the rate formula.

Piedmont also argues that the Board's interpretation of the tax provisions of class rate VII "contravenes the objectives of the need provision of Section 406" by requiring "a carrier suffering losses * * * to sustain an additional loss caused by the elimination of its tax allowance, even if it had a 'tax position' in prior years."[12]

We would point out that the tax provisions of class rate VII were adopted without objection from any carrier, including Piedmont.[13] For this reason, the carrier's complaint should be given little weight. Moreover, the tax recapture provisions of class rate VII do not contravene the objectives of the Act.

The Board, in determining fair and reasonable rates of compensation, takes into consideration "the need of each * * * air carrier * * * for compensation for the transportation of mail sufficient to insure the performance of such service, and * * * to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent * * * required for the commerce of the United States, the Postal Service, and the national defense."[14] In reviewing Piedmont's recognized subsidy need for 1975, pursuant to the provisions and definitions accepted by the carrier in class rate VII, we have reduced that need by $1.8 million because Piedmont had no federal tax liability for operations conducted in 1975. This action is consistent with the Board's long-standing actual tax policy stemming from an early Western Air Lines subsidy case.[15] In that case, the Board ruled that a carrier is not entitled to a tax allowance (within its subsidy payments) in excess of its tax liability. As we stated, such allowances are considered gratuities which we will not tolerate.[16] In the case of the class rate, an allowance for taxes is provided prospectively and therefore may be high or low in relation to the actual tax a carrier must ultimately pay. Nevertheless, when a carrier has in fact incurred no tax liability, as was the case with Piedmont in 1975, the judicially sustained[17] actual tax policy of the Board dictates that no taxes be provided. Furthermore, Piedmont has not submitted any evidence, or even alleged, that its ability to perform its certificate obligations would be impaired by its refunding $1.8 million to the Board. Thus, we conclude that the Board's interpretation is consistent with the principles of section 406. In fact, we believe that allowing Piedmont to retain its 1975 tax allowance would contravene the objectives of section 406 and be inconsistent with the Board's actual tax policy as sustained by the courts. In addition, such an action would be inequitable to other carriers not currently in tax positions.

Computation of Excess Ineligible Profits To Be Shared

The Board agrees with Piedmont that, in computing the excess profits from ineligible operations, "taxes should be allowed if 'applicable'."[18] Where we differ from Piedmont is in determining whether taxes are "applicable."

Section IV of the rate formula in class rate VII deals with the reduction of subsidy otherwise due and payable to a carrier by the amount of any excess profits from its ineligible services. The amount of the reduction is based on the Government's share of profits in excess of a return on recognized investment of 12.35 percent after Federal taxes, if the carrier is in a tax position. The Federal taxes to be recognized are derived on the basis of a formula under which the current statutory Federal tax rate is applied to the amount of allowable return on investment less allocated interest expense.

Piedmont argues that taxes are applicable to ineligible services "if 'a carrier has excess profits after taxes available for offset to reduce the need of the eligible services.'"[19] The quoted language is contained in footnote 21 to that part of section IV of the rate formula which deals with the Federal taxes to be recognized in computing excess profits from ineligible services.[20] However, Piedmont took that statement out of context. The entire footnote includes an opening sentence stating that the tax computations in section IV "shall be subject to the applicable provisions and definitions set

[7] Ibid.

[8] Ibid.

[9] See page 3 of Piedmont's exceptions, where the carrier cites *Lisbon Shops* v. *Koeher*, 353 U.S. 382, 386 (1957), and *Commissioner of Internal Revenue* v. *Van Bergh*, 209 F. 2d 23 (C.A.2, 1954) in the text and *Roberts* v. *Commissioner of Internal Revenue*, 258 F. 2d 634 (C.A.5, 1958), and *Folker* v. *Johnson*, 230 F. 2d 906, 908, n.3 (C.A.2, 1956) in the accompanying footnote.

[10] On June 15, 1976, Piedmont filed an "Application for Tentative Refund from Carryback of Net Operating Loss" with the Internal Revenue Service requesting a refund of approximately $440,000 from taxes paid on income earned in 1972 and 1973.

[11] Section III.G.4. is unambiguous and clearly states, in pertinent part, that "[i]f the return discloses no tax liability, all taxes paid to the carrier for the period covered by the return shall be refunded to the Board."

[12] See Piedmont's exceptions, page 4.

[13] It is interesting to note that the tax provisions of class rate VIII are virtually identical to those contained in class rate VII, and were adopted without any substantive objection. See Orders 76-11-12, adopted November 4, 1976, and 76-12-159, adopted December 30, 1976.

[14] Section 406(b)(3) of the Federal Aviation Act of 1958, as amended.

[15] *Western Air Lines, Inc., and Inland Air Lines, Inc., Mail Rates*, 14 CAB 201, 251-255 (1950).

[16] Id. at 253.

[17] *Summerfield* v. *CAB*, 207 F.2d 200, 206 (C.A.D.C., 1953), aff'd sub nom. *Western Air Lines, Inc.* v. *CAB*, 347 U.S. 67 (1954). See also *Trans World Airlines, Inc.* v. *CAB*, 385 F.2d 648, 668 (C.A.D.C., 1967), cert. den., 390 U.S. 944 (1968).

[18] See Piedmont's exceptions, page 5.

[19] See Piedmont's exceptions, page 5.

[20] See Order 74-1-123, page 19.

forth under section III of this rate."[21] Thus, the application of the provisions and definitions found in section III are appropriate in determining whether or not a carrier is in a tax position for the period in question.

The language in section IV means that a carrier must be in an overall tax position according to the provisions of section III if Federal taxes are to be allowed in determining the amount of excess profits, if any, from ineligible services. Said another way, the Board believes that if a carrier does not qualify for a tax allowance according to the provisions of section III, that carrier cannot qualify for a tax allowance according to the provisions of section IV. As stated previously, based on the carrier's system air transport results, the Board concluded that Piedmont was not in a tax position in 1975[22] according to the provisions and definitions contained in section III. Because the applicability of taxes in section IV is governed by the tax provisions of section III, the Board finds no tax allowance should be used in calculating excess profits from Piedmont's ineligible services during 1975.

The carrier also argues that eligible and ineligible services should "be considered as entirely separate entities for the purpose of measuring the tax position."[23] There are several things wrong with Piedmont's reasoning. First, the use of the word "measuring" is inappropriate.[24] Second, a carrier's tax position is predicated on its incurring a federal tax liability, which is determined on the basis of system air transport operating results including subsidy. For tax purposes, eligible and ineligible services are inseparable. We, therefore, cannot accept Piedmont's argument that excess profits from ineligible services have a related tax liability.[25] Assuming for the sake of argument that Piedmont's reasoning is valid, we would then be required to make all of the carriers under Class Rate VII, including Piedmont, refund most of their eligible tax allowances because the carriers' eligible services, by themselves, were rarely in a tax position during Class Rate VII, even if subsidy payments are included in eligible results.

Finally, Piedmont claims that, because the trunk carriers are credited with tax allowances in computing fares under the provisions of the DPFI,[26] whether or not taxes were paid in the particular period under review, a "similar principle should be applied to the subsidy ineligible services of the locals."[27] We disagree. Commercial rates (such as fares) and subsidy rates involve different principles. The U.S. Court of Appeals for the District of Columbia Circuit has stated:

> "The key point is that rate regulation and subsidy administration lay the burdens on different classes, and different considerations are involved in the allocation of burdens."[28]

Further on in its opinion, the Court said:

> "* * * there is a distinction to be drawn between agency rulings and court decisions in the context of rate-making, under statutes providing for determination of rates that are 'reasonable', and the rule applicable to dispensation of subsidy under section 406(b)(3), which has been interpreted strictly by the Board and courts to insist on limitation of payment to current 'need'. These are patently overlapping concepts, but subsidy principles bar some of the rulings, discretions and policies that are permissible in commercial rate-making[29]" [footnote omitted].[30]

The above citations make it clear that the Board is not bound under section 406 to provide a tax allowance for the carrier's ineligible services if the computation of system "need" shows there is no tax liability, notwithstanding the manner in which the Board determines commercial rates.

Having addressed the contentions and arguments presented by Piedmont in its exceptions to Order 77-6-37 on their merits, the Board feels compelled to remind Piedmont that the provisions and definitions contained in Class Rate VII are simply not open to question at this late date. If Piedmont believed the tax provisions of Class Rate VII were improper, the carrier should have stated its objections when the rate was proposed.

The Board concludes that Piedmont has not advanced convincing arguments showing error in our decision in Order 77-6-37 and, therefore, we will deny the carrier's request to grant its exceptions to that order. In so doing, the Board reaffirms the findings contained in Order 77-6-37.

Accordingly, *it is ordered*, That:

1. The request of Piedmont Aviation, Inc., that the Board grant its exceptions to Order 77-6-37, is denied;
2. This order shall be effective on the date of service; and
3. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[31]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-37250 Filed 12-29-77; 8:45 am]

[21] Ibid.

[22] See the discussion beginning on page 2, above.

[23] See Piedmont's exceptions, page 6.

[24] A tax position is not something to be measured, it is something to be determined; i.e., either a carrier is in a tax position or it is not in a tax position. There is no middle ground.

[25] See Piedmont's exceptions, pages 6 and 7.

[26] Domestic passenger fare investigation.

[27] See Piedmont's exceptions, page 7.

[28] *Trans World Airlines, Inc.* v. *CAB*, 385 F. 2d 648, 661 (C.A.D.C., 1967), cert. den., 390 U.S. 944 (1968).

[29] Id. at 667.

[31] All Members concurred except Chairman Kahn and Member Bailey who did not participate.

[6320-01]

[Docket No. 30555]

PEANUTS FARE INVESTIGATION

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 February 7, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue, Washington, D.C. 20428, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served April 20, 1977, as subsequently amended in notices that are in the docket of this proceeding on file in the docket section of the Civil Aeronautics Board.

Dated at Washington, D.C., December 23, 1977.

BURTON S. KOLKO,
Administrative Law Judge.

[FR Doc. 77-37247 Filed 12-29-77; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill, by noncareer executive assignment in the excepted service, the position of Executive Director, Interagency Council for Minority Business Enterprise.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36872 Filed 12-29-77; 8:45 am]

[6325-01]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Revocation of Authority to Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the

Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Director of Congressional Affairs, Office of Congressional Affairs, Office of the Chairman.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-37268 Filed 12-29-77; 8:45 am]

[6325-01]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of §9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Director, Office of Public Affairs, Office of the Chairman.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-37269 Filed 12-29-77; 8:45 am]

[6325-01]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chair (General Legal), Office of the Chair.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-37270 Filed 12-29-77; 8:45 am]

[6325-01]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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 Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Chair (Systemic Program), Office of the Chair.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-37271 Filed 12-29-77; 8:45 am]

[6325-01]

FEDERAL HOME LOAN BANK BOARD

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of Section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Home Loan Bank Board to fill, by noncareer executive assignment in the excepted service, the position of Special Assistant to the Chairman, Office of the Chairman.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36873 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make A Noncareer Executive Assignment

Under author ity of Section 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 Administrator, Health Resources Administration, Office of the Administrator, Public Health Service.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36874 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of Section 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 Director, Health Standards and Quality Bureau, Health Care Financing Administration.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36875 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make A Noncareer Executive Assignment

Under authority of Section 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 Deputy Assistant Secretary for Health/National Health Insurance and Special Assistant to the Secretary for National Health Insurance, Immediate Office, Office of the Assistant Secretary for Health, Public Health Service

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36876 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Commissioner, Public Services Administration, Office of the Commissioner, Public Services Administration, Social and Rehabilitation Service.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36884 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Title Change in Noncareer Executive Assignment

By Notice of October 29, 1973, FR Doc. 73-22952, the Civil Service Commission authorized the Department of Health, Education, and Welfare to fill by noncareer executive assignment the position of Deputy Assistant Secretary for Human Development, Office of the Assistant Secretary for Human Development, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary for Human Development Services, Office of the Assistant Secretary for Human Development Services, Office of the Secretary.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36886 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of Section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill, by noncareer executive assignment in the excepted service, the position of Associate Solicitor (Surface Mining), Office of the Solicitor.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36877 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant Director—Inspection and Enforcement, Office of Surface Mining, Reclamation, and Enforcement.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36878 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorized the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant Director—State and Federal Programs, Office of Surface Mining, Reclamation, and Enforcement.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36879 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorized the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant Director—Abandoned Mined Lands, Office of Surface Mining, Reclamation, and Enforcement.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36880 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority to Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Technical Services and Research, Office of Surface Mining, Reclamation, and Enforcement.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36881 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE INTERIOR

Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Office of Surface Mining Reclamation and Enforcement, Office of the Director.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36882 Filed 12-29-77; 8:45 am]

[6325-01]

OFFICE OF MANAGEMENT AND BUDGET

Revocation of Authority To Make A Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Assistant to the Director for Public Affairs, Executive Office of the President.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant, to the Commissioners.

[FR Doc. 77-36883 Filed 12-29-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE TREASURY

Title Change in Noncareer Executive Assignment

By notice of August 16, 1976, FR Doc. 76-24040 the Civil Service Commission authorized the Department of the Treasury to fill by noncareer executive assignment the position of Deputy Assistant Secretary (Enforcement, Operations, and Tariff Affairs), Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Assistant Secretary (Operations), Office of the Chief Deputy to the Under Secretary (Enforcement and Operations), Office of the Under Secretary, Office of the Secretary.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-36885 Filed 12-29-77; 8:45 am]

[6325-01]

VETERANS ADMINISTRATION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Veterans Administration to fill by noncareer executive assignment in the excepted service the position of Executive Assistant to the Administrator, Office of the Administrator.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-37272 Filed 12-29-77; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

ANNUAL WHOLESALE TRADE

Determination

In conformity with title 13, United States Code, sections 182, 224 and 225, and due Notice of Consideration having been published November 22, 1977 (42 FR 59895), I have determined that data covering year-end inventories and annual sales, in addition to supplemental data items requesting payroll and operating expenses, capital expenditures, and changes in depreciable assets, are needed to aid the efficient performance of essential Government functions, that the data have significant application to the needs of the public, the distributive trades and governmental agencies and that the data are not publicly available from nongovernmental or other governmental sources.

All respondents will be required to submit information covering their December 31, 1977 inventories, annual sales, and the supplemental data for the 1977 Census of Business. Reports will be required only from a selected sample of merchant wholesale firms operating in the United States, with probability of selection based on sales size. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to firms covered by the survey. Copies of the forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting these data.

Dated: December 27, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 77-37159 Filed 12-29-77; 8:45 am]

[3510-25]

Industry and Trade Administration

[File No. 28(74)-1; Case No. 478(a)]

DANIEL L. GILLUM

Order Denying Export Privileges

By charging letter of December 20, 1974, the above respondent and others were charged by the Director, Compliance Division, Office of Export Administration, Bureau of Trade Regulation, with violations of the regulations issued under the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 et seq., 15 CFR Parts 368 et seq.). It was alleged in substance as follows: That during 1972 and 1973 the respondent made unauthorized exportations of disc heads, subassemblies of disc heads, testing devices, and other magnetic recording and reproducing equipment specially designed for electronic computers; that despite the fact that the respondent had knowledge of U.S. export regulations, these exportations of commodity control list items were made without the required export licenses; that the value of the items was in excess of $800,000; further, that in March of 1974, subsequent to the disclosure of the unauthorized exportations in 1972 and 1973, and after assurances that the respondent would scrupulously observe the requirements of the Export Administration regulations, respondent directed Information Magnetics, Ltd. ("Infomag-UK"), to make further deliveries of disc heads and other computer equipment valued at approximately $108,000 to the Bulgarian Legation in London for the purpose of facilitating the ultimate delivery to Bulgaria; that this delivery was effected without the required authorization from the United States and United Kingdom export control authorities.

On April 14, 1975, the proceedings against the respondent were suspended pending disposition of contemplated criminal charges. On March 14, 1977, pursuant to his plea of guilty to violation of the Export Administration regulations charged under 50 U.S.C. App. 2405(a), respondent was placed on probation for three years and fined ten thousand dollars ($10,000) with provision for the fine to be credited against the cost of providing an occupational rehabilitation program designed to train Federal felons in the Santa Barbara area, looking toward their eventual employment with the respondent's company.

Subsequently, pursuant to § 388.10 of the Export Administration regulations, with the agreement of the Director of the Compliance Division and of the Office of General Counsel, there was submitted to the Hearing Commissioner a draft consent settlement proposal. In making the consent settlement proposal and agreeing to this order, for purposes of this proceeding only, and without the consent settlement proposal or order or determinations stated therein constituting any evidence against or admission by respondent in any proceeding other than under the Export Administration Act the respondent: (a) admitted jurisdiction of this forum and the validity of the Export Administration regulations; (b) neither admitted not denied that he violated valid export regulations as charged by the Office of Export Administration in the charging letter of December 20, 1974; (c) consented to the entering of this order by the Director of the Office of Export Administration, and (d) waived all rights to a hearing on the merits before the Hearing Commissioner, and all rights of administrative appeal from and judicial review of these proceedings and this order.

The Hearing Commissioner has reviewed the consent settlement proposal and the material presented in this matter, and has submitted his report together with a recommendation that the consent settlement proposal be accepted and this order issued. On the basis of the Hearing commissioner's submission and the supporting material, I have determined:

(1) That respondent violated, on at least fifty-five occasions, §§ 387.2, 387.3, and 387.6 of the U.S. Export Administration regulations in that he knowingly delivered or caused to be delivered, directly or via England to Bulgaria and/or other Eastern European countries, contrary to section 374.1 of the U.S. Export Administration regulations, U.S.-origin commodities without having obtained the requisite validated export licenses, and

(2) That respondent knowingly violated sections 387.2, 387.3, 387.4, 387.5, and 387.6 of the U.S. Export Administration regulations in that after having given assurances to the Office of Export Administration that he would scrupulously observe the requirements of the U.S. Export Administration regulations, he made or arranged to make further deliveries of disc heads and other computer equipment to the Bulgarian Legation in London for the purpose of facilitating the ultimate delivery of the equipment to Bulgaria.

On consideration of the record in the case and the recommendation of the Hearing Commissioner, and in reliance upon the undertaking by respondent set forth in the consent settlement proposal, I accept the consent settlement proposal, and *it is hereby ordered*, That:

I. A civil penalty in the amount of ten thousand dollars ($10,000) is imposed upon the respondent, five thousand dollars ($5,000) of which has been received and will be deposited to

the account of the Treasurer of the United States. The balance of five thousand dollars ($5,000) will be suspended for the period of this order. The cash payment by respondent is made without reimbursement by any person or firm.

II. Except as otherwise specifically provided in this order or as otherwise expressly authorized, for a period of seven and one-half years from December 2, 1974, through June 2, 1982, the respondent is hereby denied all privileges of participating in export transactions to all destinations.

III. For the purposes of this order, the words "participating in export transactions" shall be construed to means participating in any way in transactions (other than purchases or domestic sales as defined below) involving the transfer of commodities or technology by or on behalf of respondent or Information Magnetics Corp. ("Infomag"), or participating in any way in transactions involving the transfer of commodities or technology to or on behalf of Information Magnetics, Ltd., formerly Gresham-Infomag, Ltd. ("Infomag-U.K."), Infomag Israel, Ltd., or Infomag's Mexican operation. Participation would be deemed to include the solicitation of sales, the structuring of agreements, negotiations, including quotation of prices, and otherwise discussing or recommending courses of action with respect to such transactions.

As used herein, the words "domestic sales" shall be construed to include only sales or transfers where:

(i) Title, possession, and control passes in the United States to a purchaser other than a related party; and

(ii) The purchaser is a domestic end user or is a U.S. exporter who is acting for his own account and in that transaction is not a broker, freight forwarder, or other party acting as an agent.

IV. On June 2, 1980, without further order of the Office of Export Administration, respondent shall have his privileges which were suspended pursuant to this order restored conditionally, and thereafter for the remainder of the denial period said respondent shall be on probation. The basic condition of probation is that said respondent shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations, licenses, and orders issued thereunder.

V. Except as otherwise provided in the order, during the period of denial to respondent of export privileges under this order, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, (hereafter "person"), without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with respondent, or whereby respondent may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (i) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for respondent, or (ii) participate in any export transaction prohibited by this order.

VI. The denial of export privileges and prohibitions described in this order shall extend or relate, as the case may be, to participation by the respondent in the referenced transactions, but not to participation in transactions by any person, including, without limitations, Infomag, whether or not respondent now or hereafter is related thereto by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services related thereto, it being the intention of the parties not in any way to preclude or otherwise limit the ability of Infomag, its customers and vendors from participating in any transaction in accordance with the Export Administration regulations and licenses and orders thereunder.

VII. If respondent should leave the employment of Infomag during the period of denial, he shall promptly notify the Office of Export Administration and will agree to a modification of this order substituting the name of the new employer for Infomag and the names of affiliates of the new employer for Infomag affiliates.

VIII. This order is limited to and would dispose of the violations of the Export Administration regulations which: (a) were charged against respondent in the charging letter of December 20, 1974; (b) were admitted to the Office of Export Administration by or on behalf of respondent, Infomag, or Infomag-U.K.; or (c) were identified by the Office of Export Administration prior to the effective date hereof. The proposed consent settlement would not dispose of any violations by respondent or any other person or entity other than those specified in (a), (b), or (c) above.

IX. Upon a finding by the Director, Office of Export Administration, or such other official as may be exercising the duties now exercised by him, that the respondent has failed to comply with the requirements and conditions of this order, with the undertaking by respondent as set forth in the consent proposal of September 23, 1977 (which will remain in effect for the full seven and one-half years denial period), or with any condition of probation, said official, without notice when national security or foreign policy considerations are involved, or with notice if such considerations are not involved, by supplemental order may revoke the probation of respondent, may revoke all outstanding validated export licenses to which said respondent may be party and/or may deny to said respondent all export privileges for the period of this order. Such supplemental order shall not preclude the Office of Export Administration from taking such further action for any such violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice, he may file objections and request that such order be set aside, and may request an oral hearing as provided in § 388.16 of the Export Administration regulations, but pending such further proceeding the order of revocation shall remain in effect.

X. Recordkeeping and administrative requirements for respondent will be as stated in the Export Administration regulations. The consent settlement does not in any way relieve respondent from complying with all requirements of the Export Administration Act and regulations.

XI. This order is effective immediately. A copy of this order shall be served on respondent.

Dated: December 21, 1977.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc. 77-37100 Filed 12-29-77; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-588]

MOORE-McCORMACK BULK TRANSPORT, INC., MOORE-McCORMACK LINES, INC.

Notice of Application

Moore-McCormack Bulk Transport, Inc. (Bulk Transport) is the holder of a 20-year operating-differential subsidy contract for bulk cargo vessels engaged in worldwide services. Moore-McCormack Lines, Inc. (Lines) is the holder of a 20-year operating-differential subsidy contract for liner vessels. Both companies are subsidiaries of Moore-McCormack Resources Inc. (Resources). Another subsidiary of Resources is Moore-McCormack Petroleum, Inc. (Petroleum). An officer of Petroleum proposes to make certain personal investments from time to time directly, through partnership interests or otherwise, in petroleum transportation equipment including tank cars, tank trucks and barges. The barges would be engaged in domestic intercoastal or coastwise service.

Inasmuch as petroleum is affiliated with Bulk Transport and Lines through the common parenthood of Resources, it will be necessary for Bulk Transport and Lines to obtain the written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, if the said officer of Petroleum is to make the proposed investments in petroleum tank barges.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on January 6, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations: (a) Could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: December 23, 1977.

ROBERT J. PATTON, Jr.,
Assistant Secretary.

[FR Doc. 77-37304 Filed 12-29-77; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

AMERICAN TUNABOAT ASSOCIATION

Issuance of a General Permit

A general permit was issued on December 27, 1977, to the American Tunaboat Associaition, 1 Tuna Lane, San Diego, Calif. 92101, to take marine mammals incidental to commercial fishing operations under category 2: Encircling gear, purse seining involving the intentional taking of marine mammals, pursuant to 50 CFR 216.24 (42 FR 64551).

The general permit application and all comments received are available for public inspection in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, and at the Regional Director's Office, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: December 27, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 77-37128 Filed 12-29-77; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 4,027,980: Method of Obtaining a D(Log E) Curve; filed Apr. 9, 1976; patented June 1977, 1977; not available NTIS.

Patent 4,030,836: Method for Mapping Surfaces with Respect to Ellipsometric Parameters; filed Oct. 28, 1975; patented June 21, 1977; not available NTIS.

Patent 4,030,840: Waveform Sampler; filed Mar. 25, 1976; patented June 21, 1977; not available NTIS.

Patent 4,031,579: Aircraft Seat Cushion; filed Dec. 19, 1975; patented June 28, 1977; not available NTIS.

Patent 4,031,748: Vortex Flow Particle Accelerator; filed May 11, 1976; patented June 28, 1977; not available NTIS.

Patent 4,031,749: Probe System for Wind Tunnel Test Section; filed June 15, 1976; patented June 28, 1977; not available NTIS.

Patent 4,031,753: Total Water Content Instrument; filed Aug. 20, 1976; patented June 28, 1977; not available NTIS.

Patent 4,031,759: Method of, and Apparatus for, Making Visible the Flow Pattern of a Gas; filed Aug. 12, 1976; patented June 28, 1977; not available NTIS.

Patent 4,031,827: Pop-Up Cover for Slipstream Generator; filed Mar. 4, 1976; patented June 28, 1977; not available NTIS.

Patent 4,031,828: Pressurized Chaff Canister; filed Jan. 28, 1976; patented June 28, 1977; not available NTIS.

Patent 4,032,566: Omega-Carbomethoxyperfluoroalklyene Oxide Iodides; filed Sept. 4, 1975; patented June 28, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements & Patent Mgmt. Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,009,783: Friction Separator; filed Oct. 2, 1975; patented Mar. 1, 1977; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent application 778,272: Method for Temperature Control of Supported Catalysts; filed Mar. 16, 1977.

Patent application 781,272: Two-Fluid Tiltmeter, filed Mar. 25, 1977.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 4,017,807: Electronically Controlled Digital Laser; filed Feb. 23, 1976; patented Apr. 12, 1977; not available NTIS.

Patent 4,017,864: Mode-Launcher for Simulated Waveguide; filed July 17, 1975; patented Apr. 12, 1977; not available NTIS.

Patent 4,022,811: Preparation of Alkyl Perbromates; filed Jan. 21, 1976; patented May 10, 1977; not available NTIS.

Patent 4,023,144: Parallel to Serial Digital Converter; filed Apr. 2, 1976; patented May 10, 1977; not available NTIS.

Patent 4,023,174: Magnetic Ceramic Absorber; filed Oct. 19, 1960; patented May 10, 1977; not available NTIS.

Patent 4,023,354: Slurried Propellant Rocket Motor; filed Nov. 18, 1971; patented May 17, 1977; not available NTIS.

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Patent 4,024,586: Headgear Suspension System; filed Aug. 5, 1976; patented May 24, 1977; not available NTIS.

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Patent 4,025,157: Gradient Index Miniature Coupling Lens; filed June 26, 1975; patented May 24, 1977; not available NTIS.

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Patent 4,025,369: Deflagrative Epoxy Foam Material; filed Jan. 22, 1973; patented May 24, 1977; not available NTIS.

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[FR Doc. 77-37149 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

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The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, Agricultural Research Service, Hyattsville, Md. 20782.

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U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, Springfield, Va. 22161.

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

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U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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Patent application 786,739: Desorption of Gold from Activated Carbon; filed Apr. 11, 1977.

Patent application 788,059: Method for Providing Ferritic-Iron-Based Alloys; filed Apr. 11, 1977.

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Patent

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at application 789,599: Recovery of Silver and Gold from Cyanide Solutions; filed Apr. 21, 1977.

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Patent application 798,514: Treatment of Lignite to Yield a Pumpable Fluid; filed May 19, 1977.

Patent application 801,269: Loading Gate for Mine Roof Bolter Apparatus; filed May 27, 1977.

Patent application 805,378: A Method for Dehydrating Metal Chlorides; filed June 10, 1977.

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Patent 4,027,182: Rate Independent Pulse Generator; filed Oct. 28, 1975; patented May 31, 1977; not avilable NTIS.

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Patent 4,033,705: Blade Retainer Assembly; patented July 5, 1977; not available NTIS.

[FR Doc. 77-37150 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7

outside North American Continent). Requests for copies of patent applications must include the patent application number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

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Patent application 815,134: Electrochemical Milling Process to Prevent Localized Heating; Filed July 13, 1977.
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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building., Agricultural Research Service, Hyattsville, Md. 20782.

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U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, Springfield, Va. 22161.

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U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

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U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

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Patent application 767,260: Articulated, Flexible Shaft Assembly with Axially Lockable Universal Joint; Filed Feb. 10, 1977.
Patent application 771,500: Detachable Cab Construction for Mining Machines; Filed Feb. 24, 1977.
Patent application 771,501: Hopper-Cleaner for Mining Continuous Haulage System; Filed Feb. 24, 1977.
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U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent application 793,030: Self-Multiplexing Antenna; Filed May 2, 1977.
Patent application 793,573: Heat Transfer System Using Thermally-Operated, Heat-Conducting Valves; Filed May 4, 1977.
Patent application 793,984: Stabilized Delay Line Oscillator; Filed May 5, 1977.
Patent application 797,897: Release Mechanism; Filed May 17, 1977.
Patent application 803,333: Meltable Bifunctional Quinoxaline Monomers and Preparation of a Polymers Therefrom; Filed June 3, 1977.
Patent application 805,489: Highly Electronegative (SN)x Contacts to Semiconductors; Filed June 10, 1977.
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Patent application 813,389: Controlled-Porosity Dispenser Cathode; Filed July 6, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 811,407: Lightweight Structural Columns; Filed June 29, 1977.

[FR Doc. 77-37151 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $3.50 ($7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

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U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent application 809,490: Determination of Thermal Conductance of Bonding Layers in Infrared Photoconductor Arrays; filed June 23, 1977.
Patent application 819,928: Technique for Contact Less Characterization of Semiconducting Material and Device Structures; filed July 28, 1977.

[FR Doc. 77-37152 Filed 12-29-77; 8:45 am]

[3510-04]

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

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Patent application 795,822: Variable Lift Inflatable Airfoil for Tethered Balloons; filed May 11, 1977.
Patent application 800,986: Control Apparatus for Processor Networks; filed May 26, 1977.
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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application 729,157: A Method for Total Protein Fractionation of Human Saliva; filed Oct. 4, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

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U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

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Patent 4,033,119: Dual Cycle Aircraft Turbine Engine; filed Sept. 6, 1973; patented July 5, 1977; not available NTIS.

Patent 4,033,182: Method for Measuring Biaxial Stress in a Body Subjected to Stress Inducing Loads; filed June 28, 1976; patented Dec. 5, 1977; not available NTIS.

Patent 4,033,479: Pressure Modulating Valve; filed July 26, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,504: Bimetallic Junctions; filed Oct. 24, 1975; patented July 5, 1977; not available NTIS.

Patent 4,035,037: Hydrostatic Bearing Support; filed Mar. 2, 1976; patented July 12, 1977; not available NTIS.

[FR Doc. 77-37153 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for $3.50 ($7 outside North American Continent. Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. Department of the Air Force, AF/JACP, Washington, D.C. 20314.

Patent 4,034,363: Real Time Data Rate Quantizer and Analog-to-Digital Converter System; filed Jan. 14, 1976; patented July 5, 1977; not available NTIS.

Patent 4,035,845: Protective Flight Helmet; filed Sept. 16, 1976; patented July 19, 1977; not available NTIS.

Patent 4,038,568: Pulsa Peak Sample and Hold Circuit; filed Feb. 23, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,588: Precision Alplitude Control System for a High Q Torsion Pendulum; filed Feb. 3, 1976; patented July 26, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,041,759: Environmentally-Resistant Anemometer; filed April 27, 1976; patented Aug. 16, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,970,434: Process for Reducing Sulfur in Coal Char; filed Oct. 7, 1974; patented July 20, 1976, not available NTIS.

Patent 3,981,690: Agglomerating Combustor-Gasifier Method and Apparatus for Coal Gasification; filed Jan. 15, 1975; patented Sept. 21, 1976; not available NTIS.

Patent 3,987,146: Simultaneous Removal of Nitrogen Oxides and Sulfur Oxides from Combustion Gases; filed Aug. 19, 1975; patented Oct. 19, 1976; not available NTIS.

Patent 3,991,898: Vacuum Foil Insulation System; filed Sept. 16, 1975; patented Nov. 16, 1976; not available NTIS.

Patent 3,993,910: Liquid Lithium Target as a High Intensity, High Energy Neutron Source; filed Dec. 2, 1975; patented Nov. 23, 1976; not available NTIS.

Patent 4,000,036: Plasma Control and Utilization; filed Jan. 21, 1971; patented Dec. 28, 1976; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 4,030,271: Apparatus for Capping and Uncapping Containers; filed June 11, 1976; patented June 21, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 737,238: An Electrogenerated Chemiluminescent (ECL) Laser; filed Nov. 1, 1976.

Patent application 736,909: Gas/Liquid Separator; filed Apr. 12, 1977.

Patent application 788,103: Regulated Power Supply having a Series Arrangement of Inverters; filed Apr. 15, 1977.

Patent application 791,132: Beam Former Using Bessel Sequences; filed Apr. 25, 1977.

Patent application 793,335: Low Heat Loss Liquid Helium Disconnect Attachment and System; filed May 3, 1977.

Patent application 796,937: Ambient Pressure Lockout System; filed May 16, 1977.

Patent application 812,034: Inflatable Mini Boat; filed July 1, 1977.

Patent application 812,300: Modulating Circuit; filed July 1, 1977.

Patent application 812,883: Electrostatic High Potential System; filed July 5, 1977.

Patent application 812,965: Method for Depositing Heteroepitaxially InP on GaAs Semi-Insulating Substrates; filed July 5, 1977.

Patent application 819,637: A Broadband High Pass Microwave Filter; filed July 27, 1977.

Patent application 819,638: Data Rate Adaptive Control Device for Manchester Code Decoders; filed July 27, 1977.

Patent application 822,126: Two Dimensional Surface Acoustic Wave Image Scanning; filed Aug. 5, 1977.

Patent 4,006,309: Voice Operated Relay; filed Oct. 2, 1975; patented Feb. 1, 1977; not available NTIS.

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Patent 4,025,843: Constant Current Base-Drive Circuit; filed Apr. 28, 1976; patented May 24, 1977; not available NTIS.

Patent 4,027,945: Optical Sliprings; filed Mar. 4, 1976; patented June 7, 1977; not available NTIS.

Patent 4,028,548: IR Imagine with Surface Wave Readout; filed Mar. 29, 1976; patented June 7, 1977; not available NTIS.

Patent 4,028,947: Film-Recording Noise Dosimeter; filed May 10, 1976; patented June 14, 1977; not available NTIS.

Patent 4,030,063: Ultra Low Frequency Acoustic Generator; filed July 28, 1976; patented June 14, 1977; not available NTIS.

Patent 4,031,479: Peak Detecting Demodulator; filed Feb. 23, 1976; patented June 21, 1977; not available NTIS.

Patent 4,031,605: Method of Fabricating Combustion Chamber Liners; filed Aug. 5, 1976; patented June 28, 1977; not available NTIS.

Patent 4,032,868: Multimodal High Pressure Waveguide Window; filed May 5, 1976; patented June 28, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 804,035: Method and Apparatus for Providing a Servo Drive Signal in a High-Speed Stepping Interferometer; filed June 6, 1977.

Patent application 811,815: Solar Pond; filed June 30, 1977.

Patent application 814,813: Redundant RF System for Space Applications; filed July 11, 1977.

Patent application 820,498: Three-Mirror Telescope; filed June 29, 1977.

Patent application 821,681: Remote Water Monitoring System; filed Aug. 4, 1977.

Patent 4,032,089: Surface Finishing; filed Apr. 16, 1975; patented June 28, 1977; not available NTIS.

Patent 4,033,316: Sustained Arc Ignition system; filed June 3, 1975; patented July 5, 1977; not available NTIS.

Patent 4,033,334: Snap-in Compressible Biomedical Electrode; filed Dec. 3, 1975; patented July 5, 1977; not available NTIS.

Patent 4,033,349: Corneal Seal Device; filed Apr. 13, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,882: Wideband Heterodyne Receiver for Laser Communication System; filed Mar. 18, 1976; patented July 5, 1977; not available NTIS.

Patent 4,035,062: Method and Apparatus for Producing an Image from a Transparent Object; filed Dec. 30, 1975; patented July 12, 1977; not available NTIS.

Patent 4,035,065: Lightweight Reflector Assembly; filed Sept. 24, 1975; patented July 12, 1977; not available NTIS.

[FR Doc. 77-37154 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 4,035,845: Protective Flight Helmet; filed Sept. 16, 1976; patented July 19, 1977; not available NTIS.

Patent 4,038,113: Catalyst System for Polyurethane Propellants; filed Aug. 20, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,189: Fluid Dual Filter; filed Jan. 16, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,320: Phenylethynyl Substituted Aromatic Diamines; filed Apr. 19, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,461: Electrochemical Cell Having Balanced Distribution of Oxygen and Electrolyte; filed Jan. 23, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,656: Helicopter Discrimination Apparatus for the Murine Radar; filed Mar. 27, 1974; patented July 26, 1977; not available NTIS.

Patent 4,038,659: Frequency Agility Radar; filed Sept. 9, 1966; patented July 26, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

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Patent application 811,399: Low pH Preparation of Cationic Starches and Flours; filed June 29, 1977.

Patent 4,011,375: Photodegradable Plastics Containing Halogenated Diphenyl Ethanes; filed Nov. 26, 1974; patented Mar. 8, 1977; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, Springfield, Va. 22161.

Patent 3,908,363: Radiation Flux Averaging Device of High Efficiency; filed Feb. 4, 1975; patented July 6, 1976; not available NTIS.

Patent 4,008,477: Antenna with Inherent Filtering Action filed June 25, 1975; patented Feb. 15, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application 808,378: Electrofocusing in Buffers; filed June 20, 1977.

Patent 4,024,241: Nuclease-Resistant Hydrophilic Complex of Polyriboinosinic-Polyribocytidylic Acid; filed Sept. 4, 1975; patented May 17, 1977; not available NTIS.

Patent 4,024,333: Synthesis of Daunosamine Hydrochloride from a D-Mannose Starting Material; filed June 22, 1976; patented May 17, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

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Patent application 738,405: New Process for the Production of Unsymmetrical Dimethylhydrazine (UDMH); filed Nov. 3, 1976.

Patent application 780,371: Remotely Controlled Cyclic Grapnel Hook Apparatus; filed Mar. 23, 1977.

Patent application 787,722: Polymers of Low Decomposition Temperature and Additives to Promote Decomposition; filed Apr. 15, 1977.

Patent application 794,165: Improved Cook-Off Coating; filed May 5, 1977.

Patent application 806,387: Primary Cells Using Seawater or Other Salt Solution as the Electrolyte; filed June 14, 1977.

Patent application 812,034: Inflatable Mini Boat; filed July 1, 1977.

Patent application 816,054: Combined Radial Diffuser and Control Valve for High-Pressure Fans; filed July 15, 1977.

Patent application 816,225: Analytical Method for TNT in Water; filed July 18, 1977.

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Patent application 817,752: Procedure for Making Trimethylolmethane; filed July 21, 1977.

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Patent application 818,709: Atmospheric Radon Monitor; filed July 25, 1977.

Patent application 822,125: Dependent Sway Bracing Weapon Restraints; filed Aug. 5, 1977.

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Patent 4,031,605: Method of Fabricating Combustion Chamber Liners; filed Aug. 5, 1976; patented June 28, 1977; not available NTIS.

Patent 4,035,760: Object Detecting System; filed Sept. 18, 1951; patented July 12, 1977; not available NTIS.

Patent 4,036,720: Hydrogen Isotope Separation; filed Oct. 22, 1976; patented July 19, 1977; not available NTIS.

Patent 4,038,490: Water-Seal Splice for Coaxial Cables and Method of Making Same; filed May 30, 1975; patented July 26, 1977; not available NTIS.

Patent 4,038,647: Method for Holographic Storage; filed Feb. 18, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,657: Intermittent Range Tracker; filed June 9, 1969; patented July 26, 1977; not available NTIS.

Patent 4,040,119: Programmer for Magnetic Latching Relays; filed July 19, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,043,850: Polymeric-Coated HMX Crystals for Use with Propellant Materials; filed Aug. 6, 1976; patented Aug. 23, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 811,815: Solar Pond; filed June 30, 1977.

[FR Doc. 77-37155 Filed 12-29-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Notice of Availability for Licensing

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314

Patent 4,038,157: Method of Hermetically Sealing Semiconductor Devices; filed April 16, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,598: Probe Contact and Junction Detector; filed Mar. 16, 1976; patented July 26, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattesville, Md. 20782.

Patent application 787,660: Continuous Fractionation of Tallow and Production of a Cocoa Butter-Like Plastic Fat; April 14, 2977.

Patent 4,038,875: Cryogneic Sediment Sampler; filed May 18, 1976; patented August 2, 1977; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, National Technical Information Service, Springfield, Va. 22161.

Patent application 827,996: Fringe Counting Interferometric System for High Accuracy Measurements; filed August 26, 1977.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

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Patent 3,957,375: Variable Thickness Double-Refracting Plate; filed July 23, 1974; patented May 18, 1976; not available NTIS.

Patent 3, 968,007: Neutronic Reactor Construction; filed December 9, 1952; patented July 6, 1976; not available NTIS.

Patent 3,971,699: Neutronic Reactor; filed June 19, 1952; patented July 27, 1976; not available NTIS.

Patent 3,974,028: Reactor and Method of Operation; filed May 24, 1946; patented August 10, 1976; not available NTIS.

Patent 3,975,233: Neutronic Reactor; filed September 10, 1952; patented August 17, 1976; not available NTIS.

Patent 3,976,540: Magnetic Latch Trigger for Inherent Shutdown Assembly; filed April 3, 1975; patented August 24, 1976; not available NTIS.

Patent 3,976,543: Temperature Actuated Shutdown Assembly for a Nuclear Reactor; filed November 14, 1975; patented August 24, 1976; not available NTIS.

Patent 3,979,256: Monitoring Circuit for Reactor Safety Systems; filed March 4, 1975; patented September 7, 1976; not available NTIS.

Patent 3,980,519: Damper Mechanism for Nuclear Reactor Control Elements; filed June 4, 1974; patented September 14, 1976; not available NTIS.

Patent 3,982,129: Method and Means of Monitoring the Effluent from Nuclear Facilities; filed November 22, 1974; patented September 21, 1976; not available NTIS.

Patent 3,984,332: Radiation Detection System; filed July 7, 1975; patented October 5, 1976; not available NTIS.

Patent 3,984,803: Seismic Intrusion Detector System; filed September 6, 1967; patented October 5, 1976; not available NTIS.

Patent 3,987,423: Ionization-Chamber Smoke Detector System; filed December 22, 1975; patented October 19, 1976; not available NTIS.

Patent 3,987,815: Tank Depletion Flow Controller; filed July 1, 1975; patented October 26, 1976; not available NTIS.

Patent 3,988,586: Combination Neutron-gamma Ray Detector; filed June 24, 1974; patented October 26, 1976; not available NTIS.

Patent 3,988,590: Photomultiplier Tube Gain Regulating System; filed April 8, 1975; patented October 26, 1976; not available NTIS.

Patent 3,988,669: Automatic Control and Detector for Three-Terminal Resistance Measurement; filed August 15, 1975; patented October 26, 1976; not available NTIS.

Patent 3,992,672: Multiple Channel Coincidence Detector and Controller for Microseismic Data Analysis; filed October 7, 1975; patented November 16, 1976; not available NTIS.

Patent 3,993,738: High Strength Graphite and Method for Preparing Same; filed November 8, 1973; patented November 23, 1976; not available NTIS.

Patent 3,994,796: Electrolytic Plating Apparatus for Discrete Microsized Particles; filed September 11, 1975; patented November 30, 1976; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 4,040,940: Electrophoretic Fractional Elution Apparatus Employing a Rotational Seal Fraction Collector; filed December 21, 1976; patented August 9, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 787,732: Radar Significant Target; filed Apr. 14, 1977.

Patent 3,916,094: Submersible Visual Simulator for Remotely Piloted Systems; filed June 21, 1974; patented Oct. 28, 1975; not available NTIS.

Patent 3,920,011: Sonic Decompression; filed June 24, 1974; patented Nov. 18, 1975; not available NTIS.

Patent 3,922,721: Wearable Sound Attenuating Enclosure; filed Sept. 20, 1974; patented Dec. 2, 1975; not available NTIS.

Patent 3,929,533: Method of Assembling a Glass Spherical Segment Viewing Port to a Submarine Vessel; filed Nov. 1, 1974; patented Dec. 30, 1975; not available NTIS.

Patent 3,987,919: General Purpose Logistic Trailer; filed Oct. 28, 1975; patented Oct. 26, 1976; not available NTIS.

Patent 4,023,202: Television Tracking Symbol Generator; filed Dec. 24, 1975; patented May 10, 1977; not available NTIS.

Patent 4,028,708: Antenna Feed for Dual Beam Conical Scan Tracking Radar; filed Oct. 10, 1975; patented June 7, 1977; not available NTIS.

Patent 4,030,831: Phase Detector for Optical Figure Sensing; filed Mar. 22, 1976; patented June 21, 1977; not available NTIS.

Patent 4,031,444: Solar Collector Control System; filed Oct. 20, 1975; patented June 21, 1977; not available NTIS.

Patent 4,031,698: Split Flow Injector for Solid Fuel Ramjets; filed Aug. 6, 1976; patented June 28, 1977; not available NTIS.

Patent 4,033,224: Liquid Propellant Gun; filed Sept. 16, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,659: Underwater Connector; filed July 26, 1976; patented July 5, 1977; not available NTIS.

Patent 4,034,416: Diving Helmet Breech Ring Connection; filed Oct. 22, 1976; patented July 12, 1977; not available NTIS.

Patent 4,035,846: Inflatable Pressure Compensated Helmet Stabilization System; filed Aug. 17, 1976; patented July 19, 1977; not available NTIS.

Patent 4,037,470: Method and Apparatus for Measuring High Energy Laser Beam Power; filed Aug. 19, 1976; patented July 26, 1977; not available NTIS.

Patent 4,037,594: Exhaust Regulator Valve for Push-Pull Diving System; filed Apr. 26, 1976; patented July 26, 1977; not available NTIS.

Patent 4,038,602: Automodulated Realtivistic Electron Beam Microwave Source; filed Feb. 25, 1976; patented July 26, 1977; not available NTIS.

Patent 4,039,023: Method and Apparatus For Heat Transfer, Using Metal Hydrides; filed Feb. 25, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,043,044: Surface-Following Cartridge for Use with Linear Measurement Transducer Systems; filed Nov. 24, 1975; patented Aug. 23, 1977; not available NTIS.

[FR Doc. 77-37156 Filed 12-29-77; 8:45 am]

[3510-04]

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel and Development Administration, Washington, D.C. 20545.

Patent application 681,644: Improved Current Type Proximity Detector; filed Apr. 29, 1976.

Patent 3,984,803: Seismic Intrusion Detector System; filed Sept. 6, 1967; patented Oct. 5, 1976; not available NTIS.

Patent 3,985,658: Extinguishing Agent for Combustible Metal Fires; filed Apr. 16, 1975; patented Oct. 12, 1976; not available NTIS.

Patent 3,988,049: Apparatus for High Speed Rotation of Electrically Operated Devices; filed Sept. 12, 1973; patented Oct. 26, 1976; not available NTIS.

Patent 3,988,648: Protective Carrier for Microcircuit Devices; filed July 18, 1975; patented Oct. 26, 1976; not available NTIS.

Patent 3,995,186: Ion-Plasma Gun for Ion-Milling Machine; filed Apr. 25, 1975; patented Nov. 30, 1976; not available NTIS.

Patent 3,996,863: Rapid Ignition of Fluidized Bed Boiler; filed Mar. 15, 1976; patented Dec. 14, 1976; not available NTIS.

Patent 3,998,047: Method and Apparatus for Preventing Overspeed in a Gas Turbine; filed Apr. 18, 1975; patented Dec. 21, 1976; not available NTIS.

Patent 3,999,602: Matrix Heat Exchanger Including a Liquid, Thermal Couplant; filed Oct. 21, 1975; patented Dec. 28, 1976; not available NTIS.

Patent 4,010,733: Structurally Integrated Steel Solar Collector; filed June 3, 1975; patented Mar. 8, 1977; not available NTIS.

Patent 4,017,119: Method for Rubblizing an Oil Shale Deposit for in situ Retorting; filed Mar. 25, 1976; patented Apr. 12, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 4,040,742: Capillary Flow Method and Apparatus for Determination of Cell Osmotic Fragility; filed Aug. 9, 1976; patented Aug. 9, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief of Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,920,974: Discrete Cosine Transform Signal Processor; filed Oct. 15, 1974; patented Nov. 18, 1975; not available NTIS.

Patent 3,929,533: Method of Assembling a Glass Spherical Segment Viewing Port to a Submarine Vessel; filed Nov. 1, 1974; patented Dec. 30, 1975; not available NTIS.

Patent 3,987,919: General Purpose Logistic Trailer; filed Oct. 28, 1975; patented Oct. 26, 1976; not available NTIS.

Patent 4,024,651: Variable Feel Side Stick Controller; filed Apr. 27, 1976; patented May 24, 1977; not available NTIS.

Patent 4,031,698: Split Flow Injector for Solid Fuel Ramjets; filed Aug. 6, 1976; patented June 28, 1977; not available NTIS.

Patent 4,032,849: Planar Balanced Mixer/Converter for Broadband Applications; filed Sept 1, 1976; patented June 28, 1977; not available NTIS.

Patent 4,033,224: Liquid Propellant Gun; filed Sept. 16, 1976; patented July 5, 1977; not available NTIS.

Patent 4,033,265: Anti-Compromise Device; filed Mar. 25, 1976; patented July 5, 1977; not available NTIS.

Patent 4,035,738: Low Noise Amplifier; filed May 17, 1976; patented July 12, 1977; not available NTIS.

Patent 4,041,446: Capacitive-Type Displacement and Pressure Sensitive Transducer; filed May 20, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,041,489: Sea Clutter Reduction Technique; filed June 25, 1974; patented Aug. 9, 1977; not available NTIS.

[FR Doc. 77-37157 Filed 12-29-77; 8:45 am]

[3510-04]

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DOUGLAS J. CAMPION,
Patent Program Coordinator, National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 729,633: Virtually Nonvolatile Random Access Memory Cell; filed Oct. 5, 1976.

Patent application 729,754: Quasi Static, Virtually Nonvolatile Random Access Memory Cell; filed Oct. 5, 1976.

Patent application 734,159: Virtually Nonvolatile Static Random Access Memory Device; filed Nov. 5, 1976.

Patent application 790,778: Microwave Hybrid Phase Matching Spacer; filed Apr. 25, 1977.

Patent application 804,483: Assessment of Flaw Growth Potential in Structural Components; filed June 7, 1977.

Patent application 806,561: Fluorocarbon Triazine Polymers; filed June 14, 1977.

Patent application 815,136: Emergency Personnel Lowering Apparatus; filed July 13, 1977.

Patent application 820,493: Sheet material Storage Rack; filed July 29, 1977.

Patent application 825,005: Titanium and Titanium Alloys Ion Plated with Noble Metals and Their Alloys; filed Aug. 16, 1977.

Patent 4,043,381: Self-Destructive Core Mold Materials for Metal Alloys; filed Aug. 9, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,669: Light Scattering Test Apparatus; filed May 28, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,808: Steel Alloy; filed Aug. 14, 1972; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,926: Lubricant Composition; filed Apr. 30, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,044,253: Non-Destructive Inspection of Composite and Adhesive Bonded Structures; filed June 4, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,044,396: Heated Pipe Cooling of Airborne Phased Array Radar; filed Aug. 14, 1975; patented Aug. 23, 1977; not available NTIS.

Patent 4,045,409: Thermally Stable, Highly Fused Imide Compositions; filed Apr. 19, 1976; patented Aug. 30, 1977; not available NTIS.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 4,001,557: Stored Program Digital Process Controller; filed Oct. 14, 1975; patented Jan. 4, 1977; not available NTIS.

Patent 4,002,729: Method for Thermochemical Decomposition of Water; filed Apr. 6, 1976; patented Jan. 11, 1977; not available NTIS.

Patent 4,002,784: Coating Method for Graphite; filed Nov. 6, 1975; patented Jan. 11, 1977; not available NTIS.

Patent 4,005,184: Thermochemical Process for the Production of Hydrogen Using Chromium and Barium Compounds; filed July 24, 1975; patented Jan. 25, 1977; not available NTIS.

Patent 4,005,233: Filament Wound Structure and Method; filed Oct. 30, 1975; patented Jan. 25, 1977; not available NTIS.

Patent 4,005,750: Method for Selectively Orienting Induced Fractures in Subterranean Earth Formations; filed July 1, 1975; patented Feb. 1, 1977; not available NTIS.

Patent 4,005,990: Superconductors; filed June 26, 1975; patented Feb. 1, 1977; not available NTIS.

Patent 4,006,073: Thin Film Deposition by Electric and Magnetic Crossed-Field Diode Sputtering; filed Apr. 3, 1975; patented Feb. 1, 1977; not available NTIS.

Patent 4,006,107: Method of Producing Ternary Lead Molybdenum Sulfides; filed Aug. 13, 1975; patented Feb. 1, 1977; not available NTIS.

Patent 4,009,444: Passive Radio Frequency Peak Power Multiplier; filed Aug. 30, 1974; patented Feb. 22, 1977; not available NTIS.

Patent 4,011,076: Method for Fabricating Beryllium Structures; filed Mar. 18, 1976; patented Mar. 8, 1977; not available NTIS.

Patent 4,011,133: Austenitic Stainless Steel Alloys Having Improved Resistance to Fast Neutron-Induced Swelling; filed July 16, 1975; patented Mar. 8, 1977; not available NTIS.

Patent 4,011,463: High Voltage Pulse Generator; filed June 12, 1975; patented Mar. 8, 1977; not available NTIS.

Patent 4,012,230: Tungsten-Nickel-Cobalt Alloy and Method of Producing Same; filed July 7, 1975; patented Mar. 15, 1977; not available NTIS.

Patent 4,012,265: Low-Density Microcellular Foam and Method of Making Same; filed Sept. 2, 1975; patented Mar. 15, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 773,878: Real-Time Optical Mapping System; filed Mar. 31, 1977.

Patent application 793,218: Transversal Filter Prime Sequence Frequency Synthesizer; filed May 2, 1977.

Patent application 820,964: Stand-Aid Invalid Wheelchair; filed Aug. 1, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 785,279: Surface Finishing; filed Apr. 6, 1977.

Patent application 786,913: Thermal Insulation Attaching Means; filed Apr. 12, 1977.

Patent application 829,321: Dual Mode Solid State Power Switch; filed Aug. 31, 1977.

Patent application 830,272: An Interleaving Device; filed Sept. 2, 1977.

Patent application 831,631: An Interactive Color Display for Multispectral Imagery Using Correlation Clustering; Sept. 8, 1977.

Patent 4,040,867: Solar Cell Shingle; filed Aug. 24, 1976; patented Aug. 9, 1977; not available NTIS.

[FR Doc. 77-37158 Filed 12-29-77; 8:45 am]

[3510-25]

COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENT

ANNOUNCING IMPORT RESTRAINT LEVELS UNDER NEW MULTIFIBER AGREEMENT WITH THE REPUBLIC OF KOREA

DECEMBER 27, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton, wool and man-made fiber textile products during the twelve-month period beginning on January 1, 1978, pursuant to a new multifiber agreement.

SUMMARY: On December 23, 1977, the Governments of the United States and the Republic of Korea exchanged notes establishing a new Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement for the period beginning on January 1, 1978 and extending through December 31, 1982. Among the provisions of the agreement are those establishing specific levels of restraint for cotton textile products in Categories 333/334/335, 340, 347/348, wool textile products in Categories 433/434, 438, 443, 444, 445/446, and 447 and man-made fiber textile products in Categories 633/634/635, 638/639, 640, 641, 643, 645/646 and 647, produced and manufactured in Korea and exported to the United States during the twelve-month period beginning on January 1, 1978. Among the categories for which designated consultation levels have been established are the following: 314, 331, 338/339, 341, 345, 410, 448, and 648. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption or withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 314, 331, 333/334/335, 338/339, 340, 341, 345, 347/348, 410, 433/434, 438, 443, 444, 445/446, 447, 448, 633/634/635, 638/639, 640, 641, 643, 645/646, 647 and 648 in excess of the designated twelve-month levels of restraint. (A description of the new textile categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

DECEMBER 27, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on January 1, 1978 and for the twelve-month period extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories in excess of the indicated levels of restraint:

Category	*12-mo level of restraint*
314	7,000,000 yd².
331	330,000 doz pairs.
333/334/335	76,555 doz of which not more than 43,560 doz shall be in Category 333/334 and not more than 44,479 doz shall be in Category 335.
338/339	444,444 doz.
340	135,127 doz.
341	89,655
345	27,174 doz.
347/348	201,439 doz of which not more than 142,245 doz shall be in Category 347 and not more than 109,554 doz shall be in Category 348.
410	2,750,000 yd².
433/434	194,404 units of which not more than 141,351 units shall be in Category 433 and not more than 72,493 units shall be in Category 434.
438	43,674 doz.
443	320,448 units.
444	45,495 units.

Category	12-mo level of restraint
445/446	48,931 doz.
447	938,611 units.
448	87,500 units.
633/634/635	1,200,158 doz of which not more than 153,403 doz shall be in Category 633; not more than 706,606 doz shall be in Category 634; and not more than 520,113 doz shall be in Category 635.
638/639	4,823,998 doz.
640	5,334,100 doz.
641	896,397 doz.
643	648,288 units.
645/646	2,836,106 doz.
647	867,055 doz.
648	337,079 doz.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in Categories 333, 334, 335, 338, 339, 410, 443, 633, 634, 635, 638, 639, 640, 641, 643, 645, and 646, produced or manufactured in Korea and exported to the United States prior to January 1, 1978, shall be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1978. When the data are available, adjustments to account for cotton, wool and man-made fiber textile products which have been exported prior to January 1, 1978 and are chargeable to any unfilled balances remaining from the previous agreement year, will be made to you by further letter. Merchandise exported prior to January 1, 1978 in Categories other than those listed immediately above will not be subject to this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 23, 1977, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A description of the categories in terms of T.S.U.S.A. numbers was published in Statistical Headnote 4, Schedule 3 of the Tariff Schedules of the United States Annotated (1978).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 77-37107 Filed 12-29-77; 8:49 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1978 a service to be provided by and commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: December 30, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On September 16, 1977 and September 30, 1977, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 46570) and (42 FR 52467) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service and commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service and commodities are hereby added to Procurement List 1978:

SIC 7349—Janitorial Service (SH), Lloyd Group Buildings, Portland, Oreg., at the following locations:

1. 630 N.E. Holladay St.
2. 830 N.E. Holladay St.
3. 729 N.E. Oregon St.
4. 811 N.E. Oregon St.
5. 827 N.E. Oregon St.

Class 8465—Lanyard, Pistol (SH), 8465-00-262-5237, 8465-00-965-1705.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc. 77-37238 Filed 12-29-77; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP76-282]

CITIES SERVICE GAS CO.

Extension of Time

DECEMBER 20, 1977.

On December 9, 1977, Cities Service Gas Co. (Cities Service) filed a motion for extension of time to comply with Ordering Paragraph (C) to the Commission's Order issued November 4, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including May 4, 1978, to comply with Ordering Paragraph (C).

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37207 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket Nos. RI78-19, CS77-299]

ENERCO, INC. AND SOUTHERN NATURAL GAS CO.

Petition for Declaratory Order and Motion for Relief Pendente Lite

DECEMBER 22, 1977.

Take notice that on November 18, 1977, Southern Natural Gas Co. (Southern), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CS77-299, a petition for declaratory order pursuant to section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR § 1.7). Southern seeks an order finding that all gas produced from certain acreage by Enerco, Inc. (Enerco) is dedicated to interstate commerce, and must be sold to Southern. In support of its petition Southern makes the following allegations. Southern and Clarence Kenyon (Kenyon) entered into a gas purchase contract dated March 30, 1966, whereby Kenyon agreed to sell to Southern natural gas production from Kenyon's interests in 23 oil and gas leases pertaining to acreage in the Monroe Field, Morehouse and Ouachita Parishes, La. Kenyon was issued a certificate of public convenience and necessity authorizing such sales to Southern in Docket No. CI66-1039, and the contract was designated as Kenyon's FPC Gas Rate Schedule No. 1. Subsequently, the Commission cancelled Kenyon's Rate Schedule and granted Kenyon a small producer certificate in Docket No. CS71-292. Deliveries under the contract commenced on September 9, 1966. Southern further alleges that one of the leases underlying the contract was dated December 15, 1974,

was from David Fouche Taylor Spyker, et al. to Kenyon (1974 Kenyon Lease), and that this lease covered 2,693.57 acres in the Monroe Field, Township 20 and 21 North, Range 5 East, Morehouse Parish, La. According to Southern the 1964 Kenyon Lease contained a clause which, as amended on July 28, 1975, required Kenyon to commence a well within 90 days from the date thereof, and either to commence operations for the drilling of a well for each 120 day period from the completion of the prior well, or to release from the lease all undeveloped acreage. Southern states that Kenyon fulfilled this drilling obligation until his death on October 7, 1975. Southern then avers that on September 13, 1976, Spyker, lessor of the 1964 Kenyon Lease leased all acreage covered by the 1964 Kenyon Lease to Dell R. Byrd, and that this lease (Byrd Lease) was by its own terms subject to and subordinate to any rights vested in third parties under the 1964 Kenyon Lease. The Byrd Lease further provides, according to Southern, that it applies to any rights under the 1964 Kenyon Lease as may revert back to Spyker, the Lessor. Southern goes on to state that on May 4, 1977 Kenyon's Executrix assigned her interests in the 1964 Kenyon Lease to William M. Plaster, and that on May 5, 1977 Plaster, in accordance with the provision requiring continued additional drilling, executed a partial release as to all undeveloped acreage as a result of the discontinuance of drilling operations after Kenyon's death. According to Southern, the released acreage then became subject to the 1976 Byrd Lease. Plaster then assigned his remaining interest in the 1964 Kenyon Lease to Enerco. The assignment was dated July 15, 1977, and by its terms was effective June 1, 1977. Enerco also gained interest in the 1976 Byrd Lease, by virtue of assignment from Byrd dated July 1, 1977.

Southern alleges that Enerco has drilled 12 wells on the released acreage, and that Enerco refuses to negotiate for a renewal contract with respect to the released acreage, on the theory that the gas lying thereunder is not subject to dedication. According to Southern, Enerco relies on the Fifth Circuit's opinion in *Southland Royalty Company* vs. *FPC*, 543 F.2d 1134, as support for its position. Southern further states that Enerco intends to sell the gas from the released acreage to an intrastate purchaser. Southern states that no party has applied for or obtained abandonment authorization pursuant to section 7(b) of the Natural Gas Act. Southern requests a Commission order declaring that the gas produced from the released acreage, and all other acreage covered by the 1964 Kenyon Lease, is subject to dedication to interstate commerce, and that all such gas must be sold to Southern unless and until Enerco obtains abandonment authorization pursuant to section 7(b) of the Natural Gas Act.

By a filing made December 5, 1977, in Docket No. RI78-19, Enerco requests authority to deliver gas to Southern produced from wells on the 1976 Byrd lease at a rate of 32 cents per Mcf above the rates prescribed in Opinion No. 770-A. Enerco states that the gas produced from the Byrd Lease is low presuure gas, and that three-stage compression would be required to deliver the gas into Southern's pipeline. Enerco states that its cost of compression is 32 cents per Mcf. Enerco further asks that any deliveries made to Southern pursuant to a Commission order granting emergency relief pendente lite not constitute a dedication of the wells on the 1976 Byrd Lease to interstate commerce.

Any person desiring to be heard or to make any protests with reference to said petition should on or before January 11, 1978, file with the Federal Energy 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 determing 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. 77-37208 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. E-9574]

FLORIDA POWER & LIGHT CO.

Amendment of Application

DECEMBER 23, 1977.

Take notice that on December 12, 1977, Florida Power & Light Co. (Applicant) pursuant to section 203 of the Federal Power Act and §§ 1.7 and 1.11 of the Federal Energy Regulatory Commission's ("Commission") Rules of Practice and Procedure, submitted an amendment to its application filed November 26, 1976 in Docket No. E-9574.

On November 26, 1976, FP&L filed an application for an order authorizing the purchase by FP&L of the electric system of the city of Vero Beach, Fla. ("Vero Beach"). Subsequently, FP&L and Vero Beach entered into a new contract which superseded the original contract documents attached to its application as Exhibit L. On April 12, 1977 FP&L filed an amendment to its application to reflect this new contract (Exhibit I to the Amendment). The new contract, which became effective March 29, 1977, extended the date of acquisition to occur within 45 days of the Commission's order in Docket No. E-9574 or by November 30, 1977, whichever occurs first. The amendment filed herein indicates that FP&L and Vero Beach have entered into a Contract Extension Agreement, effective November 30, 1977, which proposes to extend the date in which acquisition is to occur by, to March 1, 1978, unless terminated at an earlier date by either FP&L or Vero Beach.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37196 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ID-1820]

FRED D. HAFER

Application

DECEMBER 22, 1977.

Take notice that Fred D. Hafer, on October 17, 1977, tendered for filing an application pursuant to section 305(b) of the Federal Power Act for authority to hold the following positions:

Director, Metropolitan Edison Co., Public Utility.
Director, Pennsylvania Electric Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH, F. PLUMB,
Secretary.

[FR Doc. 77-37209 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-131]

HARTFORD ELECTRIC LIGHT CO.

PURCHASE AGREEMENT

DECEMBER 23, 1977.

Take notice that on December 15, the Hartford Electric Light Co. (HELCO) tendered for filing a proposed Purchase Agreement with Respect to Middletown Station (Purchase Agreement), dated August 25, 1977, between HELCO and Village of Northfield Electric Department (Northfield).

HELCO states that the Purchase Agreement provides for a sale to Northfield of a specified percentage of capacity and energy from four oil-fired steam generating units (Middletown Unit Nos. 1, 2, 3, and 4) during the period from November 1, 1977, to October 31, 1979, together with related transmission service.

HELCO requests that the Commission waive the 30 day notice period and permit the rate schedule filed to become effective on November 1, 1977.

HELCO states that the capacity charge rate for the proposed service is a rate determined on a cost-of-service basis and that the monthly transmission charge is equal to one-twelfth of the annual average unit cost of transmission service on the Northeast Utilities (NU) system determined in accordance with section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts of winter capability which Northfield is entitled to receive. HELCO further states that the energy charge is based on Northfield's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive this charge.

HELCO states that the services to be provided under the Purchase Agreement are similar to services provided by HELCO relating to an agreement between HELCO and Westfield Gas and Electric Department (Rate Schedule FPC No. 110 and Supplement 1).

HELCO states that copies of this rate schedule have been mailed or delivered to Northfield, c/o Vermont Electric Power Co., Inc., Rutland, Vt.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 and 1.10). All such petitions or protests should be filed on or before January 3, 1978. 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. 77-37197 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-132]

INDIANAPOLIS POWER & LIGHT CO.

Rate Schedule Filing

DECEMBER 23, 1977.

Take notice that Indianapolis Power & Light Co. (Indianapolis Company) on December 15, 1977, tendered for filing as a rate schedule an Agreement for the Sale for Resale and Transmission of Electric Unit Power and Energy (Unit Power Agreement) Dated as of December 19, 1977, among Public Service Co. of Indiana, Inc. (Service Company), Northern Indiana Public Service Co. (Northern Company) and Indianapolis Company.

Indianapolis Company indicates that the Unit Power agreement provides for the wholesale for resale sale to Northern Company of 45,000 kilowatts and 55,000 kilowatts, respectively, of unit power and energy from Unit No. 2 and unit No. 3 of Indianapolis Company's Petersburg Generating Station, which power and energy is to be transmitted by Service Company through its system because Indianapolis Company and Northern Company are not physically interconnected. Indianapolis Company further indicates that such sale, transmission and purchase is to take place during the period December 19, 1977, through April 30, 1979, unless an option to extend through September 30, 1979 is exercised by Northern Company. According to Indianapolis Company, Northern Company is to pay a demand rate of $4.68 per kilowatt per month and an energy rate equal to the production costs of each unit, plus Indiana Gross Income Tax; and that a transmission charge of $75,000 per month is to be paid by Northern Company to Service Company.

Indianapolis Company requests a waiver of the thirty (30) day filing requirement and asks that the Unit Power Agreement be made effective December 19, 1977; it also requests waiver of any requirements of Section 35.12 of the Commission's Regulations not already complied with by its filing. Indianapolis Company further states that a copy of this filing was sent to Service Company, Northern Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37198 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-106]

KANSAS CITY POWER & LIGHT CO.

Filing of Service Schedules

DECEMBER 22, 1977.

Take notice that on December 12, 1977, Kansas City Power & Light Co. (KCPL) tendered for filing a Service Schedule SE for System Energy and a Service Schedule D for System Participation Power between KCPL and Missouri Public Service Co. KCPL states that the proposed Service Schedules add System Energy and System Participation Power to the Interchange Agreement dated May 7, 1965, between the parties.

KCPL proposes an effective date of October 31, 1977, and therefore requests waiver of the Commission's notice requirements.

According to KCPL copies of this filing were mailed to the Missouri Public Service Co. and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 January 3, 1978. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37210 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER77-388]

LAKE SUPERIOR DISTRICT POWER CO.

Presiding Administrative Law Judge's Certification of Proposed Settlement to the Commission

DECEMBER 23, 1977.

Take notice that on December 15, 1977, Presiding Administrative Law Judge William Jensen certified to the Commission pursuant to section 1.18 of the Rules of Practice and Procedure a document entitled: Settlement Agreement Regarding Rates For Wholesale Electric Service (Settlement Agreement).

The Presiding Administrative Law Judge states that, on December 9, 1977, Lake Superior District Power Co. (Company) filed a motion requesting prompt certification to the Commission of a Settlement Agreement concluded between the Company and the city of Medford. The Presiding Administrative Law Judge reported that Staff participated in the settlement negotiations.

The Presiding Administrative Law Judge represents that the rate proposal pursuant to the Settlement Agreement involves the city of Wakefield as well as the city of Medford (Intervenor). According to the Presiding Administrative Law Judge the Company opines that, although Wakefield did not intervene in this proceeding or participate in the settlement negotiations, the Settlement Agreement is fair and equitable to Wakefield as well as Medford and the Company.

Any person wishing to do so may submit comments in writing concerning the above filing. Comments should be addressed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should be submitted on or before January 12, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37199 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. RP75-79]

LEHIGH PORTLAND CEMENT CO. v. FLORIDA GAS TRANSMISSION CO.

Order Providing for Hearing, Setting Prehearing Conference and Prescribing Procedures

DECEMBER 19, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Public Law 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be effected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On March 21, 1975, Lehigh Portland Cement Co. filed a complaint, under sections 4, 5(a), 14(a) and 16 of the Natural Gas Act and the Commission's Rules, against Florida Gas Transmission Company (FGT). The complainant alleged that FGT's curtailment plan was unduly discriminatory. In Opinion 807, issued on June 24, 1977, we found that the curtailment plan of FGT was unjust, unreasonable, unduly discriminatory and preferential, because it favored indirect customers, who received gas on resale from distributing companies, over direct sale customers. We ordered FGT to file a curtailment plan based on end use and drafted in light of the principles of Order No. 467-B. The plan was to be the subject of a future hearing. We also said that in a general revision of FGT's curtailment plan, the place of gas FGT transports for Florida Power Corp. (FP) and Florida Power and Light Co. (FPL) should be considered.

In Opinion 807-A, which was issued on September 22, 1977, in response to applications for rehearing, we noted that an end use plan might cause severe financial difficulties for some distributors and therefore should not go into effect without a hearing. Since a filed plan might become effective under section 4 of the Natural Gas Act before completion of a hearing, Opinion 807-A modified Opinion 807 to require FGT to file a case in chief rather than a curtailment plan. The present curtailment plan was allowed to remain in effect pending further order. Opinion 807-A also excluded the issue of transportation gas from the curtailment proceeding in view of our decision in *Fort Pierce Utility, et al.* v. *Florida Gas Transmission Co.*[1] Applications for rehearing of Opinion 807-A were denied in an order issued November 21, 1977.

On November 1, 1977, FGT filed its case-in-chief setting forth its views on a curtailment plan, as required by Opinion No. 807-A.

We believe that before the hearing ordered in Opinion No. 807-A commences, a prehearing conference should be convened to clarify issues and to establish appropriate hearing procedures and procedural dates. Accordingly, we will order a prehearing conference pursuant to section 1.18 of the Commission's Rules of Practice and Procedure.

Notice of the complaint that initiated this proceeding was published in the FEDERAL REGISTER on April 11, 1975 (40 FR 16368) and a number of parties intervened. Since we have ordered further hearings for the specific purpose of establishing a permanent end-use curtailment plan for FGT, we consider it appropriate at this time to accept further protests and petitions to intervene.

The Commission finds: (1) A prehearing conference should be convened, at which may be discussed, in addition to matters set forth in section 1.18 of the Rules of Practice and Procedure any requests for clarification of the case-in-chief filed by FGT.

(2) Good cause exists to allow persons who have not yet intervened or protested to file protests and petitions for intervention.

The Comission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Commission by the Department of Energy Organization Act, Natural Gas Act and the Commission's Rules of Practice and Procedure, and as re-

[1] —— FPC ——, Docket No. CP77-147, Order Dismissing Petition and Complaint, Granting Motions to File Response, and Permitting Interventions, August 3, 1977.

quired by Commission Opinion No. 807-A, a public hearing shall be held in a hearing room of the Commission to determine a just, reasonable, nondiscriminatory, and non-preferential permanent curtailment plan for FGT.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to Section 3.5(d) of the Commission's General Rules 18 CFR 3.5(d) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions, motions to consolidate and sever and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(C) A prehearing conference shall be convened on January 24, 1978, at 10 a.m. in a hearing room of the Commission before the designated Administrative Law Judge to discuss procedural issues and clarification, as noted in this order.

(D) Any person desiring to become a party to this proceeding should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before 20 days from the date of this order. However, any person who has heretofore filed a notice or petition to intervene herein need not file again.

(E) The Secretary shall promptly cause this order to be published in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37217 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. E-8264]

MAINE PUBLIC SERVICE CO.

Compliance Filing

DECEMBER 23, 1977.

Take notice that Maine Public Service Co. (Maine) on December 6, 1977, tendered for filing, pursuant to Ordering Paragraph (B) of the Commission's order issued June 27, 1977, in the above-noted docket, Maine's tariff, Fuel and Purchased Energy Adjustment—Sales for Resale, together with a sample calculation.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, 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 and 1.10). All such petitions or protests should be filed on or before January 6, 1978. 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37200 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP66-237]

NATURAL GAS PIPELINE CO. OF AMERICA

Order Providing Formal Hearing and Granting Intervention

DECEMBER 19, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued befor the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On May 26, 1977, Natural Gas Pipeline Co. of America (Natural) filed in Docket No. CP66-237, pursuant to section 7 of the Natural Gas Act, an amendment to its application in this docket deleting the request for authority to accept and transport natural gas for Northern Illinois Gas Co. (NI-Gas), and requesting authority to increase the capacity of one of four delivery points utilized by Natural to sell and deliver natural gas to NI-Gas. In order to increase the capacity of that delivery point, Natural requests authorization to abandon certain facilities and to construct, replace and operate facilities more fully described hereinafter.

On June 24, 1977, both NI-Gas and General Motors Corp. (GM) filed primary petitions to intervene in this proceeding. GM's petition also requested the Commission to seek additional information to supplement Natural's application or, alternatively, that formal evidentiary hearings be held. On July 11, 1977, Natural and NI-Gas filed separate answers opposing GM's petition to intervene.

In its amended application, Natural states that it originally requested authorization to construct and operate certain facilities at four then proposed delivery points for NI-Gas, already an existing customer to which Natural delivered and sold gas pursuant to its rate schedule LOD-MQ at various locations in northern Illinois. With respect to the first delivery point, Pontiac delivery point, Natural states that it initially sought authorization to construct and operate facilities to enable it to sell and deliver natural gas to NI-Gas for use by the latter in a preliminary testing of its proposed storage project near Pontiac, Ill., and to enable NI-Gas to deliver to Natural such quantities of natural gas as might be required by NI-Gas in the testing of its storage project. Natural states further that with respect to its second, third, and fourth delivery points, Saunemin, Cabery, and Kings delivery points, Natural sought authorization to construct and operate facilities in Livingston, Kankakee, and Ogle Counties, Ill., in order to sell and deliver natural gas to NI-Gas for resale and local distribution in the communities of Saunemin, Emington, Cullom, Kempton, Cabery, Buckingham, Kempis, Reddick, and Kings, Ill.

On May 12, 1976, the Commission granted Natural a temporary certificate authorizing the construction of the facilities with respect to each of the four points of delivery, and the operation of such facilities for the delivery and sale of natural gas to NI-Gas; however, the Commission withheld authorization for the proposed redelivery of natural gas by NI-Gas to Natural at the Pontiac delivery point pending resolution of certain jurisdictional issues. Natural indicates that the jurisdictional issues raised by staff have become moot at the result of a change in factual circumstances. Natural asserts that NI-Gas has constructed its own facilities to tie its Pontiac storage field to its own system and that, as a result of such construction, transportation of such gas by Natural and the redelivery thereof by Natural to NI-Gas are no longer present.

The amendment indicates that NI-Gas recently has informed Natural that it is developing storage fields near Lake Bloomington and the Towns of Hudson and Lexington in McLean County, Ill., and that NI-Gas now desires to utilize the Pontiac delivery point for the receipt of gas for injection into such new storage fields. It is asserted that the request deliveries would make it unnecessary for NI-Gas to construct extensive pipeline facilities from other existing delivery points from Natural and that NI-Gas requests that Natural increase the capacity of the Pontiac delivery point from 100,000 Mcf per day to 600,000 Mcf per day.

Therefore, Natural now proposes to abandon its existing tap connections and measuring facilities at the Pontiac delivery point by removing all above-ground piping and any below-ground facilities that interfere with the construction of the new facilities and abandoning in place all other below-ground facilities. Natural proposes to replace such facilities at the Pontiac delivery point with 24-inch tap connections to its Nos. 1, 2, and 3 main lines, 413 feet of 36-inch connecting lateral and new measuring facility consisting of four 16-inch metering runs, as well as other appurtenant facilities. Under an agreement with NI-Gas, it is proposed that NI-Gas would undertake the construction of all the replacement facilities except for the tap connections, which Natural would construct at an estimated cost of $116,000 to be reimbursed by NI-Gas. It is indicated that the estimated cost of the replacement facilities is $673,000, which cost would be borne by NI-Gas.

Natural states that it does not propose to increase the volume of gas it sells to NI-Gas under its existing tariff and that NI-Gas' entitlement at the various delivery points under the existing tariff would not change except for the proposed change at the Pontiac delivery point. On June 30, 1977, the Commission issued a temporary certificate granting Natural's request, but reserving the right to make a final disposition on Natural's amended application as the record might later require.

In its petition to intervene, NI-Gas states that it is an intrastate distribution public utility, subject to the jurisdiction of the Illinois Commerce Commission, engaged in selling and distributing natural gas to more than 1,300,000 customers in the state of Illinois. NI-Gas further states that it has an interest in this proceeding which would be directly affected by our determination herein, as the certificate authority which Natural seeks is for the purpose of permitting NI-Gas to utilize the Pontiac delivery point for the receipt of gas into new storage fields. Lastly, NI-Gas states that it is not adequately represented by existing parties.

GM's petition to intervene asserts that GM has an interest in this proceeding as a consumer of natural gas, whose gas service and rates at several plant locations may be adversely affected by Commission authorization requested by Natural in this proceeding. GM asserts that it has three major manufacturing facilities which receive natural gas supplies from the Natural system. Essentially, GM is concerned that the storage facilities, the servicing of which required Natural to amend its application in this docket, not be used by NI-Gas to promote market expansion efforts. GM asserts that it has a substantial and vital interest in this proceeding, as future availability of gas supplies to GM facilities could be adversely affected by the outcome of this proceeding. GM reasons that should NI-Gas, as a result of this proceeding, engage in market expansion, said expansion would inevitably impair service to GM plants, whether directly by reason of the expanding residential loads of NI-Gas or because of added curtailments to other Natural consumers to protect NI-Gas' expanded high priority markets. GM asserts that it would have no objection to Natural's requests associated with storage facilities, if the storage facilities were only used to protect service to existing customers. GM asserts, however, that the amended application provides no basis to determine for what purpose the involved storage facilities will be used. Thus, GM requests the Commission to seek out such information or, in the alternative, hold a hearing to determine whether the public convenience and necessity will be served by Commission approval of Natural's requests.

Both Natural and NI-Gas filed untimely answers in opposition to GM's petition. Both answers argued that GM has no interest in the proceeding, as defined by section 1.8(b) of the Commission's rules and regulations, which interest would allow for GM intervention. Natural and NI-Gas argue that the issue raised by GM, the use to which NI-Gas places its storage fields, is not properly before the Commission, but rather is subject to the exclusive jurisdiction of the Illinois Commerce Commission. Both answers concluded that since GM only alleges that can be affected by this one issue, and since this issue cannot properly be before the Federal Power Commission, then GM has established no appropriate ground to intervene.

Although both Natural's and NI-Gas' answers were untimely, the Commission does take the arguments contained therein fully into account along with the arguments contained in GM's petition to intervene. The Commission finds that good cause exists to allow GM to participate in this proceeding, as it has a real and substantial interest in its outcome. The Commission also finds that NI-Gas has a real and substantial interest in these proceedings and, accordingly, should be allowed to intervene.

Further, the Commission concludes that a full evidentiary hearing should be held for the purpose of determining whether it is in the public interest to grant Natural's request, which request would permit the operation by NI-Gas of its storage fields. In order to do so, the hearing should develop a record regarding, but not limited to, the following issues:

(a) What NI-Gas customers and priority markets would be served by this proposal?

(b) Which NI-Gas customers and which priority markets will likely suffer a reduction in service?

(c) What would be the effect on existing NI-Gas customers; will any NI-Gas customers receive less gas on an annual or peak day basis?

(d) Identify any NI-Gas customer additions; project peak day and annual requirements for all NI-Gas customers according to the priorities prescribed in 18 CFR § 2.78(a)(1) to include, but not limited to alternate fuel capability, priority level, and location.

(e) What conditions, if any, should be attached to the permanent certificates, if any, issued in these proceedings?

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented in this proceeding, as hereinbefore described.

(2) The participation of NI-Gas and GM in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the Natural Gas Act, particularly sections 4, 5, and 15 thereof, the Commission's rules of practice and procedure (18 CFR, Part D, and the regulations under the Natural Gas Act (18 CFR, Chapter I, Subchapter (e)), a prehearing conference shall be held on February 28, 1978, commencing at 10 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to discuss procedural issues and the clarification of issues.

(B) An Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (see delegation of authority, 18 CFR, section 3.5(d)), shall preside at the prehearing conference in this proceeding with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate or sever, and motions to dismiss), as provided for in the rules of practice and procedure.

(C) The direct case of Natural, including testimony on the issues raised by this order, shall be filed and served on all parties, the Presiding Administrative Law Judge, and the Commission staff on or before January 6, 1978, while a supporting intervenor shall file testimony and exhibits comprising their case-in-chief on or before January 13, 1978. Similarly, an opposing intervenor and staff may file their testimony on or before January 30, 1978, and should such filing give rise to the need for Natural or a supporting intervenor to file in rebuttal, the same shall be done on or before February 10, 1978.

(D) The petition to intervene filed on June 24, 1977, by Northern Illinois Gas Co. in Docket No. CP66-237 is hereby granted. The petition to intervene filed on June 24, 1977, by General Motors Corp. in Docket No. CP66-237 is hereby granted.

(E) The aforementioned are permitted to intervene in the instant proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such Intervenors shall not be construed as recognition by the Commission that they may be aggrieved because of any order of the Commission entered in the proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

FR Doc. 77-37218 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP78-113]

PANHANDLE EASTERN PIPE LINE CO.

Application

DECEMBER 19, 1977.

Take notice that on December 9, 1977, Panhandle Eastern Pipe Line Co. (applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-113 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of gas with Arkansas Louisiana Gas Co. (Arkla), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to exchange gas with Arkla pursuant to an exchange contract dated July 18, 1977, between the two parties. Applicant states that the exchange would enable Arkla to receive into its system by displacement its share of gas from the McCulloch Oil Corp.'s Berryman No. 1-17 well, which well is situated in Ellis County, Okla., in order to minimize the necessity for gathering facilities in the area insomuch as applicant has a pipeline in the area into which gas from the above well can be delivered. Applicant further states that it would return equivalent volumes to Arkla on a contemporaneous exchange basis as practical operating conditions permit.

Applicant indicates that Arkla would deliver the subject gas to applicant at the outlet of metering facilities to be installed, operated, owned, and maintained by Arkla at a point on applicant's system in Ellis County, Okla., and that applicant would change the charts at this point, but otherwise the installation, operation, and maintenance of the facilities would be at Arkla's cost and expense. Applicant states that it would deliver the gas to Arkla at the inlet of measuring facilities to be installed, owned, operated, and maintained by Arkla at an existing point of interconnection between the two systems in Hemphill County, Tex.

It is indicated that on November 11, 1977, Arkla filed in Docket No. CP78-75 an application requesting authorization to construct, place in service, and operate certain facilities required to effectuate the proposed exchange contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federl Energy Regulatory 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. 77-37219 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP78-114]

PANHANDLE EASTERN PIPE LINE CO.

Application

DECEMBER 19, 1977.

Take notice that on December 9, 1977, Panhandle Eastern Pipe Line Co. (Panhandle), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-114 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention of certain facilities in place as an emergency interconnection between Applicant and Kansas-Nebraska Natural Gas Co., Inc. (KN), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that on March 10, 1977, Applicant filed a petition with the Federal Power Commission (FPC) requesting waiver of the 60-day limitation imposed by section 2.68 of the FPC's Rules and 157.22 of the FPC's Regulations under the Natural Gas Act. It is further indicated that said petition concerned an arrangement whereby Applicant, as agent for Central Illinois Light Co. (CILCO), an existing resale customer of Applicant, commenced an emergency purchase of gas from Montana Power Co. Applicant states that the gas was delivered to it through transportation and exchange arrangements with Montana Dakota Utilities Co. (MDU) and KN for further delivery by Applicant to CILCO; and that the gas was delivered by KN to Applicant at existing Applicant-KN interconnections and through a new emergency interconnection where Applicant's 20-inch line crosses KN's 16-inch line in Grant County, Kans.

It is indicated that on April 8, 1977, the FPC extended the emergency service being performed by Applicant, MDU and KN through June 10, 1977, and, at the same time, denied Applicant's request for waiver of section 157.22 in order to retain the new emergency interconnection with KN and related measurement facilities. Applicant was also directed to file a certificate application in order that the sub-

ject facilities may remain in service, it is said.

Applicant states that on February 11, 1977, it, as agent for certain of its resale customers, commenced an emergency purchase of gas from Montana Power Co., pursuant to the provisions of section 2.68 of the Commission's Rules and 157.22 of the Commission's Regulations, and that this emergency transportation terminated on July 31, 1977. Applicant further states that this gas was delivered to it through transportation and exchange agreements with MDU and KN for further delivery by Applicant to its customers.

By this application, Applicant requests permission and approval to retain in place as an emergency interconnection with KN those facilities installed to accommodate the delivery of gas by KN to Applicant in Grant County, Kans. Applicant also requests the Commission to waive the requirements of section 157.22(d) to permit it to retain in place this emergency interconnection. It is indicated that on July 11, 1977, KN filed an application with the FPC in Docket No. CP77-503 requesting authorization to retain its facilities in place as an emergency interconnection, which facilities would facilitate the emergency transportation and exchange of gas between KN and Applicant in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 9, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 77-37220 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-109]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Filing of Revised Schedule

DECEMBER 22, 1977.

Take notice that on December 13, 1977, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed a revised Schedule 7.03 and a new Schedule 5.04 modifying the Interconnection Agreement which is on file with the Commission.

PJM indicates that the proposed schedules provide for the sharing among the PJM companies of amounts paid or received by PJM for generating and/or transmitting Conservation Energy. PJM further indicates that, specifically, the revision to Schedule 7.03 provides methodology for allocating internally Conservation Energy received or delivered and the payments and charges associated with the generation of such energy, and proposed Schedule 5.04 provides for the allocation of the fixed charges associated with Conservation Energy transactions.

PJM states that because of the uncertainty of fuel supplies associated with the coal miners' strike, and the possibility that transactions will be required imminently which would require utilization of the proposed Schedules, the PJM requests that the Commission waive its notice requirements and allow the proposed Schedule to become effective January 1, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37211 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-107]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Filing of Revised Schedule

DECEMBER 22, 1977).

Take notice that on December 13, 1977, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed a revised Schedule 8.02 to Interconnection Agreement between New York Power Pool (NYPP) and PJM effective as of August 1, 1974.

PJM indicates that the new Schedule provides that, for the purpose of conserving energy resources, either PJM or NYPP may arrange to obtain conservation energy from the other, and when supplied, the charge for conservation energy generated on the supplying system will be 110 percent of the out-of-pocket replacement cost of generating the energy, plus a generation service charge of 3.75 mills per kilowatthour. PJM further indicates that the new Schedule also provides for a transmission service charge of 1.75 mills per kilowatthour for deliveries of fuel conservation energy from systems interconnected with NYPP or PJM.

PJM indicates that because of the current uncertainty of fuel supplies associated with the coal miners' strike, and the possibility that transactions will be required imminently under the proposed Schedule, PJM requests that the Commission waive its notice requirements and that the proposed Schedule become effective January 1, 1978. Its stated termination date is December 31, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37212 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-108]

PENNSYLVANIA-NEW JERSEY-MARYLAND INTERCONNECTION

Filing of Revised Schedule

DECEMBER 23, 1977.

Take notice that on December 13, 1977, the Pennsylvania-New Jersey-Maryland Interconnection (PJM) filed a revised Schedule 8.02 the Interconnection between the Allegheny Power System (APS) and PJM dated April 26, 1965.

PJM states that the new schedule provides that, for the purpose of conserving energy resources, either PJM or APS may arrange to obtain conservation energy from the other, and when supplied, the charge for conservation energy generated on the supplying system will be 110 percent of the out-of-pocket replacement cost of generating the energy, plus a generation service charge of 3.75 mills per kilowatthour. PJM further states that the new Schedule also provides for a transmission service charge of 1.75 mills per kilowatthour for deliveries of conservation energy from systems interconneted with APS or PJM.

PJM indicates that because of current uncertainty of fuel supplies associated with the coal miners' strike, and the possibility that transactions will be required imminently under the proposed Schedule, PJM requests that the Commission waive its notice requirements and that the proposed Schedule become effective January 1, 1978. Its stated termination date is December 31, 1978.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure. All such petitions or protests should be filed on or before January 3, 1978. Portests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37201 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket Nos. ER78-70, ER78-71]

PENNSYVANIA POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Changes in Service, Granting Waiver Request, Consolidating Proceedings, and Establishing Procedures

DECEMBER 23, 1977.

On November 23, 1977, Pennsylvania Power and Light Co. (PP&L) tendered for filing a Power Supply Agreement in Docket No. ER78-71 and a Supplement Agreement to an Interconnection Agreement in Docket No. ER78-70.[1] PP&L submitted each document as an initial rate schedule filing and requested waiver of the Commission's Regulations to permit the tender to become effective December 4, 1977.

The Power Supply Agreement dated November 24, 1977, provides for the sale of firm power and energy by PP&L to United Gas Improvement Corp. (UGI). The Supplement to the Interconnection Agreement[2] provides for changes in the accounting practices to reflect the sales to UGI under the proposed Power Supply Agreement.

Notice of these filings was issued on December 6, 1977 with all petitions to intervene or protests required to be filed with this Commission on or before December 12, 1977. No petitions to intervene or protests in opposition have been filed.

Under the Power Supply Agreement, PP&L will supply in any hour UGI's power and energy requirements above the amounts available from UGI's own resources. The charges for the service provided will be based on PP&L's experienced system costs and will be determined each month in accordance with a travelling cost of service formula.[3] During the period that the Power Supply Agreement will be in effect, i.e., December 4, 1977 to May 31, 1989, the Supplement to the Interconnection Agreement provides for the suspension of UGI's obligations to account for installed and operating capacity or energy deficiencies under the Interconnection Agreement.

As stated above, PP&L viewed its tenders as "initial" filings and, therefore, did not submit the data required under Section 35.13 of our Regulations for filings of changes in existing rate schedules. PP&L's filings are changes in existing services to UGI and, therefore, are not "initial" filings.[4] However, since the service proposed under the tendered filings is required by UGI to meet its system needs during the coming winter season, we believe that exceptional circumstances exist to require waiver of our filing Regulations in order to accept for filing PP&L's tenders.[5] We will, however, require PP&L to file data in support of its submittals within thirty days from the date of the issuance of this order.

Our review of the instant filings indicates that the Power Supply Agreement and the Supplement to the Interconnection Agreement have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, we shall suspend the filings and set them for hearing. Additionally, since the filings contain common questions of law and fact, we shall consolidate the above proceedings for hearing and decision.

The proposed cost of service formula rate design represents a significant departure from the types of rate designs that have typically been utilized for firm wholesale service. Cost of service formula rate designs have been previously accepted for filing. Such formulae, however, have been applied primarily to service rendered pursuant to unit sale agreements. Although PP&L states that the cost of service formula is designed to track the actual cost of providing the firm service to UGI, the tracking of costs under the procedures established by PP&L may not be an accurate measure of those costs. In unit sales agreements where cost of service rates have been applied, costs are easily identifiable and allocation problems are minimal. In this instance, allocation problems may not be minimal and the uniqueness of a cost of service rate for firm service to a

[1] See Attachment A for designation.

[2] The operation of the bulk power systems of the two companies have been coordinated under an Interconnection Agreement (designated as PP&L Rate Schedule FPC No. 46 and UGI Rate Schedule FPC No. 3). Also, the combined systems operate as the PP&L Group of the Pennsylvania—New Jersey—Maryland Interconnection (PJM). PP&L states that no change on these operations is contemplated by the parties as a result of the proposed Power Supply Agreement becoming effective.

[3] The traveling cost of service is designed to reflect average system operating costs for the twelve months ending with the billing month and a rate of return based on the most recent cost information available.

[4] See, *Florida Power and Light Co.*, Docket No. ER77-175, Corrected Order Accepted for Filing and Suspending Proposed Rate Changes Granting Intervention and Establishing Procedures, issued April 12, 1977; and *Oklahoma Gas and Electric Co.*, Docket No. ER77-465, Order Accepting for Filing and Suspending Rate Increase, Providing for Hearing, Establishing Procedures, Granting Motion In Part and Denying Some In Part, issued November 30, 1977.

[5] See, *Florida Power and Light Co.*, Docket No. ER77-175, Corrected Order Accepted for Filing and Suspending Proposed Rate Changes Granting Intervention and Establishing Procedures, issued April 12, 1977.

non-affiliated customer requires an evidentiary record to evaluate PP&L's filing.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed Power Supply Agreement and Supplement tendered by Pennsylvania Power and Light Co. on November 23, 1977, and establish procedures for that hearing, and that the proposed tenders be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Good cause exists to consolidate Docket Nos. ER78-70 and ER78-71 for purposes of hearing and decision.

(3) Good cause exists to grant a waiver of notice requirements.

(4) Good cause exists to require PP&L to file its case-in-chief.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402 of the DOE Act and the Federal Power Act, particularly sections 205, 206, 301, 307, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Power Supply Agreement and the Supplement to the Interconnection Agreement proposed by PP&L in these proceedings.

(B) Pending the outcome of the hearing, the Power Supply Agreement and the Supplement to the Interconnection Agreement are hereby accepted for filing as of December 3, 1977, and suspended to become effective December 4, 1977, subject to refund.

(C) Docket Nos. ER78-70 and ER78-71 are consolidated for purposes of hearing and decision.

(D) PP&L's request for waiver of notice requirements of the Commission requirements is granted.

(E) PP&L is required to file within thirty days of the issuance of this order its case-in-chief in support of the Power Supply Agreement and Supplement.

(F) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before April 21, 1977 (see, Administrative Order No. 157).

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR section 3.5(d)), shall preside at an initial conference in this proceeding to be held on May 1, 1978 at 10:00 a.m. (ET) in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except, petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

PENNSYLVANIA POWER & LIGHT CO., DOCKET NOS. ER78-70 AND ER78-71

Designation and Description

Rate Schedule FERC No. 68—Power Supply Agreement.
Supplement No. 1 to Rate Schedule FERC No. 68—Schedules A and B—Determination of Monthly Charges.
Supplement No. 7 to Rate Schedule FPC No. 46—Supplemental Agreement to Interconnection Agreement.

UGI Corp.

Supplement No. 4 to Rate Schedule FPC No. 3 (Concurs in Pennsylvania Power & Light Co. Supplement No. 7 to FPC No. 46)—Certificate of Concurrence.

[FR Doc. 77-37202 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. E-9454]

PUBLIC SERVICE CO. OF NEW MEXICO

Accepting Statement Out of Time

DECEMBER 21, 1977.

On November 22, 1977, Staff Counsel filed a motion to file late a statement in lieu of Brief On Exceptions to the Administrative Law Judge's Initial Decision issued October 20, 1977, in the above-designated matter.

Upon consideration, notice is hereby given that Staff Counsel's statement, filed November 22, 1977, is accepted.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37213 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER78-129]

PUBLIC SERVICE CO. OF OKLAHOMA

Rate Schedule

DECEMBER 23, 1977.

Take notice that Public Service Co. of Oklahoma (PSO) on December 14, 1977, tendered for filing a Power Sales and Service Contract with Western Farmers Electric Cooperative (WFEC), which provides that WFEC has contracted to provide electric service to certain distribution cooperative members not presently adjacent to WFEC transmission system and desires PSO to serve those off-system distribution cooperatives.

PSCO requests waiver of the minimum 30-day filing period and requests an effective date of December 1, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37203 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. ER77-86]

SOUTHERN COMPANY SERVICES, INC.

Filing of Settlement Agreement

DECEMBER 22, 1977.

Take notice that on December 7, 1977, Southern Company Services, Inc. filed with the Federal Energy Regulatory Commission a proposed Settlement Agreement in the above designated docket. On December 8, 1977, the Presiding Administrative Law Judge certified the proposed Settlement to the Commission for its consideration and determination.

The proposed Settlement was executed by the parties to this proceeding—Southern Company Services, Inc. acting on its behalf and as agent for the Mississippi Power Co., Gulf Power Co. and Alabama Power Co.; Georgia Power Co.; the Municipal Electric Authority of Georgia; and the Water, Light and Sinking Fund Commission of the City of Dalton, Ga.

Southern Company Services, Inc. filed on December 1, 1976, with the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission), for Commission approval of the Southern Company System Intercompany Interchange Contract. This Contract together with its procedures and supporting schedules govern the method by which the Southern Company operating companies (Mississippi Power, Alabama Power, Gulf Power and Georgia Power) account

and pay for interchange of capacity and energy between the respective Operating Companies for the year 1977.

The proposed Settlement Agreement concurs with the capacity rates and facility charges for certain transmission facilities provided for in the filing are as acceptable. The primary provision of the Agreement concerns the contents of the upcoming amended Intercompany Interchange Contract for calendar year 1978 to be filed with this Commission for approval. The 1978 Contract shall, according to the Settlement Agreement, revise the methodology and procedure under which system capacity reserves are determined and allocated among the Operating Companies. In addition, Southern Company Services and the Operating Companies agreed to revise the 1978 Contract computation Schedule No. 3 in order to eliminate that component of the monthly capacity rate associated with reserve margins, and further, to include such reserve margins in the determination of the amount of capacity to be purchased or sold by the respective Operating Companies during each month of the contract year.

Any person wishing to submit comments in writing concerning the proposed Settlement Agreement to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, may do so on or before January 20, 1978. The Settlement Agreement is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37214 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. RP77-32]

SOUTH GEORGIA NATURAL GAS CO.

Certification of Proposed Settlement

DECEMBER 21, 1977.

Take notice that on December 9, 1977, the Presiding Administrative Law Judge certified to the Commission a proposed settlement which, if approved, would resolve all of the issues in the captioned proceeding.

Any person desiring to be heard or to protest the proposed settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 30, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement document are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37189 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP78-120]

TENNESSEE GAS PIPELINE CO.

Pipeline Application

DECEMBER 23, 1977.

Take notice that on December 15, 1977, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (applicant), P.O. Box 2511, Houston, Tex. 77001, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, and the rules and regulations of the Federal Energy Regulatory Commission thereunder, for a certificate of public convenience and necessity authorizing the rendition of a nautral gas transportation service for Transcontinental Gas Pipe Line Corp. (Transco). Tennessee also requests temporary authorization to render this service.

Applicant requests authorization to receive from or for the account for Transco, daily volumes of natural gas, up to 7,000 Mcf, in South Marsh Island, block 243, offshore Louisiana (SMI 243) and to transport and deliver such volumes to Transco at an existing point of interconnection between the facilities of Tennessee and Transco near Kinder, La.

Applicant states that an application to effect the sale of such gas to Transco has been filed by General American Oil Co. of Texas at Docket No. CI77-365.

Applicant's ability to render presently authorized service to its customers will not be affected by its proposal.

Tennessee requests that this application be considered under the shortened procedure provided for in section 1.32(b) of the Commission's rules of practice and procedure.

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 should on or before January 13, 1978, file with the Federal Energy Regulatory 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 Energy Regulatory 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. 77-37204 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP78-121]

TENNESSEE GAS PIPELINE CO.

Pipeline Application

DECEMBER 23, 1977.

Take notice that on December 15, 1977, Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-121, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of a transportation service for Chevron Chemical Co. (Chemical Co.), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission) and open to public inspection.

Specifically, applicant states that it is seeking authorization herein to transport for Chemical Co. natural gas from the offshore Federal domain to mutually agreeable points onshore. Tennessee states that Tennessee and Chevron U.S.A., Inc. (Chevron), executed a gas purchase and sales agreement (agreement) on July 24, 1975, which provides for the sale by Chevron and the purchase by Tennessee of 25 percent of the gas reserves attributable to the interests of Chevron in blocks 249 and 250 of South Marsh Island, offshore Louisiana (SMI 249-250). It is stated that in that agreement (Chevron rate schedule No. 90), Chevron reserved the right to receive for its account all or a portion of the gas reserves not committed to Tennessee under the terms of the agreement.

Tennessee states that Chevron has now elected to take its 25 percent of the SMI 249-250 gas reserves not com-

mitted to Tennessee under the agreement and to sell such volumes to its affiliate, Chemical Co., for use in the manufacture of ammonia for fertilizer.

Tennessee asserts that it has agreed to transport Chevron's 25 percent interest for Chemical Co. under the terms of a proposed transportation agreement. Tennessee states that under the terms of that agreement, it will receive natural gas from Chevron for the account of Chemical Co., at Chevron's platform in SMI 249, and will deliver the gas for Chemical Co.'s account at a proposed future point located near Lirette, La. (Lirette), or at the point of interconnection of Tennessee's 30-inch line and UGPL's 30-inch line near Chauncey, Hancock County, Miss. (Kiln), or at the point of interconnection of Tennessee's Muskrat line and UGPL's 30-inch line near Bayou Sale, St. Mary Parish, La. (Bayou sale). The rates which Tennessee states it will charge Chemical Co. for this transportation service and the fuel and use percentages which Tennessee will receive for such service are as follows:

	Rate/1,000 ft³ delivered (cents)	Fuel and use percent
Bayou Sale	5.83	0.89
Kiln	13.19	2.02
Lirette	8.71	1.34

Any person desiring to be heard or to make any protest with reference to said application, on or before January 13, 1978, should file with the Federal Energy Regulatory 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 Energy Regulatory 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. 77-37205 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. RP75-73 (AP77-3)]

TEXAS EASTERN TRANSMISSION CORP.

Certification of Proposed Settlement

DECEMBER 21, 1977.

Take notice that on December 2, 1977, the Presiding Administrative Law Judge certified to the Commision a proposed settlement which, if approved, would resolve all of the issues in the captioned proceeding.

Any person desiring to be heard or to protest the proposed settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 30, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement document are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-37188 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP78-107]

TEXAS EASTERN TRANSMISSION CORP.

Pipeline Application

DECEMBER 19, 1977.

Take notice that on December 5, 1977, Texas Eastern Transmission Corp. (applicant), P.O. Box 2521, Houston, Tex. 77001, filed an application pursuant to section 7 of the Natural Gas Act as amended and 157.7 of the rules and regulations of the Commission for temporary and permanent certificates of public convenience and necessity authorizing applicant to construct and operate, as part of its Cameron system, 26 miles of 30-inch O.D. pipeline loop (Cameron loop) from applicant's manifold platform located in block 245, East Cameron area, south addition to applicant's manifold platform at block 272, West Cameron area, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that existing Cameron system maximum capacity of 666 MMcf per day will be insufficient to handle the projected 1978-1979 gas supply. Existing supply sources and existing transportation and exchange volumes for the Cameron system are projected to total 571.4 MMcf per day by the 1978-1979 winter season. New increased production, a new supply source—East Cameron block 294, and new transportation and exchange commitments will in total require an additional 255 MMcf per day in capacity. Such projection will substantially utilize the expanded Cameron system capacity of 846 MMcf per day.[1] The Cameron loop facilities are estimated to cost $31,400,000.

Due to the short construction period of the Gulf of Mexico and the protracted contractual and construction procedures involved because of the magnitude of the project, applicant also requested the issuance of a temporary certificate.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 9, 1978, should file with the Federal Energy Regulatory 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 Energy Regulatory 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

[1] The remaining 19.6 MMcf per day capacity will be utilized for increases in future gas purchases and/or transportation and exchange volumes.

appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37221 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP77-85]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Amendment to Application

DECEMBER 19, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Take notice that on December 1, 1977, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP77-85 an amendment to its application filed with the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for an increase in the initial rate for certain transportation services for Union Gas Co. (Union), one of applicant's CD-3 customers, all as more fully set forth in the amendment on file with the FERC and open to public inspection.

In its original application filed in the instant docket, applicant seeks authorization to transport on an interruptible basis for Union volumes of gas which Union's president, John H. Ware, 3rd (Ware), has developed through participation in an exploration and drilling venture and which he would sell to Union. Such transportation would take place from a point of delivery to applicant on its main line in Evangeline Parish, La., to existing points of delivery to Union in Pennsylvania, and the intital charge originally proposed by applicant was 22 cents per Mcf (at 14.7 psia) of gas transported.

Applicant states that since the filing of its original application, its initial rate for such transportation service providing for deliveries in zone 3 has become 31.5 cents per dekatherm. Consequently, applicant proposes to charge this rate subject to refund depending upon the resolution of the issues in Docket Nos. RP76-136 and RP77-26.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37215 Filed 12-29-77; 8:45 am]

[7640-02]

[Docket No. CP78-112]

TRANSCONTINENTAL GAS PIPE LINE CORP. AND UNITED GAS PIPE LINE CO.

Application

DECEMBER 19, 1977.

Take notice that on December 8, 1977, Transcontinental Gas Pipe Line Corp. (Transco), P.O. Box 1396, Houston, Tex. 77001, and United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, (Applicants) filed in Docket No. CP78-112 a joint application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 436 million Btu's of natural gas per day for 2 years for Sayles Biltmore Bleacheries (SBB), an existing industrial customer of Public Service Compnay of North Carolina, Inc. (PSNC), one of Transco's resale customers served under Rate Schedule CD-2, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants request authorization to transport up to 436 million Btu's of natural gas per day for SBB pursuant to transportation agreements among Transco, SBB and PSNC dated October 6, 1977 and between United and SBB dated October 1, 1977. The application states that SBB has contracted to purchase the subject gas from Louisiana Land & Exploration Co. (LL&E) at a price of $1.69 per million Btu's, which gas is to be produced from the Lake Hatch Field, Terrebonne Parish, Louisiana. It is indicated that SBB would arrange to have such quantities of gas delivered to a mutually agreeable point on United's system in Terrebonne Parish and that United would deliver the gas to Transco at an existing interconnection near Gibson, Terrebonne Parish, or at other mutually agreeable existing authorized exchange points. It is further indicated that Transco would redeliver the transportation quantities to existing points of delivery to PSNC for the account of SBB, and that PSNC would transport such quantities of natural gas to SBB's Asheville, N.C. plant.

It is stated that SBB would use the subject gas at its Asheville plant for Priority 2 uses; specifically, for textile dyeing and finishing operations, which operations require the precise flame control and temperature characteristics afforded by a gaseous fuel. Other than propane, there is no substitute fuel which can be used to replace natural gas for these and uses, it is said.

It is indicated that Transco would charge SBB, initially, 29.8 cents per Dekatherm (dt) for all quantities delivered hereunder, which rate is to be applicable to similar transportation services providing for deliveries in its Rate Zone 2. It is further indicated that Transco would also retain, initially, 3.8 percent of the quantities received for transportation as makeup for compressor fuel and line loss, which percentage is based on Transco's company use factor for pipeline throughput to and within its Rate Zone 2. United would retain 1.5 percent of the volumes received for transportation as makeup for fuel and company used gas, it is said. It is stated that SBB would pay United for gas transported a price equal to United's average jurisdictional transmission cost of service in its southern or northern rate zone, depending on point of redelivery to Transco by United, as such may be determined by United based upon rate filings made from time to time with the Commission, less any amount included in such average jurisdictional cost of service which is attributable to gas consumed in the operations of United's pipeline system. The current average jurisdictional transmission cost of service, exclusive of the cost of gas consumed in United's operations is 20.04 cents per Mcf in the Northern Zone and 17.92 cents per Mcf in the Southern Zone, it is stated.

Applicants indicate that the gas proposed to be transported hereunder is not available for resale in the interstate market.

Applicants state that SBB would reimburse United for the total cost of installation and operation of measurement facilities necessary to accomplished delivery of gas to United.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 4, 1978, file with the Federal

Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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. 77-37223 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP77-52]

TRUNKLINE GAS CO.

Change in Tariff

DECEMBER 23, 1977.

Take notice that on December 9, 1977, Trunkline Gas Co. (Trunkline) tendered for filing Second Revised Sheet No. 1105.1 to its FERC Gas Tariff, Original Volume No. 2. Trunkline states that such changes are made to revise rate schedule T-26 for the transportation of additional volumes of natural gas for Gulf Oil Corp. (Gulf). Trunkline proposes that these sheets become effective January 15, 1977.

A copy of this filing has been served on Gulf.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capital Street, NE., Washington, D.C. 20426, in accordance with Section 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 January 8, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37206 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. CP77-603]

TRUNKLINE GAS CO.

Change in Tariff

DECEMBER 22, 1977.

Take notice that on November 23, 1977, Trunkline Gas Co. (Trunkline) tendered for filing Second Revised Sheet No. 1-D and Original Sheet Nos. 1327 through 1332 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that such changes are made to provide a rate schedule T-32 for transportation of natural gas for Michigan Wisconsin Pipe Line Co. (MW) as authorized by the Federal Energy Regulatory Commission in Docket No. CP77-603. Trunkline proposes that these sheets become effective October 19, 1977.

A copy of this filing has been served on Michigan Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such petitions or protests should be filed on or before January 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37215 Filed 12-29-77; 8:45 am]

[6740-02]

[Project No. 2401]

UTAH POWER & LIGHT CO.

Order To Show Cause

DECEMBER 19, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

It appearing to the FERC that: (a) By order of October 6, 1976, the FPC issued a major license for Project No. 2401 to Utah Power & Light Co. (Utah Power). [See also, Utah Power & Light Co., Order on Rehearing Affirming Commission Order Issuing Major License and Granting Petition for Intervention, Project No. 2401 (March 16, 1977).] Project No. 2401, known as the Grace-Cove Project, is located on the Bear River in Caribou County, Idaho.

(b) By letter dated July 21, 1977, the Secretary by direction of the FPC informed Utah Power that an FPC Staff member on an inspection of Project No. 2401 observed that two generating units were being removed at the Grace Development. The Secretary noted that the FPC had not approved such changes in the project works and that Utah Power's action appeared to be in violation of Article 3 of the project license. The Secretary advised that Utah Power cease removal of the gen-

erating units and file within 30 days the appropriate application.

(c) The approved project works include, "Grace Development * * * (4) a power house containing two horizontal turbines each driving a generator rated at 5,500-kw * * *" Ordering Paragraph B(ii), Order Issuing Major License, supra.

(d) Any removal of generating units without prior Commission approval is in violation of Article 2 of the license.[1]

(e) Any removal of generating units without prior Commision approval is in violation of Article 3 of the license.[2]

(f) Any removal of generating units without prior Commission approval is in violation of Section 9(a) of the Federal Power Act, (Act), 16 U.S.C. § 802(a).[3]

(g) Remedial action may be appropriate in this proceeding pursuant to Sections 26, 315 and/or 316 of the Act, 16 U.S.C. § 820, 825n, and 825o, respectively.

(h) It may be appropriate and in the public interest to compel the re-installation of the generating units at the Grace Development or take other appropriate action.

(i) Utah Power has failed, after a reasonable time, to respond to the Secretary's letter and to properly apply for amendment of license.

The Commission orders that Utah Power & Light Co. shall under oath show cause, if any, within 30 days of issuance of this order:

(1) Why the Commission should not find Utah Power & Light Co. in violation of Article 2 of the licnese for Project No. 2401;

(2) Why the Commission should not find Utah Power & Light Co. in violation of Article 3 of the licnese for Project No. 2401;

(3) Why the Commission should not find Utah Power & Light Co. in violation of Section 9(a) of the Act;

(4) Why the Commission pursuant to Section 26 of the Act should not take action to compel Utah Power & Light Co. to reinstall the two 5,500-kw generating units at the Grace Development of Project No. 2401 or take other appropriate action;

(5) Why the Commission should not take remedial action pursuant to Sections 315, and/or 316 of the Act; and

(6) Why the Commission should not issue such other and further order as it may find appropriate, expedient, and in the public interest.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37224 Filed 12-29-77; 8:45 am]

[1] *Article 2.* No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided, however,* That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

[2] *Article 3.* The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

[3] Sec. 9. That each applicant for a license hereunder shall submit to the commission—

(a) Such maps, plans, specifications, and estimates of cost as may be required for a full understanding of the proposed project. Such maps, plans, and specifications when approved by the commission shall be made a part of the license; and thereafter no change shall be made in said maps, plans, or specifications until such changes shall have been approved and made a part of such license by the Commission. [41 Stat. 1068; 16 U.S.C. 802(a)] * * *

[6740-02]

[Docket No. ID-1819]

WARREN L. STEVENS

Application

DECEMBER 22, 1977.

Take notice that Warren L. Stevens, on October 13, 1977, tendered for filing an application pursuant to Section 305(b) of the Federal Power Act for authority to hold the following positions:

Assistant Treasurer, Central Vermont Public Service Corp., Public Utility.
Assistant Treasurer, Connecticut Valley Electric Co., Inc., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., 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 January 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-37216 Filed 12-29-77; 8:45 am]

[6740-02]

[Docket No. RI78-16]

WEST LAKE NATURAL GASOLINE CO.

Petition for Declaratory Order

DECEMBER 19, 1977.

Take notice that on November 30, 1977, West Lake Natural Gasoline Co. (West Lake), filed a petition for Declaratory Order in Docket No. RI78-16 pursuant to section 1.7(c) of the Commission's Rules of Practice and Procedure requesting that the Commission determine whether the area minimum rate, as established in Permian Basin Area (I) and applied prospectively in Permian Basin Area II is retroactively applicable to prior sales for refund purposes.

It is West Lake's position that the minimum rate established in Opinion No. 468 is not applicable for refund purposes to producer/suppliers sales prior to January 1, 1968, and that behind-the-plant producers (sellers to West Lake) are entitled only to be paid 50 percent of the amount received by West Lake for such residue gas. West Lake states that it has a direct and substantial economic interest in the resolution of this controversy as it estimates the total amount of refunds to be approximately $861,670.00, including interest through October 31, 1977.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 9, 1978, file with the Federal Energy Regulatory 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 determinig 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. 77-37225 Filed 12-29-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 837-2; OPP-66038A]

CANCELLATI ON OF REGISTRATIONS OF PESTICIDE PRODUCTS CONTAINING PHENARSAZINE OXIDE; CORRECTION

On November 21, 1977, the Environmental Protection Agency (EPA) published (42 FR 59776) a notice of voluntary cancellation of registrations of four pesticide products containing phenarsazine chloride. Two of those products were included incorrectly. Both Supertrop antifouling Red No. 1609 and Antifouling Red No. 1611 do not contain the active ingredient phenarsazine chloride; they contain the active ingredient phenarsazine oxide. Their registrations, however, are also being voluntarily cancelled by the International Paint Co., Inc. In addition, the EPA registration number for Supertrop Antifouling Red No. 1609 was given incorrectly in the notice and is here corrected to 2693-26. All other provisions of the November 21 notice remain the same.

Dated: Dec. 22, 1977.

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

[FR Doc. 77-37266 Filed 12-29-77; 8:45 am]

[6560-01]

ENVIRONMENTAL IMPACT STATEMENTS

Receipts

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from December 19 through December 23, 1977. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (February 13, 1978). The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: December 27, 1977.

THOMAS R. SHECKELLS,
Acting Director, Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Western Spruce Budworm Management, Boise and Payette National Forests, several counties, Idaho, December 20: Proposed are five alternatives for the management of timber resources on 3,017,660 acres infested with or that have a probability of becoming infested with the western spruce budworm in Boise and Payette National Forests, Idaho. The five alternatives are: (1) no action, (2) maximum level of chemical control using Sevin-4 and Orthene, (3) maximum level of chemical control considered using Sevin-4 only, (4) maximum level of intensified silvicultural practices to reduce area of impact, and (5) a combination of treatments with a lesser degree of (ELR order No. 71530.)

SOIL CONSERVATION SERVICE

Draft

Neck River Watershed, New Haven County, Conn., December 23: Proposed are land treatment measures and a floodwater diversion structure consisting of three measures: a diversion dam with accompanying diversion channel and dike, to be implemented on 912 acres in New Haven County, Conn. Adverse effects are anticipated to be negligible. (ELR order No. 71543.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

Draft

EXPO 1981, Los Angeles, San Bernadino County, Calif., December 22: Proposed is an International Exposition to be held in Ontario, Calif. (San Bernardino County) from May 1 to October 31, 1981. The Exposition has already been officially registered with the Bureau of International Expositions and is in the process of obtaining an official commitment from the Federal Government to participate in the Exposition through the construction of a Federal pavilion. The project will be constructed at the Ontario Motor Speedway (OMS), a 697-acre motor racing complex. Adverse impacts include increased noise and traffic; and possible adverse effects on ground water quality. (ELR order No. 71538.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Sebewaing River Operation and Maintenance, Confined Disposal & Flood Control, Michigan, December 19: Proposed are operation and maintenance measures to be implemented on the Sebewaing River, Mich. The proposed plan calls for maintenance dredging of the Sebewaing River navigation and flood control channel, construction of a confined disposal facility for contaminated dredge material, repair of flood protection structures, and, as necessary, dynamiting the ice jams to prevent flooding of the village of Sebewaing. Adverse impacts include the destruction of approximately 2-3 acres of moderately productive shoreline wetland; increased water turbidity; and possible other water impacts. (Detroit District.) (ELR order No. 71527.)

Final

Poteau River Small Navigation Project, Arkansas, December 23: The proposed project consists of channel improvement and maintenance of the lower 1.7 miles of the Poteau River for navigation. Plans call for the addition of a turning basin, dredging, clearing and snagging, removal of abandoned structures (unused railroad bridge pier and water intake structure) in the waterway and widening the mouth. Adverse effects include possible increased water pollution because of increased barge traffic. Disturbance of the aquatic and terrestial ecosystems by dredging and spoil disposal will also result. (Tulsa District.) Comments made by: EPA, DOI, DOC, USDA, AHP, DOT, State agencies, and concerned interest groups. (ELR order No. 71544.)

Keenwick West Addition, Sussex County, Del., December 22: The statement refers to a permit action filed by William G. Adkins of Adkins Realty, concerning a permit for the dredging of six unbulkheaded lagoons which would be in connection with Roy Creek. The project will provide recreational areas near Fenwick Island. Proposed plan implementation consists of approximately 8,000 feet of lagoons 80 feet wide extending 4 feet below the mean low water line. Dredging in Roy Creek is also proposed. Adverse effects include the alteration of the biological habitat of Roy Creek due to fluctuating water levels. (Philadelphia District.) Comments made by: HUD, DOC, EPA, USDA, DOI, and State agencies. (ELR order No. 71535.)

Kanopolis Lake, Kansas, Operation and Maintenance, Ellsworth, McPherson, and Saline Counties, Kans., December 22: Proposed is the continued operation and maintenance of Kanopolis Lake, located in Ellsworth, McPherson, and Salina Counties, Kans. The plan includes water control operations, and operation and maintenance of project land and water resources. A major adverse effect is related to flood control operations. Shoreline erosion, disruption of recreation use and damage to project roads and recreation areas result from these fluctuations. (Kansas City District.) Comments made by: DOT, HEW, EPA, HUD, DOI, USDA, AHP, and State agencies. (ELR order No. 71536.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter L. Cook, Acting Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0777.

Draft

South Paris Sludge Disposal Alternatives, Oxford County, Maine, December 19: Proposed is the selection, from six alternatives, of a site for the disposal of dewatered sludge from the secondary wastewater treatment facility at South Paris, Oxford County, Maine. Two sites are recommended: the A. C. Lawrence site and the Ryerson Hill site. Adverse impacts include land loss due to sludge trenching; disruption of wildlife habitat; a decrease in site water quality; and possible effects on local groundwater. (Region 1.) (ELR order No. 71528.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

The Highlands Subdivision, Arapahoe County, Colo., December 23: Proposed is the granting of FHA mortgage insurance for 199 units of The Highlands, a planned unit development in Arapahoe County, Colo. A total of 970 units are eventually planned. Adverse impacts include construction-related pollution; increased levels of air and noise pollution; and effects upon the social and police services of the community. (ELR order No. 71539.)

West Park Hills and Countryside Developments, Hennepin County, Minn, December 21: Proposed is the issuance of mortgage insurance under section 203(b) for 764 dwelling units comprising portions of the Countryside and West Park Hills housing developments in the city of Bloomington, Hennepin County, Minn. The developments cover .86 square mile for which approximately 1,254 housing units are planned. Adverse impacts include the removal of 1 square mile of agricultural land and wildlife habitat from production; increased demand for public services and facilities; increased air and noise pollution; increased pressure for development; and construction-related pollution. (ELR order No. 71534.)

Final

Heritage Hills Subdivision, Albuquerque and Bernalillo Counties, N. Mex., December 20: Proposed is the acceptance of the Heritage Hills Subdivision in Albuquerque, N. Mex. for mortgage insurance purposes. The 306-acre development will be composed of single-family homes, a park, an elementary school site, and an area reserve for future development. Adverse effects include short-term crowding in existing middle and high school facilities and an associated impetus for construction of new facilities. Comments made by: AHP, COE, EPA, DOL, USDA, DOT, VA, State and local agencies. (ELR order No. 71529.)

Riviera East Subdivision, Harris County, Tex., December 23: Proposed is the approval of an application for HUD/FHA home mortgage insurance for the Riviera East Project in Harris County, Tex. The 402.28-acre planned community development will consist of single-family homes, multi-family units, and some commercial reserves. Adverse effects include loss of open space and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. Comments made by: EPA, COB, AHP, DOT, DOE, USDA, one state agency, and one interest group. (ERL Order No. 71540.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

O'Neill Unit, Lower Niobrara Division, several counties, Nebraska, December 23: This statement supplements a final EIS originally filed with CEQ in September 1972; that statement dealt with the construction of a dam and other water resource facilities known as the O'Neill Unit, Lower Niobrara Division, Nebraska, a part of the Pick-Sloan Missouri Basin Program. This supplement addresses four areas of the project judged inadequately considered in the final EIS: (1) geologic stability at the damsite, (2) project effect on groundwater quality, (3) impact upon area wildlife, and (4) assessment of the alternative of researching techniques for improving livestock and crop production without diminishing groundwater reserves. (ELR Order No. 71541.)

DEPARTMENT OF LABOR

Contact: David R. Bell, Chief, Technical Studies Branch, Department of Labor, 200 Constitution Ave., Rm. N3669, Washington, D.C. 20210.

Final

Occupational Exposure to Cotton Dust, Standard, December 23: Proposed is the regulation of employee exposure to cotton dust by prohibiting their exposure to respirable particulates above the concentration limit of 200 ug/m3. The proposal also provides for employee exposure measurements, methods of compliance, personal protective equipment, training, work practices including house-keeping, medical surveillance, and record keeping. No adverse impacts on the environment external to the workplace are expected as a result of the promulgation of the proposed standard. Comments made by: EPA, DLAB, ERDA, and state agencies. (ELR Order No. 71542.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202-426-4357).

FEDERAL AVIATION ADMINISTRATION

Final

National Airport System Plan (NASP), December 23: Proposed are the preparation and adoption of the revised National Airport System Plan (NASP), by January 1, 1978, as required by the Airport and Airway Development Act of 1970, as amended. The NASP sets forth the level of development with estimates of implementation costs, for the National Airport System for a period of ten years. Adverse effects include the consumption of a portion of our energy resources for aviation purposes; exposure to high levels of acoustic noise by persons inhabiting areas near major airports; and a continued contribution to the air pollution problems in certain areas of the country. Comments made by: HEW, CAB, FEA, DOC, DOT, DOI, EPA, state and local agencies, concerned groups and individuals. (ELR Order No. 71545.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

12th Street Widening and Extension, City of Cayce, S.C., December 21: Proposed is the upgrading of an existing four lane portion of 12th Street and extending on new location to the Southeastern Beltway for a distance of approximately 3.7 miles in and adjacent to the city of Cayce, S.C. Adverse impacts include the displacement of approximately 12 residences; acquisition of forested area for right-of-way purposes; increased levels of air and noise pollution; and the disruption of archaeological sites eligible for the National Register of Historic Places. (Region 4.) (ELR Order No. 71533.)

Berkley Avenue Improvement, Norfolk, Va., December 21: Proposed is the improvement of Berkley Ave., located within the city of Norfolk in the Tidewater portion of Virginia. The proposed 0.848-mile project begins at State Street and proposed I-464 and extends east-northeasterly to Indian River Road, 0.026 mile east of Marsh Street. Project implementation calls for widening Berkley Ave. from two to four lanes and building a bridge 1,300 feet in length from south of Pescara Creek to east of the Norfolk and Western Railroad. Adverse impacts include the displacement of 47 families, 9 businesses and 3 non-profit organizations; elimination of 0.43 acres of productive wetlands; and air pollution. (ELR Order No. 71531.)

Final

Route 265 (Danville Expressway), Pittsylvania County, Va., December 21: Proposed is construction of the Danville Bypass (Route 265), located in Pittsylvania County, Va. Plan implementation calls for construction to begin 0.491 mile south of the Virginia-North Carolina State Line and terminate 0.082 mile north of the intersection with Route 58, for a total length of 7.865 miles. This final EIS does not include the northern leg of the Danville Bypass which was originally included in the draft EIS. Adverse impacts include the relocation of 87 families and 27 businesses; construction-related pollution; and increased air and noise pollution. (Region 3.) Comments made by: DOT, DOI, EPA, COE, HEW, HUD, USDA, state and local agencies. (ELR Order No. 71532.)

U.S. COAST GUARD

Final

Johns Creek Railway Line, Pike County, Ky., December 22: The proposed action consists of construction of 8.33 miles of new railway line located in the eastern part of Kentucky near the Virginia/West Virginia border. The purpose of the line is to transport coal more efficiently from the Johns Creek drainage to the Luisa Fork drainage and on to regional markets. Adverse impacts include disturbance of 150 acres of land and construction related effects. Comments made by: DOT, FPC, DOI, USDA, COE, GSA, HEW, EPA, DOC, HUD, and state agencies. (ELR Order No. 71537.)

[FR Doc. 77-37232 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-3; OPP-42003E]

IOWA

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On August 28, 1975, the State of Iowa Plan for the Certification of Pesticide Applicators was approved contingent upon promulgation of necessary regulations implementing the legislation. Notice of contingent approval was published in the FEDERAL REGISTER on September 16, 1975 (40 FR 42772). Subsequently, the 1976 State Legislature amended the Pesticide Act of Iowa and regulations necessary to implement the legislation were promulgated and became effective on August 4, 1977.

On October 17, 1977, Iowa requested that EPA grant full approval of the State Plan based on amendments to the Plan which reflected the 1976 amendments to the Pesticide Act of Iowa and the rules which implement that Act. A review of the amended legislation, the implementing regulations, and the amendments to the State Plan revealed that all requisite legal authorities required by FIFRA and 40 CFR Part 171 have been satisfied. A notice announcing EPA's intent to grant full approval of the State Plan was published in the FEDERAL REGISTER on November 9, 1977 (42 FR 58447) providing for 30 days public comment. No comments were received during this 30-day period; therefore, the Regional Administrator, EPA, Region VII, hereby gives notice that the State of Iowa Plan for the Certification of Pesticide Applicators is now a fully approved State Plan.

Dated: December 16, 1977.

EARL J. STEPHENSON,
Acting Regional Administrator, Environmental Protection Agency, Region VII.

[FR Doc. 77-37262 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 838-1]

NATIONAL AMBIENT AIR QUALITY STANDARD FOR PHOTOCHEMICAL OXIDANTS

Meeting

A public meeting to discuss issues related to a possible revision of the National Ambient Air Quality Standard (NAAQS) for photochemical oxidants will be held on January 30, 1978, at 8:30 a.m. at the Environmental Protection Agency, Waterside Mall, Room 2117, 401 M Street, SW., Washington, D.C. The meeting will be extended through January 31 if necessary.

The existing NAAQS was published in the FEDERAL REGISTER (36 FR 8186) on April 30, 1971. EPA is conducting a thorough review of this standard as required under section 109 of the Clean Air Act, as amended, to assess the need for revision. The purpose of the meeting is to provide an opportunity for concerned parties to present their views and submit information for consideration by the Agency in its assessment of the standard.

EPA will provide to interested parties staff papers which describe our current thinking on the need for and nature of any revisions to the existing standard. Requests for this material should be directed to the address given in the final paragraph of this notice.

The material to be provided will include the following staff recommendations. (1) Redesignating the standard from oxidant to ozone, (2) proposing not to set a separate standard at this time for peroxyacetylnitrate (PAN) which is a constituent of oxidant, (3) redefining the standard in a statistical not deterministic form, and (4) retaining a one-hour averaging time for the standard.

In addition, it will describe the range of alternatives now being analyzed for the level and frequency of exposure. Preliminary reviews of the health evidence presented in the draft revised criteria document suggest that the range of possible standard levels lies between 0.08 ppm and 0.15 ppm and that the choice within that range will be based on the level and nature of health risk which can be tolerated. There does not appear to be a basis for standards at higher levels. Similarly, the health data suggest that there is little evidence to support an increased number of allowable annual exceedances.

The Agency invites comments on any issues relating to the possible revision of the NAAQS for photochemical oxidants. All those wishing to make oral presentations at the January 30, 1978, meeting should contact the person whose name and address appear in the final paragraph of this notice by January 16, 1978; those who wish to submit written material are requested to send it to the same address postmarked no later than January 30, 1978. All comments received will be made available to the public. Copies will be available for inspection and copying during normal working hours at the U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-12), Research Triangle Park, N.C. 27711, Attn: Mr. Joseph Padgett, 919-541-5204.

Dated: December 27, 1977.

RAYMOND SMITH,
Acting Assistant Administrator for Air and Waste Management.

[FR Doc. 77-37257 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 837-1]

POLYCHLORINATED BIPHENYLS (PCBs)

Toxic Substances Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy for implementation of section 6(e)(2) of the Toxic Substances Control Act (TSCA).

SUMMARY: Until the regulation for Section 6(e)(2) of TSCA is promulgated in final form, EPA will not implement the bans on PCB manufacturing (including importation), processing, distribution in commerce, or use in any manner other than in a totally enclosed manner.

SUPLEMENTARY INFORMATION: Pursuant to section 6(e)(2) of TSCA (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.), the bans on PCB manufacture, processing, distribution in commerce, or use in any manner other than in a totally enclosed manner become effective January 1, 1978. EPA wishes to announce its policy with respect to the implementation of these bans pending final promulgation of the regulation for Section 6(e)(2) of TSCA.

The forthcoming regulation for implementing the PCB bans is expected to contain several authorizations, under Section 6(e)(2)(B), allowing some limited PCB activities in other than a totally enclosed manner. EPA is actively engaged in developing a definition of the term "totally enclosed manner". Based on this definition, EPA will propose authorizations which are appropriate under Section 6(e)(2)(B). To this end, EPA has held public meetings on July 15, 1977, in Washington, D.C., and on July 19, 1977, in Chicago, Ill., to obtain information to aid in the development of the PCB ban regulation. EPA expects to propose such a regulation shortly. Only after public comment is received and an informal public hearing is held will the number and scope of PCB authorizations be determined in a promulgated regulation. EPA has, therefore, established a policy of not implementing Section 6(e)(2) until the ban regulation is effective, which is not expected to be before July 1, 1978.

Dated: December 23, 1977.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 77-37265 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-8]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held on January 30-31, 1978, beginning at 9 a.m., in Room 1112, Building 2, Crystal Mall, Arlington, Va.

This is the fifteenth meeting of the Ecology Advisory Committee. The Committee will meet jointly on January 30, with the Board's Environmental Pollutant Movement and Transformation Advisory Committee. The agenda for January 30 includes briefings on the activities of the two Advisory Committees; presentations on statistical strategies for modeling, philosophical aspects of modeling, evolutionary modeling, and the role of simple models, followed by a round table discussion on modeling.

The Ecology Advisory Committee's agenda for January 31, includes a report on Science Advisory Board activities; consideration of an advisory statement on continuation of research on Kepone; reports on annual program reviews of the Agency's research laboratories at Duluth, Minn., at Narragansett and West Kingston, R.I.; presentation and consideration of reports on the marine research program of the Environmental Research Laboratory, Corvallis, Oreg.; and a report on uniform National Standards and regulations vs. local and area-wide standards and regulations; prescreening for environmental hazards; and member items of interest.

The meeting is open to the public. Because of limited seating capacity of the meeting room all members of the public desiring to attend must pre-register no later than Friday, January 20, and receive confirmation of seat reservation from the Executive Secretary, Dr. J. Frances Allen, 703-557-7720. Only the Executive Secretary can confirm these reservations.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

DECEMBER 22, 1977.

[FR Doc. 77-37261 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-7]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL POLLUTANT MOVEMENT AND TRANSFORMATION ADVISORY COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Pollutant Movement and Transformation Advisory Committee of the Science Advisory Board will be held on January 30, 1978, beginning at 9 a.m., in Room 1112, Building 2, Crystal Mall, Arlington, Va.

This is the eighth meeting of the Environmental Pollutant Movement and Transformation Advisory Committee. The Committee will meet jointly on January 30 with the Board's Ecology Advisory Committee. The agenda includes briefings on the activities of the two Advisory Committees; presentations on statistical strategies for modeling, philosophical aspects of modeling, evolutionary modeling, and the role of simple models, followed by a round table discussion on modeling.

The meeting is open to the public. Because of limited seating capacity of the meeting room all members of the public desiring to attend must pre-register no later than Friday, January 20, and receive confirmation of seat reservation from the Executive Secretary, Dr. Joel L. Fisher, 703-557-7710. Only the Executive Secretary can confirm these reservations.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

DECEMBER 22, 1977.

[FR Doc. 77-37260 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-6]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE, SUBCOMMITTEE ON TOXIC SUBSTANCES

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one day meeting of the Subcommittee on Toxic Substances of the Science Advisory Board will be held on January 19, 1978 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. The meeting will start at 9:30 a.m. on January 19, 1978.

The Subcommittee will be meeting for the first time, the purpose being to review the Subcommittee's charge and to establish priorities for the Science Advisory Board to render advice on the scientific aspects of the Agency's actions on toxic substances.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. January 16, 1978. Please ask for Mrs. Shirley Smith. The telephone number is 202-755-0263.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

DECEMBER 22, 1977.

[FR Doc. 77-37256 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 837-6; OPP-42022B]

VIRGIN ISLANDS

Territorial Plan for Certification of Pesticide Applicators; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On March 11, 1976, the Honorable Cyril E. King, Governor of the Virgin Islands of the United States, submitted a Virgin Islands territorial plan for certification of commercial and private applicators of restricted use pesticides to the EPA.

A summary of the Virgin Islands territorial plan was published in the FEDERAL REGISTER on June 3, 1976 (41 FR 22414). On August 12, 1976, the plan was approved contingent upon EPA approval of implementing regulations to be promulgated by the Virgin Islands Department of Conservation and Cultural Affairs (VIDCCA). Notice of contingent approval was published in the FEDERAL REGISTER on August 19, 1976 (41 FR 35097).

On December 2, 1976, the VIDCCA adopted a pesticide control code for the Virgin Islands. This code, found at Chapter 19, of Title 12 of the Virgin Islands rules and regulations, became effective on August 24, 1977, and has been submitted for review. Having completed this review, and finding that all legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region II, hereby gives notice that the terms and conditions of contingent approval have been satisfied and that the Virgin Islands territorial plan is now a fully approved plan.

Dated: December 25, 1977.

HERBERT BARRACK,
Acting Regional Administrator,
U.S. Environmental Protection Agency, Region II.

[FR Doc. 77-37263 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-2; OPP-42052A]

WISCONSIN

Approval of State Plan for Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR 171, require each State desiring to certify applicators to submit a plan to the U.S. Environmental Protection Agency (EPA) for its certification program. Any State certification program under this section shall be maintained in accordance with the State plan approved under this section.

On October 25, 1977, notice was published in the FEDERAL REGISTER (42 FR 56363) of the intent of the Regional Administrator, EPA, Region V, to approve, on a contingency basis, the Wisconsin State plan for the certification of pesticide applicators (Wisconsin State plan). Contingent approval was requested by the State of Wisconsin pending promulgation of implementing regulations. Copies of the Wisconsin State plan were made available for public inspection at the Wisconsin Department of Agriculture, Madison, Wis.; the Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V, Chicago, Ill.; and the Federal Register Section, Technical Services Division, Office of Pesticide Programs, EPA, Washington, D.C.

No comments were received concerning the Wisconsin State plan during the 30-day comment period. Therefore, it has been determined that the Wisconsin State plan will satisfy the requirements of section 4(a)(2) of the amended FIFRA and 40 CFR 171, if the proposed regulations are promulgated. The State of Wisconsin expects to promulgate these regulations on or before March 15, 1978. As pesticides labeled for restricted use are not expected to become available to the public prior to the promulgation of the Wisconsin regulations, notice is hereby given that contingent approval of the Wisconsin State plan is granted through March 15, 1978. On or before the expiration of the period of contingent approval, a notice shall be published in the FEDERAL REGISTER concerning the extent to which these terms and conditions have been satisfied, and the approval status of the Wisconsin State plan as a result thereof.

EFFECTIVE DATE

Pursuant to section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the contingent approval granted herein to the Wisconsin State plan shall be effective upon publication. Neither the Wisconsin State plan itself nor this Agency's contingent approval of the plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Wisconsin. Delays in starting the work necessary to implement the plan, such as may be occasioned by providing some later effective date for the contingent approval are inconsistent with the public interest. Accordingly, this contingent approval shall become effective immediately.

Dated: December 19, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator,
Region V.

[FR Doc. 77-37264 Filed 12-29-77; 8:45 am]

[6560-01]

[FRL 836-4]

WATER PROGRAMS

Determination of Primary Enforcement Responsibility, State of Texas

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.10 of the national interim primary drinking water regulations, published in the FEDERAL REGISTER on January 20, 1976.

An application has been received from the Director, Texas Department of Health Resources, dated June 20, 1977, requesting that the Texas Department of Health Resources be granted primary enforcement responsibility for water systems in the State of Texas, in accordance with the provisions of this Act.

In response, I have determined that the Texas Department of Health Resources has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of Texas. The State—

(1) Has adopted drinking water regulations which are no less stringent than the national interim primary drinking water regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the national interim primary drinking water regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Director, Texas Department of Health Resources, 1100 West 49th Street, Austin, Tex. 78756.

Regional Administrator, Environmental Protection Agency, Region VI, First International Building, 1201 Elm Street, Dallas, Tex. 75270.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted within thirty (30) days after publication of this notice. A request for a public hearing shall include the following information:

(1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made within thirty (30) days a public hearing will be held. The Regional Administrator will give further notice in the FEDERAL REGISTER and in a newspaper or newspapers of general circulation in the State of Texas of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective thirty (30) days after issuance of this initial notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: December 22, 1977.

ADLENE HARRISON,
Regional Administrator, Region VI, Environmental Protection Agency.

[FR Doc. 77-37259 Filed 12-29-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Docket No. 77-62]

L. BRAVERMAN & CO. vs. THE LYKES BROS. STEAMSHIP CO., INC.

Filing of Complaint

Notice is hereby given that a complaint filed by L. Braverman & Co. against The Lykes Brothers Steamship Co., Inc., was served December 23, 1977. The complaint alleges a violation of section 44 of the Shipping Act, 1916, for failure to pay brokerage for freight forwarding services said to be performed.

Hearing in this matter, if any is held, shall commence on or before June 23, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-37164 Filed 12-29-77; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

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 December 23, 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 FTC 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 January 17, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 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 TRADE COMMISSION

The FTC requests extension, without change, clearance of a Special Report on Acquisitions and Mergers in the Fluid Milk Products Industry. This Special Report Form has been adopted by the FTC in implementation of its "Enforcement Policy with Respect to Mergers in the Dairy Industry," first published in the FEDERAL REGISTER on July 3, 1973 (Vol. 38, No. 127). The purpose of the enforcement policy is to prevent undue concentration and to foster a competitive atmosphere in the dairy industry. The FTC estimates a maximum of 10 reports to be filed per year and reporting time to average 15 hours per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc. 77-37186 Filed 12-29-77; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Additional/Changed Meeting Information

In FEDERAL REGISTER Doc. 77-35176, appearing at page 62206 in the issue of Friday, December 9, 1977, the time for convening the open meeting of the Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism on January 17, 1978, was omitted. This meeting will begin at 9:30 a.m. and will, as previously announced, be held in Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Md.

In FEDERAL REGISTER Doc. 77-36292, appearing at page 63815, in the issue of Tuesday, December 20, 1977, the location for the January 9-10, 1978, meeting of the Alcohol Research Review Committee had not then been determined. This meeting will be held at the St. Anthony Hotel, 300 East Travis Street, San Antonio, Tex., and will be open to the public from 9-10 a.m., January 9.

In FEDERAL REGISTER Doc. 77-36292, appearing at page 63816, the National Advisory Mental Health Council meeting on January 23, 1978, will be held in Conference Room F, Parklawn Building, 5600 Fishers Lane, Rockville, Md. This session on January 23 from 9:30 a.m. to adjournment is open to the public. The January 24 and 25 grant review sessions will, as previously announced, be held in Conference Room 14-105, Parklawn Building, and will not be open to the public.

Dated: December 22, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 77-36974 Filed 12-29-77; 8:45 am]

[4110-86]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

NAME: Coal Mine Health Research Advisory Committee.

DATE: February 3, 1978.

PLACE: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

TIME: 9 a.m. to 3 p.m.

TYPE OF MEETING: Open.

CONTACT PERSON:

Marilyn K. Hutchison, M.D., Executive Secretary, NIOSH, 5600 Fishers Lane, Room 8-41, Rockville, Md. 20857, Phone: 301-443-3136.

PURPOSE: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

AGENDA: Agenda items for the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, analysis of the Federal Mine Safety and Health Amendments Act of 1977, and National Institute for Occupational Safety and Health (NIOSH) research reports.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the

presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 20, 1977.

WILLIAM C. WATSON, Jr.,
Acting Director,
Center for Disease Control.

[FR Doc. 77-37185 Filed 12-29-77; 8:45 am]

[4110-86]

SAFETY AND OCCUPATIONAL HEALTH STUDY SECTION

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

NAME: Safety and Occupational Health Study Section.

DATE: February 2-3, 1978.

PLACE: Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910.

TIME: 9 a.m.

TYPE OF MEETING: Open: 9 a.m. to 10:30 a.m. on February 2, 1978. Closed: Remainder of meeting.

CONTACT PERSON:

Benjamin H. Bruckner, Ph.D., Acting Executive Secretary, 5600 Fishers Lane, Parklawn Building, Room 8-63, Rockville, Md. 20857, Phone: 301-443-4493.

PURPOSE: The Committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in program areas administered by the National Insitutue for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

AGENDA: Agenda items for the open portion of the meeting will include reading of minutes of previous meeting, and administrative and staff reports. Beginning at 10:30 a.m., February 2, 1978, through adjournment on February 3, 1978, the Study Section will be performing the initial review of research grant and training grant applications for Federal Assistance, and will not be open to the public, in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the determination of the Director, Center for Disease Control, pursuant to Pub. L. 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: December 21, 1977.

WILLIAM C. WATSON, Jr.,
Director,
Center for Disease Control.

[FR Doc. 77-37184 Filed 12-29-77; 8:45 am]

[4110-03]

Food and Drug Administration

INSPECTION OF IMPORTED DATES AND DATE MATERIAL

Memorandum of Understanding With the Food Safety and Quality Service

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Department of Agriculture, Food Safety and Quality Service. The purpose of the understanding is to set forth cooperative working arrangements in the inspection, sampling, and examination of imported dates and date material.

DATES: The agreement became effective November 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

MEMORANDUM OF UNDERSTANDING BETWEEN THE FOOD SAFETY AND QUALITY SERVICE, U.S. DEPARTMENT OF AGRICULTURE, AND THE FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The Food Safety and Quality Service and the Food and Drug Administration hereby jointly agree to the following terms and conditions as described herein.

I. PURPOSE

To set forth the working arrangements being followed or adopted to enable each agency to discharge, as effectively as possible, its responsibilities relating to the inspection, sampling, and examination of imported dates and date material.

II. STATUTES RELATING TO THE AGREEMENT

A. The Food and Drug Administration of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. The Food and Drug Administration inspects, samples, and examines imported dates and date products intended for processing for the purpose of determining their status under the statute. One provision of the Act deems a food to be adulterated if it consists in whole or in part of any filthy, putrid, or decomposed substance.

B. The Food Safety and Quality Service of the U.S. Department of Agriculture is responsible for certifying that imported retail packages of dates or bulk dates intended for packaging meet the minimum grade and condition standards as outlined in section 608e of the Agricultural Marketing Agreement Act of 1937, as amended. These requirements recognize insect infested, filthy, and decomposed dates as defects which may prohibit importation.

Nothing in this agreement shall lessen the responsibilities of the Food Safety and Quality Service under the Agricultural Marketing Agreement Act of 1937; nor of the Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act.

III. BACKGROUND

So that the responsibilities of both agencies could be efficiently carried out, an agreement concerning the inspection, sampling, and examination of whole dates, packaged or intended for packaging was executed May 29, 1953. The agreement was subsequently amended October 7, 1963, and September 27, 1971.

IV. SUBSTANCE OF AGREEMENT

A. In addition to evaluating dates for the grade condition requirements, the Food Safety and Quality Service will:

1. Sample and examine at time and place of entry all lots (except those of 70 pounds or less, or lots that are so denatured as to render them unfit for human consumption) of imported packaged dates or bulk dates that are declared for packaging. For the purpose of this agreement, a "lot" shall be considered that portion of an offering for import bearing a single identifying number or mark.

2. Examine the dates for insect infestation, filth, decomposition, and (if pitted) for pit or pit fragments by the method mutually agreed upon.

3. Accept or reject lots of dates according to the guidelines covering filth, decomposition or insect infestation using the statistical sampling plan[1] and the sequential analysis plan[1] made a part of this agreement.

4. Upon completion of the examination, promptly notify the appropriate Food and Drug District Office:

(a) Of any lots found not to meet minimum acceptance criteria of this agreement because of pit or pit fragments, insect infestation, filthy or decomposed dates, and

(b) Any cases about which there is any question regarding the laboratory examination results.

5. Upon request, provide the Food and Drug Administration with a copy of each examination report which will contain information such as required in FD 1575, a copy of which is made a part of this agreement.[1]

[1] Filed as part of the original document.

6. Inform the Division of Microbiology, Bureau of Foods, Food and Drug Administration of any requests for reclassification and action taken with respect to dates imported as dates for processing to dates for packaging.

B. The Food and Drug Administration will:

1. Sample and examine lots of dates or date material that are declared for use in processing.

2. Deny entry to any lots of packaged dates or bulk dates intended for other than processing to be reentered for processing when such lots have been sampled and examined by the Food Safety and Quality Service and found to exceed the mutually agreed upon administrative working tolerance.

3. Unless the Food Safety and Quality Service is notified to the contrary:

(a) Accept the findings of the Food Safety and Quality Service on any lot of dates sampled and inspected by them.

(b) Cause detention of any lot of dates rejected by the Food Safety and Quality Service because it contains excess pit, or pit fragments, insect infestation and/or filthy and decomposed dates if offered for reentry by the importer for processing.

(c) Permit entry as dates for processing without resampling any lot of whole dates certified by the Food Safety and Quality Service as failing to meet the minimum grade and condition requirements as outlined in section 608e of the Agricultural Marketing Agreement Act of 1937, as amended, but which lot does not exceed the administrative working tolerance for insect infestation or filthy and decomposed dates, further provided that such lot is not otherwise in violation of the Federal Food, Drug, and Cosmetic Act.

4. To inform the appropriate Food Safety and Quality Service field office of any detention of dates that might be offered for reentry for other than processing purposes.

V. NAME AND ADDRESS OF PARTICIPATING AGENCIES

Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Food Safety and Quality Service, U.S. Department of Agriculture, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

VI. LIAISON OFFICERS

A. Charles W. Luxford, Head Grading Section, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, 12th and Independence Avenue S.W., Washington, D.C. 20250; telephone 447-5021.

B. Paris M. Brickey, Jr., Acting Chief, Microanalytical Branch (HFF-127), Division of Microbiology, Bureau of Foods, Food and Drug Administration, 200 C Street S.W., Washington, D.C. 20204; telephone 245-1564.

VII. PERIOD OF AGREEMENT

This agreement, when accepted by both parties, covers an indefinite period of time and may be modified by mutual consent of both agencies or terminated by either agency upon thirty (30) days written notice.

Approved and accepted for the Food Safety and Quality Service.
Dated: October 28, 1977.

ROBERT ANGELOTTI,
Ph. D., Administrator.

Approved and accepted for the Food and Drug Administration.
Dated: November 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

Effective date: This memorandum of understanding became effective November 21, 1977.

Dated: December 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-36860 Filed 12-29-77; 8:45 am]

[4110-03]

[Docket No. 77N-0394]

MEDICAL DEVICES

Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice invites interested persons to submit information, data, and views on a petition filed under section 513(f) of the Federal Food, Drug, and Cosmetic Act by Ventrex Laboratories, Inc., for an Angiotensin Converting Enzyme (A.C.E.) Assay System. Material submitted will be forwarded to members of the Clinical Chemistry Device Classification Panel who will make a recommendation on the petition to the Food and Drug Administration (FDA).

DATE: Information, data, and views should be submitted by January 30, 1978.

ADDRESSES: Copies of the petition are available at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

Information, data, and views should be submitted (five copies) to Kaiser Aziz, Executive Secretary, Clinical Chemistry Device Classification Panel (address below).

FOR FURTHER INFORMATION CONTACT:

Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, (301-427-7234).

SUPPLEMENTARY INFORMATION: Ventrex Laboratories, Inc., submitted, under section 510(k) of the act, a premarket notification of its intent to market an Angiotensin Converting Enzyme (A.C.E.) Assay System. The product utilizes a radiolabeled acylated tripeptide for the quantitative measurement of angiotensin converting enzymen in serum or plasma. This device was determined by the agency to be not substantially equivalent to any device that was in commercial distribution before May 28, 1976, and is therefore classified in class III (Premarket Approval) under section 513(f) of the act.

Under section 515(a)(2) of the act, before a device which is in class III because of section 513(f)(1) of the act can be marketed, it is required to have an approval of an application for premarket approval unless there is in effect for the device an investigational device exemption under section 520(g) of the act or unless the device is reclassified. Ventrex Laboratories, Inc., submitted a petition for reclassification under section 513(f)(2) of the act. The agency's review of the petition determined a number of deficiencies in the data supplied. The manufacturer was notified of these deficiencies and submitted the supplementary information on October 3, 1977.

Section 513(f) of the act requires the Commissioner of Food and Drugs to submit the petition to a panel for a recommendation. The panel must make its recommendation to the Commissioner within 90 days after the petition is referred to the panel. Ordinarily, the petition would be discussed at an open panel meeting before the panel makes its recommendation. However, the next Clinical Chemistry Device Classification Panel meeting is tentatively scheduled for late February 1978. This would be beyond the 90-day period in which the panel must make its recommendation. Therefore, this petition has been mailed to the voting members of the panel for their review and recommendations, and the panel will make its recommendation to FDA by mail.

Section 513(f) also requires the Commissioner to provide an opportunity for interested persons to provide information, data, and views to the panel before it makes its recommendation. Information, data, and views will be mailed to the panel members for their consideration before they make their recommendation. Then each voting member will send the executive secretary of the panel a completed supplemental data sheet and a completed classification questionnaire applicable to the device for which a recommendation is sought. The panel recommendation will be published in the FEDERAL REGISTER. A period for public comment will follow, and then the Commissioner will issue a final order approving or denying the petition no more than 210 days after the submission of an adequate petition.

Dated: December 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 77-36859 Filed 12-29-77; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 77N 0238]

PROPOSED MODEL VENDING OF FOOD AND BEVERAGES ORDINANCE

Availability

Correction

In FR Doc. 77-29465 appearing at page 54626 in the issue of Friday, October 7, 1977, in the "DATE:" paragraph, "January 5, 1977" should be changed to "January 5, 1978."

[4110-03]

Food and Drug Administration

[Docket No. 77N-0399]

UPJOHN CO.

Neomycin-Sulfonamide-Kaolin-Pectin Tablets; Opportunity for A Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document gives notice of opportunity for a hearing on a proposal to withdraw approval of a new animal drug application (NADA), No. 9-696, for a product containing neomycin, sulfonamides, kaolin, and pectin. New information shows there is a lack of substantial evidence that the product is effective, and the product has not been shown to be safe.

DATE: Written requests for a hearing must be submitted by January 30, 1978.

ADDRESS: Written requests to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Donald Gable, Bureau of Veterinary Medicine (HFV-100), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4313.

SUPPLEMENTARY INFORMATION: The Director of the Bureau of Veterinary Medicine of the Food and Drug Administration (hereinafter, the Director), is providing an opportunity for a hearing on a proposal to withdraw approval of NADA 9-696 for the product Kaobiotic Tablets, held by the Upjohn Co., Kalamazoo, Mich. 49001. Each tablet contains 8.125 milligrams of neomycin sulfate (equivalent to 5.68 milligrams of neomycin base), 244 milligrams of sulfaguanidine, 16.25 milligrams of sulfamerazine, 16.25 milligrams of sulfadiazine, 16.25 milligrams of sulfathiazole, 729 milligrams of kaolin, and 16.25 milligrams of pectin. The product is recommended for oral administration in treating bacterial diarrhea and enteritis in all species of animals.

In the FEDERAL REGISTER of July 21, 1970 (35 FR 11645, DESI 9695V), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration and the National Academy of Sciences, National Research Council (the Academy), Drug Efficacy Study Group, relating to certain drug products containing neomycin, sulfonamides, kaolin, and pectin for oral administration to animals.

The Academy classified Kaobiotic Tablets as probably effective for treatment of bacterial diarrhea and enteritis in large and small animals. The Academy stated in part:

1. Substantial evidence was not presented to establish that each ingredient designated as active makes a contribution to the total effect claimed for the drug combination.

2. Each disease claim should be properly qualified as appropriate for use in (name of disease) caused by pathogens sensitive to (name of drug). If the disease claim cannot be so qualified, the claim must be dropped.

3. Claims made regarding "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control of."

4. The label phrases "absorbed sulfonamides get into organisms in deep intestinal wall," "absorb bacteria," "inactivates toxins," and "reduces hyperperistalsis" should be deleted.

5. The statements on the development of resistance to neomycin are not correct.

6. The manufacturer of the tablet (kaobiotic tablets), must provide evidence that they disintegrate in the gastrointestinal tract of the medicated species to produce the desired therapeutic effect.

This announcement informed all interested persons that the products named must be the subject of approved NADA's, and 6 months were provided in which to submit substantial evidence of effectiveness for the products named.

In response to the notice, the Upjohn Co. submitted data on the product, Kaobiotic Tablets, in their letters of December 11, 1972, June 18, 1973, March 4, 1974, July 14, 1975, October 15, 1976, and April 11, 1977. However, Upjohn has never submitted substantial evidence based on adequate and well-controlled investigations establishing that the drug combination named above will have the effect it is purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

The firm submitted on December 11, 1972, and resubmitted on July 15, 1976, a reprint that presents the results of a clinical report on Kaobiotic (both suspension and tablets), for treatment of diarrhea in cats and dogs (North American Veterinary Journal, December, 1955). Dogs and cats were subdivided into groups based on severity of clinical symptoms. All animals in all groups received a single level of the drug product (1 teaspoon per 6 pounds of body weight or 1 tablet per 9 pounds of body weight). A high percentage of the test animals recovered from the clinical condition, and the author summarily concludes that clinical results indicate a high degree of efficacy in the treatment of gastroenteritis and diarrhea in small animals. This reprint of an uncontrolled study is not substantial evidence. There is no type of controlled comparison as required by 21 CFR 514.111(a)(5)(ii), (iv), (v), and (vi), and there is accordingly no basis for concluding that the drug is effective.

In the same submissions the firm submitted reprint reports on various characteristics (physico-chemical, in vivo properties, in vitro activity, etc.), of single ingredients contained in the seven-drug combination, Kaobiotic. Such reports cannot provide a substantive basis of evidence to determine the contribution of the ingredient when administered in a fixed combination as required by 21 CFR 514.1(b)(8)(v), which provides that each ingredient designated as active in any new animal drug combination must contribute to the effect in the manner claimed or suggested in the labeling, because the submitted reports fail to satisfy criteria of adequate well-controlled investigations as defined by § 514.111(a)(5) (21 CFR 514.111(a)(5)).

In addition to the questions regarding substantial evidence of effectiveness, no interested persons have submitted data establishing safety of the drug to the target-use animals, nor have they submitted safety data establishing that food from treated animals would be safe for human consumption when the product is used under the conditions prescribed, recommended, or suggested in the labeling thereof as required by 21 CFR 510.450.

Section 108(b)(2) of the Animal Drug Amendments of 1968 (Pub. L. 90-399 (82 Stat. 353)), provides that any approval, prior to the effective date of the Animal Drug Amendments of 1968, of a new animal drug through approval of a new drug application, master file, antibiotic regulation, or food additive regulation continues in effect until withdrawn. Many such aprovals were made long ago and may never have been used by the holder of the approval. Consequently, the current files of the FDA may be incomplete and may fail to reflect the existence of some approvals. The burden of coming forward with proof of an unnamed approval is therefore properly placed on the holder.

The Director knows of no approvals affected by this proposal other than that named herein. Any person who

intends to assert or rely on such an approval that is not listed in this notice shall submit proof of its existence within the period allowed by this notice of opportunity to request a hearing. The failure of any person holding such an approval to submit proof of its existence within that period shall constitute a waiver of any right to assert or rely on it. In the event that proof of an existence of such approval is presented, this notice shall also constitute a notice for opportunity for hearing with respect to that approval pursuant to the same requirements as for approvals named in this notice.

Section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b), requires that a drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. In respect to fixed combination drugs, § 514.1(b)(8)(v) (21 CFR 514.1(b)(8)(v)), requires that each ingredient designated as active in any new animal drug combination must make a contribution to the effect in the manner claimed or suggested in the labeling, and, if in the absence of express labeling claims of advantages for the combination such a product purports to be better than either component alone, it must be established that the new animal drug has that purported effectiveness. The requirement of effectiveness includes the requirement that the most effective level for each component be used. In the case of drug combinations for concurrent therapy, the requirment of effectiveness also includes the requirement that the dosage of each component is such that the combination is safe and effective for a population of significant size specifically described in the labeling as requiring such concurrent therapy. Data have not been submitted to demonstrate the effectiveness of this fixed combination product compared with the effectiveness of the individual ingredients, or to demonstrate that they are otherwise in accord with the requirements for fixed combination drugs as set forth in § 514.1(b)(8) and this notice.

Section 512 of the act also requires that a drug be shown to be safe for use under the conditions prescribed, recommended, or suggested in the labeling. Safe use encompasses both safety to the target species and to humans consuming products from treated animals, and section 512 of the act requires a description of practical methods for determining the quantity, if any, of a drug in or on food and any substance formed in or on food because of its use, together with a proposed tolerance or withdrawal period or other use restrictions for such drug if any tolerance or withdrawal period or other use restrictions are required to assure that the proposed use of such drug will be safe.

On the basis of all the data and information available to him, the Director is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 512(e)(1)(C) of the act and §§ 514.1(b)(8) and 514.115 demonstrating the effectiveness of the combination drug product. Further, new evidence shows that the combination drug product has not been shown to be safe to the target animal or humans consuming products from treated animals, as required under section 512(e)(1)(B) of the act and § 510.450.

Therefore, notice is given to the Upjohn Co., and to all other interested persons, that the Director proposes to issue an order under section 512(e) of the act and under section 108(b) of Pub. L. 90-399 withdrawing approval of the application for Kaobiotic Tablets because new information before him about the product, evaluated together with the evidence available to him at the time of the approval of the product, shows there is a lack of substantial evidence that the product will have the effect it purports or is represented to have and is safe for use under the conditions prescribed, recommended, or suggested in the labeling. Should a hearing in this matter be requested a final action upon this notice will be taken by the Commissioner of Food and Drugs.

In addition to the grounds for the proposed withdrawal of approval, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it, e.g., any contention that any such product is not a new animal drug within the meaning of section 201(w) of the act (21 U.S.C. 321(w)).

In accordance with provisions of section 512 of the act, section 108 of Pub. L. 90-399, and the regulations promulgated thereunder (21 CFR Part 510), the holder of the approval for the drug product named above and all other persons subject to this notice are hereby given an opportunity for a hearing to show why approval of the product should not be withdrawn and opportunity to raise, for administrative determination, all issues related to the legal status of the drug product named above. Any other interested person may also submit comments on this notice within the time and pursuant to the requirements specified in this notice.

The holder of the approval and any other persons subject to this notice shall file, on or before January 30, 1978, a written appearance electing whether to avail himself/herself of an opportunity for a hearing, or not to avail himself/herself of the opportunity for a hearing. Such written appearance shall give the reason why the approval should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data in support of the opposition to the Director's proposal.

Such analysis shall include all protocols and underlying raw data and shall be submitted in accordance with the requirements of § 314.200(c)(2) and (d) (21 CFR 314.200(c)(2) and (d)), which are hereby made applicable to this notice by reference. Wherever in § 314.200(d) reference is made to the requirements of § 300.50 (21 CFR 300.50), that reference shall be deemed, for the purposes of this notice, to be a reference to the requirements for combination drug products as expressed in § 514.1(b)(8) and this notice.

The failure of the holder of an approval to file timely written appearance and request for hearing as required by 21 CFR 514.200 constitutes an election not to avail himself/herself of the opportunity for a hearing, and the Director of the Bureau of Veterinary Medicine will summarily enter a final order withdrawing the approval.

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

All submissions pursuant to this notice must be filed in four copies with the Hearing Clerk, Food and Drug Administration, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905. Responses to this notice may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for a hearing, the issues will be defined, an administrative law judge will be assigned, and a written notice of the time and place at which the hearing will begin will be issued as soon as practical.

Any hearing on the proposal to withdraw this approval will be open to the public. If, however, the Director finds that portions of the applications that

serve as the basis for such hearing contain information concerning data that are entitled to protection as a trade secret, that part of the hearing will not be public, unless the respondent so specifies.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-361 (21 U.S.C. 360b)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: December 21, 1977.

PHILIP D. CAZIER,
Acting Associate Director, Surveillance, and Compliance.

[FR Doc. 77-37329 Filed 12-29-77; 8:45 am]

[4110-08]

National Institutes of Health

ANNUAL REPORTS

Notice of Filing

Pursuant to sections 10(d) and 13 of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the annual reports for the committees listed below have been filed with the Library of Congress. Copies are available to the public for inspection at the Library of Congress, Special Forms Reading Room, Main Building, or on weekdays, at the Department Library, North Building, Room 1436, Washington, D.C. 20201, between 9 a.m. and 4:30 p.m.

Aging Review Committee
Allergy and Immunology Research Committee
Allergy and Immunology Study Section
Animal Resources Advisory Committee
Applied Physiology and Orthopedics Study Section
Arteriosclerosis and Hypertension Advisory Committee
Artificial Kidney-Chronic Uremia Advisory Committee
Bacteriology and Mycology Study Section
Behavioral Sciences Research Contract Review Committee
Biochemistry Study Section
Biomedical Library Review Committee
Biometry and Epidemiology Contract Review Committee
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Blood Diseases and Resources Advisory Committee
Board of Regents of the National Library of Medicine
Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute
Board of Scientific Counselors, Division of Cancer Treatment, National Cancer Institute
Board of Scientific Counselors, National Eye Institute
Board of Scientific Counselors, National Heart, Lung, and Blood Institute
Board of Scientific Counselors, National Institute on Aging
Board of Scientific Counselors, National Institute of Allergy and Infectious Diseases
Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases
Board of Scientific Counselors, National Institute of Child Health and Human Development
Board of Scientific Counselors, National Institute of Dental Research
Board of Scientific Counselors, National Institute of Environmental Health Sciences
Board of Scientific Counselors, National Institute of Neurological and Communicative Disorders and Stroke
Breast Cancer Diagnosis Committee
Breast Cancer Epidemiology Committee
Breast Cancer Experimental Biology Committee
Breast Cancer Treatment Committee
Cancer and Nutrition Scientific Review Committee
Cancer Center Support Grant Review Committee
Cancer Clinical Investigation Review Committee
Cancer Control and Rehabilitation Advisory Committee
Cancer Control Community Activities Review Committee
Cancer Control Grant Review Committee
Cancer Control Prevention, Detection, Diagnosis and Pretreatment Evaluation Review Committee
Cancer Control Treatment, Rehabilitation, and Continuing Care Review Committee
Cancer Research Manpower Review Committee
Cancer Special Program Advisory Committee
Carcinogenesis Program Scientific Review Committee A
Carcinogenesis Program Scientific Review Committee B
Carcinogenesis Scientific Advisory Committee
Cardiology Advisory Committee
Cardiovascular and Pulmonary Study Section
Cardiovascular and Renal Study Section
Cell Biology Study Section
Cellular and Molecular Basis of Disease Review Committee
Chemical/Biological Information-Handling Review Committee
Clearinghouse on Environmental Carcinogens
Clinical Applications and Prevention Advisory Committee
Clinical Cancer Education Committee
Clinical Cancer Program Project Review Committee
Clinical Trials Committee
Clinical Trials Review Committee
Comprehensive Sickle Cell Centers (CSCC) ad hoc Review Committee
Combined Modality Committee
Committee on Cancer Immunobiology
Committee on Cancer Immunodiagnosis
Committee on Cancer Immunotherapy
Committee on Cytology Automation
Communicative Disorders Review Committee
Communicative Sciences Study Section
Computer and Biomathematical Sciences Study Section
Contraceptive Development Contract Review Committee
Contraceptive Evaluation Research Contract Review Committee
Dental Caries Program Advisory Committee
Dental Research Institutes and Special Programs Advisory Committee
Developmental Behavioral Sciences Study Section
Developmental Therapeutics Committee
Diagnostic Radiology Committee
Diagnostic Research Advisory Group
Diet and Cancer Scientific Review Committee
Diet, Nutrition and Cancer Program Advisory Committee
DCT Drug Development Committee
Endocrinology Study Section
Epidemiology and Disease Control Study Section
Epilepsy Advisory Committee
Experimental Psychology Study Section
Experimental Therapeutics Study Section
Experimental Virology Study Section
General Clinical Research Centers Committee
General Medicine A Study Section
General Medicine B Study Section
General Research Support Program Advisory Committee
Genetics Study Section
Heart, Lung, and Blood Research Review Committee A
Heart, Lung, and Blood Research Review Committee B
Hematology Study Section
Human Embryology and Development Study Section
Infectious Disease Committee
Immunobiology Study Section
Immunological Sciences Study Section
Lipid Metabolism Advisory Committee
Mammalian Cell Lines Committee
Maternal and Child Health Research Committee
Medical Laboratory Sciences Review Committee
Medicinal Chemistry A Study Section
Medicinal Chemistry B Study Section
Mental Retardation Research Committee
Metabolism Study Section
Microbial Chemistry Study Section
Minority Access to Research Careers Review Committee
Molecular Biology Study Section
Molecular Cytology Study Section
National Advisory Allergy and Infectious Diseases Council
National Advisory Child Health and Human Development Council
National Advisory Council on Aging
National Advisory Dental Research Council
National Advisory Environmental Health Sciences Council
National Advisory Eye Council
National Advisory General Medical Sciences Council
National Advisory Neurological and Communicative Disorders and Stroke Council
National Advisory Research Resources Council
National Arthritis Advisory Board
National Arthritis, Metabolism, and Digestive Diseases Advisory Council
National Bladder Cancer Project Working Cadre
National Commission on Digestive Diseases
National Diabetes Advisory Board
National Heart, Lung, and Blood Advisory Council
National Large Bowel Cancer Project Working Cadre
National Pancreatic Cancer Project Working Cadre
National Prostatic Cancer Project Working Cadre
Neurological and Communicative Disorders and Stroke Science Information Program Advisory Committee

Neurological Disorders Program-Project Review A Committee
Neurological Disorders Program-Project Review B Committee
Neurology A Study Section
Neurology B Study Section
Nutrition Study Section
Oral Biology and Medicine Study Section
Pathobiological Chemistry Study Section
Pathology A Study Section
Pathology B Study Section
Pharmacology Study Section
Pharmacology-Toxicology Research Program Committee
Physiological Chemistry Study Section
Physiology Study Section
Population Research Committee
Population Research Study Section
Primate Research Centers Advisory Committee
Pulmonary Diseases Advisory Committee
Radiation Study Section
Reproductive Biology Study Section
Research Manpower Review Committee
Surgery A Study Section
Surgery B Study Section
Temporary Cancer Institutional Fellowship Review Committee
Temporary Review Committee for Frederick Cancer Research Center
Tobacco Working Group
Toxicology Study Section
Transplantation Immunology Committee
Tropical Medicine and Parasitology Study Section
Virology Study Section
Virus Cancer Program Advisory Committee
Virus Cancer Program Scientific Review Committee A
Virus Cancer Program Scientific Review Committee B
Vision Research Program Committee
Visual Sciences A Study Section
Visual Sciences B Study Section

Dated: December 19, 1977.

DONALD S. FREDERICKSON, M.D.,
Director,
National Institutes of Health.

[FR Doc. 77-37001 Filed 12-29-77; 8:45 am]

[4110-08]

MATERNAL AND CHILD HEALTH RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, on March 2-3, 1978, in the Landow Building, Room 4C18, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on March 2 from 9 a.m. to 10:30 a.m., to discuss items relative to the Committee's activities including announcements by the Director, Center for Research for Mothers and Children, the Chiefs, Human Learning and Behavior, Pregnancy and Infancy, and Developmental Biology and Nutrition Branches and the Executive Secretary of the Committee. Concept clearance for contract programs of the Center for Research for Mothers and Children will be discussed. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S.C. 552b(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 2 from 10:30 a.m. to adjournment on March 3 for the review, discussion, and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Majorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., 301-496-1848, will provide a summary of the meeting and a roster of committee members. Mr. Jehu Hunter, Acting Executive Secretary, Maternal and Child Health Research Committee, NICHD, Landow Building, Room 7C17, National Institutes of Health, Bethesda, Md., 301-496-1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

Dated: December 20, 1977.

THOMAS E. MALONE, Ph.D.,
Deputy Director,
National Institutes of Health.

[FR Doc. 77-36999 Filed 12-29-77; 8:45 am]

[4110-08]

MINORITY ACCESS TO RESEARCH CAREERS REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Minority Access to Research Careers Review Committee, National Institute of General Medical Sciences, on February 9 and 10, 1978, 9 a.m., National Institutes of Health, Building 31C, Conference Room 9.

This meeting will be open to the public on February 9, 9 a.m. to 10:30 a.m. The meeting will consist of opening remarks and discussion of procedural matters. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Title 5, U.S.C. 552b(c)(6), the meeting will be closed to the public on February 9 from 10:30 a.m. to 5 p.m., and on February 10 from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications could reveal personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, 5333 Westbard Avenue, Room 9A-05, Bethesda, Md. 20014, telephone 301-496-7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Prince Rivers, Executive Secretary, Westwood Building, Room 9A-17, Bethesda, Md. 20014, telephone 301-496-7357.

(Catalog of Federal Domestic Assistance Programs 13-859, 13-860, 13-861, 13-862, General Medical Sciences.)

Dated: December 20, 1977.

THOMAS E. MALONE,
Ph.D., Deputy Director,
National Institute of Health.

[FR Doc. 77-36998 Filed 12-29-77; 8:45 am]

[4110-08]

NATIONAL ADVISORY ALLERGY AND INFECTIOUS DISEASES COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, January 25, 26, and 27, 1978, in Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on January 25 from 1:30 p.m. until recess, and on January 26 from 9 a.m. until recess, to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on January 25, from 9 a.m. until 1:30 p.m., and on January 27 from 9 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md., telephone 301-496-5717, will provide summaries of the meetings and rosters of the Council members.

Dr. William I. Gay, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone 301-496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, 13.856, 13.857, and 13.858, National Institutes of Health.)

Dated: December 20, 1977.

THOMAS E. MALONE,
Ph.D., Deputy Director,
National Institute of Health.

[FR Doc. 77-36991 Filed 12-29-77; 8:45 am]

[4110-08]

NATIONAL HEART, LUNG, AND BLOOD ADVISORY COUNCIL AND ITS MANPOWER SUBCOMMITTEE AND RESEARCH SUBCOMMITTEE

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, February 2-4, 1978, National Institutes of Health, Building 31, Conference Room 10, at 9 a.m.

This meeting will be open to the public on February 2 from 9 a.m. to approximately 3 p.m., to discuss program policies and issues. Attendance by the public is limited to space available. In addition, meetings of the Manpower Subcommittee and the Research Subcommittee of the above Council will be held February 1, 1978, at 8 p.m. in Building 31, Conference Room 9 and 10 respectively.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on February 2 from 3 p.m. until recess, and on February 3 from 9 a.m. to adjournment on February 4 for the review, discussion and evaluation of individual grant applications. The Manpower Subcommittee and the Research Subcommittee of the above Council will be closed from 8 p.m. to adjournment on February 1, also for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Md. 20014, (301-496-4236), will provide summaries of the meetings and rosters of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A17, (310-496-7416), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health.)

Dated: December 20, 1977.

THOMAS E. MALONE, PH.D.,
Deputy Director, NIH.

[FR Doc. 77-36996 Filed 12-29-77; 8:45 am]

[4110-08]

POPULATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on March 8-10, 1978, in Room 4C18 of the Landow Building at 7910 Woodmont Avenue in Bethesda, Md.

This meeting will be open to the public from 9 a.m. to 10:30 a.m. on March 8 to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552b(c)(4) and 552b(c)(6) and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 8 from 10:30 a.m. to adjournment on March 10, for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Md., Area Code 301, 496-6515, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.864, National Institutes of Health.)

Dated: December 20, 1977.

THOMAS E. MALONE, PH.D.,
Deputy Director, NIH.

[FR Doc. 77-37000 Filed 12-29-77; 8:45 am]

[4110-08]

TRANSPLANTATION BIOLOGY AND IMMUNOLOGY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases on February 2-3, 1978, at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Md.

This meeting will be open to the public from 9 a.m. until 10:30 a.m. on February 2 to discuss program policies and issues. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Committee will be closed to the public from 10:30 a.m. until recess on February 2, and from 9 a.m. to adjournment on February 3 for the review, discussion, and evaluation of individual grant applications and contract proposals. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, Building 31, Room 7A32, National Institutes of Health, Bethesda, Md. 20014, telephone: 301-496-5717, will provide summaries of the meeting, and rosters of the Committee members.

Dr. Luz A. Froehlich, Acting Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 7A03, telephone: 301-496-7131 will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: December 20, 1977.

THOMAS E. MALONE, Ph.D.,
Deputy Director, NIH.

[FR Doc. 77-36995 Filed 12-29-77; 8:45 am]

[4110-02]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Meeting

AGENCY: Office of Education, HEW, Community Education Advisory Council.

ACTION: This notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Community Education Advisory Council. It also describes the functions of the Council. Notice of these meetings is required under section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-634. This document is intended to notify the general public of their opportunity to attend.

DATES: Meeting: January 17 and 18, 1978.

ADDRESS:

January 17—Dupont Room, Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, D.C.
January 18—Rooms 403-A and 405-A, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Martha S. Methee, Office of Education, Department of Health, Education, and Welfare, Room 5622-ROB No. 3, 7th and D Streets SW., Washington, D.C. 20202. Telephone: 202-245-0691.

SUPPLEMENTARY INFORMATION: The Community Education Advisory Council is authorized under Pub. L. 93-380. The Council is established to advise the Commissioner of Education on policy matters relating to the interest of community schools.

All sessions of this meeting will be open to the public.

On both days the meetings will begin at 9 a.m. On January 17 the meeting will end at 5 p.m. On January 18 the meeting will end at 3:30 p.m.

During the last meeting, held in Las Vegas, Nev. in conjunction with the 12th Annual Convention of the National Community Education Association, Hearings were held on December 1 on the future programmatic directions of the Federal Community Education Program. Topics addressed during this hearing were: (1) How can the Community Education Advisory Council assist in the development of community education throughout the country during Fiscal Year 1978; (2) How can the U.S. Office of Education, Community Education Program assist in the development of community education throughout the country during Fiscal Year 1978; and, (3) what should be the role of the Federal Government in community education during the next five years? During this forthcoming meeting, the Council will present their reactions to recommendations made during the Hearings.

The proposed agenda includes:

(1) Future Programmatic Directions of the Federal Community Education Program;

(2) Special Reports;

(3) Update on legislative matters;

(4) Assessment of Evaluation Study to Date;

(5) Evaluation Plans for Fiscal Year 1978;

(6) Status of Grants Review Process for Fiscal Year 1978;

(7) Update on Federal Community Education Clearinghouse activities;

(8) Schedule of Future meetings; and,

(9) Other Administrative Matters and Related Business.

Records shall be kept of all Council proceedings and shall be available for public inspection in Room 5622, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on December 27, 1977.

PAUL TREMPER,
Acting Director,
Community Education Program.

[FR Doc. 77-36972 Filed 12-29-77; 8:45 am]

[4110-35]

Office of the Secretary

HOSPITAL INSURANCE MONTHLY PREMIUM

Premium Rate for the Uninsured Aged

Pursuant to authority contained in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2)), I hereby determine and promulgate that the hospital insurance premium, applicable for the 12-month period commencing July 1, 1978, is $63.

Section 1818 of the Social Security Act, added by section 202 of the Social Security Amendments of 1972 (Pub. L. 92-603), provides for voluntary enrollment in the hospital insurance program (Part A of Medicare) by certain uninsured persons 65 and older who are otherwise ineligible. Section 1818(d)(2) of the Act requires the Secretary to determine and promulgate, during the final quarter of 1977, the dollar amount which will be the monthly Part A premium for voluntary enrollment for months occurring in the 12-month period beginning July 1, 1978. As required by statute, this amount must be $33 times the ratio of (1) the 1978 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearest multiple of $1 or, if midway between multiples of $1, to the next higher multiple of $1.

The purpose of the premium formula is to adjust the original $33 premium for changes in the cost of providing hospital care. The ratio of the inpatient hospital deductibles does this approximately, since the deductible as calculated under section 1813(b)(2) is based on the average daily cost of providing hospital care under the hospital insurance program. However, the deductible is calculated (by law) from data reflecting program experience in an earlier year. The increase in the 1978 deductible, and thus the increase in the premium now being promulgated for the period July 1978-June 1979, results from the increase in hospital per diem costs in calendar year 1976 over 1975. In addition, the premium calculation fails to adjust for changes in the hospital utilization rate and for changes in non-hospital costs under the program. For these reasons, the premium can only be a rough approximation to actual per capita program costs.

Under section 1813(b)(2) of the Act, the 1978 inpatient hospital deductible was determined to be $144. The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72 to comply with a ruling of the Cost of Living Council. The premium for the 12-month period ending June 30, 1979 has been calculated using the $76 deductible for 1973, since this appears to satisfy most closely the intent of the law. Thus the hospital insurance premium is $33×(144/76)=$62.53, which is rounded to $63.

Dated: December 23, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 77-37137 Filed 12-29-77; 8:45 am]

[4110-35]

SUPPLEMENTARY MEDICAL INSURANCE FOR THE AGED AND DISABLED (PART B OF MEDICARE)

Monthly Actuarial Rates and Monthly Premium Rate

Each December, the Secretary of Health, Education, and Welfare is required by law to publish two notices relating to the medicare supplementary medical insurance (SMI) program.

One notice announces two amounts which, through actuarial estimates, are determined to equal one-half of the expected average cost of SMI benefits for the aged enrollee and one-half of the expected average cost of SMI benefits for the disabled enrollee under age 65 for the 12 months beginning the following July. These amounts are called "monthly adequate actuarial rates." An accompanying statement details the actuarial assumptions and bases employed in determining these rates.

The second notice is the monthly SMI premium rate to be paid by the aged and disabled for the 12 months beginning the following July. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) This amount is the adequate actuarial rate for aged enrollees, or, if less, the current monthly premium rate increased by the same percentage by which monthly title II social security benefits were last increased. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

The notices of these announcements for the period July 1, 1978, through June 30, 1979, are as follows:

NOTICE OF MONTHLY ADEQUATE ACTUARIAL RATES

As required by sections 1839(c) (1) and (4) of the Social Security Act (42 U.S.C. 1395r(c) (1) and (4)), as amended, I hereby determine that the monthly adequate actuarial rates applicable for the 12-month period beginning July 1, 1978, are $13.40 for enrollees age 65 and over, and $25 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

NOTICE OF MONTHLY PREMIUM RATE

Under the authority granted by law, I have determined and hereby announce that the basic premium amount required by section 1839(c) (3) of the Social Security Act (42 U.S.C. 1395r(c) (3)), as amended, will be $8.20 monthly during the period beginning July 1, 1978, and ending June 30, 1979.

STATEMENT OF ACTUARIAL ASSUMPTIONS AND BASES EMPLOYED IN DETERMINING THE MONTHLY ADEQUATE ACTUARIAL RATES AND THE STANDARD MONTHLY PREMIUM RATE FOR THE SUPPLEMENTARY MEDICAL INSURANCE PROGRAM BEGINNING JULY 1978

This is a statement of actuarial assumptions and bases employed in determining the adequate actuarial rates and the standard monthly premium rate for the Supplementary Medical Insurance Program (SMI) for the period July 1978 through June 1979. The monthly adequate actuarial rate for enrollees age 65 and over is $13.40. The monthly adequate actuarial rate for disabled enrollees is $25.00. The standard monthly premium rate for both types of enrollees is $8.20.

1. ACTUARIAL STATUS OF THE SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

The law requires that the SMI program be financed on an incurred basis. That is, the income to the program during the 12-month period for which adequate rates are effective must be sufficient to pay for services (including associated administrative costs) rendered during that period even though payment for some of these services will not be made until after the close of the period. The portion of income required to cover those benefits not paid until after the close of the year is added to the trust fund until needed. Thus, the amount of assets in the trust fund at any time should be no less than the cost of the benefits and administration incurred but not yet paid. Because the adequate rates are established prospectively, they are subject to projection error. As a result, the income to the program may not be equal to incurred costs; therefore, trust fund assets should be maintained at a level which is adequate to cover the impact of a moderate degree of projection error as well as the value of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of June 30 for each of the years 1976–78.

TABLE 1.—*Actuarial status of the SMI trust fund, years ending June 30 of 1976–78*

[In millions]

Year ending June 30	Assets	Liabilities	Assets less liabilities
1976	$1,324	$1,570	−$246
1977	2,258	1,947	311
1978	3,320	2,314	1,006

2. MONTHLY ADEQUATE ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OLDER

The monthly adequate actuarial rate is one-half the monthly projected per capita cost for benefits and administrative expenses—adjusted to allow for interest earnings on assets in the trust fund, to allow for a contingency margin, and to allow for amortization of unfunded liabilities.

The monthly adequate actuarial rate for enrollees age 65 and older for the year ending June 30, 1979, was determined by projecting the fiscal year 1976 per capita cost by type of service. The projected costs for the years ending June 30 of 1976–79 are shown in Table 2. The 1976 values were established from program data. Subsequent years were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 3.

TABLE 2.—*Derivation of promulgated monthly rate for enrollees age 65 and over, years ending June 30 of 1976–79*

	1976	1977	1978	1979
Covered services (at level recognized):				
Physician's reasonable charges	$9.03	$10.16	$11.44	$12.71
Radiology and pathology	.45	.52	.60	.69
Group practice plans	.20	.24	.27	.31
Independent lab	.13	.15	.17	.20
Home health agencies	.26	.34	.43	.54
Outpatient hospital and other institutions	1.32	1.72	2.15	2.69
Total services	11.39	13.13	15.06	17.14
Cost sharing:				
Deductible	−1.72	−1.74	−1.77	−1.79
Coinsurance	−1.80	−2.11	−2.46	−2.84
Total benefits	7.87	9.28	10.83	12.51
Administrative expenses	.89	.80	.91	.97
Incurred expenditures	8.76	10.08	11.74	13.48
Value of interest on fund	−.18	−.23	−.29	−.38
Margin for contingencies and to amortize unfunded liabilities	−1.08	−.85	−.85	−.30
Promulgated monthly rate	7.50	10.70	12.30	13.40

TABLE 3.—*Projection factors, years ending June 30 of 1977–79*

[In percent]

	1977	1978	1979
Physicians' services:			
Fees[1]	[4]10.8	8.8	7.9
Utilization[2]	3.0	2.0	3.0
Outpatient hospital services per capita	30.0	25.0	25.0
Home health agency services per capita	30.0	25.0	25.0
Group practice plan services per capita	15.0	15.0	15.0
Other services per capita	15.0	15.0	15.0

[1] As recognized for payment under the program.
[2] Increase in the number of services received per capita and greater relative use of more expensive services.
[4] Reasonable charges were updated later than July 1, 1976 in most areas so the average cost increase shown in Table 2 is less than 10.8 percent.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for the year ending June 30, 1979, is $13.48. The monthly adequate actuarial rate of $13.40 provides an adjustment for interest earnings and a small margin for contingencies.

3. MONTHLY ADEQUATE ACTUARIAL RATE FOR DISABLED ENROLLEES

The monthly adequate actuarial rate for disabled enrollees applies to persons eligible to enroll because they have been entitled to disability insurance benefits for not less than 24 consecutive months or because they are suffering from end stage renal disease. Projections for disabled enrollees (other than those suffering from end stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using the same actuarial assumptions. Costs for the end stage renal disease program are projected

using a computer model because of the complex demo graphic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for the year ending June 30, 1979, is $24.34. The monthly adequate actuarial rate of $25.00 provides an adjustment for interest earnings and a small margin for contingencies.

TABLE 4.—*Derivation of promulgated monthly rate for disabled enrollees, years ending June 30 of 1976–79*

	1976	1977	1978	1979
Total benefits	$13.85	$16.82	$19.78	$22.60
Administrative expenses	1.57	1.45	1.66	1.74
Incurred expenditures	15.42	18.27	21.44	24.34
Value of interest on fund	−.31	−.41	−.53	−.68
Margin for contingencies and to amortize unfunded liabilities	3.39	1.14	4.09	1.34
Promulgated monthly rate	18.50	19.00	25.00	25.00

4. SENSITIVITY TESTING

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy under alternate assumptions of the rates promulgated here. The most unpredictable factors which contribute significantly to future costs are outpatient hospital costs, physician utilization (measured indirectly and reflecting the use of more visits per capita, the use of more expensive services, and other factors not explained by simple price per service increases), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 3.

TABLE 5.—*Projection factors and the actuarial status of the SMI trust fund under alternative sets of assumptions, years ending June 30 of 1978–79*

	This projection		Low assumption		High assumption	
	1978	1979	1978	1979	1978	1979
Projection factors (in percent):						
Physicians' fees[1]	8.8	7.9	7.3	6.4	10.3	9.4
Utilization of physicians' services[2]	2.0	3.0	0.5	1.0	4.0	5.0
Outpatient hospital services per capita	25.0	25.0	15.0	15.0	40.0	40.0
Home health agency services per capita	25.0	25.0	15.0	15.0	40.0	40.0
Actuarial status (in millions):						
Assets	$3,320	$3,939	$3,522	$4,711	$3,059	$2,917
Liabilities	$2,314	$2,727	$2,242	$2,542	$2,415	$2,985
Assets less liabilities	$1,006	$1,212	$1,280	$2,169	$644	−$68
Ratio of assets less liabilities to expenditures (in percent)[3]	11	11	15	23	6	−1

[1] As recognized for payment under the program.
[2] Increase in the number of services received per capita and greater relative use of more expensive services.
[3] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

Table 5 indicates that, under the assumptions used in preparing this report, the promulgated monthly rates will result in an excess of assets over liabilities of $1,212 million by the end of June 1979. This amounts to 12 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic produce a deficit of $68 million by the end of June 1979, although the balance in the trust fund remains positive allowing the program to continue paying claims as presented. Under fairly optimistic assumptions, the promulgated monthly rates will result in an excess of assets over liabilities of $2,169 million, which amounts to 25 percent of the estimated total incurred expenditures for the following year.

5. STANDARD PREMIUM RATE

The law provides that the standard monthly premium rate, promulgated to apply for both aged and disabled enrollees, shall be the lesser of:

1. The adequate actuarial rate for enrollees age 65 and older; or

2. The current standard monthly premium, increased by the same percentage that the level of old-age, survivors, and disability insurance (OASDI) benefits has been increased since the May preceding the promulgation (and rounded to the nearer dime).

The standard monthly premium rate for the 12-month period ending with June 30, 1978, is $7.70. The OASDI benefit table was increased 5.9 percent in June 1977. The $7.70 rate increased by 5.9 percent, and rounded to the nearer ten cent multiple, is $8.20. Since this is less than the adequate actuarial rate, the standard premium rate is $8.20 for the 12 months ending with June 1979.

Dated: December 23, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 77-37134 Filed 12-29-77; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of proposed regulations is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to announce the rates for annual operation and maintenance assessments and related information on the Fort Hall irrigation Project for calendar year 1978 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

The purpose of this notice is to announce the assessment rates and related regulations on the Fort Hall project which are not included in the general regulations under new Part 191, or which will be deleted in the corresponding sections of Part 221, Operation and Maintenance Charges, Title 25, Code of Federal Regulations, are deleted when these proposed regula-

tions are finalized. The assessment rates for 1978 will remain as for 1977.

The public is welcome to participate in the rulemaking process of the Department of the Interior, accordingly, interested persons may submit written comments, views, and arguments with respect to the assessment rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, P.O. Box 3785, Portland, Oreg. 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

FORT HALL IRRIGATION PROJECT

REGULATIONS AND CHARGES—ADMINISTRATION

The Fort Hall irrigation project, which consists of the Fort Hall unit including ceded area south of the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the officer in charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations.

IRRIGATION SEASON

Water will be available for irrigation purposes from April to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

METHODS OF IRRIGATION

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the officer in charge may limit deliveries to this type of irrigation.

DISTRIBUTION AND APPORTIONMENT OF WATER

(a) *Delivery.* Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the officer in charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user he shall notify either the water master or the ditchrider who may permit such exchange, if feasible.

(b) *Preparation and submission of a water schedule.* If the decision of the officer in charge is to deliver water by the rotation method, the water master will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the water master will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) *Application for deliveries of irrigation water.* Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shutdown, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

DUTY OF WATER

Dependent upon available supplies of water for each unit of the project the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the officer in charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

CHARGES

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham, or Power County records as of January 31, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lesee of record.

BASIC AND OTHER WATER CHARGES

(a) The annual basic water charges for the operation and maintenance of the Fort Hall irrigation project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a nonmember of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the calendar year 1978 and subsequent years until further notice as follows:

(1) Fort Hall unit basic rate, $12.50 per acre.

(2) Michaud unit basic rate, $16.75 per acre.

Additional rate for sprinkler irrigation when pressure is supplied by project, $6.25 per acre.

(3) Minor units basic rate, $10 per acre.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

PAYMENTS

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

ASSESSMENTS ON INDIAN-OWNED LAND

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or nonmembers of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or nonmembers of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by nonmembers of the tribe within the project. (See Solicitor's Opinion M28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938.)

RICHARD M. BALSIGER,
Acting Area Director.

[FR Doc. 77-37177 Filed 12-29-77; 8:45 am]

[4310-02]

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of proposed regulations is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with § 191.1(e) of Part 191, Subchapter

T, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for calendar year 1978 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583) and March 7, 1928 (45 Stat. 210).

The purpose of this notice is to announce an increase in the assessment rate on the Wapato-Satus Unit to correspond with actual operation and maintenance costs, to announce the rates on the Toppenish-Simcoe and Ahtanum Units, and to publicize related regulations which are not included in the general regulations under new Part 191, or will be deleted when the corresponding sections of Part 221, Operation and Maintenance Charges, Title 25, Code of Federal Regulations, are deleted when these proposed regulations are finalized.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than 30 days after publication of this notice in the FEDERAL REGISTER.

WAPATO IRRIGATION PROJECT—GENERAL

ADMINISTRATION

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations.

IRRIGATION SEASON

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

DELIVERY TO PATENT IN FEE LANDS

No water will be delivered to a patent in fee farm unit until all irrigation charges assessed against the land for construction, operation and maintenance, and all penalties that may have accrued, are paid.

DELIVERY TO INDIAN LANDS UNDER LEASE

No water will be delivered to trust Indian lands under lease until the lessee has paid the irrigation charges and any penalties assessed under these regulations, or in cases where the lease provides that the landowners pay the operation and maintenance charges from the lease rental, no water shall be delivered until the Superintendent of the Reservation has issued a certificate to the Project Engineer certifying that the lessee has complied fully with the terms of the lease.

DELIVERY TO INDIAN LANDS BEING FARMED BY INDIAN FARMERS

No water will be delivered to land operated by an Indian farmer until the charges fixed in these regulations are paid, or until the Superintendent of the Reservation has issued a certificate to the Project Engineer, certifying that the Indians will pay the charges through the Superintendent, or that the Indian is financially unable to pay the charges.

TIME OF PAYMENT

The charges fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

AHTANUM UNIT

CHARGES

The operation and maintenance rate on lands of the Ahtanum Irrigation Unit, for the Calendar Year 1978 and subsequent years until further notice, is fixed at $5.25 per acre per annum for land to which water can be delivered from the project works.

TOPPENISH-SIMCOE UNIT

CHARGES

The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit, for the Calendar Year 1978 and subsequent years until further notice, is fixed at $5.45 per acre per annum for land for which an application for water is approved by the Project Engineer.

WAPATO-SATUS UNIT

CHARGES

The basic operation and maintenance rate on assessable lands under the Wapato Irrigation Project are fixed for the Calendar Year 1978 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$15.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	$15.00
(3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre	$1.80
(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands	$15.90

ASSESSABLE LANDS

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A or B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending, or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of the Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

RICHARD M. BALSIGER,
Acting Area Director.

[FR Doc. 77-37178 Filed 12-29-77; 8:45 am]

[4310-84]

Bureau of Land Management

[Serial No. A 10215]

ARIZONA

Proposed Withdrawal and Reservation of Lands

On October 31, 1977, the U.S. Department of Agriculture filed application A 10215, for withdrawal of certain lands within the Coconino National Forest, described below, from appropriation under the mining laws (30 U.S.C., Chapter 2), but not the mineral leasing laws, subject to existing valid rights:

GILA AND SALT RIVER MERIDIAN, ARIZONA

Coconino National Forest

T. 21 N., R. 7 E.,
Sec. 27, S½NW¼NW¼.

The area described comprises 20 acres in Coconino Country.

The Rocky Mountain Forest and Range Experiment Station wishes to

use the land for construction of a research headquarters consisting of administrative offices, laboratory facilities, greenhouses and an arboretum.

For a period of 40 days from the date of publication of this Notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal, may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, Arizona State Office, 2400 Valley Bank Center, Phoenix, Ariz. 85073. If a public hearing is held, notice will be published in the FEDERAL REGISTER giving the time and place of such hearing.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the land for purposes other than the applicant's and reaching agreement on the concurrent management of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described land is temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated land will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon (1) rejection of the application by the Secretary, (2) withdrawal of the land by the Secretary, or (3) the expiration of two years from the date of publication of this notice.

Dated: December 21, 1977.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-37086 Filed 12-29-77; 8:45 am]

[4310-84]

ARIZONA

Chief, Branch of Records and Data Management Division of Management Services Arizona State Office; Redelegation of Authority by State Director

DECEMBER 9, 1977.

Pursuant to the authority contained in § 1.1 of BLM Order No. 701 dated July 23, 1964, as amended, authority is hereby redelegated to the Chief, Branch of Records and Data Management to take action under § 2.6(k) as to mining claim instruments filed for record with BLM under 43 CFR 3833, as follows:

(1) Accept and record instruments meeting recording requirements;

(2) Notify owners to take curative actions to complete defective filings;

(3) Reject instruments and void claims not filed within the prescribed time periods; and

(4) Reject filings and void claims located on lands not available for mineral location on dates of location.

This delegation is effective January 1, 1978.

ROBERT O. BUFFINGTON,
State Director.

[FR Doc. 77-37181 Filed 12-29-77; 8:45 am]

[4310-84]

[S 30]

CALIFORNIA

Partial Termination of Proposed Withdrawal and Reservation of Land; Correction

DECEMBER 20, 1977.

In FEDERAL REGISTER Document No. 77-31874, appearing on page 57558 of the issue of November 3, 1977, the thirteenth line of the second paragraph reading "Sec. 30, W½NE¼" is corrected to read "Sec. 30, E½NE¼."

VIOLA ANDRADE,
Acting Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 77-37182 Filed 12-29-77; 8:45 am]

[4310-84]

[C-8879]

COLORADO

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

DECEMBER 20, 1977.

The U.S. Forest Service filed application, Serial No. Colorado 8879, on May 2, 1969, for withdrawal of the following described lands:

SIXTH PRINCIPAL MERIDIAN

White River National Forest

A strip of land which lies 200 feet on each side of the centerline of Forest Highway 16 (the Marvine-Phippsburg Road) through government lands within the following legal subdivisions:

T. 2 N., R. 88 W., unsurveyed (Protraction Diagram No. 3)
Sec. 29 south of the Routt-White River National Forest boundary at Ripple Creek Divide;
Sec. 31;
Sec. 32;
T. 1 N., R. 88 W., unsurveyed (Protraction Diagram No. 3)
Sections 6 and 7;
T. 1 N., R. 89 W., unsurveyed (Protraction Diagram No. 3)
Sec. 1;
Sec. 7;
Sections 8, 9, and 10 except portions of the roadside zone which lie within privately owned H.E.S. 143, H.E.S. 145, E.S. 358A, and H.E.S. 295;
Sections 11 and 12.

Aqua Fria Lake Recreation Area

T. 8 N., R. 82 W.,
Sec. 29, SW¼SW¼;
Sec. 30, S½SE¼, SE¼SW¼;
Sec. 31, N½NE¼NE¼;
Sec. 32, N½NW¼NW¼.

The areas described aggregate approximately 630 acres.

A notice of proposed withdrawal was published in the FEDERAL REGISTER of June 12, 1969 on pages 929-9292, FR Doc. 69-6905.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colo., on or before February 6, 1978.

Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have

been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 6, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

ANDREW W. HEARD, Jr.,
Leader, Craig Team Branch of Adjudication.

[FR Doc. 77-37087 Filed 12-29-77; 8:45 am]

[4310-84]

[C-11542]

COLORADO

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

DECEMBER 21, 1977.

The U.S. Forest Service filed application, Serial No. Colorado 11542, on September 16, 1970, for withdrawal of the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN
UNCOMPAHGRE NATIONAL FOREST

PALMER ROADSIDE REST

T. 43 N., R. 7 W., Protraction 24A, dated May 5, 1969.
Section 20: SE¼, description by metes and bounds as M.S. 1909.

Beginning at Corner No. 1 and iron rod one inch in diameter, two feet long set in a hole drilled in a rock marked 1/1909. Whence U.S.L.M. E bears S. 8° 42' E., 74 feet. Point on Hayden Mountain Bears S. 79° W; thence S. 35° W., 40 feet to intersection with county road, 70 feet to south bank of Red Mountain Creek, 264.5 feet to intersection with line 3-4 of survey number 1910, 540 feet leave east bank of Red Mountain Creek, 564.1 feet to intersection of line 1-2 survey No. 1910, 1150 feet to center of Red Mountain Creek, 1310 feet to witness corner No. 2 a post four feet long set on hard rock in a large mount of stones marked witness corner 2/1909, 1500 feet to corner No. 2 which is inaccessible; thence S. 55° E., 120 feet to center of Red Mountain Creek, 300 feet to corner No. 3 which lies in center of County Road from whence Mt. Elizabeth bears N. 21° 18' E., point of rock on Mt. Abrams bears S. 69° 50' E., thence N. 35° E., 29 feet to witness corner No. 3 a post 4 feet long set in ground as far as rock would permit with mount of stones marked witness corner 3/1909, 950.2 feet to intersection of line 1-2 survey No. 1910, 1249.8 feet to intersection of line 3-4 survey No. 1910, 1500 feet to corner No. 4 a post 4 feet long with mount of stones marked 4/1909; thence N. 55° W., 85 feet to intersection with Curran Creek, 110.7 feet to intersection with line 4-1 survey No. 304A., 130.9 feet to intersection with line 1-2 of Henderson Lode, survey No. 302, 213.1 feet to intersection with line 4-1 of Survey No. 302, 287 feet to intersection with Curran Creek, 292.4 feet to intersection with line 1-2 of survey No. 304A., 300 feet to corner No. 1 the place of beginning containing 10.27 acres, more or less.

EMMA LODE ROADSIDE REST

T. 42 N., R. 8 W., Protraction 24B, dated May 5, 1965.
Section 11: SE¼, description by metes and bounds as M.S. 20141.

Beginning at Corner No. 1 from which U.S.M.M. Carbon Lake Bears S. 17° 59' E., 3927.45 feet; thence N. 36° 49' E., 317.3 feet to intersection with line 5-8 of Snowflake mineral survey No. 4508, 1,497.48 feet to intersection with line 5-8 of O.P.P. mineral survey 6998, 1500 feet to corner No. 2 from whence corner No. 8 of Snowflake Mineral Survey No. 4507 bears S. 46° 37' W., 1214.2 feet; thence N. 53° 11' W., 92.92 feet to intersection with line 7-8 of the O.P.P. mineral survey 6998, 206.67 feet to intersection with line 7-8 of Snowflake Mineral survey No. 4507, 600 feet to corner No. 3, from whence corner No. 4 of Swampangel mineral survey No. 15342 bears S. 78° 42' 40" E., 545.22 feet; thence S. 36° 49' W., 112 feet to intersection with unnamed creek, 820 feet to intersection with unnamed creek, 1500 feet with corner No. 4; thence S. 53° 11' E., 560 feet to intersection with Silverton R.R., 600 feet to corner No. 1, the place of beginning, containing 13.95 acres, more or less.

The areas described aggregate approximately 24.22 acres.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER of September 30, 1970, on page 15247, FR Doc. 70-12993.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colo., on or before February 7, 1978.

Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 7, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

MERRILL G. ANDERSON,
Leader, Montrose Team Branch of Adjudication.

[FR Doc. 77-37092 Filed 12-29-77; 8:45 am]

[4310-84]

[C-17190]

COLORADO

Notice of Opportunity for Public Hearing and Republicaiton of Notice of Proposed Withdrawal

The U.S. Forest Service filed application, Serial No. Colorado 17190, on October 30, 1972, for withdrawal of the following described lands:

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 1 S., R. 94 W.,
sec. 14, N½NW¼NW¼;
sec. 15, N½NE¼NE¼.

The area described contains 40 acres in Rio Blanco County.

The applicant desires that the land be reserved for use as an administrative site.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on November 30, 1972, at pages 25419 and 25420.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colo., on or before February 6, 1978.

Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 6, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the State Director, Bureau of Land Management, Department of the Interior, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

ANDREW W. HEARD, Jr.,
Leader, Craig Team
Branch of Adjudication.

DECEMBER 20, 1977.

[FR Doc. 77-37089 Filed 12-29-77; 8:45 am]

[4310-84]

[17486]

COLORADO

Order Providing for Opening of Public Lands

DECEMBER 22, 1977.

The Federal Power Commission in its orders issued November 27, 1972 (35 FR 25568, December 1, 1972) and November 19, 1975 vacated Projects 263 and 301 as to the following described lands:

SIXTH PRINCIPAL MERIDIAN

(Descriptions in ( ) were those controlling when the lands were originally withdrawn)

T. 1 N., R. 78 W.,
Sec. 7: Lot 3;
Sec. 18: S½NE¼.
T. 1 N., R. 79 W.,
Sec. 6: Lots 1, 2, 7, SW¼NE¼,E½SW¼, S½SE¼;
Sec. 7: Lots 1, 2, W½NE¼, E½NW¼;
Sec. 8: N½N½;
Sec. 9: S½NE¼, SW¼NW¼;
Sec. 10: SW¼NW¼;
Sec. 11: S½SW¼;
Sec. 12: SW¼NE¼, SW¼NW¼, NE¼SE¼;
Sec. 14: N½NW¼;
Sec. 15: N½NE¼, NW¼NW¼;
Sec. 17: NE¼, NE¼NW¼, S½NW¼, N½SW¼;
Sec. 18: Lots 1, 3, 4.
T. 2 N., R. 79 W.,
Sec. 30: E½NE¼;
Sec. 31: SE¼SE¼.
T. 1 S., R. 80 W.,
Sec. 4: Lot 8 (NW¼NW¼), NE¼SW¼;
Sec. 5: Lots 6, 12, 14, SE¼NW¼, N½SW¼, SE¼SW¼;
Sec. 6: Lot 2, SW¼NE¼, NE¼SE¼;
Sec. 8: Lots 3, 4, 6, E½SE¼;
Sec. 9: Lots 2, 5, W½E½;
Sec. 17: E½E½;
Sec. 21: Lot 4;
Sec. 28: Lots 3, 5, SE¼NE¼, NW¼NW¼, SE¼NW¼, E½SW¼;
Sec. 33: Lot 3, Lots 4 and 5 (SE¼NE¼), NE¼NW¼.
T. 1 N., R. 80 W.,
Sec. 1: Lots 5 (formerly lot 4), 6 (SW¼NW¼), 7 (SE¼NW¼), 8 (SW¼NE¼), 9 (NE¼SW¼), 10 (NW¼SW¼);
Sec. 2: N½SE¼, SW¼SE¼;
Sec. 4: Lots 9 (SW¼NW¼), 10 (SE¼NW¼), 11 (SW¼NE¼), SW¼, W½SE¼;
Sec. 5: Lots 1, 2, 5 (SW¼NE¼), 6 (SE¼NE¼), 7 (NE¼SE¼), 8 (NW¼SE¼), SW¼SW¼;
Sec. 6: Lots 1, 2, 3, 4, 5, 6, 7, S½NE¼, SE¼NW¼, E½SW¼, NW¼SE¼, S½SE¼;
Sec. 7: Lot 1, NE¼, E½NW¼;
Sec. 8: NW¼;
Sec. 9: W½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 10: E½NE¼, SE¼;
Sec. 11: NW¼NW¼, S½NW¼;
Sec. 12: SE¼NE¼;
Sec. 13: Lots 1, 2, 3, 4 (formerly SE¼);
Sec. 15: Lots 1, 2, 3, 4 (formerly NW¼), N½NE¼, S½S½;
Sec. 19: Lot 4, SE¼SW¼, S½SE¼;
Sec. 20: S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 21: Lots 2 (NW¼SW¼), 3 (SW¼SW¼), N½NE¼, S½NW¼;
Sec. 22: Lots 2 (NW¼NE¼), 3 (NE¼NW¼), 4 (NW¼NW¼);
Sec. 24: Lots 1 (NW¼NE¼), 2 (SW¼NE¼), NE¼SW¼;
Sec. 28: NW¼NW¼, SE¼SW¼;
Sec. 29: W½W½;
Sec. 30: Lot 1, NE¼, NE¼NW¼, NE¼SE¼, S½SE¼;
Sec. 31: N½NE¼;
Sec. 32: E½NE¼, N½NW¼, SW¼NW¼, NE¼SE¼;
Sec. 33: W½.
T. 2 N., R. 80 W.,
Sec. 7: Lots 8, 9, 16 (formerly lots 1, 2, 3, respectively), 10 (SE¼NW¼), 15 (NE¼SW¼), 17 (SE¼SW¼);
Sec. 18: Lots 14 and 15 (formerly lots 3 and 4, respectively), 7 (NE¼NW¼), 8 (SE¼NW¼), 13 (NE¼SW¼);
Sec. 19: Lots 7, 8, 13, 14 (formerly lots 1, 2, 3, 4, respectively);
Sec. 31: Lots 5 (NE¼NW¼), 6 and 7 (formerly lots 1 and 2, respectively), 8 (SE¼NW¼), SE¼SE¼.
T. 1 N., R. 81 W.,
Sec. 1: Lots 1, 2, 3, 4, S½N½, E½SE¼;
Sec. 23: NE¼SE¼;
Sec. 24: N½SW¼, SE¼.
T. 2 N., R. 81 W.,
Sec. 1: Lots 2 and 3 (area nonexistent on presently controlling surveys), 5 (SW¼NE¼), 6 (SE¼NW¼), 9 (NE¼SW¼), 10 (NW¼SE¼), 11 (SW¼SE¼), 12 (SE¼SW¼);
Sec. 13: NW¼SW¼, S½SW¼;
Sec. 24: E½NW¼, SW¼, SE¼SE¼;
Sec. 25: E½NE¼, E½NW¼, NE¼SW¼, N½SE¼, SE¼SE¼.

The areas described aggregate approximately 11,537 acres in Grand County.

Of the lands described above, the following are patented:

SIXTH PRINCIPAL MERIDIAN

T. 1 N., R. 79 W.,
Sec. 12: SW¼NW¼ and NE¼SE¼;
Sec. 18: Lot 1.
T. 1 S., R. 80 W.,
Sec. 8: E½SE¼;
Sec. 9: Lot 2;
Sec. 28, Lot 5 and SE¼NE¼.

The areas described aggregate approximately 284.04 acres.

At 10 a.m. January 27, 1978, the above described lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on January 27, 1978, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquiries concerning the lands should be addressed to the undersigned, Bureau of Land Management, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

ANDREW W. HEARD, Jr.,
Team Leader, Craig District
Branch of Adjudication.

[FR Doc. 77-37091 Filed 12-29-77; 8:45 am]

[4310-84]

[C-21667]

COLORADO

Notice of Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

DECEMBER 21, 1977.

The U.S. Forest Service filed application Serial Number Colorado 21667

on June 11, 1974 for a withdrawal in relation to the following described lands:

SAN JUAN NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

T. 37 N., R. 8 W.,
Sec. 8, E½E½;
Sec. 9, W½W½;
Sec. 17, E½NE¼, S½SW¼SW¼, NE¼SE¼, and N½SE¼SE¼;
Sec. 18, SE¼SE¼SE¼;
Sec. 29, S½NE¼
Sec. 20, W½SW¼SW¼ and W½E½SW¼SW¼;
Sec. 30, E½NE¼.
T. 37 N., R. 9 W.,
Sec. 1, Lot 3;
Sec. 2, SE¼NE¼, NE¼SE¼, and E½SE¼SE¼;
Sec. 11, E½E½E½;
Sec. 12, SW¼NW¼, W½SW¼, S½NE¼SW¼, and NW¼SE¼;
Sec. 13, NW¼SW¼ and S½SW¼;
Sec. 24, E½W½;
Sec. 25, E½NE¼SW¼ and NE¼SE¼SW¼.
T. 38 N., R. 9 W.,
Sec. 1, SW¼NW¼ and NW¼SW¼;
Sec. 24, E½NW¼, N½SW¼, and SE¼SW¼;
Sec. 25, SE¼SW¼;
Sec. 36, N½NW¼, SW¼NW¼, NW¼SW¼, and S½SW¼.
T. 39 N., R. 8 W. (Protraction Diagram No. 27, dated November 12, 1964),
Sec. 5, W½NW¼ and N½NW¼SW¼;
Sec. 6, NE¼, NE¼NW¼, S½NW¼, N½SW¼, and N½N½SE¼;
Sec. 7, West 20 chains.
T. 39 N., R. 9 W.,
Sec. 12, S½NE¼SW¼, SE¼NE¼SE¼, and S½SE¼;
Sec. 13, W½NE¼NE¼, W½NE¼, W½SE¼, and W½SE¼SE¼;
Sec. 24, W½E½NE¼ and W½NE¼;
Sec. 25, W½NE¼, E½E½NE¼NW¼ excluding M.S. 20762;
Sec. 36, NE¼SW¼, W½SW¼ excluding M.S. 1779.
T. 40 N., R. 8 W. (Protraction Diagram No. 27, dated November 12, 1964),
Sec. 31, E½NE¼, SE¼NW¼NE¼, SW¼NE¼, E½NE¼SW¼, and SE¼SW¼SE¼;
Sec. 32, NW¼ excluding Coal Bank Pass Withdrawal, NE¼SW¼ and W½SW¼.

A strip of land 200 feet on either side of the centerline of U.S. Highway 550 crossing through the following described lands:

T. 40 N., R. 8 W.,
Sec. 21, W½NE¼, SE¼NW¼, SW¼ excluding Deer Creek Withdrawal;
Sec. 28, N½NW¼;
Sec. 29, NE¼, E½NW¼, S½SW¼, and W½SE¼.

Also a strip of land 200 feet from centerline on north side of U.S. Highway 550 and 400 feet from centerline of south side of U.S. Highway 550 through the following described lands:

T. 40 N., R. 8 W.,
Sec. 12, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 13, E½NW¼, S½SW¼NW¼, N½SW¼ except for Molas Pass Withdrawal;
Sec. 14, S½S½NE¼, SE¼NW¼, N½SW¼, SW¼SW¼, N½N½SE¼ except for East Line Withdrawal;
Sec. 15, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 22, N½N½NW¼ and NW¼NE¼.

The areas described aggregate 4532 acres of National Forest Lands in LaPlata and San Juan Counties, Colo.

The applicant desires that the land be reserved for use as a roadside and travel influence zone adjacent to U.S. Highway 550.

A notice of the proposed withdrawal as published in the FEDERAL REGISTER on September 17, 1975 at pages 42906, 42907, Doc. No. 75-19180.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colo., on or before February 7, 1978.

Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 7, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests) in connection with this pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

MERRILL G. ANDERSON,
Leader, Montrose Team,
Branch of Adjudication.

[FR Doc. 77-37088 Filed 12-29-77; 8:45 am]

[4310-84]

[C-25379 D, F, and G]

COLORADO

Notice of Pipeline Application; Northwest Pipeline Corp.

DECEMBER 21, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for rights-of-way for 4½ inch o.d. Trail Canyon gathering system pipelines totaling approximately 0.067 of a mile in length across the following National Resource Lands:

6TH P.M.

RIO BLANCO COUNTY, COLO.

T. 4 S., R. 101 W.,
Sec. 10, N½SE¼;
Sec. 15, SW¼NE¼;
Sec. 16, NW¼SE¼.

The proposed facilities will enable the applicant to increase its natural gas gathering and transportation systems and thereby meet the demands of its customers.

The purposes of this notice are: To inform the public that the Bureau of Land Management will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved and, if so, under what terms and conditions; to allow interested parties to comment on the application, and to allow any persons asserting a claim to the lands or having bona fide objections to the proposed natural gas pipeline right-of-way to file their objections in this office. Any person asserting a claim to the lands or having bona fide objections must include evidence that a copy thereof has been served on the applicant.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of the notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 77-37090 Filed 12-29-77; 8:45 am]

[4310-84]

[C-15142]

COLORADO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

DECEMBER 21, 1977.

The U.S. Forest Service filed application, Serial No. Colorado 15142 on

January 14, 1972, for a withdrawal of the following described lands:

RIO GRANDE NATIONAL FOREST, NEW MEXICO PRINCIPAL MERIDIAN

PARK CREEK ADMINISTRATIVE SITE

T. 38 N., R. 3 E.,
Sec. 31, W½NE¼.

UNCOMPAHGRE NATIONAL FOREST, NEW MEXICO PRINICIPAL MERIDIAN

HIGHWAY 145 ROADSIDE ZONE

A strip of land 200-feet wide on each side of the Colorado State Highway 145 centerline through the following described lands:
T. 41 N., R. 9 W.,
Sec. 5, Lot 2, SW¼Sw¼NE¼, E½SW¼, W½Se¼;
Sec. 7, E½SE¼;
Sec. 8, NE¼NW¼; and
Sec. 18, NE¼, NE¼SW¼, NW¼SE¼.
T. 42 N., R. 9 W.,
Sec. 20, E½SW¼;
Sec. 28, SW¼Sw¼;
Sec. 29, W½E½, NE¼NW¼, E½SE¼;
Sec. 32, NE¼NE¼, S½NE¼, E½SW¼, W½SE¼; and
Sec. 33, W½E½NW¼, W½NW¼.
Excluding portions of mineral patents M. S. 1005, 1167A, 7301, 8603A, 12342, 12416, 14048, 15590, and 20027.

PROSPECT BASIN SKI AREA

T. 42 N., R. 9 W.,
Sec. 1, Lots, 2, 3, S½NW¼;
Sec. 2, Lots 1, 2, 3, and 4, S½NE¼, S½SW¼, SE¼;
Sec. 3, SE¼SW¼;
Sec. 4, Lot 2, SW¼SE¼;
Sec. 9, NW¼NE¼, S½NE¼, SE¼NW¼, SE¼;
Sec. 10, SW¼NW¼, W½SW¼, E½SE¼;
Sec. 11, All;
Sec. 12, W½NW¼;
Sec. 14, N½NE¼, SW¼NE¼, W½, NW¼NW¼SE¼;
Sec. 15, E½, N½NW¼ SE¼NW¼;
Sec. 22, NE¼NE¼; and
Sec. 23, NW¼NW¼.
T. 43 N., R. 9 W.,
Sec. 32, NE¼SW¼, N½SE¼;
Sec. 33, NW¼SW¼; and
Sec. 35, S½SW¼, SW¼SE¼.
Excluding all or portions of mineral patents M. S. 244, 658, 801, 2019, 2169, 2200, 2238, 4859A, 4883A, 7054, 8542, 9002, 9066A, 9148, 12688, 14485, 15337, 15525, 17044, 17980, and 24912.

GUNNISON NATIONAL FOREST, SIXTH PRINCIPAL MERIDIAN

RIVERS END CAMPGROUND

T. 14 S., R. 82 W.,
Sec. 5, E½NE¼SW¼, NW¼SE¼, N½SW¼SE¼, except the portion included in M. S. 8806.

The areas described aggregate approximately 3,404 acres.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on March 24, 1972, on pages 6122, 6123, FR Doc. 72-4500.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawl must file a written request for a hearing with the State Director, Bureau of Land Management, Colorado State Bank Building, 1600 Broadway, Denver, Colo., on or before February 7, 1978.

Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 7, 1978.

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976 the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except public hearing requests), in connection with this pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202.

MERRILL G. ANDERSON,
Leader, Montrose Team Branch of Adjudication.

[FR Doc. 77-37175 Filed 12-29-77; 8:45 am]

[4310-84]

[Colorado 11542]

COLORADO

Termination of Proposed Withdrawal and Reservation of Lands

DECEMBER 22, 1977.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 11542, for withdrawal and reservation of lands for public purposes was published as FR Doc. 70-12993 on page 15247 of the issue of September 30, 1970. The applicant agency has cancelled its application as to the following described lands:

SIXTH PRINCIPAL MERIDIAN, PIKE NATIONAL FOREST

South Platte River Recreation Site and Streamside Zone A strip of land 330 feet on each side of the center of the South Fork of the South Platte River and Tarryall Creek within the following subdivisions:
T. 10 S., R. 71 W., Protraction Diagram dated May 17, 1968,
Sec. 22, SE¼SE¼; and
Sec. 27 and 34.
T. 11 S., R. 71 W.,
Sec. 4, Lots 5, 12;
Sec. 16, S½;
Sec. 17, SE¼NE¼, NE¼SE¼; and
Sec. 21, N½NE¼.
Also a strip of land 660 feet each side of the South Fork of the South Platte River and Tarryall Creek within the following subdivisions:
T. 11 S., R. 71 W.,
Sec. 3, W½;
Sec. 4, Lot 13, SE¼SW¼, SE¼;
Sec. 9, and
Sec. 16, N½.

ELEVEN MILE CANYON RECREATION AREA ADDITION

T. 12 S., R. 71 W.,
Sec. 31, SE¼NW¼.

The areas described aggregate approximately 1,000 acres.

Therefore, pursuant to the regulation contained in 43 CFR, Part 2310, such lands will be relieved of the segregative effect of the above mentioned application 30 days from the date of this notice.

RODNEY A. ROBERTS,
Leader, Canon City-Grand Junction Team Branch of Adjudication.

[FR Doc. 77-37176 Filed 12-29-77; 8:45 am]

[4310-84]

[NM 32349]

NEW MEXICO

Application

DECEMBER 19, 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), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 N., R. 8 W.,
Sec. 3, lot 3.
T. 25 N., R. 8 W.,
Sec. 34, SE¼SW¼.

This pipeline will convey natural gas cross 0.338 of a mile of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of

whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-37096 Filed 12-29-77; 8:45 am]

[4310-84]

NEW ORLEANS OCS OFFICE

Receipt of Coral Application

Notice is hereby given that the following application for a permit has been received under 43 CFR 6224, Viable Coral Communities located on the Outer Continental Shelf:

APPLICANT

Texas Instruments, Inc., Ecological Services, P.O. Box 5621, MS 949, Dallas, Tex. 75222; 214-238-5794.

AREA OF PROPOSED OPERATIONS

The proposed area of operations includes that area of the Outer Continental Shelf off the coasts of South Carolina, Georgia, and northern Florida which is known as the Georgia Embayment. The area is defined by the Atlantic shoreline of the respective states, a line preceding eastward from 33°50' North latitude, 78°24' West longitude to the continental shelf break at approximately 33°01' North latitude, 77°21' West longitude; then southward along the outer continental shelf break and upper continental slope to 29°39' North latitude, 79°52' West longitude and from this point along a straight line to 29°27' North latitude, 81°02' West longitude.

DESCRIPTION OF PROPOSED OPERATION

The purpose of the proposed trawl and tumbler dredge operations is the assessment of epibenthic macrofauna and demersal fish community structure on the Outer Continental Shelf, the analysis of tissue concentrations of trace metals and petroleum hydrocarbons in representative species and the histological examination of these species for evidence of parisitic infestation and/or tissue abnormalities. It is not the purpose of this proposed scientific research program to collect coral. However, it is anticipated that coral specimens will inadvertently be taken during normal trawl operations.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the New Orleans Outer Continental Shelf Office, 500 Camp Street, Suite 841, New Orleans, La. 70130. Any such information designated by applicant as proprietary, and not subject to public inspection, may be excluded.

Interested persons may comment on this application by submitting written data, views, or arguments to the Manager, New Orleans OCS Office at the above address. All relevant comments received on or before January 30, 1978 will be considered.

JOHN L. RANKIN,
Manager, New Orleans Outer Continental Shelf Office.

DECEMBER 21, 1977.

[FR Doc. 77-37095 Filed 12-29-77; 8:45 am]

[4310-84]

NORTH ATLANTIC OUTER CONTINENTAL SHELF

Oil and Gas Lease Sale No. 42

JANUARY 31, 1978.

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of Bids.* Sealed bids will be received by the Manager, New York Outer Continental Shelf (OCS) Office, Bureau of Land Management, either in person or by mail, for the oil and gas lease sale on tracts described in paragraph 13 herein, and located in the North Atlantic Outer Continental Shelf. Bids may be delivered either by mail or in person to the Federal Building, Suite 32-120, 26 Federal Plaza, New York, N.Y. 10007, until 4:30 p.m., e.s.t., January 30, 1978, or by personal delivery to Grand Ballroom, New York Hilton Hotel, 1335 Avenue of the Americas, New York, N.Y. 10019 between the hours of 8:30 a.m., e.s.t., and 9:30 a.m., e.s.t., January 31, 1978. Bids received by the Manager other than during the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager before 9:30 a.m., e.s.t., January 31, 1978. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 42 FR 54881, October 11, 1977.

3. *Method of Bidding.* A separate bid in a sealed envelope must be submitted for each tract and be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract); not to be opened until 10 a.m., e.s.t., January 31, 1978." A suggested bid format appears in paragraph 17. Bidders are advised that tract numbers are assigned solely for administrative purposes during this sale and are not the same as block numbers found on OCS Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, cashier's check, certified check, bank draft or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in a percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR 3302. The suggested form for this statement appears in paragraph 18. Other documents required of bidders are listed under 43 CFR 3302.4. Bidders are warned against violation of 18 USC 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Royalty Bidding.* Bids on the following tracts must be submitted on a royalty bid basis with a fixed cash bonus as indicated. Leases which may be awarded on a royalty bid basis will provide for a yearly rental or minimum royalty payment of $8 per hectare[1] or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expressed in other ways, it is requested that it be written as it is in the following example: 21.75698 percent. A suggested royalty bid form is shown in paragraph 17(a).

(a) A fixed cash bonus of $1,000 per hectare will be required on tracts 42-8 and 42-55.

(b) A fixed cash bonus of $750 per hectare will be required on tracts 42-7, 42-48, 42-56, and 42-88.

(c) A fixed cash bonus of $375 per hectare will be required on tracts 42-46 and 42-161.

(d) A fixed cash bonus of $125 per hectare will be required on tracts 42-6, 42-9, 42-10, 42-11, 42-12, 42-15, 42-16, 42-17, 42-24, 42-25, 42-38, 42-39, 42-40, 42-41, 42-42, 42-43, 42-44, 42-45, 42-47, 42-49, 42-50, 42-51, 42-52, 42-53, 42-54, 42-57, 42-58, 42-59, 42-76, 42-77, 42-96, 42-105, 42-106, 42-107, 42-108, 42-109, 42-110, 42-116, 42-147, 42-148, 42-149, 42-159, 42-160, 42-169, and 42-170.

5. *Bonus Bidding.* Bids submitted on all the remaining tracts to be offered at this sale must be on a cash bonus bid basis. the royalty for all tracts (except the higher royalty tracts) is fixed at 16⅔ percent. Tracts 42-3, 42-18, 42-19, 42-20, 42-26, 42-27, 42-28, 42-78, 42-79 and 42-80, are in this sale notice referred to as "higher royalty tracts". The royalty for all higher royalty tracts is fixed at 40%. Leases which may be issued will provide for a yearly rental or minimum royalty of $8.00 per hectare or fraction thereof.

[1] One hectare equals 2.471 acres.

6. *Equal Opportunity.* Each bidder must have submitted by 9:30 a.m., e.s.t., January 31, 1978, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid Opening.* Bids will be opened on January 31, 1978, beginning at 10 a.m., e.s.t., in the Grand Ballroom, New York Hilton Hotel at the address stated in paragraph 2. The opening of bids is for the sole purpose of publicly announcing and recording bids received; no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight January 31, 1978, that bid will be returned unopened to the bidder as soon thereafter as possible.

8. *Deposit of Payments.* Any cash, cashier's checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of Tracts.* The United States reserves the right to withdraw any tracts from this sale prior to the issuance of a written acceptance of a bid for that tract.

10. *Acceptance or Rejection of Bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) The bid is the highest valid royalty bid on the designated royalty tracts or the highest valid cash bonus bid for the remaining tracts; and

(c) The amount of the bid has been determined to be adequate by the Secretary of the Interior.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of $62 or more per hectare or fraction thereof on the tracts designated for cash bonus bidding and 12.50 percent or more royalty on the tracts designated for royalty bidding.

11. *Successful Bidders.* Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction Diagrams.* The tracts offered for lease described in paragraph 13, may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for $2 each from the Manager, New York Outer Continental Shelf Office at the address stated in paragraph 2:

(1) NK 19-8.
(2) NK 19-9.
(3) NK 19-11.
(4) NK 19-12.

13. *Tract Descriptions.* The tracts offered for bid are as follows:

NOTE.—There are gaps in the sequence of the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement are not included in this notice.

OCS OFFICIAL PROTRACTION DIAGRAM NK 19-8

(Approved October 31, 1974)

Tract	Block	Description	Hectares
42—3	643	All	2304.00
42—6	916	All	2304.00
42—7	917	All	2304.00
42—8	961	All	2304.00
42—9	962	All	2304.00
42—10	1006	All	2304.00

OFFICIAL PROTRACTION DIAGRAM NK 19-9

(Approved March 20, 1975)

Tract	Block	Description	Hectares
42-11	883	All	2304.00
42-12	884	All	2304.00
42-13	899	All	2304.00
42-14	900	All	2304.00
42-15	926	All	2304.00
42-16	927	All	2304.00
42-17	928	All	2304.00
42-18	930	All	2304.00
42-19	931	All	2304.00
42-20	932	All	2304.00
42-21	942	All	2304.00
42-22	943	All	2304.00
42-23	944	All	2304.00
42-24	970	All	2304.00
42-25	971	All	2304.00
42-26	974	All	2304.00
42-27	975	All	2304.00
42-28	976	All	2304.00
42-29	981	All	2304.00
42-30	983	All	2304.00
42-31	986	All	2304.00
42-32	987	All	2304.00
42-33	988	All	2304.00
42-34	989	All	2304.00

OFFICIAL PROTRACTION DIAGRAM NK 19-11

(Approved October 31, 1974)

Tract	Block	Description	Hectares
42-38	38	All	2304.00
42-39	39	All	2304.00
42-40	80	All	2304.00
42-41	81	All	2304.00
42-42	82	All	2304.00
42-43	83	All	2304.00
42-44	84	All	2304.00
42-45	123	All	2304.00
42-46	124	All	2304.00
42-47	125	All	2304.00
42-48	128	All	2304.00
42-49	167	All	2304.00

OFFICIAL PROTRACTION DIAGRAM NK 19-11—Continued

(Approved October 31, 1974)

Tract	Block	Description	Hectares
42-50	168	All	2304.00
42-51	169	All	2304.00
42-52	171	All	2304.00
42-53	172	All	2304.00
42-54	214	All	2304.00
42-55	215	All	2304.00
42-56	216	All	2304.00
42-57	258	All	2304.00
42-58	259	All	2304.00
42-59	260	All	2304.00

OFFICIAL PROTRACTION DIAGRAM NK 19-12

(Approved April 29, 1975)

Tract	Block	Description	Hectares
42-76	1	All	2304.00
42-77	2	All	2304.00
42-78	6	All	2304.00
42-79	7	All	2304.00
42-80	8	All	2304.00
42-81	12	All	2304.00
42-82	13	All	2304.00
42-83	14	All	2304.00
42-84	15	All	2304.00
42-85	19	All	2304.00
42-86	20	All	2304.00
42-87	21	All	2304.00
42-88	45	All	2304.00
42-89	56	All	2304.00
42-90	57	All	2304.00
42-91	58	All	2304.00
42-92	59	All	2304.00
42-93	63	All	2304.00
42-94	64	All	2304.00
42-95	65	All	2304.00
42-96	89	All	2304.00
42-97	99	All	2304.00
42-98	100	All	2304.00
42-99	101	All	2304.00
42-100	102	All	2304.00
42-101	103	All	2304.00
42-102	107	All	2304.00
42-103	108	All	2304.00
42-104	109	All	2304.00
42-105	133	All	2304.00
42-106	134	All	2304.00
42-107	135	All	2304.00
42-108	136	All	2304.00
42-109	137	All	2304.00
42-110	138	All	2304.00
42-111	142	All	2304.00
42-112	143	All	2304.00
42-113	144	All	2304.00
42-114	145	All	2304.00
42-115	146	All	2304.00
42-116	177	All	2304.00
42-117	186	All	2304.00
42-118	187	All	2304.00
42-119	188	All	2304.00
42-120	189	All	2304.00
42-121	190	All	2304.00
42-122	226	All	2304.00
42-123	227	All	2304.00
42-124	228	All	2304.00
42-125	229	All	2304.00
42-126	230	All	2304.00
42-127	231	All	2304.00
42-128	232	All	2304.00
42-129	233	All	2304.00
42-130	266	All	2304.00
42-131	267	All	2304.00
42-132	269	All	2304.00
42-133	270	All	2304.00
42-134	271	All	2304.00
42-135	272	All	2304.00
42-136	273	All	2304.00
42-137	274	All	2304.00
42-138	310	All	2304.00
42-139	311	All	2304.00
42-140	312	All	2304.00
42-141	313	All	2304.00
42-142	314	All	2304.00
42-143	315	All	2304.00
42-144	316	All	2304.00

OFFICIAL PROTRACTION DIAGRAM NK 19-12—Continued

(Approved April 29, 1975)

Tract	Block	Description	Hectares
42-145	317	All	2304.00
42-146	318	All	2304.00
42-147	322	All	2304.00
42-148	323	All	2304.00
42-149	324	All	2304.00
42-150	353	All	2304.00
42-151	354	All	2304.00
42-152	355	All	2304.00
42-153	356	All	2304.00
42-154	357	All	2304.00
42-155	358	All	2304.00
42-156	359	All	2304.00
42-157	360	All	2304.00
42-158	361	All	2304.00
42-159	365	All	2304.00
42-160	366	All	2304.00
42-161	367	All	2304.00
42-162	397	All	2304.00
42-163	398	All	2304.00
42-164	399	All	2304.00
42-165	400	All	2304.00
42-166	401	All	2304.00
42-167	402	All	2304.00
42-168	403	All	2304.00
42-169	409	All	2304.00
42-170	410	All	2304.00
42-171	443	All	2304.00
42-172	444	All	2304.00
42-173	445	All	2304.00
42-174	447	All	2304.00
42-175	492	All	2304.00
42-176	493	All	2304.00
42-177	536	All	2304.00
42-178	537	All	2304.00

14. *Lease Terms and Stipulations.* Leases issued as a result of this sale will be on Form 3300-1 (December 1976) available from the Manager, New York Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted the following stipulations will be included in each lease resulting from this sale.

In the following stipulations the term Supervisor refers to the Atlantic area oil and gas Supervisor for operations of the Geological Survey and the term Manager refers to the Manager of the New York OCS Office of the Bureau of Land Management.

Stipulation No. 1

If the Supervisor having reason to believe that a site, structure or object of historical or archeological significance hereinafter referred to as "cultural resource", may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation", the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archeological investigation conducted by a qualified marine survey archeologist or underwater archeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archeologist or underwater archeologist shall be submitted to the Supervisor and the Manager for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

Stipulation No. 2

When an area or resource has been identified as biologically important, the Supervisor may give written notice that the lessor is invoking the provisions of this stipulation. The first definition of such areas will take place before exploration starts in the lease sale area. The area will be examined periodically by the lessor throughout the operating life of the field. The lessee shall, upon receipt of such notice, comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development of lease areas (hereinafter referred to as "operation") including, but not limited to, well drilling and pipeline and platform placement, the lessee shall conduct environmental surveys, as approved by the Supervisor, to determine the extent and composition of biological populations within the area covered by the lease.

Based upon results of the survey, the lessee may be required to 1) relocate the site of such operations so as not to adversely affect the area identified; or 2) modify his operation in such a way as not to adversely affect the area identified; or 3) establish to the satisfaction of the Supervisor that, on the basis of the environmental survey, such operations will not adversely affect the area.

The lessee shall submit all data obtained in the course of environmental surveys, conducted pursuant to this stipulation, to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that may result in any effect on the biologically important areas until the Supervisor has given the lessee written directions with respect to the area.

If, during operations, any area of biological importance is identified, the lessee shall make every reasonable effort to protect and preserve all biological populations within the lease area until the Supervisor has given the lessee written directions with respect to the area of biological importance.

Stipulation No. 3

Pipelines will be required, (1) if pipeline right-of-way can be determined and obtained, (2) if laying such pipelines is technically feasible and environmentally preferable, and (3) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the intergovernmental planning program for assessment and management of transportation of Outer Continental Shelf oil and gas with the participation of Federal, State, and local government and industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C., 391a).

Stipulation No. 4

To provide information to coastal States and thus to assist them in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to the Governor of each affected State a "Notice of Support Activity for the Exploration Program" (herein called "Notice").

For the purpose of this stipulation, affected States include New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. The lessee shall not be required to include privileged information in the Notice. At his discretion, the lessee may submit a separate notice for each Exploration Plan submitted for one or more leases.

A copy of the Notice shall be submitted to the Supervisor simultaneously with, or prior to, the Exploration Plan with a certification that it has been submitted to the Governor of the State(s) that will be directly affected by activities under the Plan. If the lessee shall submit a Notice in connection with two or more Exploration Plans, he shall not be required to submit additional copies of the Notice, but may instead refer to that previous submission. Before the Supervisor approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governor to submit comments on the Notice to him as well as to the lessee. Subsequent to the submission of the certification, significant changes in estimated support activities will be forwarded by the lessee as an amendment to the Notice to the Supervisor, and the Governor of the State(s) that will be directly affected by the program.

The Notice shall include with respect to the lessee and his contractors:

(1) A description of the facilities, including site and size, that may be constructed, leased, rented or otherwise procured in affected areas;

(2) The location and amount of acreage required within the State for facilities, including the need for storage of various supplies;

(3) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the onshore location of terminals;

(4) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, the approximate number of local personnel who are expected to be employed for or in support of the exploration program, and the approximate total number of persons who are expected to be employed for the exploration program;

(5) Estimates of the approximate addition to the population on a county basis due to the exploration program and the approximate number of persons needing housing and other facilities;

(6) An estimate of any significant quantity of major supplies and equipment to be procured within the State; and

(7) The onshore addresses of the lessee's operation offices and of the offices of contractors involved with the exploratory operation.

Stipulation No. 5

Drill cuttings and drilling muds shall be disposed of by shunting the material through a downpipe to a depth of 20–50 feet below the ocean surface or by transporting these materials to preselected disposal sites approved by the Supervisor, and the Environmental Protection Agency. Based upon the composition of produced formation waters, the Supervisor may require reinjection.

Stipulation No. 6

Unless the lessee can demonstrate to the satisfaction of the Supervisor that it would not be in the interests of conservation, all reservoirs underlying this lease which extend into one or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) and approved by the Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on a method acceptable to him.

Structures approved by the Supervisor for emplacement on the lease area for drilling, production, storage, or related to the transportation of production from the Outer Continental Shelf, shall be kept to the minimum necessary for proper development giving consideration to such factors as the location of drilling platforms, the geological and reservoir characteristics of a field, the number of wells that can be economically drilled, amount or degree of interference with existing lease operations, the protection of correlative rights, and minimizing unreasonable interference with other uses of the Outer Continental Shelf area, such as commercial fishing.

Stipulation No. 7

All materials, equipment, tools (except hand tools), containers and other objects which could be freed or lost overboard from rigs or platforms or which are to be loaded onto supply vessels for transport to shore will be indelibly marked with the owner's and/or operator's name or logo.

Stipulation No. 8 (To be included only in the leases resulting from this sale for tracts 42-165, 42-166, 42-172, 42-173, 42-176, and 42-177):

Portions of these tracts may be subject to mass movement (slumping) of sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for the production or storage of oil or gas will not be allowed on those portions of the tract which may be subject to mass movement of sediments unless or until the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediments does not exist or that exploratory drilling operations, structures (platforms), casting, and wellheads can be safely designed to withstand such mass movement at the proposed location of the structure.

Stipulation No. 9 (To be included only in the lease resulting from this sale for tract 42-178):

All of this tract may be subject to mass movement (slumping) of sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas will not be allowed within the area of mass movement of sediments unless or until the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediments does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be safely designed to withstand such mass movement at the proposed location of the structure. This may necessitate all exploration and development of oil or gas be performed from locations off this tract and outside of the area of potential mass movement of sediments.

Stipulation No. 10 (To be included only in the lease resulting from this sale for tract 42-43):

Portions of this track may contain a shallow "Bright Spot" seismic anomaly which may be indicative of a gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed, unless the lessee can demonstrate to the Su-

pervisor's satisfaction that a potentially hazardous accumulation of shallow gas does not exist or that exploratory drilling operations, structures (platforms), casing, and wellheads can be placed, or drilling plans designed to insure safe operations in the area above the anomaly.

Stipulation No. 11 (To be included in any leases resulting from this sale for the royalty bidding tracts listed in paragraph 4 of this notice).

(1) The royalty rate of production saved, removed, or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12 (e)), except that the Director, Geological Survey may approve an application for a reduction in royalty on this lease only when it is necessary in order to increase the ultimate recovery of oil and gas and in the interest of conservation. The Director may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(2) Although the royalty rate specified in section 3(b)(1) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16⅔% of the production saved, removed or sold from the leased area may be taken as royalty in amount, except as provided in section 6(c) of this lease; the royalty on any portion of the production saved, removed or sold from the lease in excess of 16⅔% may only be taken in value of the production saved, removed or sold from the leased area.

Stipulation No. 12

In applying safety, environmental and conservation laws and regulations, the Supervisor will require the use of best available and safest technology which are determined to be economically achievable.

Stipulation No. 13

The lessee shall include in his exploration and development plans submitted under 30 CFR 250.34 a proposed fisheries training program for review and approval by the Supervisor pursuant to this stipulation. The training program shall be for the personnel involved in vessel operations (supply vessels, seismic survey vessels, operators of rigs or vessels responsible for rig movements, and operators of vessels engaged in pipeline laying operations); platform and shore-based supervisors; and helicopter pilots. The purpose of the training program shall be to familiarize persons working on the project of the value of the commerical fishing industry and the methods of offshore fishing operations and the potential hazards, conflicts and impacts resulting from offshore oil and gas activities. The program shall be formulated and implemented by qualified and experienced instructors in the kinds of fishing activities, methods of communication and navigational rules of the road.

Stipulation No. 14

Lessees shall comply with regulations which affect activities under this lease and which are promulgated under applicable statutes by other Federal agencies, including the Department of Energy, the Department of Transportation, and the Environmental Protection Agency.

15. *Information to Lessees.* Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any structures in or over any navigable waters of the United States pursuant to Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403), and for artificial islands and fixed structures located on the Outer Continental Shelf, in accordance with Sectin 4 (f) of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1333(f)).

Bidders are advised that the Department of the Interior intends to require a development phase environment impact statement for the North Atlantic lease sale area. They are referred to the Department's proposed regulations on development phase environmental impact statements which were published in 42 FR 49478, September 27, 1977.

Bidders are advised that the Department of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

In the enforcement of the stipulation on biologically important areas, the Supervisor will consult a committee composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, the National Marine Fisheries Service, the Environmental Protection Agency, and representatives of the affected States. This committee will remain in existence throughout the operating life of the field. The Supervisor will consult with the committee in identifying areas or resources of biological importance, on the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted.

If nationally recommended routes for boat traffic lanes are established by the Coast Guard, lessees will be required to use them to transport supplies to the lease area.

The Department of the Interior recognizes the environmental problems of the North Atlantic and expects lessees to work closely with State and local officials to minimize potential conflicts with commercial fishing. In enforcing conservation laws and regulations, the Supervisor will cooperate with the relevant Federal agencies and States.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all North Atlantic OCS Orders, as of their effective date.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to the Manager, New York OCS Office, in the following form:

(a) For the royalty bid tracts as described in Paragraph 4:

OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No. _____
Percent royalty bid expressed to maximum of 5 decimals _____
Amount of fixed cash bonus submitted with bid _____

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID

Qualification No. _____
Company _____
Address _____
Signature _____

(Please type signer's name under signature.)

(b) All tracts offered for cash bonus bidding:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No. _____
Total amount bid _____
Amount per hectare _____
Amount of cash bonus submitted with bid _____

PROPORTIONATE INTEREST OF COMPANY(S) SUBMITTING BID

Qualification No. _____
Company _____
Address _____
Signature _____

(Please type signer's name under signature.)

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder must execute the following statement before a notary public and submit it with his bid:

JOINT BIDDER'S STATEMENT

I hereby certify that _____ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with

the other parties submitting this bid.

Signature.

(Please type signer's name under signature.)

Sworn to and subscribed before me this —— day of ————, 19——.

Notary Public.

State of ————.
(County) of ————.

Dated: December 21, 1977.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

Approved: December 22, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 77-36966 Filed 12-29-77; 8:49 am]

[4310-84]

OREGON

Closure to Motorized Vehicles

DECEMBER 21, 1977.

Notice is hereby given that under the authority of regulations in 43 CFR Part 6010, the following described public lands, under the administration of the Bureau of Land Management, are designated as closed to vehicles immediately and will remain closed through June 1, 1978. All motorized vehicles are prohibited from entering the closed area except emergency, law enforcement, and Federal or other government vehicles while being used for authorized purposes. Hampton Tree Farms Inc., an intermingled private landowner within the closed area, will be provided access during the closure.

The area affected by this designation and closure notice aggregates approximately 2,480 acres of public lands located 30 miles northwest of Salem, Oreg. The closure includes the following described lands except portions of BLM Road Nos. 4-7-27 and 4-7-36 that lie within these lands:

WILLAMETTE MERIDIAN

T. 4 S., R. 6 W.,
Sec. 31, Lots 1, 2, 3.
T. 4 S., R. 7 W.,
Sec 12, SE¼;
Sec 13, all;
Sec 14, S½NW¼, SW¼, W½SE¼;
Sec 15, S½NE¼, NE¼ SE¼;
Sec 23, N½N½;
Sec 24, NE¼, S½S½, NE¼SE¼;
Sec 25, NW¼NE¼, W½, SW¼SE¼; and
Sec 36, E½NE¼, NW¼NE¼, NE¼NW¼, NE¼SE¼.

The purpose of the closure is to protect deer and elk from harassment and posching during the winter and spring periods. Protection of this area will allow the deer and elk to better utilize the available forage in clear-cut areas.

Common points of vehicular access thereto will be posted and blocked with gates. A map of the closed area is available for inspection in the Salem District Office, Bureau of Land Management, 3550 Liberty Road S., Salem, Oreg. 97302.

This notice terminates on June 1, 1978.

EDWARD STAUBER,
Salem District Manager.

[FR Doc. 77-37180 Filed 12-29-77; 8:45 am]

[4310-84]

[W-61121]

WYOMING

Application

DECEMBER 19, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 101 W.,
Secs. 6, 18, 30, and 32.
T. 19 N., R. 101 W.,
Sec. 30.
T. 18 N., R. 102 W.,
Secs. 12 and 36.

The proposed pipeline will transport natural gas produced from the Prenalta No. 33-32 Government well located in section 32, T. 18 N., R. 101 W., and will connect into Colorado Interstate Gas Co.'s existing pipeline facility located in section 19, T. 19 N., R. 101 W., in Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the district Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 77-37094 Filed 12-29-77; 8:45 am—

[4310-84]

[W-61875]

WYOMING

Application

DECEMBER 21, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 4½ inch O.D. natural gas pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 100 W.,
Sec. 26, NE¼NE¼.

The pipeline will transport natural gas produced from the Amoco-Champlin No. 2-23 well in the SE¼ of section 23 in a generally southeasterly direction to connect into Colorado Interstate Gas Co.'s existing pipeline facilities located in the NW¼ of Section 25, T. 17 N., R. 100 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 77-37097 Filed 12-29-77; 8:45 am]

[4310-84]

[Wyoming 61876]

WYOMING

Application

DECEMBER 21, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½ inch O. D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 93 W.,
Sec. 26, SW¼NE¼, N½SE¼, SE¼SE¼;
Sec. 36, W½NW¼, N½SW¼.

The pipeline is a proposed addition to Northwest Pipeline's gathering system and will transport natural gas from the Federal No. 26-17-93 Well located in the SW¼NE¼ of Section 26 to connect with an existing pipeline located in the NE¼SW¼ of Section 36, T. 17 N., R. 93 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will

be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-37098 Filed 12-29-77; 8:45 am]

[4310-84]

(Wyoming 61882)

WYOMING

Notice of Application

DECEMBER 20, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City, Oklahoma, filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 No., R. 98 W.,
Sec. 4, lots 6, 7, 8, S½NE¼ and NE¼SE¼;
Sec. 10, NE¼NE¼
T. 18 N., R. 98 W.
Sec. 32 S½NW¼, NE¼SW¼, NW¼SE¼, E½SE¼.

The pipeline will transport natural gas extending from a point in Section 11, T. 17 N., R. 98 W., in a northwesterly direction to a point of connection with an existing pipeline in Section 32, T. 18 N., R. 98 W.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-37093 Filed 12-29-77; 8:45 am]

[4310-84]

[W-61912]

WYOMING

Application

DECEMBER 21, 1977.

Notice is hereby given that pursuant to section 28 of the Minerals Leasing Act of 1920, as amended (30 U.S.C. 185) The Cities Service Gas Co. of Oklahoma City, Okla. filed an application for a right-of-way to construct a 4-inch natural gas pipeline and installation of anodes on said right-of-way across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 95 W.
Sec. 22, S½S½ and NE¼SE¼;
Sec. 24, N½S½.

The pipeline will transport natural gas from a point in section 21, T. 20 N., R. 95 W., in an easterly direction to a point of connection with Colorado Interstate Gas Co.'s existing pipeline in section 24, T. 20 N., R. 95 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, 1300 Third Street, Rawlins, Wyo. 82520.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-37099 Filed 12-19-77; 8:45 am]

[4310-31]

Geological Survey

[GSS-OCS-T1]

OUTER CONTINENTAL SHELF

Training and Qualification of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations

Notice is hereby given that the Chief, Conservation Division, has approved the U.S. Geological Survey Outer Continental Shelf (OCS) Training Standard No. T1 (GSS-OCS-T1), "Training and Qualification of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations." This standard is issued in accordance with the provision of subsection IX.B.3 and IX.B.14 of the U.S. Geological Survey publication "Policies, Practices, and Responsibilities for Safety and Environmental Protection in Oil and Gas Operations on the Outer Continental Shelf."

The purpose of the standard is to provide criteria for the qualification of drilling personnel in well-control equipment, operations, and techniques to ensure safety and to prevent pollution during drilling on offshore locations. The standard is applicable to the following drilling personnel classifications: (1) Rotary helper, (2) derrickman, (3) driller, (4) toolpusher, and (5) operator's representative. The provisions of this OCS standard are effective January 1, 1978. The standard will be referenced in subparagraph 6.3, "Training," of the finalized National OCS Order No. 2 which will require that personnel employed in these position classifications must be qualified by December 1, 1979.

An announcement of our intention to develop a training standard for OCS drilling personnel was published in the FEDERAL REGISTER, Vol. 41, No. 105, Friday, May 28, 1976. Subsequent to that publication, a draft training standard was published in the FEDERAL REGISTER, Vol. 41, No. 42, Tuesday, November 2, 1976, with a solicitation for public comments. Numerous comments were received in response to this publication. The ideas expressed in these comments were considered in the formulation of the text of this standard. The major changes reflected in the final text and the rationale for making these changes are as follows:

1. Affected personnel will receive training pertaining to the type of blowout-preventer stack utilized by the drilling rig upon which they are employed.

The draft standard contained language which required those personnel employed strictly on platform-type rigs (generally utilizing a surface-blowout-preventer stack) to receive the same instruction on the handling of a "kick" as those personnel employed on mobile drilling vessels (generally utilizing a subsurface-blowout-preventer stack).

It is recognized that there are some differences in performing certain critical calculations involved in well-control operations, which are dependent upon the type of blowout-preventer stack utilized, and the type of rig upon which the candidate is employed. It is possible that some confusion could be introduced into the well-control operations if the principles pertaining to the calculations were applied incorrectly. Therefore, to avoid this confusion, the language was changed to reflect the fact that the training instructions should be consistent with the employee's assigned responsibilities.

2. The period for retraining and requalification of personnel has been modified to include a refresher course.

The draft OCS standard contained language which required the employee

to receive retraining every year and to pass a qualification test every 2 years. Several commenters expressed opinions that these intervals were much too frequent. Other commenters suggested that more frequent intervals be established.

It is conceivable that retraining, at excessively frequent intervals, could lead to boredom and complacency—a condition opposite of the intended result. However, long lapses between required training and requalification could result in the employee forgetting many instructions and procedures and being unfamiliar with new equipment or techniques introduced since his last training course.

As a means of providing the employee with updated instructions and as a periodic reminder of basic principles and procedures, a provision has been added to this standard which requires the employee who is classified as a driller, toolpusher, or operator's representative to complete an annual refresher course in well-control operations.

The addition of this requirement allows the time period for retraining, in a comprehensive well-control course, to be set at a 4-year interval. The employee is required to successfully demonstrate his ability to control a well "kick" at the conclusion of the refresher course in order to maintain his qualification. At the end of the comprehensive well-control training course, the employee will be required to successfully pass a written or oral test as well as a hands-on demonstration of his abilities.

3. The language concerning unscheduled well-control drills has been clarified.

The language in the November 2, 1976, draft could have been interpreted as stating that the operator's representative could initiate a well-control drill without notifying the toolpusher. The language has been changed to indicate, clearly, that all such drills are initiated by the toolpusher.

4. Greater emphasis was placed on problems associated with encountering shallow gas accumulations.

The November 2, 1976, draft of the standard did not emphasize the critical problem of encountering gas at shallow depths. In view of the problems which have been experienced in the Gulf of Mexico with shallow gas accumulations, a new section was added to emphasize the alternative methods of handling the "kick."

5. Relief assignments. There were several arrangements proposed by commentators which would allow personnel to perform the duties of any position covered by this standard, for a short period, without having undertaken the required training or passing the qualification test. The rationale for such a proposal mainly stressed needed flexibility on the part of the operator in dealing with personnel problems caused by illnesses, personal injuries, and unscheduled absences.

The major purpose of this standard is to ensure that the personnel performing the duties of the rotary helper, derrickman, driller, toolpusher, or operator's representative are properly trained and qualified to perform their duties. To allow someone to perform these duties, even for a short time, without the required training is contrary to the basic purpose of this standard. However, it is recognized that such problems do occur and it is also recognized that temporary relief assignments do provide a vital role in the training of employees. Therefore, the language of this section was modified slightly to allow personnel, without the proper training, to perform these functions—but only under the constant and direct supervision of a qualified employee of a higher classification.

Several other minor editorial changes have been made in the language of this standard for the purpose of clarity. Additional changes were made in the language of the standard as a result of comments received which did modify the requirements slightly. Interested persons may receive explanations of specific changes from the primary authors.

The training and qualification testing required under the provisions of this standard must be conducted under programs reviewed and approved by the U.S. Geological Survey. Those organizations offering programs in well-control training, for the purposes of satisfying the requirements of this standard, may submit detailed descriptions of their program for review and approval to the following address: Acting Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, 12201 Sunrise Valley Drive, Reston, Va. 22092.

Only those personnel attending training programs after the approval date shall be considered qualified in accordance with the terms of this standard. Any program submitted for approval must include the following information and may be supplemented by additional information, as deemed appropriate, by the submitting organization:

(a) Curriculum outline depicting major instructional topics for each job classification (include approximate time spent and detailed list of subject matter for each).

(b) Qualifying credentials of instructors.

(c) Maximum class size anticipated.

(d) Complete description of classroom and lab facilities including equipment and simulator/test well.

(e) Classroom/lab time ratio.

(f) Method of presentation of material (lecturer, video, film strip, etc.) indicating approximate percentages of instruction time presented by each method.

(g) Testing methods (include samples of written tests when applicable).

(h) Handouts or materials to be furnished students.

(i) Requirements for successful completion of course.

(j) Copy of proposed certificates of completion.

(k) Differences in instructions regarding surface- and subsurface-BOP stacks.

(l) Means to update curriculum or facilities to reflect technology advances, government regulation changes, etc.

(m) Methods for performing and evaluating "hands-on" portions of qualification tests.

(n) Means to verify student entrance prerequisites.

(o) Means to notify Geological Survey of advanced schedules of classes.

(p) Means to notify Geological Survey of successful candidates.

(q) Other related information identified by the Geological Survey as necessary for review and approval.

This standard describes the general subject matter to be presented to those personnel employed on OCS drilling rigs as a rotary helper, derrickman, driller, toolpusher, or operator's representative. In certain areas of the Outer Continental Shelf, it is anticipated that the training requirements of this standard may require supplementation. The applicable supplemental training requirements are specified in National OCS Order No. 2.

The primary authors are Richard B. Krahl and Paul E. Martin, Branch of Marine Oil and Gas Operations, Conservation Division, Geological Survey, Reston, Va. 22092, telephone 703-860-7531.

Copies may be obtained from:

Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, National Center, 12201 Sunrise Valley Drive, Reston, Va. 22092.

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street NW., Washington, D.C. 20006.

Conservation Manager, Gulf of Mexico OCS Operations, U.S. Geological Survey, P.O. Box 7944, Metairie, La. 70011.

Conservation Manager, Western Region, U.S. Geological Survey, 345 Middlefield Road, Menlo Park, Calif. 94025.

HENRY W. COULTER,
Acting Director.

GSS-OCS-T 1 First Edition, December 1977

OUTER CONTINENTAL SHELF STANDARD

Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Offshore Locations

United States Geological Survey
Outer Continental Shelf Standard No. T 1 (GSS-OCS-T 1)

Issued by
U.S. Department of the Interior
Geological Survey
Conservation Division
12201 Sunrise Valley Dr.
Reston, Va. 22092

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GSS-OCS-T 1
First Edition
December 1977

UNITED STATES DEPARTMENT OF THE INTERIOR

Cecil D. Andrus, *Secretary*

GEOLOGICAL SURVEY

V. E. McKelvey, *Director*

FOREWORD

An important factor, in ensuring that Outer Continental Shelf oil and gas operations are carried out in the manner which emphasizes the safety of operations and minimizes the risk of environmental damage, is the lessees employment of qualified personnel to perform such operations. In order to ensure that key operating personnel of lessees or contractors employed by the lessees are properly trained, the Chief, Conservation Division, U.S. Geological Survey has approved this Standard to be referenced in the training paragraph of National OCS Order No. 2. This standard has been developed consistent with current procedures as outlined in the FEDERAL REGISTER, Vol. 40, No. 250, Tuesday, December 30, 1975, page 59753, for safety and pollution prevention standards for equipment and procedures used during drilling and producing operations on oil and gas leases on the Outer Continental Shelf.

This standard is applicable to Federal leases on the Outer Continental Shelf. The term "Outer Continental Shelf" means all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in Section 2 of the Submerged Lands Act (Public Law 31, Eighty-third Congress, First Session) and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

Booklet copies of this edition are available from the U.S. Geological Survey National Headquarters and from the Conservation Managers as follows:

Chief, Conservation Division, U.S. Geological Survey, Mail Stop 600, National Center, 12202 Sunrise Valley Drive, Reston, Va. 22092.
Conservation Manager, Gulf of Mexico OCS Operations, U.S. Geological Survey, P.O. Box 7944, Metairie, La. 70011.
Conservation Manager, Eastern Region, U.S. Geological, 1725 K Street NW., Washington, D.C. 20006.
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GSS-OCS-T 1, First Edition, Approved: December 1977.

RUSSELL G. WAYLAND,
Acting Chief,
Conservation Division.

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1. INTRODUCTION AND SCOPE

This standard provides criteria for the qualification of drilling personnel in well-control equipment, operations, and techniques to ensure safety and to prevent pollution during drilling on offshore locations. This standard is applicable to the following drilling personnel classification:

(a) Rotary helper.
(b) Derrickman.
(c) Driller.
(d) Toolpusher.
(e) Operator's representative.

This standard is intended for the development of training courses which have well-defined curricula. The standard includes recommendations for testing to assure that a candidate is qualified when he completes a course.

In accordance with the provisions of this standard, the employer shall maintain a record of the training each employee receives. Each employee shall be furnished documentation of the successful completion of each level of training.

This standard may be used by a company or educational institution in developing and conducting a qualification program as outlined herein. Sections 2 and 3 provide the basic guidelines for qualifying personnel employed on drilling rigs utilizing either a surface- or subsurface-blowout-preventer stack. Certain portions of the training programs may be dissimilar in order to provide the candidate the specific training required by his assignment on a drilling vessel which utilizes a subsurface-blowout-preventer stack rather than a surface stack.

2. Guidelines for Course Curricula

2.1 Introduction

This portion of the standard describes the knowledge and skills that shall be presented to the candidate through classroom lectures and hands-on demonstrations. Curriculum content is described on a general basis for each drilling crew member classification. Specific details shall be developed by each training organization using the criteria contained in this section as a guideline. Training programs presented by an operator or contractor shall be directed toward the well-control equipment and techniques most widely used in their respective operations. Other organizations offering training programs may develop a detailed curriculum directed toward well-control equipment and techniques most widely used offshore.

The training programs may be conducted wherever the particular part of the course curriculum can be presented most effectively, whether it be on the rig, in a classroom, or in a training facility at another location.

Each candidate shall be provided with a manual containing the course materials for use in future reference and review.

2.2 *Rotary helper training requirements for qualification in well-control operations*

2.2.1 *Prerequisites for rotary helper qualification.* All candidates shall have satisfied the employment requirements specified by the employer.

2.2.2 *Instructions on relevant governmental regulations.* The candidate shall receive general instructions on governmental regulations that are pertinent both to his work and to well-control activities. The candidate should understand the overall purpose of the appropriate regulations.

2.2.3 *Instructions on blowout-prevention equipment.* Within the first 6 months of his employment, the candidate shall receive general instructions on blowout-prevention equipment consistent with the type of blowout-preventer stack utilized on the drilling rig upon which the candidate is employed. These instructions shall consist of the purpose, operation, and general maintenance of the following:

(a) Annular blowout-preventer with and without diverter system.
(b) Ram-type blowout-preventer.
(c) Accumulator system.
(d) Drill pipe inside blowout-preventer.
(e) Drill pipe safety valve.
(f) Kelly cock.
(g) Mud pit level indicator.
(h) Mud volume measuring device.
(i) Mud return indicator.
(j) Choke manifold.
(k) Gas detector.
(l) Trip tank.
(m) Mud-gas separator.

2.2.4 *Instructions on the more obvious warning signs of kicks.* The candidate shall receive instructions on the more obvious warning signs of kicks including, but not limited to, the following:

(a) Gain in pit volume and/or increase in mud return rate.
(b) Hole not taking proper amount of mud during trips.
(c) Well flowing with pump shutdown.

2.2.5 *Instructions for well-control operations.* The candidate shall receive hands-on instructions at the job site for operation of the manifold, the stand pipe, and the mud room valves which require different settings for kill operations other than those settings used in normal drilling operations.

2.3 *Derrickman training requirements for qualification in well-control operations*

2.3.1 *Prerequisites for derrickman qualification.* All candidates shall have completed the training required for a Rotary Helper under subsection 2.2.

2.3.2 *Instructions on relevant governmental regulations.* The candidate shall receive instructions on all governmental regulations that pertain to his work in regard to well control activities.

2.3.3 *Instructions on blowout-prevention equipment.* Consistent with the type of blowout-preventer stack utilized by the drilling rig upon which the candidate is employed, the candidate shall receive instructions on the purpose, operation, and maintenance of the following equipment:

(a) Equipment listed under subsection 2.2.3.
(b) Degasser.
(c) Adjustable choke.

2.3.4 *Instructions on drilling fluids.* The candidate shall receive general instructions on drilling fluids, consistent with his assigned duties, with emphasis on the following:

(a) Density.
(b) Viscosity.
(c) Fluid loss.
(d) Salinity.
(e) Gas cutting.
(f) Procedure for increasing mud density.

2.3.5 *Instructions on warning signs of kicks.* The candidate shall receive general instructions on warning signs that indicate a kick, or conditions that can lead to a kick, consistent with his assigned duties such as the following:

(a) Items in subsection 2.2.4.
(b) Heaving shale and its appearance at surface.
(c) Drilling rate change.
(d) Change in salinity.
(e) Change in flow properties of drilling fluid.
(f) Connection gas and background gas.

2.3.6 *Instructions on well-control operations.* The candidate shall receive detailed instructions on subsection 2.2.5 and general instructions on well killing procedures.

2.4 *Driller training requirements for qualification in well-control operations*

2.4.1 *Prerequisites for driller qualification.* All candidates shall have completed the training as a rotary helper and derrickman under subsections 2.2 and 2.3 before enrolling in the driller's course.

2.4.2 *Instructions on relevant governmental regulations.* The candidate shall receive instructions on all applicable governmental regulations that pertain to his work in regard to well-control techniques and equipment including spill prevention control and countermeasure plans.

Copies of applicable laws, regulations, orders, or abstracts of pertinent sections, shall be furnished to the candidate. The portions of the regulations that are pertinent to the candidate's work shall be clearly marked. The training organization shall revise this material, as necessary, in accordance with the revisions or additions to the governmental requirements.

2.4.3 *Instructions on what causes kicks.* The candidate shall receive instructions on the major causes of kicks. These causes include:

(a) Failing to keep the hole full.
(b) Swabbing effect of pulling the pipe.
(c) Loss of circulation.
(d) Insufficient density of drilling fluid.
(e) Abnormal pressured formations.

The importance of measuring the mud, required to fill the hole during trips, and methods for measuring and recording hole fill volumes shall be emphasized. Such importance shall be further emphasized for shallow gas conditions.

2.4.4 *Instructions on the warning signals for kicks.* The cindidate shall receive instructions on the warning signals that indicate a kick or condition that can lead to a kick. These warning signals include:

(a) Gain in pit volume.
(b) Increase in return mud flow rate.
(c) Hole takes less mud than calculated on trip.
(d) Drilling rate change.
(e) Decrease in circulating pressure or increase in pump strokes.
(f) Trip, connections, and background gas changes.
(g) Gas cut mud (which does not necessarily indicate a well kick).
(h) Water-cut mud or chloride increase.

2.4.5 *Instructions for properly shutting in a well for well-control purposes.* The cindidate shall receive instructions on the correct procedures for controlling a well with the BOP system, the choke manifold, and/or the diverter system. These instructions shall be consistent with the type of blowout-preventer stack utilized by

the drilling rig on which the cindidate is employed. The purpose of these instructions is to ensure that a logical sequence of timely steps is followed in order to minimize the amount of influx, to prevent lost returns and equipment damage, and to prevent formation fluid from broaching around drive and conductor casing.

As a part of these instructions, the candidate shall receive hands-on training at the job site in operating the valves on the choke manifold; operating the diverter system; closing the annular preventer; and using the kelly cocks, drill pipe safety valves, and inside blowout-preventers.

2.4.6 *Instruction for well-control operations.* The candidate shall receive instructions on one of the following constant bottom hole pressure methods of well-control:

(a) Driller's.
(b) Wait and weight.
(c) Concurrent (circulate and weight).
(d) Other applicable methods.

This may be done by hands-on instructions at a well-control school where actual flow and choking of fluids, from a model well, are included.

The instruction process shall include those conditions which may be unique to either the surface- or subsurface-blowout-preventer stack utilized by the drilling rig upon which the candidate is employed. An adequate simulator is an acceptble alternate to the model well. A complete well-killing exercise shall be carried out using the simulator or a model well and work sheet simulation.

The well-control school shall include classroom instructions to cover simple well-control calculations and the reasons for their use. These instructions include:

(a) Mud density increase required to control kick.
(b) Conversion between mud density and pressures, and the importance of the conversions in understanding formation breakdown, particularly with shallow casing settings.
(c) Drop in pump pressure as mud density increases during kill operations.
(d) Relationships between pump pressure, pump rate, and mud density.
(e) Pressure limitations on casings.

2.4.7 *Instructions for unusual well-control operations.* Instructions for this subsection shall include an introduction to unusual well-control situations to include:

(a) When drill pipe is off bottom.
(b) When out of hole.
(c) When lost circulation occurs.
(d) When drill pipe is plugged.
(e) Excessive casing pressure.
(f) Hole in drill pipe.

2.4.8 *Instructions for encountering shallow gas.* Instructions for this section shall include the discussion of the following:

(a) Advantages and disadvantages of "shutting-in" a shallow gas kick.
(b) Advantages and disadvantages of the use of diverters.
(c) Advantages and disadvantages of the use of the marine riser in shallow well control situations.

2.4.9 *Instructions for BOP diverter and closing unit installation operations, maintenance, and testing.* The candidate shall receive instructions on the installation, operation, maintenance, and testing of BOP's, diverter systems, and closing units. The instructions shall contain appropriate training problems which illustrate the need for proper maintenance of equipment including the need for maintaining the proper accumulator precharge pressures, relationship between precharge pressure, operating pressure, and usable volumes and related activities.

2.5 *Toolpusher training requirements for qualification in well-control practices and techniques*

2.5.1 *Prerequisites for toolpusher qualifications.* The candidate shall have completed the training described in subsection 2.4 for the driller.

2.5.2 *Instructions on well-control calculation.* The candidate shall receive instructions in the mathematical calculations required for well-control operations. Example calculations shall be practiced in class problems. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.5.3 *Instructions on equipment limitations.* The candidate shall receive instructions on the limitations of the various items of equipment which will be subjected to pressure and/or wear.

2.5.4 *Instructions on the mechanics involved in well-control situations.* The candidate shall receive instructions on and shall understand the mechanics involved in various well-control situations. These instructions shall include the following subjects:

(a) Gas bubble migration and expansion.
(b) Bleeding pressure from a shut-in well during gas migration.
(c) Excessive annular surface pressures.
(d) Differences between a gas kick and a salt water and/or oil kick.
(e) Procedures and problems involved in stripping operations with drill pipe.
(f) Special well/control techniques such as barite plugs and cement plugs.
(g) Procedures and problems involved when experiencing lost circulation in well killing operations.

2.5.5 *Instructions on relevant governmental regulations.* The applicant shall receive instructions on all Government regulations that pertain to his work with well-control techniques and equipment. The candidate shall also receive instructions regarding those cases where field drilling rules are applicable to the drilling operations and shall be familiar with the circumstances to which field drilling rules normally apply.

2.5.6 *Instructions on well-control operations.* The candidate shall receive instructions on organizing and directing a well-control operation and subsequently directing such an operation using a model well or equivalent simulation device. Furthermore, the candidate shall receive instructions on the organizing and directing of a diverter operation.

2.5.7 *Instructions on accumulator systems.* The candidate shall receive instructions on the purpose and usage of accumulator systems, including the following:

(a) Charging Procedures.
(b) Required volumes.
(c) Fluid pumps.
(d) Charging fluid.
(e) Inspection procedures.

2.6 *Operator's representative training requirements for qualification in well-control operations*

2.6.1 *Prerequisites for operator's representative qualification.* All candidates shall be familiar with the basic duties and training of the rotary helper, the derrickman, the driller, and the toolpusher during well-control situations.

2.6.2 *Instructions on relevant governmental regulations and company procedures.* The applicant shall receive instructions on all applicable Government regulations that pertain to his work with well-control techniques and equipment. The candidate shall receive instructions regarding those cases where field drilling rules are applicable to the drilling operations. He shall also be familiar with the circumstances to which field drilling rules normally apply. Furthermore, the candidate shall receive instructions on organizing and directing a diverter operation.

2.6.3 *Instructions for well-control operations.* The candidate shall receive instructions at a well-control school on the constant bottom-hole pressure method of well control as set out under subsection 2.4.6 of this standard. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.6.4 *Instructions for stripping operations.* The candidate shall receive instructions in the use of the entire blowout-preventer system for working pipe in or out of a wellbore which is under well pressure.

2.6.5. *Instructions for detecting abnormal pressure.* The candidate shall receive instructions on accepted techniques and procedures for detecting entry into abnormal pressure formation and the accompanying warning signals. These signals include:

a. Penetration rate change.
b. Shale density change.
c. Mud chloride change.
d. Shale cutting characteristics.
e. Background and connection gas change.

2.6.7 *Instructions on supervision of well-control operations.* The candidate shall receive instructions on organizing and directing a well-killing operation. He shall then direct a complete, simulated, well-killing operation. Also, the candidate shall receive instructions on the organizing and directing of a diverter operation.

2.7.1 *Prerequisites.* Any employee who acts as assigned relief for another employee with a higher classification (as covered by this standard) shall meet the requirements of the higher classified job, unless such temporary duties are performed under constant and direct supervision of an employee of higher classification. (Example: In the event that a derrickman relieves a driller, the derrickman shall be qualified as a driller unless performing these duties under the direct supervision of the toolpusher or operator's representative.)

3. Qualification Procedures

3.1 *Rotary helper*

3.1.1 *Prerequisites.* Prior to qualification as a rotary helper, the candidate shall have satisfied the requirements of subsection 2.2.

3.1.2 *Type of test.* The Rotary Helper qualification test will be a crew performance drill that requires that rotary helper to carry out his assignment in a well-control drill within a prescribed time limit (see subsection 3.6).

3.1.3 *Documentation of test results.* The time required for the candidate to complete his assignment and the type of drill shall be recorded on the driller's log. Appropriate documentation of qualification shall be furnished to the successful candidate upon completion of the qualification procedures.

3.1.4 *Maintenance of qualification.* To retain his qualification, the candidate must participate in well-control drills, as described in subsection 3.6, and carry out his assignments within the time limit prescribed for the drill.

3.2 *Derrickman*

3.2.1 *Prerequisites.* The candidate shall have satisfied the requirements of subsections 2.3 and 3.1.

3.2.2 *Type of test.* The derrickman qualification test will be a crew performance drill that requires the derrickman to carry out his assignment in a well-control drill within a prescribed time limit (subsection 3.6).

3.2.3. *Documentation of test results.* The time required to complete the drill shall be recorded on the driller's log. Appropriate documentation of qualification shall be furnished to the successful candidate.

3.2.4 *Maintenance of qualification.* To retain his qualification, the candidate must participate in well-control drills, as described in subsection 3.6, and carry out his assignments within the time limit prescribed for the drill.

3.3 *Driller*

3.3.1 *Prerequisites.* This candidate shall be proficient as a rotary helper and as a derrickman. He shall have completed the training requirements outlined in subsection 2.4.

3.3.2 *Qualification tests.* Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well-control equipment and techniques outlined in subsection 2.4.

3.3.3 *Documentation of test results.* Test results shall be entered in the candidate's training record. Appropriate documentation shall be furnished the candidate upon completion of the qualification procedures.

3.3.4 *Maintenance of qualification.* The candidate may maintain his qualification through successful repetition of the requirements, set forth in subsections 2.4 and 3.3, every 4 years, provided that he successfully completes a refresher course in well-control operations, annually, during the intermediary period. This refresher course shall include a minimum of 8 hours instruction and training in the most recent improvements in equipment and methods for blowout prevention. In addition to these instructions, the refresher course must also include the successful individual control of a well kick using a test well or simulator.

3.4 *Toolpusher*

3.4.1 *Prerequisites.* The candidate for toolpusher qualification shall have passed the qualification tests for driller and must have completed the training requirements outlined in subsection 2.5.

3.4.2 *Qualification tests.* Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well-control equipment, techniques, and principles outlined in subsection 2.5.

3.4.3 *Documentation of test results.* Test results shall be recorded in the candidate's training file. Appropriate documentation shall be furnished the candidate upon completion of qualification procedures.

3.4.4 *Maintenance of qualification.* The candidate may maintain his qualification through successful repetition of the requirements, set forth in subsections 2.5 and 3.4, every 4 years, provided that he successfully completes a refresher course in well-control operations, annually, during the intermediary period. This refresher course shall include a minimum of 8 hours instruction and training in the most recent improvements in equipment and methods for blowout prevention. In addition to these instructions, the refresher course shall also include the successful individual control of a well kick using a test well or a simulator.

3.5 *Operator's representative*

3.5.1 *Prerequisites.* All candidates shall be familiar with the basic duties of rotary helper, derrickman, driller, and toolpusher during well-control operations and must have completed the training requirements outlined in subsection 2.6.

3.5.2 *Qualification tests.* Qualification tests and hands-on demonstrations shall be used to assure that the Operator's Representative candidate has a thorough understanding of the well-control equipment and technique principles, outlined in subsections 2.6, and is qualified to organize and direct a well-control operation.

3.5.3 *Documentation of test results.* Test results shall be recorded in the candidate's training file. Appropriate documentation shall be furnished the successful candidate.

3.5.4 *Maintenance of qualification.* The candidate may maintain his qualification through successful repetition of the requirements set forth in subsections 2.6 and 3.5, every 4 years, provided that he successfully completes a refresher course in well-control operations, annually, during the intermediary period. This refresher course shall include a minimum of 8 hours instruction and training in the most recent improvements in equipment and methods for blowout prevention. In addition to these instructions, the refresher course must also include the successful individual control of a well kick using a test well or a simulator.

3.6 *Well-control drills.* The individual assignments for the crew members, during a well-control operation, will, of necessity, vary with the equipment on the offshore unit and with the type of operation being performed. Thus, the drills shall be designed to acquaint each crew member with his function on the particular test location so he can perform it promptly and efficiently.

The steps described below are general and are based upon the essentials of the operation and should be varied to fit the equipment, personnel, and specific needs of each site. A well control drill plan, applicable to the particular site, shall be prepared outlining for each crew member the assignments he is to fulfill during the drill and establishing a prescribed time for the completion of his portion of the drill. A copy of the complete well-control drill plan shall be posted on the rig's bulletin boards.

The actual drill shall be carried out during periods of activity which would minimize the risk of sticking the drill pipe or otherwise endangering the operation. In each of these drills, the reaction time shall be measured up to the point when the designated person is in the position to begin the closing sequence of the blowout preventer. The total time for the crew to complete its entire pit drill assignment shall also be measured. This operation shall be recorded on the driller's log as "Well Control Drill." All drills shall be initiated by the Toolpusher through raising the float on the pit level device or the equivalent. This operation shall be performed at least once each week (well conditions permitting) with each crew. The drills shall be timed so they will cover a range of different operations which include on-bottom drilling and tripping drills. A diverter drill shall be developed and conducted in a similar manner for shallow operations.

Suggested items for inclusions in "On-Bottom Drilling" and "Tripping Pipe" drills are set out in subsections 3.6.1 and 3.6.2 respectively. The listing of these items does not necessarily constitute a recommendation that each of the items be included in the drill or that the drill sequence be the same as the listing.

3.6.1 *On-bottom drilling.* A drill conducted while on the bottom may include the following:

(a) Detect kick and sound alarm.
(b) Position kelly and tool joints so connections are accessible from floor but tool joints are clear of sealing elements in stack, stop pumps, check for flow, close in the well.
(c) Record Time.
(d) Record drill pipe pressure and casing pressure.
(e) Measure pit gain and mark new level.
(f) Estimate volume of additional mud pits.
(g) Weigh sample of mud from suction pit.
(h) Check all valves on choke manifold for leaks and blowout-preventer stack for correct position (open or closed).
(i) Check BOP stack and choke manifold for leaks.
(j) Check flow line and choke exhaust lines for flow.
(k) Check accumulator pressure.
(l) Prepare to extinguish sources of ignition.
(m) Alert standby boat or prepare safety capsule for launching.
(n) Place crane operator on duty for possible personnel evacuation.
(o) Prepare to lower all escape ladders and prepare other abandonment devices for possible use.
(p) Determine materials needed to circulate out kick.
(q) Time drill steps and enter drill report on driller's log.
(r) Record time.

3.6.2 *Tripping pipe.* Kicks may occur while making a trip. A drill held during a trip may include the following:

(a) Detect kick and sound alarm.
(b) Install safety valve; close safety valve.
(c) Position pipe; prepare to close annular preventer.
(d) Install inside preventer; open safety valve.
(e) Record time.
(f) Record casing pressure.
(g) Check all valves on choke manifold and blowout stack for correct position (open or closed).
(h) Check for leaks on BOP stack and choke manifold.
(i) Check flowline and choke exhaust lines for flow.
(j) Check accumulator pressure.
(k) Prepare to extinguish sources of ignition.
(l) Alert standby boat or prepare safety capsule for launching.
(m) Prepare to lower escape ladders and prepare other abandonment devices for possible use.
(n) Prepare to strip back to bottom.
(o) time drill steps and enter drill report on driller's log.
(p) Record time.

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[4310-31]

Geological Survey

COAL MINING—OKLAHOMA

Notice of Public Meeting

In accordance with the requirements of 30 CFR 211.5(c)(1), notice is hereby given that a public meeting will be held concerning the proposed approval of a modification of the original mining plan on Federal coal lease BLM-C-030953/031215. The original plan was approved in February 1971. Under that approval, the Garland Coal & Mining Co. has been mining Federal coal by surface mining methods in sections 32 and 33, T. 10 N., R. 21 E., Haskell County, Okla. Production has averaged 8,000 tons per month of high grade metallurgical coal. Some coal on adjoining privately owned surface was recovered as the operation progressed.

The modification under consideration for approval proposes to extend the above described mine into the remaining portion of the Federal coal lease in parts of sections 5, 6, and 7, T. 9 N., R. 21 E., Haskell County, Okla.

The public meeting will be held 10 a.m., January 31, 1978, Stigler Community Center, 410 Northeast 6th Street, Stigler, Okla. 74462.

Dated: December 27, 1977.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 77-37245 Filed 12-29-77; 8:45 am]

[4310-68]

Mining Enforcement and Safety Administration

UNDERGROUND COAL MINES

Procedures for Testing and Evaluation of Illumination Systems

AGENCY: Department of the Interior, Mining Enforcement and Safety Administration.

ACTION: Notice of revisions of the procedures.

SUMMARY: The revisions to the procedures will—

1. Adopt a new assumed reflectance value of underground coal surfaces and amend the formula for determining luminous intensity and incident light.
2. Permit the use of diffusers or louvers on lighting fixtures (luminaires) to minimize discomfort glare.
3. Provide for the installation of a metal plate on mining equipment which will contain information from a Statement of Test and Evaluation issued to lighting equipment manufacturers or mine operators.
4. Change the address and MESA official to which applications for test and evaluation are to be made.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Rinehart, Chief, Beckly Electrical Testing Project, Technical Support, Building F, Post Office Box 1166, Beckley, W. Va., 25801, phone 304-255-0451.

SUPPLEMENTARY INFORMATION: In Part II of the FEDERAL REGISTER, Friday, October 1, 1976 (41 FR 43532), the Secretary of the Interior promulgated mandatory safety standards under which all working places in an underground coal mine shall be illuminated by permissible lighting while machines are working in such places.

Prior to the promulgation of those mandatory standards the Secretary of the Interior published in Part II of the FEDERAL REGISTER, Thursday, April 1, 1976 (41 FR 14108), "Procedures for Testing and Evaluation of Illumination Systems." The purpose of the procedures was to advise mine operators and equipment manufacturers of services available through the Illumination Laboratory of Technical Support, MESA, at Beckley, W. Va.; to facilitate design and installation of illumination systems and to expedite compliance with the illumination standards; and that MESA will provide technical assistance and testing and evaluation services for coal mine operators and mining equipment and lighting fixture manufacturers in their efforts to design and install illumination systems which will provide the lighting required by the regulations.

Since the adoption of the procedures MESA has tested and evaluated approximately 400 illumination systems utilizing the criteria set out in the procedures. Experience gained from these tests and evaluations and other sources show that the majority of the coal surfaces in working places in underground coal mines have a reflectance in excess of the 0.02 value assumed in the current luminous intensity formula contained in the procedures. Use of the assumed reflectance value of 0.02 in simulated conditions has resulted in the imposition of higher lighting intensity than is required to provide 0.06 footlamberts in approximately 95 percent of working places in mines. When installed and used under actual working conditions the machine-mounted lighting fixtures which have been developed to date and used to provide the required 0.06 footlamberts which had been determined under simulated conditions creates a discomfort glare.

Section 75.1719-2(g) of Part 75, 30 CFR, requires that lighting fixtures shall be designed and installed to minimize discomfort glare. The coal mining industry and the mine lighting fixture manufacturers have encountered problems in minimizing discomfort glare to miners when the tested and evaluated lighting systems are installed on machines in the mines to achieve compliance with § 75.1719, Part 75. Experience with the machine-mounted illumination systems in the underground coal mines has shown that excessive brightness of the light sources causes discomfort glare and can create additional hazards to miners by actually reducing the miner's ability to observe rotating machinery parts, moving machines, ropes, and other equipment, in the working place. Excessive brightness of the light sources also hampers the miner's ability to communicate with one another by the customary means of moving cap lamps.

MESA has found that these problems can be solved by increasing the assumed surface reflectance value of coal surfaces under the simulated conditions and formula used in the procedures to 0.04 which will in turn permit the use of diffusers or louvers on the lighting fixtures which will reduce and minimize discomfort glare and still provide the required 0.06 footlamberts of light. The assumed reflectance value of 0.04 is the average reflectance which exists in all major coal seams currently being mined in the United States.

Since § 75.1719-2(g), Part 75, 30 CRF, requires that lighting fixtures shall be designed and installed to minimize discomfort glare the tests and evaluations made by MESA under the procedures will include a test for discomfort glare. Sec. 75.1719-2(g) can be met by the use of diffusers of louvers that will minimize discomfort glare and still provide the required light. Headlights and other light sources that are installed in a manner so as not to be in a miner's normal field of vision will not normally require the use of diffusers or louvers.

The procedures presently state that an approval plate or label will not be issued for illumination systems that have been tested and evaluated. It is now evident that hundreds of statements of test and evaluation (STE) will be issued by MESA for lighting systems that can be installed on thousands of individual pieces of mining equipment. The identification by an inspector of a lighting system and the machine upon which it is installed with the corresponding statement of test evaluation will present practical and time consuming problems for both the mine operator and the inspector. A ready and immediate identification is needed which will also provide essential minimum information. Therefore, a metal plate, of not less than No. 16 gauge, shall be attached to the machine on which an illumination system is installed and for which a statement of test and evaluation has been issued. The metal plate shall be approximately 3 inches wide and 5 inches long. The plate shall contain the STE number, the number and type of light fixtures, the name of the manufacturer of the lighting fixtures, the maximum and minimum width and height of the working place as specified in the STE, and whether the illumination system is compatible with cabs and canopies. The metal plate shall be affixed in close proximity to the machine approval plate. MESA will include in the STE a facsimile of the plate which will specify the information to be stamped on the actual plate.

It is intended that, on and after April 1, 1978, if an illumination system is installed and a machine is operated within the conditions and parameters specified in the statement of test and evaluation and in accordance with the information contained on the metal plate affixed to a machine, the operator will be considered as being in compliance with the illumination standards.

Operators and lighting fixture manufacturers who have been issued a statement of test and evaluation prior to the effective date of these revisions may affix to the illumination system or the machine upon which the system is installed a metal plate of the same specifications as stated above and such plate shall contain the same information as stated above.

Operators and lighting fixture manufacturers who have been issued a STE prior to the effective date of these revisions and who add louvers or diffusers to bring the illumination system into compliance with § 75.1719-2(g), Part 75, 30 CFR, may apply for a change or modification of the STE by the Chief, Beckley Electrical Testing Project. A supplementary statement of test and evaluation which is issued by the Chief will contain a fascimile of the plate which shall be used for the supplementary STE.

The procedures presently provide that applications for test and evaluation shall be submitted to the Assistant Administrator—Technical Support, Mining Enforcement and Safety Administration, at its address in Arlington, Va. The procedures also provide that the Assistant Administrator will make determinations with respect to the estimated fees and charges which will be required to perform a test and evalution. It has been determined that these matters are ultimately and routinely referred to the Beckley Electrical Testing Project, Technical Support, Beckley, W. Va., and that such matters may be more efficiently handled by the Beckley Electrical Testing Project, Technical Support.

Therefore, the following revisions are made to the "Procedures for Testing and Evaluation of Illumination Systems" published in the FEDERAL REGISTER on April 1, 1976 (41 FR 14108):

1. Paragraph 2 under the heading "Application for Testing and Evaluation" is revised to read as follows:

"2. Applications shall be submitted to Chief, Beckley Electrical Testing Project, Technical Support, Building F, P.O. Box 1166, Beckley, W. Va. 25801."

2. In paragraph 5a. and 5b. under the heading "Fees and Costs" the reference to "Assistant Administrator—Technical Support" is changed to "Chief, Beckley Electrical Testing Project" wherever such reference appears.

3. In the formula set forth in paragraph B.5. under the heading "Criteria for Testing and Evaluation of Illumination Systems in a Simulated Working Place Using Surface Brightness Measurements" the words and figures reading "Reflectance of underground surface (0.02)" are changed to read "Reflectance of underground surface (0.04)."

4. In the formula set forth in paragraph B.4. under the heading "Criteria for Testing and Evaluation of Illumination Systems in a Simulated Working Place and in Working Places of Underground Coal Mines Using Incident Photometers" the words and figures reading "Reflectance of underground surface (0.02)" are changed to read "Reflectance of underground surface (0.04)."

5. The second and third paragraphs under the heading "Purpose" are revised to read as follows:

"Mine operators and equipment and lighting fixture manufacturers are not required to submit lighting systems

for test and evaluation. An approval plate or label will not be issued by MESA, nor will such a plate or label be required on lighting systems which have been tested and evaluated. MESA will, however, issue a Statement of Test and Evaluation which will define the conditions and parameters determined by the test and evaluation within which the illumination system can be operated to provide the required light. MESA will include in the Statement of Test and Evaluation a facsimile of a metal plate which will specify minimum essential information to be stamped on the plate and affixed to the mining machine.

It is intended that, on and after April 1, 1978, if lighting systems are installed and a machine is operated within the conditions and parameters set forth in the Statement of Test and Evaluation and in accordance with the information contained on the metal plate, the operator will be considered by MESA as being in compliance with the requirements of the standards. However, if the lighting system is not operated within the conditions and parameters stated, light measurements shall be made in accordance with the procedures specified in the regulations to determine whether the required light is provided and whether a violation exists. The mine inspector will inspect the lighting systems that have been tested and evaluated to determine if the lighting system, in all respects, conforms to the Statement of Test and Evaluation; whether changes or modifications have been made in the lighting system; whether one or more lights are not working; and whether the illumination system is being operated and used within the conditions and parameters specified in the Statement of Test and Evaluation and in accordance with the information stamped on the metal plate.

6. A new paragraph 5 is added under the heading "Statement of Test and Evaluation" to read as follows:

"5. *Metal identification and information plate.* a. A metal plate, of not less than No. 16 gage, shall be attached to the machine on which an illumination system is installed and for which a Statement of Test and Evaluation (STE) has been issued. The metal plate shall be approximately 3 inches wide and 5 inches long. The plate shall contain the STE number, the number and type of light fixtures, the maximum and minimum width and height of the working place as specified in the STE, and whether the illumination system is compatible with cabs and canopies. The metal plate shall be affixed in close proximity to the machine approval plate. MESA will include in the STE a facsimile of the plate which will specify the minimum essential information to be stamped on the plate. An illustration and drawing of the actual plate is shown below:

United States Department of Labor Mine Safety and Health Administration		
ILLUMINATION SYSTEM		
STE		CANOPY
ENTRY DIMENSIONS	H - Max.	W - Max.
	H - Min.	W - Min.
QTY	MFG. NAME	TYPE

b. Operators and lighting fixture manufacturers who have been issued a Statement of Test and Evaluation prior to December 30, 1977, may affix to the illumination system or the machine upon which the system is installed a metal plate of the same specifications as stated in paragraph 5.a. and such plate shall contain the information required by paragraph 5.a.

c. Operators and lighting fixture manufacturers who have been issued a Statement of Test and Evaluation prior to December 30, 1977, and who add louvers or diffusers to bring the illumination system into compliance with § 75.1719-2(g), Part 75, 30 CFR, may apply for a change or modification of the Statement of Test and Evaluation by the Chief, Beckley Electrical Testing Project. A Supplementary Statement of Test and Evaluation which is issued by the Chief will contain a facsimile of the plate and information which shall be used for the Supplementary Statement of Test and Evaluation."

Dated: December 21, 1977.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

[FR Doc. 77-37138 Filed 12-29-77; 8:45 am]

[4310-03]

Office of the Secretary

[INT FES 77-44]

PROPOSED ACQUISITION AND DEVELOPMENT, SENECA STATE PARK, MD.

Availability of Final Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposed partial acquisition and development of Seneca

State Park located in Montgomery County, Md. Lands totaling approximately 2,701 acres of inholding and development of picnic, day use, and interpretive areas are being financed with a Federal grant from the Land and Water Conservation Fund matched with an equal share of State money. The acquisition will consist of 46 inholdings and will result in the dedication of 6,609 acres for park and open space use and the relocation of 6 families.

Copies are available for inspection at the following locations:

Office of Communications, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.
Office of Communications, Bureau of Outdoor Recreation, Room 242, South Building, Department of the Interior, Washington, D.C. 20240.
Bureau of Outdoor Recreation, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.
A-95 Clearinghouse, Department of State Planning, 301 W. Preston Street, Baltimore, Md. 21201.
Maryland National Capital Park and Planning Commission, 8787 Georgia Avenue, Silver Spring, Md. 20907.
Seneca State Park Office, Gaithersburg, Md. 20760.
Department of Natural Resources, C-3 Tawes State Office Building, Annapolis, Md. 21401.

A limited number of single copies is available and may be obtained by writing to the Regional Director, Northeast Region, Bureau of Outdoor Recreation, Federal Office Building, 600 Arch Street Philadelphia, Pa. 19106.

Dated: December 27, 1977.

DAVID USHIO,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc. 77-37144 Filed 12-29-77; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-29]

CERTAIN WELDED STAINLESS STEEL PIPE AND TUBE

Amendment to Procedure for Commission Determination and Action

On Monday December 12, 1977 there was published in the FEDERAL REGISTER a Notice of Procedure for Commission Determination and Action (42 FR 62432), which the Commission has decided to amend in two respects, as follows:

1. The Department of Justice will be permitted to file its brief concerning exceptions to the Recommended Decision not later than January 13, 1978, instead of December 23, 1977 as previously stated; and

2. Requests for appearances at the January 31, 1978 hearing may be filed with the Secretary of the Commission at his office in the Commission Building in Washington, 701 E Street NW., Washington, D.C. 20436, Room 154 not later than the close of business, Friday, December 30, 1977.

By order of the Commission.

Issued December 23, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc. 77-37117 Filed 12-29-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

FEDERAL ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION (FORMERLY THE HISPANIC ADVISORY COMMITTEE ON IMMIGRATION AND NATURALIZATION)

Renewal of Committee and Expansion of Membership and Functions

In accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) and the Office of Management and Budget Circular A-63 (revised March 27, 1974), and after consultation with OMB, the Attorney General has determined to renew and amend the Charter of the Hispanic Advisory Committee on Immigration and Naturalization. Henceforth, the Committee will be known as the Federal Advisory Committee on Immigration and Naturalization, and its membership will be composed of the various nationality, ethnic and racial groups in the United States. The Attorney General has determined that such action is in the public interest in connection with the performance of duties imposed on the Department of Justice by law.

The Committee will provide an organized channel of communication between the nationality, ethnic and racial communities and the Immigration and Naturalization Service on the problems and opportunities of the INS as they relate to those groups.

Experience has shown that there is a special need for such communication. Major efforts to improve communications between the INS and the nationality, ethnic and racial groups are necessary because the INS, in routinely carrying out its duties, deals with members of these groups in matters of legal and illegal immigration.

Having an established channel of communication will be helpful to the INS in its efforts to develop programs, techniques, and approaches which might yield necessary improvements in the services, opportunities and dissemination of accurate information to the nationality, ethnic and racial communities. To the extent that these efforts are successful, there will be direct and substantial gain to both the INS and the groups.

The Committee will draw on the knowledge and insight of its members to provide advice on such elements as INS outreach service and community relations programs, the dissemination of accurate information, the review of training and instructional materials for sensitivity purposes, recruitment activities, research, contracts, treatment of undocumented and documented aliens as well as United States citizens permanent residents, and generally maximizing the services of the INS to the Nation's nationality, ethnic and racial groups.

The Committee will function solely as an advisory body but shall be limited so that it does not assume the character of serving as a representative of the interests or concerns of employees in the Service, and so that its activities do not extend to areas in which recognition of interests of one employee or outside group may result in discrimination against or injury to the interests of other employee or outside groups.

The Committee will consist of not less than 21 or more than 25 members appointed by the Commissioner of the INS and constitute a broad spectrum of community leaders, scholars and other appropriate persons. The Committee's membership should consist in proportionate numbers of those nationality, ethnic and racial groups which come into the most frequent contact with the INS. The Committee will meet at least four times a year and report and be responsible to the Commissioner of the INS. The Committee will function solely as an advisory board, and in compliance with the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 (revised March 27, 1974). The Committee will continue until December 31, 1979, unless terminated earlier or renewed.

The Charter for the Committee will be filed under the Act, by January 16, 1978.

Persons interested in commenting on the renewal and amending of the Committee as the Federal Advisory Committee on Immigration and Naturalization are requested to mail their statements in writing on or before January 13, 1978 to: Commissioner, Immigration and Naturalization Service, 425 Eye Street, NW., Suite 7100, Washington, D.C. 20536.

Dated: December 27, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 77-37129 Filed 12-29-77; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 23rd day of December 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING DECEMBER 23, 1977

Name of applicant and location of enterprise	Principal product or activity
Magda Eriksen Nursing Home, Northfield, N.J.	Skilled nursing, sheltered care and day care.
Bootsma's Bakery, Charlotte Amalie, Virgin Islands.	Bakery.
Global Power Co. Waverly, Tenn.	Manufacture, sale, erection, repair and servicing of insulation panels for use on boilers of power plants.
E M C Industries, Inc., Easley, S.C.	Paper and paperboard products.
Fliteway Company, Inc., Manawa, Wis.	Manufacture of recreational vehicles.
Allen-Edmonds Shoe Corp. Belgium, Wis.	Manufacture of men's shoes.
Conseco, Inc., Medford, Wis..	Manufacture of heat recovery boilers and shell and tube heat exchangers.
MetroCenter, Fayetteville, Ark.	Motel.
River Gardens, New Braunfels, Tex.	Intermediate care facility for the metally retarded.
Friars Creek Athletic Club, Inc., Temple, Tex.	Family athletic and recreation facility.
Cruse, Romero & Moore, St. Martin Parish, La.	Manufacture of oil production facilities, pressure vessels, and water making units.
Neosho Hospital, Inc., Neosho, Mo.	Medical services
Alford Leslie Martschinske, Ipswich, S.Dak.	Manufacture pickup toppers.

[Fr Doc. 77-37012 Filed 12-9-77; 8:45 am]

[4510-30]

Employment and Training Administration

PROPOSED JOB CORPS CENTER AT THE REGENCY-IRVINGTON HOTEL IN LAKEWOOD, N.J.

Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Regency-Irvington Hotel in Lakewood, N.J., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youth ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the Regency-Irvington Hotel location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR Section 1500.6(c). The proposed Lakewood Job Corps Center will be a training center with residential, nonresidential, and educational facilities for approximately 300 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 100 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The center will be a self-contained facility located in downtown Lakewood, N.J., and is approximately 50 miles south of Manhattan, N.Y., and 50 miles east of Philadelphia, Pa. The facility consists of 3 buildings on approximately 3.62 acres of land.

Water and sewer services are provided by the Lakewood Water Co., National gas service is provided by the New Jersey Natural Gas Co., and electricity is provided by the Jersey Central Power & Light Co.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards

published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 2nd day of December 1977.

RAYMOND E. YOUNG,
Acting Director, Job Corps.

[FR Doc. 77-36829 Filed 12-29-77; 8:45 am]

[4510-30]

PROPOSED JOB CORPS CENTER AT THE ST. JOSEPH FRIARY IN CALLICOON, N.Y.

Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the St. Joseph Friary in Callicoon, N.Y., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the St. Joseph Friary location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environmental within the meaning of 40 CFR section 1500.6(c). The proposed Callicoon Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 375 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 125 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically residential living and education.

The facility is located approximately 60 miles southeast of Binghampton, N.Y., and 120 miles southwest of Albany, N.Y.

The center will be a self-contained facility. The site consists of approximately 165 acres of land with 5 basic institutional buildings and 7 outbuildings.

Water service is supplied from the municipal system. Electric power is provided to the site by the New York State Electric & Gas Co.

Sanitary sewage disposal is by means of an on-site septic tank and drain field system. The existing system will be upgraded to meet EPA requirements.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1252 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 2nd day of December 1977.

RAYMOND E. YOUNG,
Acting Director,
Job Corps.

[FR Doc. 77-36830 Filed 12-29-77; 8:45 am]

[4510-30]

PROPOSED JOB CORPS CENTER AT THE FORMER ST. MARYS COLLEGE SITE NEAR ST. MARYS, KANS.

Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the former St. Marys College site near St. Marys, Kans., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the St. Marys College location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR section 1500.6(c). The proposed St. Marys Job Corps Center will be a training center with residential, nonresidential, and educational facilities for approximately 300 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 100 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility. The site is located in St. Marys, Kans., approximately 25 miles northeast of Topeka.

The portion surveyed for Job Corps use consists of 8 buildings and a part of a ninth building containing approximately 190,000 gross square feet. The facility is on 49 acres of land.

Water is supplied from the municipal system. A second water source is provided by a deep well and a 75,000 gallon elevated water storage tank.

Natural gas is supplied by the local gas company.

Electric power is supplied by the Kansas Power & Light Co.

Present sewage treatment is provided by an on-site septic system. The system will be revised to meet EPA standards.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 28th day of November 1977.

RAYMOND E. YOUNG,
Acting Director,
Job Corps.

[FR Doc. 77-36831 Filed 12-29-77; 8:45 am]

[4510-30]

PROPOSED JOB CORPS CENTER AT THE FORMER HIGHWAY PATROL ACADEMY IN SACRAMENTO, CALIF.

Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the former Highway Patrol Academy in Sacramento, Calif., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantage youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is establishing a Job Corps center at the Patrol Academy location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR section 1500.6(c). The proposed Sacramento Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 360 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 120 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility approximately 4 miles from downtown Sacramento. There are 29 buildings connected by covered walkways situated on approximately 21 acres. Water is provided both by an on-site well and pump and connection to the municipal system. Sewage disposal is connected to the city sewer system.

Electric power is supplied by the Sacramento Metro Utility Department. Natural gas is furnished by Pacific Gas & Electric Co. The proposed Job Corps center will be operated in compliance with the Job Corps environmental standards published at 29 CFR 97a.116, and with applicable Federal, State, and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the United States Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 2nd day of December 1977.

RAYMOND E. YOUNG,
Acting Director,
Job Corps.

[FR Doc. 77-36832 Filed 12-29-77; 8:45 am]

[4510-30]

PROPOSED JOB CORPS CENTER AT U.S. BORDER PATROL ACADEMY, PORT ISABEL, TEX.

Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-Finding of Negative Environmental Impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at Port Isabel, Tex., does not constitute a major Federal action which will significantly affect the environment.

FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, Telephone: 202-376-6995.

SUPPLEMENTARY INFORMATION: Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. § 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantage youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is establishing a Job Corps center at the U.S. Border Patrol Academy location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human envi-

ronment within the meaning of 40 CFR section 1500.6(c). The proposed Port Isabel Job Corps Center will be a training center with residential, nonresidential and educational facilities for approximately 300 disadvantage youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The Function of the center and the staff of approximately 100 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for residential living and education, which is substantially the same use to which it was put by the former occupant.

The center will be a self-contained facility located off of Route No. 100, approximately 7 miles north of Port Isabel, Tex., and 27 miles northeast of Brownsville, Tex. The site has been occupied by the Border Patrol for the past 11 years under the jurisdiction of the U.S. Department of Justice.

Proposed utilization of the site will be to provide a Job Corps center with provisions for housing, food service, recreation, administrative areas, medical, dental facility, and academic and vocational training areas.

The property consists of 400 acres of land with 23 operational type buildings. Twenty buildings would be initially available for use by Job Corps.

Water is provided by an on-site water reservior, a treatment plant and a 480,000 gallon storage tank. Sewage treatment is provided by an on-site treatment plant. The existing plant will be upgraded to meet EPA standards.

Natural gas is provided by the Rio Grande Gas Co. Electric power is provided by the Central Power and Light Co.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local Government and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. § 1252 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

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

STAN LIEBNER,
Acting Deputy Director,
Job Corps.

[FR Doc. 77-36833 Filed 12-29-77; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

TENNESSEE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18 (c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17838) of the approval of the Tennessee plan and the adoption of Subpart P to Part 1952 containing the decision.

The Tennessee plan provides for the adoption of Federal Standards as State standards by reference. Section 1953.20 of 29 CFR provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." In response to Federal standard changes, the State has submitted by letters dated April 19, 1977 from James G. Neely, Commissioner of Labor, Tennessee Department of Labor; and January 25, 1977 and June 10, 1977 from Robert H. Wolle, Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health to Donald E. MacKenzie, Regional Administrator, and incorporatred as a part of the plan, State Standards comparable to amendments to §1928.57, Guarding Farm Field Equipment, dated October 22, 1976; §1910.184, Slings, dated July 28, 1975; §1928.57, Guarding Farm Field Equipment, dated March 16, 1976; §1928.57, Guarding Farm Field equipment, dated June 4, 1976; §1910.309, Ground Fault Protection, dated December 21, 1976; §1926.400, Ground Fault Protection, dated December 21, 1976; §1910.1003-1016, Carcinogens, dated August 20, 1976; §1910.20, §1910.1000, and §1910.1028, Emergency Temporary Standards for Benzene, dated May 3, 1977; §1910.1028, Benzene, dated May 10, 1977 and May 24, 1977.

These standards were promulgated by filing with the Tennessee Secretary of State on November 4, 1976, November 22, 1976, January 5, 1977, March 17, 1977, June 2, 1977, respectively, pursuant to the Tennessee Occupational Safety and Health Act of 1972 (Title 50, Chapter 5, Tennessee Code Annotated).

2. *Decision.* Having reviewed the State submission in comparison with Federal standards it has been determined that the State standards are identical to the Federal standards or at least as effective as the Federal standards and are hereby approved.

3. *Location of supplement for inspection and copying.* A copy of the standard supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, 501 Union Building, Nashville, Tenn. 37219; Office of Commissioner of Public Health, Cordell Hull Office Building, Nashville, Tenn. 37219; Office of the Regional Administrator, suite 587, 1375 Peachtree Street NE., Atlanta, Ga. 30309; Office of the Director of Federal Compliance and State Programs, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the Tennessee State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State law and further public participation would be unnecessary.

This decision is effective December 23, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667.))

Signed at Atlanta, Ga., this 1st day of July 1977.

DONALD A. MACKENZIE,
Regional Administrator.

[FR Doc. 77-36828 Filed 12-29-77; 8:45 am]

[4510-28]

Office of the Secretary

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 January 6, 1978.

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 January 6, 1978.

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 12th day of December 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
A. O. Smith Corp. Automotive Division (International Association of Machinist & Aerospace Workers).	Milwaukee, Wis..	12/2/77	11/28/77	TA-W-2,756	Front suspension control arms for Chrysler cars.
The Arrow Shirt Co. (ACTWU).	Albertville, Ala....	12/6/77	12/2/77	TA-W-2,757	Men's shirts.
Brown Shoe Co. (Leather Goods Plastics & Novelty Workers Union).	St. Louis, Mo.....	12/5/77	12/1/77	TA-W-2,758	Women's shoes and children's sandals.
Chain Bike Corp. (International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers).	Allentown, Pa.....	12/1/77	11/30/77	TA-W-2,759	Bicycles.
Cedarock Co., Inc. (workers).	Ponce, P.R.....	12/5/77	11/23/77	TA-W-2,760	Costume jewelry.
Copperweld Corp. Bimetallics Div. (USWA).	Glassport, Pa.....	12/2/77	12/1/77	TA-W-2,761	Copper wire and cable.
June Sportswear Co., Inc. (workers).	Boston, Mass.....	12/5/77	12/1/77	TA-W-2,762	Ladies' slacks, skirts, and other casual apparel.
Jones & Laughlin Steel Corp. (workers) New Kensington Conduit Plant.	New Kensington, Pa.	12/2/77	11/30/77	TA-W-2,763	Rigid steel conduits.
Milwaukee Tool & Equipment Co., Inc. (USWA).	Milwaukee, Wis..	12/5/77	12/1/77	TA-W-2,764	Vises screwjacks and does custom and contract machine work.
M-Tron Industries, Inc., Madison Division (workers).	Madison, S. Dak.	12/5/77	12/1/77	TA-W-2,765	Quarts crystals for CB radios.
Omega Last Co. (workers).	St. Louis, Mo.....	12/5/77	11/25/77	TA-W-2,766	Shoe components.
Onondaga Silk Co., Inc. (Distributive Workers of America).	New York, N.Y....	12/1/77	11/29/77	TA-W-2,767	Natural and synthetic fabric and also treats and prints grey goods.
Ponce Pearl, Inc. (workers).	Ponce, P.R.....	12/5/77	11/25/77	TA-W-2,768	Costume jewelry.
Prosperity Garments (workers).	Brooklyn, N.Y.....	12/6/77	12/2/77	TA-W-2,769	Ladies' coasts and raincoats.
Rochester Shoe Corp. (workers).	Rochester, N.H....	12/5/77	12/1/77	TA-W-2,770	Women's dress and casual shoes.
San Francisco Shirt Works, Inc. (workers).	San Francisco, Calif.	12/1/77	11/28/77	TA-W-2,771	Skirts for women.

[FR Doc. 77-36834 Filed 12-29-77; 8:45 am]

[4510-28]

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 Di-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than January 6, 1978.

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 January 6, 1978.

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 8th day of December 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ballet Makers, Inc. (workers).	New York, N.Y.	11/29/77	11/21/77	TA-W-2,748	Ballet and other theatrical shoes.
Bertard Mfg. Co. (workers).	Lowell, Mass.	11/14/77	11/10/77	TA-W-2,749	Ladies' garments.
C & P Sportswear (workers).	Paterson, N.J.	11/29/77	11/25/77	TA-W-2,750	Ladies and girls coats.
E.S.I., Inc. (workers).	Garwood, N.J.	11/29/77	11/21/77	TA-W-2,751	Power supplies for C.B. radios.
Pullman Standard (workers).	Butler, Pa.	11/28/77	11/21/77	TA-W-2,752	Fabricated railroad freight cars.
Riveredge Corp. (workers).	New Bedford, Mass.	11/28/77	11/25/77	TA-W-2,753	Ladies' and mens' garments.
Shawmut Tanning Co., Corp. (workers).	Peabody, Mass.	11/29/77	11/18/77	TA-W-2,754	Tanning of sheepskins.
SKF Industries, Inc. (workers).	Altoona, Pa.	11/31/77	11/18/77	TA-W-2,755	Ball bearings.

[FR Doc. 77-36835 Filed 12-29-77; 8:45 am]

[4510-28]

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 determinatin 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 January 6, 1978.

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 January 6, 1978.

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 6th day of December 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
Bethlehem Steel Corp. (USWA).	Steelton, Pa.	11/23/77	11/1/77	TA-W-2,726	Welded pipe, rebars, steel rails, railroad track work and large diameter pipe.
The Hanna Furnace Corp. (USWA).	Buffalo, N.Y.	11/23/77	11/1/77	TA-W-2,727	Merchant pig iron.
Laclede Steel Co., Madison Works (USWA).	Madison, Ill.	11/23/77	11/1/77	TA-W-2,728	Reinforcing concrete bars.
Laclede Steel Co., Alton Works (USWA).	Alton, Ill.	11/23/77	11/1/77	TA-W-2,729	Wire, pipe, some rolling of reinforcing bars and small sizes of sheet plate, and bars.
Lisa Dress Corp. (workers).	Boston, Mass.	11/21/77	11/15/77	TA-W-2,730	Ladies' dresses and sportswear.
Joseph Pickard's Sons Co. (workers).	Philadelphia, Pa.	11/25/77	11/10/77	TA-W-2,731	High carbon tempered steel.
Shenango, Inc., Buffalo Division (USWA).	Buffalo, N.Y.	11/23/77	11/1/77	TA-W-2,732	Ingot molds.
Wolff Shoe Manufacturing Co. (workers).	Union, Mo.	11/29/77	11/23/77	TA-W-2,733	Women's dress and casual leather shoes.

[FR Doc. 77-36836 Filed 12-29-77; 8:45 am]

[4510-28]

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 January 6, 1978.

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 January 6, 1978.

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 7th day of December 1977.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
ARP Instruments, Inc. (workers).	Lexington, Mass.	11/28/77	11/25/77	TA-W-2,734	Electronic musical instruments.
Edgewater Steel Corp. (USWA).	Oakmont, Pa.	11/23/77	11/1/77	TA-W-2,735	Forged railroad car wheels and rings.
Parry Footwear, Inc. (workers).	Cambridge, Mass.	11/28/77	11/14/77	TA-W-2,736	Men's and boys' house slippers.
Pittsburgh Metals Purifying Co. (International Molders & Allied Workers Union).	Saxonburg, Pa.	11/28/77	11/23/77	TA-W-2,737	Exothermic compounds, hot tops, and soffelex insulating boards.
Robert Lawrence, Inc. (workers).	Boston, Mass.	11/28/77	11/23/77	TA-W-2,738	Men's coats.
Robinson Apparel, Inc. (workers).	New Bedford, Mass.	11/28/77	11/25/77	TA-W-2,739	Ladies' and misses' dresses and sportswear.
Stutz Products Corp. (DALU No. 24694 Union).	Hartford City, Ind.	11/28/77	11/21/77	TA-W-2,740	Circular knives for meat, slicing machines and food slicing machines, industrial knives, shear, slitter knives.
Wheelin Corrugating Co. (teamsters Local Union).	Buffalo, N.Y.	11/28/77	11/19/77	TA-W-2,741	Rolled sheet steel products, galvanized products, sheet steel for heating units, roof decking, and wall studs.
Wheeling-Pittsburgh Steel Corp. (USWA).	Mingo Junction, Ohio.	11/23/77	11/1/77	TA-W-2,742	Slabs, and rolled coils.
Wheeling-Pittsburgh Steel Corp. (USWA), Ohio Valley Plant.	Steubenville, Ohio.	11/23/77	11/1/77	TA-W-2,743	Strip steel, coated coils, pig iron, ingots, slabs and cold rolled coils.
Wheeling-Pittsburgh Steel Corp., Ohio Valley Plant (USWA).	Follansbee, W. Va.	11/23/77	11/1/77	TA-W-2,744	Strip steel and coated coils.
Wheeling-Pittsburgh Steel Corp. (USWA).	Monessen, Pa.	11/23/77	11/1/77	TA-W-2,745	Carbon steel, slabs, billets and rounds.
Wheeling-Pittsburgh Steel Corp. (USWA).	Yorkville, Ohio.	11/23/77	11/1/77	TA-W-2,746	Tin, black plate, tin foil steel, and cold rolled steel.
Witteman Steel Mills (workers).	Fontana, Calif.	11/28/77	11/23/77	TA-W-2,747	Melt steel to produce reinforcing steel used in the construction industry.

[FR Doc. 77-36837 Filed 12-29-77; 8:45 am]

[4510-29;4830-01]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

Internal Revenue Service

PROPOSED CLASS EXEMPTION FOR CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY SEPARATE ACCOUNTS

Hearing

By notice published in the FEDERAL REGISTER (42 FR 54886, October 11, 1977), the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the Agencies), announced the pendency of a proposed class exemption from the restrictions of sections 406 and 407(a) of the Employee Retirement Income Security Act of 1974, and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954. The proposed exemption, which would be subject to certain conditions, would apply to certain transactions engaged in by insurance company pooled separate accounts in which an employee benefit plan or plans have an interest.

A public hearing on the proposed class exemption will be held on February 3, 1978, beginning at 11 a.m. in Room S-5215 of the Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics to be discussed (at least six copies), and the time to be allocated to each topic, by 3:30 p.m. on January 20, 1978. The statement and outline should be submitted to the Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room C-4526, Washington, D.C. 20216, Attention: Application D-039 Hearing. A person who did not file written comments with the Agencies regarding the proposed exemption may make oral comments at the hearing.

An agenda will be prepared containing the order of presentation of oral comments and the time allotted to each person making oral comments. Ordinarily, 10 minutes will be allotted to each commentator. Information with respect to the contents of the agenda may be obtained on or after January 24, 1978, by telephoning Alan Levitas, Washington, D.C. 202-523-8884.

At the conclusion of oral comments by persons listed in the agenda, to the extent time permits, other persons will be permitted to make oral comments. The public hearing will be transcribed.

Persons making oral comments should be prepared to answer ques-

tions relating to the pending exemption and their comments.

Signed at Washington, D.C., this 27th day of December 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service, U.S. Department of Treasury.

[FR Doc. 77-37231 Filed 12-27-77; 5:00 pm]

[4510-28]

Office of the Secretary

[TA-W-2288]

ABNEY MILLS (BRANDON PLANT), GREENVILLE, S.C.

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-2288: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 26, 1977, which was filed on behalf of workers and former workers producing greige goods at the Brandon Plant of Abney Mills, Greenville, S.C.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Abney Mills, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Brandon plant of Abney Mills, located in Greenville, S.C., produced four varieties of greige cloth: kettle cloth, pants' pocketing, drapery lining, and industrial cloth for tennis shoes. All production at the Brandon plant was terminated in May 1977.

Evidence developed during the course of the investigation revealed that the importation of articles like or directly competitive with the greige cloth produced at the Brandon plant did not contribute importantly to the decrease in sales, production and production-related employment at the Brandon plant.

In discussing the term "like or directly competitive" as used in the Trade Act of 1974 the House Ways and Means Committee, noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America* v. *Bedell*, et al., 506 F. 2d 174 (1974) (S. Rept. 93-1298, 93rd Cong., 2d sess., 1974, p. 122). In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters.

Similarly, imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric or greige cloth must be considered in determining import injury to workers producing greige cloth.

Aggregate imports of unfinished fabric, which includes polyester, acetate, rayon, nylon, and cotton gray, have remained below 10 percent of domestic production and consumption in each year from 1972 to 1977. The ratios of imports to domestic production and consumption decreased from 8.9 percent and 8.3 percent, respectively, in the first three months of 1976 to 6 percent and 5.8 percent, respectively, in the first three months of 1977.

Greige cloth produced at the Brandon plant was sold to fabric converters. The converters, in response to a survey conducted by the Department of Labor reported that they either did not purchase or that they decreased purchases of imported greige cloth or finished fabric.

The cessation of production and the decline in production related employment at Brandon Mill can be traced to the loss of Brandon's sateen cloth market in 1975. Before 1975, virtually all production at Brandon was of sateen cloth. The sateen cloth was manufactured from 100 percent cotton. A sharp rise in the price of cotton priced Brandon's sateen cloth out of the domestic market. Production from mid-1975 until mid-1977 represented an effort by Abney Mills to save Brandon Mill. Several types of greige cloth were shifted into production at Brandon, none of which proved to be financially profitable. Abney Mills made the decision to close down the Brandon Mill in March 1977 after its unsuccessful two year effort to replace the lost production of sateen cloth in 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the greige goods produced at the Brandon plant of Abney Mills, Greenville, S.C., did not contribute importantly to the decline in sales or production of the firm or the total or partial separation of workers at that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37278 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2280]

ANDAL CONTRACT STITCHING, LAWRENCE, MASS.

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-2280: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 25, 1977, in response to a worker petition received on August 18, 1977, which was filed on behalf of workers and former workers stitching uppers for shoes at the Lawrence, Mass., plant of Andal Contract Stitching.

The notice of investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Andal Contract Stitching, the U.S. Department of Commerce, and 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, criterion (4) has not been met.

Andal Contract Stitching was established in Lawrence, Mass., in October of 1975 by Mr. Albert DeNuccio. The firm stitched uppers for shoe manufacturers.

The Department's investigation revealed that the petitioning group of workers were engaged in employment related to the production of uppers at the Lawrence, Mass., plant of Andal Contract Stitching. The firm shutdown in October of 1976, was sold to Plastronic Engineering Co. in November of 1976, and the new owner reopened the stitching service in August of 1977, keeping the Andal name. A complete shoe was not produced by Andal Contract Stitching.

Imports of footwear uppers are negligible and did not contribute importantly to any dislocations at the firm. The ratio of imports to domestic production was less than one percent from 1972 through the first half of 1977. Imports of shoes which incorporate uppers are not "like or directly competitive" with uppers within the meaning of section 222(3) of the Trade Act of 1974.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increased imports of footwear uppers like or directly competitive with footwear uppers produced at the Lawrence, Mass., plant of Andal Contract Stitching did not contribute importantly to the total or partial separation of workers at that plant as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

Harry Grubert,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37279 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2316]

BETHLEHEM STEEL CORP., SPARROWS POINT PLANT, BALTIMORE, MD.

Determinations 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-2316: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 6, 1977, in response to a worker petition received on August 29, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers involved in the operation of steelmaking at the Sparrows Point plant of Bethlehem Steel Corp.

It was subsequently determined at a meeting of officials of the United Steelworkers of America, Behtlehem Steel Corp. and the U.S. Department of Labor that the entire operation at Sparrows Point could be defined to be basic steelmaking plus the production of the following products:

1. Plates.
2. Flanged and dished products.
3. Continuous weld tubing.
4. Wire rods.
5. Wire strand and guard cable.
6. Drawn wire.
7. Tin plate.
8. Nails and staples.
9. Hot-rolled sheet and strip.
10. Cold-rolled sheet and strip.
11. Galvalume.
12. Galvanized sheets.
13. Electric weld tubing.

Workers engaged in employment related to the production of nails and staples at Sparrows Point have previously been certified as eligible to apply for adjustment assistance as a result of an earlier petition (TA-W-1534).

The notice of investigation was published in the Federal Register on September 23, 1977 (42 FR 48418). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

With respect to workers engaged in employment related to the production of each of the products listed below, all four criteria have been met on or after the impact date as listed for each product.

Product and Impact Date

A. Carbon steel plate, August 26, 1976.
B. Continuous weld pipe, August 26, 1976.
C. Electric weld pipe, August 26, 1976.
D. Carbon steel rods, December 19, 1976.
E. Tin plate, January 1, 1977.
F. Hot rolled sheet, January 1, 1977.
G. Cold rolled sheet, January 1, 1977.
H. Galvanized sheets, January 1, 1977.
I. Wire strand, January 1, 1977.

Without regard to whether any other criterion has been met, criterion (4) has not been met for workers engaged in employment related to the production of the following products:

J. Flanged and dished products.
K. Galvalume.
L. Hot-rolled strip.
M. Cold-rolled strip.

Without regard to whether any other criteria have been met for workers engaged in employment related to the production of (N) Drawn wire, criterion (2) was not met in 1976 and criterion (1) was not met in the last quarter of 1976 and in the first 9 months of 1977.

Conclusions

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the products as listed below have not contributed importantly to the total or partial separation of workers engaged in employment related to the production of that product at the Sparrows Point plant of the Bethlehem Steel Corp. Therefore, all workers producing the products listed below are denied eligibility to apply for adjustment assistance.

PRODUCT

Flanged and dished products.
Galvalume.
Hot-rolled strip.
Cold-rolled strip.

With respect to workers engaged in employment related to the production of drawn wire in 1976, neither sales nor production of the product decreased as required for certification. With respect to the workers producing drawn wire during the first nine months of 1977, a significant number of workers have not become totally or partially spearated, or threatened to become separated, as required for certification. Therefore, all workers engaged in employment related to the production of drawn wire are denied eligibility to apply for adjustment assistance.

It is further concluded that increased imports of articles like or directly competitive with the products listed below have contributed importantly to the total or partial separation of workers producing those products at the Sparrows Point plant on or after the corresponding impact dates as listed below:

Product and Impact Date

Carbon steel plate, August 26, 1976.
Continuous weld pipe, August 26, 1976.
Electric weld pipe, August 26, 1976.
Carbon steel rods, December 19, 1976.
Tin plate, January 1, 1977.
Hot rolled sheet, January 1, 1977.
Cold rolled sheet, January 1, 1977.
Galvanized sheets, January 1, 1977.
Wire strand, January 1, 1977.

In accordance with the provisions of the Act, I make the following certifications:

All workers engaged in employment related to the production of one of the products listed above at the Sparrows Point plant of the Bethlehem Steel Corp. who became totally or partially separated from employment on or after the dates listed above are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37280 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2578]

BETHLEHEM STEEL CORP., SAN FRANCISCO, CALIF.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 9, 1977, in response to a worker petition received on October 20, 1977, which was filed on behalf of former workers engaged in providing transportation information to the sales office at the San Francisco, Calif., office of Bethlehem Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on November 11, 1977 (42 FR 58799). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers engaged in employment related to the production of rebars at the Seattle, Wash., plant of Bethlehem Steel Corp. were previously certified eligible to apply for adjustment assistance on July 27, 1977 (See TA-W-1500). The petitioning workers were employed in a transportation office which provided rate and route information to the sales office for reinforcing bars produced at the Seattle plant. These workers are covered under the existing certification, TA-W-1500.

The existing certification will expire on July 27, 1979, unless terminated by the Secretary of Labor. Since workers newly separated, totally or partially, are covered by the existing certification provided such separations occurred on or after the impact date (November 25, 1975) and before the certification expiration date (July 27, 1979) a new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 19th day of December 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-37281 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1945]

BIG RIVER MANUFACTURING CO. KITTANNING, PA.

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-1945: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 4, 1977, in response to a worker petition received on April 1, 1977, which was filed on behalf of workers and former workers producing boys' shirts and jackets at the Kittanning, Pa., plant of Big River Manufacturing Co.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19939). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Big River Manufacturing Company; its parent firm and Customers; the U.S. Department of Commerce, the U.S. International Trade Commission; industry analysts; the National Cotton Council of America; the U.S. Bureau of the Census 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 of proportion of the workers in such workers' firm, or an apprpriate 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 all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of hourly workers at the Kittanning, Pa., plant of Big River Manufacturing Co. decreased 1.3 percent in the fourth quarter of 1976 compared to the same quarter in 1975, and decreased 16.8 percent in the first quarter of 1977 compared to the same quarter in 1976. The average number of hours worked weekly decreased 8.8 percent in the fourth quarter of 1976 compared to the same quarter in 1975, and decreased 9.6 percent in the first quarter of 1977 compared to the same quarter of 1976.

SALES OR PRODUCTION OR BOTH HAVE DECREASED ABSOLUTELY

The value of contract work decreased 24.8 percent in value and 24.1 percent in quantity in the first quarter of 1977 compared with the same quarter of 1976.

INCREASED IMPORTS

Imports of men's and boys' knit sport and dress shirts increased 20.6 percent from 54.9 million units in 1974 to 66.2 million units in 1975, and further increased 11.8 percent to 74.0 million units in 1976. In the first quarter of 1977 imports decreased 1.5 percent to 19.9 million units from 20.2 million

units in the same period of 1976. Ratios of imports to domestic production was 22.9 percent in 1975 and 22.6 percent in 1976.

Imports of men's and boys' woven dress, business, sport and uniform shirts increased 8.0 percent from 85.0 million units in 1974 to 91.8 million units in 1975 and increased 57.0 percent to 144.1 million units in 1976. In the first quarter of 1977, imports increased 15.3 percent to 30.9 million units from 26.8 million units in the same period of 1976. Ratios of imports to domestic production increased from 32.5 percent in 1974 to 36.8 percent in 1975 and increased to 53.9 percent in 1976.

Imports of men's and boys' outer coats and jackets increased 10.5 percent from 20.0 million units in 1975 to 22.1 million units in 1976. In the first quarter of 1977 imports increased 30.4 percent to 6.0 million units from 4.6 million units in the same quarter of 1976. Ratios of imports to domestic production increased from 28.1 percent in 1975 to 31.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

Major customers of the subject firm's parent indicated that they do purchase imported boys' shirts or jackets. These customers represent at least 9.2 percent of the quantity of the parent firm's 1976 sales. Two customers representing at least 8.1 percent of the quantity of the parent firm's 1976 sales indicated that purchases from this firm decreased in 1976 and 1977 while their imports of jackets and shirts increased.

These patterns of increased aggregate imports in 1976 and 1977 and increased imports by the customers of Big River's parent firm also decreased purchases from Dunmoor, correspond with the decreases in contract work and employment at the subject firm in the last part of 1976 and the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with boys' shirts and jackets produced by Big River Manufacturing Company, Kittanning, Pennsylvania contributed importantly to the separations of workers of that firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Big River Manufacturing Co. Kittanning, Pa., who became totally or partially separated from employment on or after July 24, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37282 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2135]

CHRISTY PARK WORKS, U.S. STEEL CORP., McKEESPORT, PA.

Determinations 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-2135: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 8, 1977, in response to a worker petition received on June 8, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel pressure vessels at the Christy Park Works of the U.S. Steel Corp. in McKeesport, Pa. The investigation revealed that seamless pressurized gas cylinders and seamless roll forged pipe and tubing are produced at the plant.

The Notice of Investigation was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32328). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Steel 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 such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for workers engaged in employment related to the production of seamless roll forged pipe and tubing. Without regard to whether any of the other criteria have been met, criterion (2) has not been met for workers engaged in employment related to the production of seamless pressurized gas cylinders.

A. SEAMLESS ROLL FORGED PIPE AND TUBING

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers engaged in employment related to the production of roll forged pipe and tubing declined 17.1 percent in the July 1976 through June 1977 period compared to the like period one year earlier. The pipe and tubing operations at the plant are scheduled to close indefinitely in December 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Plant sales of roll forged pipe and tubing declined 15.6 percent in quantity in the July 1976 through June 1977 period compared to the like period one year earlier.

INCREASED IMPORTS

Imports of seamless carbon steel pipe and tubing increased from 197,900 tons in 1974 to 275,200 tons in 1975, increased to 321,200 tons in 1976 and continued to increase 40.7 percent from 69,300 tons in the first quarter of 1976 to 97,500 tons in the first quarter of 1977. The ratio of imports of seamless carbon steel pipe and tubing to domestic shipments of seamless carbon steel pipe and tubing increased from 8.5 percent in 1974 to 10.9 percent in 1975, increased to 17.4 percent in 1976 and continued to increase from 10.9 percent in the first quarter of 1976 to 17.8 percent in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Some of the customers of roll forged pipe and tubing of the Christy Park Works reported in a survey conducted by the Department that they had reduced purchases from Christy Park and had increased purchases of imported roll forged pipe and tubing.

B. SEAMLESS PRESSURIZED GAS CYLINDERS

Plant sales of pressurized gas cylinders increased 50.0 percent in quantity in the July through June 1977 period compared to the like period one year earlier. Sales approximates production as the plant does not produce for inventory.

Thus it is concluded that neither sales nor production of pressurized gas

cylinders have declined at the Christy Park Works of the U.S. Steel Corp.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production of pressurized gas containers have declined at the Christy Park Works of the U.S. Steel Corp. in McKeesport, Pa., as required for certification under section 222 of the Trade Act of 1974. Therefore, all workers engaged in employment related to production of pressurized gas containers at the Christy Park Works of U.S. Steel Corp. are denied eligibility to apply for adjustment assistance.

I further conclude that increased imports of articles like or directly competitive with the seamless roll forged pipe and tubing produced at the Christy Park Works of the U.S. Steel Corp. in McKeesport, Pa, have contributed importantly to the total or partial separation of workers at the plant as required for certification under section 222 of the Trade Act of 1974.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of seamless roll forged pipe and tubing at the Christy Park Works of the U.S. Steel Corp. in McKeesport, Pa., who became totally or partially separated from employment on or after May 8, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37283 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1933]

D'ANDRE, INC., MONTCLAIR, CALIF.

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-1933: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 31, 1977, in response to a worker petition received on March 29, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of former workers producing ladies' coats at D'Andre, Inc., Montclair, Calif.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of D'Andre, Inc., its customers, the National Cotton Council of America, 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.

Without regard to whether any other criteria have been met, criterion (4) has not been met.

D'Andre, Inc., Montclair, Calif., was a contractor performing sewing operations on ladies' coats for clothing manufacturers.

A survey of D'Andre's major customer, who accounted for 95 percent of the work done at D'Andre in 1976, revealed that the clothing manufacturer shifted orders from D'Andre to other domestic contractors. This customer does not import ladies' coats and does not contract with foreign contractors. Dollar sales by this clothing manufacturer increased from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with ladies' coats produced at D'Andre, Inc., Montclair, Calif., did not contribute importantly to the decline in sales or to the total or partial separations of workers at that firm, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37284 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2340]

EXETER FOOTWEAR, INC., EXETER, N.H.

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-2340: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 14, 1977, in response to a worker petition received on September 12, 1977, which was filed on behalf of workers and former workers producing women's, men's, and children's sandals at Exeter Footwear, Inc., Exeter, N.H.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained prinicpally from officials of Exeter Footwear, 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 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, criterion (4) has not been met.

Exeter Footwear, Inc., founded in 1963 at its present location in Exeter, N.H., is a manufacturer of women's, men's, and children's sandals.

Customers accounting for 85 percent of Exeter's sales in 1976 indicated in a survey that they did not purchase imported sandals. Customers comprising 69 percent of sales in 1976 reduced purchases in 1977 because they began producing sandals at their own manufacturing facilities.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's, men's, and children's sandals produced at Exeter Footwear, Inc., Exeter, N.H., did not contribute importantly to sales declines and to the total or partial separations of the workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37285 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2083]

FASHION FOOTWEAR CO., INC., RUTHERFORD, N.J.

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-2083: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1977, in response to a worker petition received on May 20, 1977, which was filed by the International Production, Service, and Sales Employees Union on behalf of workers and former workers producing women's casual shoes, corduroy slippers, and uppers used in the manufacture of women's and children's sneakers at the Fashion Footwear Co., Inc., plant in Rutherford, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fashion Footwear Co., Inc., its customers, the International Production, Service, and Sales Employees Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Records are maintained at Fashion based on a fiscal year beginning in the first week of July.

The average number of production workers employed by Fashion Footwear Co., Inc., declined by 9.1 percent from fiscal 1976 to fiscal 1977. Average employment declined in the second, third, and fourth quarters of fiscal 1977 by 9.9 percent, 14.4 percent and 38.2 percent, respectively, compared to the same periods in fiscal 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Net sales declined by 15.6 percent from fiscal 1976 to fiscal 1977.

Production, as reflected in shipments, declined by 5.8 percent from fiscal 1976 to fiscal 1977. Shipments declined in the fourth quarter of fiscal 1977 compared to the same period in fiscal 1976 by 36.0 percent.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear, except athletic, increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 2.5 percent from 1975 to 1976 and decreased 16.1 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic production and consumption decreased from 114.1 percent and 53.3 percent, respectively, in 1975 to 112.6 percent and 53 percent, respectively in 1976. The ratios of imports to domestic production and consumption increased from 101.7 percent and 50.4 percent, respectively, in the first half of 1976 to 119.6 percent and 54.5 percent, respectively, in the first half of 1977.

Imports of house slippers increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 17.2 percent from 1975 to 1976 and decreased 3.6 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic production and consumption increased from 33.9 percent and 25.3 percent, respectively, in 1975 to 43.1 percent and 30.1 percent, respectively in 1976. The ratios of imports to domestic production and consumption increased from 41.7 percent and 29.4 percent, respectively, in the first half of 1976 to 45.2 percent and 31.1 percent, respectively, in the first half of 1977.111Imports of rubber/canvas footwear increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 35.2 percent from 1975 to 1976 and increased 11.8 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic production and consumption increased from 17.6 percent and 15 percent, respectively, in 1975 to 26.6 percent and 21 percent, respectively in 1976. The ratios of imports to domestic production and consumption increased from 21.2 percent and 17.5 percent, respectively, in the first half of 1976 to 29.4 percent and 22.7 percent, respectively, in the first half of 1977.

CONTRIBUTED IMPORTANTLY

Annual U.S. production of slippers has declined steadily since 1972. The decline in production has been largely the result of increasing competition from casual footwear, both domestically produced and imported, especially in the women's sector of the nonrubber footwear industry.

A survey of customers who purchased corduroy slippers from Fashion indicated that customers who had decreased purchases of curduroy slippers from Fashion had not switched their purchases to other domestic manufacturers or foreign suppliers but had increased their purchases of imported women's casual shoes. Customers cited competitiveness and creativity as among factors leading to a decline in their purchases of corduroy slippers from Fashion.

Fashion Footwear Co., Inc.'s, major customer of women's casual shoes reported in a survey that it had decreased purchases of women's casual shoes from Fashion and had increased purchases of imported women's casual shoes.

Sneaker uppers were incorporated into sneakers sold by Frier Industries Distribution Corp. (FIDCO), a division of Frier Industries. A survey of Frier's customers who purchased sneakers indicated that customers who reduced purchases of sneakers from Frier increased their purchases of imported sneakers.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's casual shoes and corduroy slippers, produced

at the Rutherford, N.J., plant of Fashion Footwear Co., Inc., contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Rutherford, N.J., plant of Fashion Footwear Co., Inc., who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37286 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2382]

FOX SHOE MANUFACTURING CORP., NEW YORK, N.Y.

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-2382: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 27, 1977, in response to a worker petition received on September 21, 1977, which was filed by Joint Council 13, United Shoe Workers of America, AFL-CIO on behalf of workers and former workers producing ladies shoes at the Fox Shoe Manufacturing Corp., New York, N.Y.

The Notice of Investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55316). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Fox Shoe Manufacturing Corp., and their customers, publications of the U.S. Department of Commerce, and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation reveals that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Fox Shoe Manufacturing Corp. increased in 1976 compared to 1975, and decreased in the first three quarters of 1977 compared to the same period in 1976.

Average weekly hours per worker increased in 1976 compared to 1975, and decreased in the first three quarters of 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales at Fox Shoe Manufacturing Corp. increased in terms of quantity in 1976 compared to 1975, and decreased in the first three quarters of 1977 compared to 1976.

INCREASED IMPORTS

Imports of misses' and women's nonrubber footwear increased, in absolute terms, from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 2.5 percent from 1975 to 1976, and decreased 16.1 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic production and consumption decreased from 114.1 percent and 53.3 percent respectively in 1975 to 112.6 percent and 53.0 percent, respectively in 1976. The ratios of imports to domestic production and consumption increased from 101.7 percent and 50.4 percent in the first half of 1976, respectively in 1976 to 119.6 percent and 54.5 percent in the first half of 1977.

CONTRIBUTED IMPORTANTLY

The import penetration rate has been greater than 90 percent for the past 5 years, culminating in the first half of 1977, when the ratio of imports to domestic production was 119.6 percent.

Major customers of Fox Shoe increased purchases of imports in 1976 compared to 1975, and in the first three quarters of 1977 compared to 1976 either directly or by increasing purchases from other domestic sources which supply imported ladies shoes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ladies' shoes produced at Fox Shoe Manufacturing Corp. contributed importantly to the total or partial separations of the workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Fox Shoe Manufacting Co., New York, N.Y. who became totally or partially separated from employment on or after September 14, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37287 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2087]

FRIER INDUSTRIES, DISTRIBUTION CORP., CARLSTADT, N.J.

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-2087: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 23, 1977, in response to a worker petition received on May 20, 1977, which was filed by the International Production, Service and Sales Employees' Union on behalf of workers and former workers producing women's and children's sneakers at the Frier Industries Distribution Corp. (FIDCO), Carlstadt, N.J., a subdivision of Frier Industries, Inc. The petition incorrectly states that Frier Industries, Inc. is the subject firm. The subject firm is Frier Industries Distribution Corp. (FIDCO), a division of Frier Industries, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28634). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Frier Industries Distribution Corp., Frier Industries, Inc., Frier Industries' customers, the International Production, Service and Sales Employees Union, 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 as-

sistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production and warehouse workers employed by FIDCO, Carlstadt, N.J., declined 54.5 percent from fiscal 1976 to fiscal 1977. (The fiscal year begins in the first week in July.)

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Women's and children's sneakers were manufactured and Frier shoes were warehoused at FIDCO. Plant operations, including production and warehousing, as reflected in intercompany allocation of cost of goods sold, declined in adjusted fiscal 1975 dollars by 7.9 percent from fiscal 1975 to fiscal 1976 and further declined by 37.5 percent from fiscal 1976 to fiscal 1977.

INCREASED IMPORTS

Imports of rubber/canvas footwear increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 35.3 percent from 1975 to 1976 and increased 61.6 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 17.6 percent and 15.0 percent, respectively, in 1975 to 26.6 percent and 22.6 percent respectively, in 1976. The ratio of imports to domestic production and consumption increased from 21.2 percent and 17.5 percent, respectively, in the first 6 months of 1976 to 29.4 percent and 22.7 percent, respectively, in the first 6 months of 1977.

CONTRIBUTED IMPORTANTLY

A survey of customers of Frier Industries, Inc. who purchased women's and children's sneakers indicated that customers who had reduced purchases from Frier had increased their purchases of imported women's and children's sneakers in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and children's sneakers produced at the Carlstadt, N.J., plant of Frier Industries Distribution Corp., a division of Frier Industries, Inc., 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 Carlstadt, N.J., plant of Frier Industries Distribution Corporation (FIDCO), a division of Frier Industries, Inc., who became totally or partially separated from employment on or after May 11, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37288 Filed 12-28-77; 8:45 am]

[4510-28]

[TA-W-1911]

GROSS GALESBURG CO., GALESBURG, ILL.

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-1911: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 28, 1977, in response to a worker petition received on March 24, 1977, which was filed by the Amalgamated Clothing and Textile Worker of America on behalf of workers and former workers producing work clothing and grass catchers at the Galesburg, Ill., plant of Gross Galesburg Co.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gross Galesburg Co., 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.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Department's investigation revealed that the average number of production workers engaged in employment related to the production of work clothing increased 16.1 percent in 1976 compared to 1975 and increased 94.3 percent in the period January through April 1977 compared to the same period in 1976. Employment steadily increased in each quarter of 1976 and in the first quarter of 1977. Employment in each quarter of 1976 and the first quarter of 1977 increased compared to employment in the like quarters of the previous year. Officials at Gross Galesburg indicated that no layoffs occurred at the Galesburg, Ill., plant during 1976 and the first quarter of 1977.

The average number of hours worked per week increased 26.9 percent in 1976 compared to 1975 and increased 20.0 percent in the first quarter of 1977 compared to the like period in 1976.

The average number of workers engaged in employment related to the production of grass catchers increased 360 percent in 1976 compared to 1975 and increased 81 percent in the period January through April 1977 compared to the like period in 1976.

A survey conducted by the Department found that imports of grass catchers are negligible in the domestic market.

Increased employment during 1976 and 1977 was the result of the company's decision to consolidate all production at the Galesburg, Ill., plant. The Chariton, Iowa, plant, the only other location of Gross Galesburg, closed in March 1977. Employment at Galesburg, Ill., increased in 1976 in preparation of the increased production which was to occur with the closing of the Chariton, Iowa, plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that significant total or partial separations of workers have not occurred at the Galesburg, Ill., plant of Gross Galesburg Co., as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37289 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2211]

INTERNATIONAL HARVESTER CO., PAYLINE DIVISION, LIBERTYVILLE, ILL.

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-2211: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 18, 1977, in response to a worker petition received on July 14, 1977, which was filed by the International Union, United Automobile, Aerospace & Agriculture Implement Workers of America on behalf of workers and former workers producing construction equipment, rubber tired, front end loaders, International Harvester Models H-30 and H-50 at the Hough Division of International Harvester Co., Libertyville, Ill.

The Notice of Investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39150). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Harvester Co., Chicago and Libertyville, Ill., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that criterion (3) has not been met with respect to scrapers and haulers.

Imports of scrapers and off-highway trucks are not separately identifiable within import categories which include various types of construction equipment. A survey of officials at major U.S. ports of entry indicates that imports of scrapers and off-highway trucks are negligible.

Further, the investigation revealed that criterion (4) has not been met with respect to loaders.

Imports of wheel-type front-end loaders increased from 139 units in 1972 to 775 units in 1974, declined to 701 units in 1975, and increased to 901 units in 1976. Imports increased absolutely in January through June 1977 compared to the same period in 1976. Imports relative to domestic production increased from less than one percent in 1972 to 1.52 percent in 1975 and to 2.40 percent in 1976.

Construction equipment manufactured by International Harvester is marketed through dealerships which may sell complementary product lines manufactured by a competitor of International Harvester, but do not sell competitive models. Hence, a survey of the dealers would not indicate direct import influence.

Declines in sales and production, and inventory accumulation which resulted in layoffs of workers at the Libertyville plant in 1976 corresponded to the decline in domestic construction activity which began in 1974 and continued through 1975. Declines in completed construction projects ("construction put in place"), generally precede declines in output of equipment manufacturer by approximately 12 months. Similarly, sales and production increases and recalls of workers in 1977 corresponded to increased domestic construction activity in 1976. All products manufactured at the Libertyville plant were significantly affected by declines in sales and production, and inventory accumulation. Due to the depressed demand for construction equipment, International Harvester maintained its market share in 1976 with sales from accumulated inventory.

The International Harvester Co. discontinued production of two models of loaders at the Libertyville plant, and began importing two comparable models in October 1976. During the period International Harvester imported loaders, the fourth quarter of 1976 and the first two quarters of 1977, sales, production, and employment of production workers at the Libertyville plant increased in each quarter compared to the previous quarter.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of loaders, scrapers, and haulers like or directly competitive with those produced by workers at the Libertyville, Ill., plant of International Harvester Co. have not contributed importantly to separations or the threat thereof, nor to the decrease in sales or production at that plant as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37290 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2414]

MAGMA COPPER CO., SAN MANUEL, ARIZ.

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-2414: 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 4, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the San Manuel, Ariz., properties of Magma Copper Co.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55317). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Magma Copper Co., 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 of proportion of the workers in such workers' firm, or

an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the San Manuel Division of Magma Copper Co. increased from 1975 to 1976 and in the first nine months of 1977 compared to the same period in 1976. Layoffs began in August 1977 and continued in September 1977. No layoffs occurred during the 12 months prior to the layoffs in August 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Magma Copper Co.'s sales of refined copper increased from 1975 to 1976 and then declined in each of the first three quarters of 1977 compared to the respective like quarter in 1976.

INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

CONTRIBUTED IMPORTANTLY

At the end of 1976 Magma's bookings for new orders of refined copper for 1977 were substantially above actual sales for 1976. These bookings which reflected customers' anticipated demands for copper were not firm sales and were subject to cancellation. By the end of the last quarter of 1977 actual sales will be an estimated 23 percent below original bookings at Magma for 1977.

Magma's reduced sales reflected a smaller than expected increase in total demand for refined copper by domestic users and excessive inventories on hand of domestic and imported copper with domestic users.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Magma and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange), and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Comments made by customers purchasing refined copper from Magma substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

Magma's decision to layoff workers and reduce its mining operations in August and September 1977 was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper. 000

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by the San Manuel Division of the Magma Copper Co. contributed importantly to the decrease in company sales and to the total or partial separation of the workers of that Division.

In accordance with the provisions of the Act, I make the following certification:

All employees at the San Manuel, Ariz., property of Magma Copper Co., who became totally or partially separated from employment on or after August 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 21st day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37291 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2415]

MAGMA COPPER CO. SUPERIOR, ARIZ.

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-2415: 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 4, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Superior, Ariz., properties of Magma Copper Co.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55317). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Magma Copper Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average employment of production workers at the Superior Division of Magma Copper Co. increased from 1975 to 1976 and in the first nine months of 1977 compared to the same period in 1976. Layoffs began in September 1977. No layoffs occurred during the 12 months prior to the layoffs in September 1977.

Sales or Production, or Both, Have Decreased Absolutely

Magma Copper Co's. sales of refined copper increased from 1975 to 1976 and then declined in each of the first three quarters of 1977 compared to the respective like quarter in 1976.

Increased Imports

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand shorts tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

Contributed Importantly

At the end of 1976 Magma's bookings for new orders of refined copper for 1977 were substantially above actual sales for 1976. These bookings which reflected customers' anticipated demands for copper were not firm sales and were subject to cancellation. By the end of the last quarter of 1977 actual sales will be an estimated 23 percent below original bookings at Magma for 1977.

Magma's reduced sales reflected a smaller than expected increase in total demand for refined copper by domestic users and excessive inventories on hand of domestic and imported copper with domestic users.

While imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Magma and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exhange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5–8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the forseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are $1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Comments made by customers purchasing refined copper from Magma substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

Magma's decision to layoff workers and reduce its mining operations in August and September 1977 was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by the Superior Division of the Magma Copper Company contributed importantly to the decrease in company sales and to the total or partial separation of the workers of that Division.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Superior, Ariz., property of Magma Copper Co., who became totally or partially separated from employment on or after September 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of December 1977.

Harry Grubert,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37292 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1860]

MICHELE SPORTSWEAR, DALLAS, PA.

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-1860: investigation regarding certification of eligibility to apply for

worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's sportswear at Michele Sportswear, Dallas, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156-7). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michele Sportswear, 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.

Without regard to whether any other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Michele Sportswear, Dallas, Pa., is a contractor which produces women's sportswear for clothing manufacturers. Shipments of women's sportswear by Michele Sportswear to clothing manufacturers increased from 1975 to 1976.

A survey of clothing manufacturers, who represented about 45 percent of sales by Michele Sportswear in 1976, indicated that these clothing manufacturers did not import women's sportswear and did not provide contract work to foreign firms. Sales of women's sportswear by these clothing manufacturers increased from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's sportswear produced at Michele Sportswear, Dallas, Pennsylvania, did not contribute importantly to sales declines and to the total or partial separations of workers at that firm, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37293 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1748]

MONIQUE SPORTSWEAR, WHITTIER, CALIF.

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 3, 1977, in response to a worker petition received on March 1, 1977, which was filed by the International Ladies' Garment Workers Union (ILGWU) on February 14, 1977, on behalf of workers and former workers producing ladies' sportswear at Monique Sportswear, Whittier, Calif.

Notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The Department of Labor has received no correspondence from the ILGWU with respect to locating officials of Monique Sportswear. The firm in question has gone out of business. It has not been possible to contact officials of the firm or to gain access to any records, ledgers or documents. Therefore, the investigation has been terminated.

Signed at Washington, D.C., this 6th day of December 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 77-37294 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2097]

NEWPORT FINISHING CORP., FALL RIVER, MASS.

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-2097: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1977, in response to a worker petition received on May 23, 1977, which was filed on behalf of former workers producing printed and dyed fabric at Newport Finishing Corp., Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Newport Finishing Corp., 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.

Without regard to whether any other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that a survey of converters, who accounted for over 85 percent of Newport Finishing's orders in 1976, indicated that the converters did not shift their orders of printed and dyed fabric from Newport Finishing to imports.

Imported wearing apparel cannot be considered to be like or directly competitive with printed and dyed fabric. Imports of all types of finished fabric must be considered in determining import injury to workers producing printed and dyed fabric at Newport Finishing Corp. Aggregate imports of finished fabric declined in each quarter of 1976 compared to the respective previous quarters and declined in the first half of 1977 compared to the first half of 1976. The ratio imports to domestic production remained at two percent or less since 1973.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that imports of articles like or directly competitive with printed and dyed fabric produced at Newport Finishing Corp., Fall River, Massachusetts did not contribute importantly to the decline in sales and production and to the total or partial separations of workers at that firm, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37295 Filed 12-29-77; 8:45 am]

[4510-20]

[TA-W-1864 and 1865]

PLYMOUTH DRESS CO., INC., NANTICOKE, PA. PLANT, AND PLYMOUTH, PA. PLANT

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-1864 and 1865: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing women's dresses at Plymouth Dress Co., Inc., Plymouth, Pa., and Nanticoke, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Plymouth Dress Co., 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.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Plymouth Dress Co. is a contractor of women's dresses for one apparel manufacturer. Plymouth Dress Co. operates two production facilities: one in Nanticoke, Pa., and the other in Plymouth, Pa.

Total production by Plymouth Dress Co. increased in quantity 18 percent in 1975 from 1974, 14 percent in 1976 from 1975, and 1 percent during the first quarter of 1977 compared to the first quarter of 1976. Production by the Nanticoke, Pa., plant of Plymouth Dress Co. increased 14 percent in 1975 from 1974, 22 percent in 1976 from 1975, and 4 percent during the first quarter of 1977 compared to the first quarter of 1976. Production by the Plymouth, Pa., plant of Plymouth Dress Co. increased 22 percent in 1975 from 1974, 9 percent in 1976 from 1975, and declined 2 percent during the first quarter of 1977 compared to the first quarter of 1976.

During the past 3 years of operation, Plymouth Dress Co. has performed contract work exclusively for one clothing manufacturer. This manufacturer does not purchase imported women's dresses and does not manufacture outside the United States. The value of contracts issued by this manufacturer to Plymouth Dress Co. increased 50 percent in 1976 from 1975. Contract work issued by the manufacturer to other domestic contractors increased in 1976 from 1975. Total sales by this manufacturer increased 36 percent in value in 1976 from 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with women's dresses produced at the Nanticoke, Pa., plant and the Plymouth, Pa., plant of the Plymouth Dress Co., Inc., have not contributed importantly to the decline in sales or production of the firm or to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37296 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1828]

SEA ISLE SPORTSWEAR, INC., GLEN LYON AND BERWICK, PA.

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-1828: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 21, 1977, in response to a worker petition received on March 18, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing sportswear at Sea Isle Sportswear, Inc., Glen Lyon, Pa. The investigation was expanded to include the Berwick, Pa., plant of Sea Isle Sportswear, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sea Isle Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 13.6 percent from

1974 to 1975 and decreased 1.6 percent from 1975 to 1976. In the last quarter of 1976, the average number of production workers decreased 6.6 percent compared to the same period of 1975. In the first quarter of 1977, the average number of production workers decreased 23.5 percent compared to the same period of 1976.

The number of salaried workers remained stable from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales increased 17.1 percent in value from 1974 to 1975 and increased 20.8 percent in value from 1975 to 1976. In the last quarter of 1976, sales decreased 31.0 percent in value compared to the same period of 1975. In the first quarter of 1977 sales decreased 31.3 percent in value compared to the same period of 1976.

Production in quantity decreased 45.2 percent in the first quarter of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of women's, misses' and children's skirts decreased from 593 thousand dozen in 1972 to 308 thousand dozen in 1973 and decreased to 254 thousand dozen in 1974. In 1975 imports rose to 508 thousand dozen and increased in 1976 to 780 thousand dozen. In the first quarter of 1977 imports were 103 thousand dozen compared to 266 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 10.6 percent in 1975 to 12.2 percent in 1976.

Imports of women's, misses' and children's slacks and shorts decreased from 12,094 thousand dozen in 1972 to 11,831 thousand dozen in 1973 and decreased to 8,923 thousand dozen in 1974. In 1975 imports rose to 10,067 thousand dozen and increased in 1976 to 11,040 thousand dozen. In the first quarter of 1977 imports were 3,373 thousand dozen compared to 3,531 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 33.0 percent in 1975 to 39.0 percent in 1976.

Imports of women's, misses' and children's blouses and skirts increased from 17,265 thousand dozen in 1972 to 17,780 thousand dozen in 1973 and increased to 20,549 thousand dozen in 1974. In 1975, imports rose to 26,113 thousand dozen and increased in 1976 to 30,273 thousand dozen. In the first quarter of 1977 imports were 8,280 thousand dozen compared to 9,657 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 70.4 percent in 1975 to 76.0 percent in 1976.

Imports of children's dresses decreased from 1,152 thousand dozen in 1972 to 917 thousand dozen in 1973 and decreased to 910 thousand dozen in 1974. In 1975 imports rose to 949 thousand dozen and decreased in 1976 to 901 thousand dozen. The ratio of imports to domestic production increased from 15.3 percent in 1975 to 16.1 percent in 1976.

A survey of customers who represent 20 percent of total sales of Sea Isle Sportswear, Inc. in 1976 revealed that several of these customers reduced purchases from Sea Isle Sportswear, Inc. and increased purchases of imported sportswear in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation. I conclude that imports of articles like or directly competitive with sportswear produced by Sea Isle Sportswear, Inc. contributed importantly to the decline in sales and or production and to the total or partial separations of workers at that firm. In accordance with the Provisions of the Act, I make the following certification:

All workers of Sea Isle Sportswear, Inc., Glen Lyon, Pa., and Berwick, Pa., who became totally or partially separated from employment on or after July 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37297 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1829]

SEA ISLE SPORTSWEAR, WILKES-BARRE, PA.

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-1829: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on March 21, 1977, in response to a worker petition received on March 18, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing sportswear at Sea Isle Sportswear, Inc., Wilkes-Barre, Pa.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Sea Isle Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 13.6 percent from 1974 to 1975 and decreased 1.6 percent from 1975 to 1976. In the last quarter of 1976, the average number of production workers decreased 6.6 percent compared to the same period of 1975. In the first quarter of 1977, the average number of production workers decreased 23.5 percent compared to the same period of 1976.

The number of salaried workers remained stable from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total company sales increased 17.1 percent in value from 1974 to 1975 and increased 20.8 percent in value from 1975 to 1976. In the last quarter of 1976, sales decreased 31.0 percent in value compared to the same period of 1975. In the first quarter of 1977 sales decreased 31.3 percent in value compared to the same period of 1976.

Production in quantity decreased 45.2 percent in the first quarter of 1977 compared to the same period of 1976.

INCREASED IMPORTS

Imports of women's, misses', and children's shirts decreased from 593 thousand dozen in 1972 to 308 thousand dozen in 1973 and decreased to 254 thousand dozen in 1974. In 1975

imports rose to 508 thousand dozen and increased in 1976 to 780 thousand dozen. In the first quarter of 1977 imports were 103 thousand dozen compared to 266 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 10.6 percent in 1975 to 12.2 percent in 1976.

Imports of women's, misses', and children's slacks and shorts decreased from 12,094 thousand dozen in 1972 to 11,831 thousand dozen in 1973 and decreased to 8,923 thousand dozen in 1974. In 1975 imports rose to 10,067 thousand dozen and increased in 1976 to 11,040 thousand dozen. In the first quarter of 1977 imports were 3,373 thousand dozen compared to 3,531 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 33.0 percent in 1975 to 39.0 percent in 1976.

Imports of women's, misses', and children's blouses and skirts increased from 17,265 thousand dozen in 1972 to 17,780 thousand dozen in 1973 and increased to 20,549 thousand dozen in 1974. In 1975, imports rose to 26,113 thousand dozen and increased in 1976 to 30,273 thousand dozen. In the first quarter of 1977 imports were 8,280 thousand dozen compared to 9,657 thousand dozen in the same period of 1976. The ratio of imports to domestic production increased from 70.4 percent in 1975 to 76.0 percent in 1976.

Imports of children's dresses decreased from 1,152 thousand dozen in 1972 to 917 thousand dozen in 1973 and decreased to 910 thousand dozen in 1974. In 1975 imports rose to 949 thousand dozen and decreased in 1976 to 901 thousand dozen. The ratio of imports to domestic production increased from 15.3 percent in 1975 to 16.1 percent in 1976.

A survey of customers who represent 20 percent of total sales of Sea Isle Sportswear, Inc., in 1976 revealed that several of these customers reduced purchases from Sea Isle Sportswear, Inc., and increased purchases of imported sportswear in 1976 and 1977.

Conclusion

After careful review of the fact obtained in the investigation, I conclude that imports of articles like or directly competitive with sportswear produced by Sea Isle Sportswear, Inc., contributed importantly to the decline in sales and/or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Sea Isle Sportswear, Inc., Wilkes-Barre, Pa., who became totally or partially separated from employment on or after July 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of December 1977.

Harry Grubert,
Director, Office of Foreign Economic Research.

[FR Doc. 77-37298 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2227]

STANDARD DYEING AND FINISHING CO., PATERSON, N.J.

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-2227: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 25, 1977, in response to a worker petition received on July 22, 1977, which was filed on behalf of workers and former workers engaged in the dyeing and finishing of fabric at the Paterson, N.J. plant of the Standard Dyeing and Finishing Co.

The notice of investigation was published in the Federal Register on August 9, 1977 (42 FR 40286). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Standard Dyeing, fabric converters who are customers of Standard Dyeing, customers of the fabric converters, the National Cotton Council, 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 subdividion 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 any of the other criteria, criterion four (4) has not been met.

Evidence developed during the course of the investigation revealed that Standard Dyeing, a one-plant company located in Paterson, N.J., has been engaged in dyeing and finishing operations since it was formed in 1961.

The petition alleges that the company has been hurt by imports of textiles. Textile industry spokesmen agree that Commission printers and dyers have been adversely affected by increased imports of apparel. Converters, who are customers of printers and dyers, state that imports of apparel have been a factor in reduced business with the printers and dyers.

In discussing the term "like or directly competitive" as used in the Trade Act of 1974, the House Ways and Means Committee, noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic components parts thereof, *United Shoe Workers of America* v. *Bedell*, et al., 506 F. 2d 174 (1974). (S. Rept. 93-1298, 93d Cong., 2d Sess., 1974, p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters.

Similarly, imported wearing apparel cannot be considered to be like or directly competitive with printed or finished fabric. Imports of fabric must be considered in determining import injury to workers producing printed or finished fabric.

Inasmuch as all types of finished fabric, dyed and printed, are generally interchangeable and substitutable in their end uses, all types of finished fabric may be considered like to directly competitive with the fabric dyed and finished at Standard.

Aggregate imports of finished fabric, which includes dyed cotton broadwoven, dyed man-made broadwoven, dyed cotton, knit, dyed man-made knit, cotton broadwoven printcloth, man-made woven printed fabric, flocked cotton fabric, and flocked man-made fabric, declined absolutely from 1972 to 1973 and from 1973 to 1974 and increased from 1974 to 1975. Imports increased 20 percent from 1975 to 1976.

Imports of finished fabric declined in each quarter of 1976 compared to the respective previous quarters and declined 38 percent in the first half of 1977 compared to the first half of 1976.

The ratios of imports to domestic production and consumption reached a peak in the most recent five-year period at 2.2 percent in 1972. Since 1973 the ratios have been 2 percent or less.

Standard Dyeing does work on a commission basis for fabric converters.

Ten of these converters, accounting for approximately 50 percent of Standard's business in 1976 were surveyed concerning their fabric dyeing and printing commissions and purchases of finished fabric from 1975 through June, 1977. Five of these converters responded, including the one which represents 35 percent of Standard's total commissions. None of these converters shifted to purchases of imports of finished fabric.

Manufacturers, who are customers of the converters surveyed, were also contacted concerning their fabric purchases. None of the manufacturers contacted purchased imports of finished fabric during the period under survey.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric dyed at Standard Dyeing and Finishing Co., Paterson, N.J., did not contribute importantly to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 77-37299 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2465]

U.S. STEEL CORP., AMERICAN BRIDGE DIVISION, PITTSBURGH, PA. (SHIFFLER PLANT)

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-2465: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 13, 1977, in response to a worker petition received on October 4, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing fabricated structural steel at the Pittsburgh, Pa. (Shiffler), plant of the American Bridge Division of the U.S. Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56377). 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. Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment declined in the first ten months of 1977 compared to the like 1976 period. However, there were no significant layoffs prior to September 1977 other than a layoff early in 1977 which was caused by an energy shortage. Significant is defined as 50 workers or 5 percent of the workforce, whichever is less. The average weekly hours exceeded 80 percent of the standard workweek in 1976 and through October 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Plant production of fabricated structural steel declined in quantity in the first ten months of 1977 compared to the like 1976 period.

INCREASED IMPORTS

Imports of fabricated structural steel declined each year from 133,700 tons in 1972 to 91,500 tons in 1974, increased to 99,300 tons in 1975, declined to 94,400 tons in 1976 and increased 52.1 percent from 77,500 in the first three quarters of 1976 to 117,900 tons in the first three quarters of 1977.

The ratio of imports of fabricated structural steel to domestic shipments declined each year from 2.8 percent in 1972 to 2 percent in 1974, increased to 2.3 percent in 1975, increased to 2.5 percent in 1976 and continued to increase from 2.7 percent in the first three quarters of 1976 to 4.5 percent in the first three quarters of 1977.

CONTRIBUTED IMPORTANTLY

All of the Shiffler plants sales are made through competitive bids. A large number of bids placed in the first three quarters of 1977 were lost to foreign fabricators.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the fabricated structural steel produced at the Shiffler plant of the American Bridge Division of the U.S. Steel Corp. in Pittsburgh, Pa., have contributed importantly to the total or partial separation of workers at the plant as required for certification under section 222 of the Act.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of fabricated structural steel at the Shiffler plant of the American Bridge Division of the U.S. Steel Corp. in Pittsburgh, Pa., who became totally or partially separated from employment on or after September 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37300 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1762]

WEIDER OF CALIFORNIA, HOLLYWOOD, CALIF.

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-1762: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act

The investigation was initiated on March 3, 1977, in response to a worker petition received on March 1, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Weider of California, Hollywood, Calif.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Weider of California, its customers, the National Cotton Council of America, 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 of 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 other criteria have been met, criterion (4) has not been met.

Weider of California, Hollywood, Calif., produced ladies' coats under contract for a clothing manufacturer. Company sales, recorded on an fiscal year basis (August 1-July 31), increased 50 percent from fiscal year 1975 to 1976. All operations at Weider of California were terminated in august 1976.

A survey of Weider's only customer, who accounted for all of the contract work done at Weider in 1976, revealed that this clothing manufacturer shifted orders from Weider to other domestic contractors. This customer does not import finished goods nor does the customer contract with foreign contractors. Dollar sales by this clothing manufacturer increased from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with ladies' coats produced at Weider of California, Hollywood, Calif., did not contribute importantly to the decline in sales or to the total or partial separations of workers at that firm, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of December 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 77-37301 Filed 12-29-77; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2128]

BARBARA JUNE

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-2128: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on June 8, 1977, in response to a worker petition receive on May 23, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's lingerie at Barbara June, Humacao, P.R.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Barbara June, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Barbara June was a contractor for ladies' lingerie. The manufacturer for which Barbara June performed contract work experienced increased sales in 1976 compared to 1975. This manufacturer neither contracts work offshore nor purchases imported goods. This manufacturer discontinued placing orders with Barbara June in 1976 and began to perform the work inhouse.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's nightgowns produced by Barbara June, Humacao, P.R., did not contribute importantly to the decline in sales or production and to the total or partial separation of the workers of that firm.

Signed at Washington, D.C., this 15th day of December 1977.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-36838 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2222]

BETHLEHEM MINES CORP.; DIVISION OF BETHLEHEM STEEL 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-2222: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on July 25, 1977, in response to a worker petition received on July 22, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron ore-ferrous at the Grace Mine, Morgantown, Pa., of Bethlehem Mines Corp., a Division of Bethlehem Steel Corp.

During the investigation it was determined that the Grace Mine produced iron ore which was concentrated and pelletized into iron ore pellets.

The notice of investigation was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40286). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the United Steelworkers of America, the American Iron and Steel Institute, 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 of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

Significant Total or Partial Separations

Average employment of production workers increased 1 percent in 1975 compared to 1974, remained virtually unchanged in 1976 compared to 1975, and increased 7 percent in the first six months of 1977 compared to the like period in 1976.

Labor turnover data furnished by the company and substantiated by the union showed that no layoffs occurred from January 1976 through June 1977. A major layoff occurred in July 1977, preceding the permanent shutdown of the Grace Mine on September 30, 1977. Security employees will remain at the plant indefinitely.

Sales or Production, or Both, Have Decreased Absolutely

Production of iron ore pellets at the Grace Mine decreased 11 percent in quantity in 1975 compared to 1974, decreased 1 percent in 1976 compared to 1975, and decreased 4 percent in the first six months of 1977 compared to the like period in 1976.

Separate records for sales of iron ore pellets were not furnished by the company. Since mid-1976, all shipments of pellets were to the Bethlehem, Pa., steelmaking plant of Bethlehem Steel Corp., for use in making carbon steel structural shapes, alloy tool steel, and hot and cold rolled steel bars.

Production of raw iron ore decreased 18 percent in quantity in 1975 compared to 1974, decreased 1 percent in 1976 compared to 1975, and decreased 9 percent in the first six months of 1977 compared to the like period in 1976.

The Grace Mine does not produce for inventory, although some inventory is usually on hand.

The Grace Mine closed permanently on September 30, 1977.

Increased Imports

Imports of carbon steel structural shapes decreased in quantity in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 68 percent from 1975 to 1976 and increased 32 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic shipments and consumption increased from 19.5 percent and 16.8 percent, respectively, in 1975 to 40.0 percent and 29.1 percent, respectively, in 1976, and increased from 30.2 percent and 23.6 percent, respectively, in the first half of 1976 to 40.2 percent and 29.2 percent, respectively, in the first half of 1977.

Imports of alloy tool steel increased in quantity in absolute terms, from 1972 to 1973, increased from 1973 to 1974, increased from 1974 to 1975, and increased 4 percent from 1975 to 1976. The ratios of imports to domestic shipments and consumption increased from 33.9 percent and 26.9 percent, respectively, in 1975 to 36.3 percent and 27.8 percent, respectively, in 1976.

Imports of alloy hot and cold rolled steel bars decreased in quantity in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 9 percent from 1975 to 1976 and increased 47 percent in the first half of 1977 compared to the first half of 1976. The ratios of imports to domestic shipments and consumption increased from 3.1 percent and 3.0 percent, respectively, in 1975 to 3.3 percent each in 1976, and increased from 3.0 percent each in the first half of 1976 to 4.4 percent and 4.3 percent, respectively, in the first half of 1977.

Contributed Importantly

Since mid-1976, all the iron ore pellets produced at the Grace Mine were shipped only to the Bethlehem, Pa., plant of Bethlehem Steel Corp.

The Bethlehem, Pa., plant produces carbon steel structural shapes, alloy steel bar, alloy tool steel and miscellaneous foundry products. The structurals and bars accounted for approximately 60 percent and 20 percent, respectively, of total 1976 production. The alloy tool steel accounted for approximately 10 percent.

The workers engaged in employment related to the production of carbon steel structural shapes at the Bethlehem, Pa., plant have been previously certified eligible to apply for adjustment assistance. (See TA-W-1496 cert. Sept. 29, 1977.) Workers engaged in employment related to the production of alloy and tool steel products, including bars, at the Bethlehem plant also have been previously certified. (See TA-W-924 cert. Aug. 27, 1976.)

Bethlehem Steel Corp. shut down the Grace Mine permanently on September 30, 1977. Major layoffs began in July 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel structural shapes, alloy steel bars, and alloy tool steel produced at the Bethlehem, Pa., plant of Bethlehem Steel Corp. contributed importantly to the total or partial separation of the workers of the Grace Mine, Morgantown, Pa., of the Bethlehem Mines Corp. In accordance with the provisions of the Act, I make the following certification:

All workers at the Grace Mine, Morgantown, Pa., of Bethlehem Mines Corp., who became totally or partially separated from employment on or after July 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of December 1977.

Harry Grubert,
Director, Office of Foreign Economic Research.

[FR Doc. 77-36839 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2129]

CARIBE PRINCESA

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-2129: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 8, 1977, in response to a worker petition received on May 23, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's lingerie at Caribe Princesa, Humacao, Puerto Rico.

The notice of investigation was published in the Federal Register on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Caribe Princesa, its customers, the American Textile Manufacturers Institute, 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 to apply for adjustment assistance,

each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Caribe Princesa was a contractor for ladies' lingerie. The manufacturer for which Caribe Princesa performed contract work experienced increased sales in 1976 compared to 1975. This manufacturer neither contracts work offshore nor purchases imported goods. This manufacturer discontinued placing orders with Caribe Princesa in 1976 and began to perform the work inhouse.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's nightgowns produced by Caribe Princesa, Humacao, Puerto Rico did not contribute importantly to the decline in sales or production and to the total or partial separation of the workers of that firm.

Signed at Washington, D.C. this 15th day of December 1977.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 77-36840 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2206]

DR. SCHOLL SHOE 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-2206: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 13, 1977, in response to a worker petition received on July 12, 1977, which was filed on behalf of workers and former workers producing men's shoes at the Jefferson, Wis., plant of Dr. Scholl Shoe Manufacturing Co.

The Notice of Investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39157). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dr. Scholl Shoe Manufacturing Co., 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.

Without regard whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Dr. Scholl's Jefferson plant produced men's welt and cement constructed leather shoes. A survey of Dr. Scholl's customers indicated that Dr. Scholl's men's shoes had high quality materials and craftsmanship and were designed for superior comfort and fit.

Approximately half of Dr. Scholl's men's shoes are marketed through the company's own chain of retail stores, and the other half are sold to independent retail shoe stores. Dr. Scholl's retail outlets do not sell imported footwear other than the men's exercise sandals imported by Dr. Scholl to complement its domestic line. A survey of independent retail shoe stores indicated that none of these customers purchased imported men's footwear.

Dr. Scholl Shoe Manufacturing Co. decided to close its Jefferson plant in September 1977 and to have its men's shoes produced by another domestic manufacturer.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with men's shoes produced at the Jefferson, Wis., plant of Dr. Scholl Shoe Manufacturing Co. did not contribute importantly to sales declines or to separations of workers of that plant, as required for certification under section 222 of the Trade Act of 1974.

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

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 77-36841 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-1898]

CRADDOCK MILLS

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-1898: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing children's sportswear at Craddock Mills in Warrior Run-Peely, Pa. The sportswear consists of children's suits, jackets, dresses and slacks.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Craddock Mills and 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 sub-

division 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 above criteria have been met, criterion four (4) has not been met.

The manufacturer that purchased 90 to 95 percent of Craddock Mills production increased total orders with all domestic contractors in 1976 and 1977 because of increased sales. This manufacturer decreased orders with Craddock Mills in 1977 and shifted to other domestic contractors. This manufacturer does not import nor does it contract with any foreign establishments.

CONCLUSION

After careful review of the facts obtained in this investigation, it is concluded that imports of articles like or directly competitive with the children's sportswear produced at the Warrior Run-Peely, Pennsylvania plant of Craddock Mills did not contribute importantly to the total or partial separations of the workers at that plant as required for certification under section 222 of the Trade Act of 1974.

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

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-36842 Filed 12-29-77; 8:45 am]

[4510-28]

[TA-W-2202]

NL INDUSTRIES, INC.; TITANIUM PIGMENT DIVISION

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-2202: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 13, 1977, in response to a worker petition received on July 11, 1977, which was filed by the Chemical Workers Basic Union on behalf of workers and former workers producing titanium dioxide pigment at the St. Louis, Mo., plant of the Titanium Pigment Division of NL Industries, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39157). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of NL Industries, 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 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 decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the St. Louis, Mo., plant of the Titanium Pigment Division of NL Industries, Inc. increased 2.5 percent in 1976 compared to 1975 and declined 13.8 percent in the first half of 1977 compared to the first half of 1976. No layoffs occurred at the plant during 1977 until April 9, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant production of titanium dioxide pigment increased 15.5 percent in 1976 compared to 1975 and declined 7.6 percent in the first half of 1977 compared to the first half of 1976. Plant production increased in each quarter from the second quarter of 1976 through the first quarter of 1977 when compared to the respective like quarter of the preceding year. Production declined 24.0 percent in the second quarter of 1977 compared to the second quarter of 1976.

INCREASED IMPORTS

U.S. imports of titanium dioxide pigment declined from 86,379 short tons in 1972 to 60,419 short tons, 34,996 short tons and 26,503 short tons, respectively, in 1973, 1974 and 1975. U.S. imports increased to 68,816 short tons in 1976. U.S. imports increased from 35,301 short tons in the first half of 1976 to 51,336 short tons in the first half of 1977.

The ratio of imported titanium dioxide pigment to domestic production declined from 12.0 percent in 1972 to 7.7 percent and 4.4 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production remained at 4.4 percent in 1975 before increasing to 9.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

Major customers purchasing titanium dioxide pigment produced at the St. Louis, Mo., plant of NL Industries, Inc. have decreased purchases from NL while increasing purchases of imported titanium dioxide pigment.

Company imports of titanium dixoide pigments increased 1,600.9 percent in 1976 compared to 1975 and increased 125.6 percent in the first half of 1977 compared to the first half of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with titanium dioxide pigment produced at the St. Louis, Mo., plant of the Titanium Pigment Division of NL Industries, Inc. contributed importantly to the decrease in sales and production and to the total or partial separation of the workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

"All employees at the St. Louis, Mo., plant of the Titanium Pigment Division of NL Industries, Inc. who became totally or partially separated from employment on or after April 9, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

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

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 77-36843 Filed 12-29-77; 8:45 am]

[6820-41]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

PARTIALLY CLOSED MEETING

Notice of Public Availability of Reports

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. 552(b), the National Commission on Electronic Fund Transfers has filed a report on its closed or partially closed meetings at the U.S. Library of Congress, Washington, D.C. The Commission's Suppliers' Committee held a partially closed meeting on August 12, 1977. Copies of the report on this

meeting are available for public inspection at the Library of Congress.

Dated: December 16, 1977.

JOHN B. BENTON,
Executive Director.

[FR Doc. 77-37179 Filed 12-29-77; 8:45 am]

[0000-00]

NATIONAL COMMISSION ON NEIGHBORHOODS

ESTABLISHMENT AND MEETING

ACTION: Notice of establishment and meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I), describes the functions of the Commission and announces a public meeting and proposed agenda to be considered.

TIME AND DATE: 9:30 a.m., (eastern standard time), Saturday, January 14, 1978.

PLACE: Woodrow Wilson Center Library of the Smithsonian Institution on the 3rd Floor, 1000 Jefferson Drive, SW., Washington, D.C. 20560.

STATUS: Open to the public.

MATTERS TO BE CONSIDERTED:

(1) General discussion of Commission Agenda.
(2) Budget.
(3) Other business.

CONTACT PERSON FOR MORE INFORMATION:

Jonathan Stein, Administrative Officer, at 202-632-5200.

SUPPLEMENTARY INFORMATION: The National Commission on Neighborhoods is established by the National Neighborhood Policy Act, Title II of Public Law 95-24 (42 U.S.C. 1441). Under section 204 of the Act, the Commission is directed to:

undertake a comprehensive study and investigation of the factors contributing to the decline of city neighborhoods and of the factors necessary to neighborhood survival and revitalization. Such study and investigation shall include, but not be limited to—

(1) An analysis of the impact of existing Federal, State, and local policies, programs, and laws on neighborhood survival and revitalization;

(2) An identification of the administrative, legal, and fiscal obstacles to the well-being of neighborhoods;

(3) An analysis of the patterns and trends of public and private investment in urban areas and the impact of such patterns and trends on the decline or revitalization of neighborhoods;

(4) An assessment of the existing mechanisms of neighborhood governance and of the influence exercised by neighborhoods on local government;

(5) An analysis of the impact of poverty and racial conflict on neighborhoods;

(6) An assessment of local and regional development plans and their impact on neighborhoods; and

(7) An evaluation of existing citizen-initiated neighborhood revitalization efforts and a determination of how public policy can best support such efforts.

The Commission shall make recommendations for modifications in Federal, State, and local laws, policies, and programs necessary to facilitate neighborhood preservation and revitalization. Such recommendations shall include, but not be limited to—

(1) New mechanisms to promote reinvestment in existing city neighborhoods;

(2) More effective means of community participation in local governance;

(3) Policies to encourage the survival of economically and socially diverse neighborhoods;

(4) Policies to prevent such destructive practices as blockbusting, redlining, resegregation, speculation in reviving neighborhoods, and to promote homeownership in urban communities;

(5) Policies to encourage better maintenance and management of existing rental housing;

(6) Policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures;

(7) Modification in local zoning and tax policies to facilitate preservation and revitalization of existing neighborhoods; and

(8) Reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

Not later than one year after the date on which funds first become available to carry out this title, the Commission shall submit to the Congress and the President a comprehensive report on its study and investigation under this subsection which shall include its findings, conclusions, and recommendations and such proposals for legislation and administrative action as may be necessary to carry out its recommendations.

This notice issued December 27, 1977.

JONATHAN STEIN,
Administrative Officer.

[FR Doc. 77-37402 Filed 12-29-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE ON SCIENCE AND SOCIETY

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463); it is hereby determined that the establishment of the Advisory Committee for Science and Society is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF), by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Committee Management Secretariat, pursuant to the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

Name of committee: Advisory Committee on Science and Society.

Purpose: To provide advice and recommendations concerning support for programs relating to the Office of Science and Society (OSS), and its constituent programs.

Effective date of establishment and duration: The establishment of the Committee is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the NSF. The Committee will operate on a continuing basis contingent upon its renewal every two years.

Membership: Membership of the Committee shall be fairly balanced in the terms of the point of view represented and the Committee's function. The Committee will consist of approximately 27 persons selected from those whose professional distinction and expertise lie in the several fields and disciplines encompassed by the activities of OSS and its constituent programs. Members of the Committee will be chosen so as to be reasonably representative of the public, private and academic communities encompassed by the activities of OSS, of the sexes, of minority scientists and of geographical regions in the United States.

Operation: The Committee will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463; NSF policy and procedures, OMB Circular No. A-63, Revised, and other directives and instructions issued in implementation of the Act.

RICHARD C. ATKINSON,
Director.

DECEMBER 27, 1977.

FR Doc. 77-37163 Filed 12-29-77; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR EARTH SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Committee for Earth Sciences.

Date and time: January 20-21, 1978; 9 a.m. to 5 p.m. each day.

Place: The National Science Foundation, 1800 G Street NW., Rooms 602, 643, and 1145, Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. William E. Benson, Acting Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4274.

Purpose of panel: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 27, 1977.

[FR Doc. 77-37161 Filed 12-29-77; 8:45 am]

[7555-01]

DISCLOSURE OF AFFILIATIONS AND INTERESTS

Final Standards

AGENCY: National Science Foundation (NSF).

ACTION: Final standards.

SUMMARY: The fiscal year 1978 NSF Authorization Act (Pub. L. 95-99) directs the Foundation to issue standards requiring that each NSF employee who performs a decision-making function in the handling of any application for NSF support shall provide a written statement identifying any "financial interests or other relevant interests" he or she has in the organization submitting the application or in the principal investigator or project director and any "academic affiliations" he or she has with the organization or with the principal investigator or project director. It also directs the Foundation to issue standards "appropriately requiring identification of any conflicts-of-interest by peer reviewers." This NSF Circular issues the required standards.

EFFECTIVE DATE: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Harriet E. Tucker, Assistant to the General Counsel, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, 202-634-4257.

SUPPLEMENTARY INFORMATION: On October 19, 1977, the National Science Foundation published in the FEDERAL REGISTER proposed standards to implement section 10 of Pub. L. 95-99, which is described in the summary. The new Circular announcing the standards changes only very slightly the substance of the Foundation's existing NSF regulations, 45 CFR Part 600, and in NSF Circular No. 54. It adds, however, new requirements for formal disclosure designed to protect and document the objectivity and integrity of the Foundation's proposal review process.

One possibility carefully considered by the Foundation was that each reviewer and Foundation employee involved in decisions on a proposal should be required to fill out a fairly simple checklist form of possibly relevant affiliations and interests. We decided instead to ask reviewers and employees to identify any such affiliations and interests in their own words. On reflection, a form seemed less likely to stimulate honest and thoughtful attention to affiliations and interests that can affect objectivity and judgment, less likely to expose the particulars of particular situations, more likely to produce instead rote responses and resentment, and more likely to cost the Foundation the voluntary cooperation of many peer reviewers.

Moreover, the simplest form we could devise (one page) would, if faithfully filled out and returned, load the Foundation's files with roughly 400 cartons of paper a year, much of it containing no useful information. We also discovered that a required form, even a simple one, would entail surprisingly many and costly administrative tasks and complications. It would also run contrary to our ongoing efforts to reduce required paperwork and intrusive Federal bureaucracy.

The chief concern that has been expressed about the proposed standards, both informally and formally, has been over the potential impact on peer reviewers. The concern is that reviewers' willingness to continue providing unreimbursed public service in reviewing proposals could be seriously affected by any appearance that reviewing proposals entails legal risks, by undue bureaucratic paperwork requirements, or even by perceived aspersions on reviewers' ethical integrity. The Foundation shares this concern, and has for that reason sought willing collaboration rather than enforced paper compliance. A reviewer's contact with these standards will normally come by a polite request for disclosure from the appropriate program manager, normally in language spelled out in paragraph 2.b. of the Circular. We believe reviewers will understand the importance of thorough and thoughtful disclosure to protection of the scientific objectivity and integrity of proposal review, and that they will respond willingly and openly. Many reviewers volunteer such disclosures now.

On the other hand, one comment suggested that the model request language might be omitted from the "regulations" and placed in an appendix for staff. Since the entire Circular is an internal directive for staff, however, a separate appendix would create a needless split. Moreover, since this language is the vital part of the Circular that those outside the Foundation will normally see, the Foundation has perferred to include it in the Circular so that the public could comment on it.

One comment objected to parts of the proposed model language which indicated that Foundation staff "will determine to what extent, if at all, the affiliations you [the reviewer] identify should affect the weight to be given your review". The objection was that this language could be read as implying doubt on the reviewer's capacity for moral judgment. Obviously, no such implication was intended, and the final Circular has been amended accordingly.

In response to another comment, paragraph 2.b. has been amended to add a requirement that responsible program officials indicate in the appropriate proposal file how, if at all, any affiliations and interests identified by a reviewer have affected the use of the review in assessing the proposal.

Several suggestions were made on the affiliations and interests that should be disclosed. In response to one such suggestion, paragraph 3.c.(1)(i) has been amended to indicate that an appointment as a professor at the applicant organization currently or within the last 12 months is an "academic affiliation" within the meaning of that provision. In response to another, paragraph 3.e.(1) of the proposed Circular, now renumbered as paragraph 3.e.(3), has been amended to require disclosure of any relevant affiliation or interest, not just a financial interest, of one's spouse, minor child, or blood relative living in the immediate household. In response to another, paragraph 3.c.(2) has been amended to require disclosure of any past association with a proposed principal investigator as thesis advisor or thesis student, regardless of when, and to lengthen the period required for disclosure of any past collaboration on a project or publication from 12 months to 48 months. Similarly, paragraph 3.e.(2) of the proposed Circular, now renumbered as paragraph 3.e.(1), has been amended to make clear that membership on the governing board of an applicant organization and any special position in its alumni association are affiliations that should be disclosed.

We have not, however, as one comment suggested, required disclosure of attendance as a student at the applicant institution. Program staff generally discount the likelihood that past attendance at a school, in itself, would

significantly affect a scientist's peer judgment of scientific work and proposals. Thus, very little use would be made of the information if it were specially collected. The same information, moreover, is readily available through *American Men and Women of Science* or similar publications should it become a source of concern in a particular case.

In response to another comment, an explanation has been added to the definition of "disqualifying affiliation or interest" in paragraph 3.b. to make clearer that only Foundation employees are automatically disqualified by possession of such an affiliation or interest. Whether a reviewer's possession of such an affiliation or interest requires that his or her review be disregarded is left to the discretion of program officials, advised by the Foundation's Conflicts-of-Interests Counselor.

A few suggestions were made for changes in the affiliations and interests that should be regarded as disqualifying. These deserve further consideration and will get it. No change has been made now, however, because the present Circular and the underlying statute are concerned primarily with disclosure. The identification of some interests and affiliations as disqualifying was primarily intended simply to avoid any confusion regarding preexisting Foundation policy that already made them disqualifying.

Another suggestion was that the Foundation's General Counsel should be empowered to advise or determine whether a particular affiliation or interest of an employee is disqualifying. We agree. He and the Conflicts-of-Interests Counselor on his staff already have that responsibility under 45 CFR § 600.735-7 and NSF Circular No. 54.

Another suggestion was that the Foundation might establish an internal procedure to make certain that individuals who have disqualified themselves once should not be asked to review proposals where the same disqualifying conflict would exist. We agree with the substance of this suggestion. Informal procedures already exist for this purpose and should be strengthened. A centralized special bureaucratic procedure for the purpose, however, would not in our judgment contribute enough to the effectiveness of the program to justify the administrative trouble and costs it would involve.

In response to another suggestion, paragraph 4 has been amended to make reference to 18 U.S.C. § 1001, under which any knowingly and willfully false or fraudulent disclosure or failure to make disclosure could be punished.

Several minor editorial changes have also been made in the final Circular. For technical reasons certain essentially editorial changes suggested in comments have not been made.

Accordingly, the Foundation is publishing the following NSF Circular.

NSF CIRCULAR NO. ——

Subject: Disclosure of Academic Affiliations and Financial Interests

1. *Authority and Cross-Reference.* This Circular is issued to implement section 10 of Pub. L. 95-99 and Section 11(a) of the National Science Foundation Act of 1950, as amended, 42 U.S.C. § 1870(a). *See also* NSF Circular No. 54, "Employee Conduct and Conflicts of Interest".

2. *Disclosure Policy.* a. Each Foundation employee who performs a decision-making function in handling any proposal shall determine in each case whether he or she has any academic affiliations, financial interests, or other relevant interests with the applicant organization or the proposed principal investigator or project director and:

(1) If the employee has a disqualifying affiliation or interest, he or she shall not participate in any decisions involving the proposal (and the file should normally contain a brief explanation of the disqualification); or

(2) The employee shall place a written statement identifying any other such affiliations or interests in the proposal file; or

(3) If no such statement is filed, the employee's signature or initials on the appropriate award or declination form will be taken as an affirmation that the employee has no such affiliations or interests.

b. Each peer reviewer of any proposal shall be asked by the responsible program manager to indicate any possible conflicts of interest he or she may have because of academic affiliations, financial interests, or other relevant interests with the applicant organization or the proposed principal investigator or project director. In the case of mail review, this may be done by including in the letter requesting the review the following language:

"If you have any academic affiliations or financial interests with the institution or the proposed principal investigator [project director] submitting this proposal that could be construed as creating a conflict of interests, please describe those affiliations or interests in your own words on a separate piece of paper and attach it to your review. Regardless of any such affiliations or interests, unless you believe you cannot be objective, we should like to have your review.

"If you attach no description of affiliations or interests that could be construed as creating a conflict of interests, we shall assume that you have no such affiliations or interest."

In the case of panel review, the program officer should make an oral request of the panel members essentially as follows:

"If when we come to consider any particular proposal you recognize that you have any academic affiliations or financial interest with the institution submitting the proposal or with the proposed principal investigator or project director that could be construed as creating a conflict of interests for you, please let me know. I will ask you to describe those affiliations or interests in your own words and will determine from your description whether any of them should be recorded in the file. If as we consider proposals you do not report any affiliations or interests that could be construed as creating conflicts of interest, we shall assume that you have none.

"If as we proceed you have a problem or question about this, I'll be glad to restate this instruction and to explain as best I can how it applies."

A record of affiliations and interests identified by a reviewer shall be placed in the proposal file and retained there. The responsible program officials shall determine how, if at all, those affiliations and interests should affect the use of the review in assessing the proposal. They should appropriately describe in the proposal file both their determination and the reasoning behind it.

c. Employees' statements of affiliations and interests shall be retained in the proposal file and shall be made available to the public upon request if the proposal results in an award.

d. Employees and reviewers must report only those affiliations and interests that are within their personal knowledge. Pursuit of detailed information not readily available is not required.

3. *Definitions.* a. The employees who perform "decision-making functions" in the handling of any proposal are: (1) the official who makes the initial program recommendation to award or decline (usually a program manager or program director), (2) the official who makes the final program decision to award or decline (usually the Director, an Assistant Director, or a Division Director), (3) each supervisory official at intervening levels who must approve the recommendation before it goes to the official who makes the final program decision, and (4) each grants-and-contracts officer, administrative officer, and lawyer who participates in negotiation or prescription of financial plans, budgets, or terms. Other employees who perform technical advisory or review functions are not considered to perform "decision-making functions".

b. A "disqualifying affiliation or interest" means any academic affiliation, financial interest, or other relevant interest identified as "disqualifying" in subparagraphs 3.c, 3.d, or 3.e. A Foundation employee's possession of such an affiliation or interest disqualifies him or her from performing a decision-making function in handling the affected proposal. A reviewer's possession of such an affiliation or interest, however, does not necessarily require that his or her review be disregarded. That is left to the discretion of program officials, with advice as necessary from the Foundation's Conflicts-of-Interests Counselor in the Office of the General Counsel.

c. (1) An "academic affiliation" with an applicant organization is:

(i) Appointment as professor, adjunct professor, visiting professor, or the like currently or within the last 12 months [disqualifying];

(ii) Current enrollment as a student [disqualifying, but only for proposals that originate from the Department in which the employee is a student]; or

(iii) Current membership on a visiting committee or similar body.

(2) An "academic affiliation" with a proposed principal investigator or project director is:

(i) Past or present association as thesis adviser or thesis student;

(ii) Employment at the same institution within the last 12 months; or

(iii) Collaboration on a project or on a book, article, monograph, or paper within the last 48 months.

d. A "financial interest" in an applicant organization is:

(1) Ownership of stocks, bonds, notes, or other evidences of debt (other than through mutual funds) [disqualifying];

(2) Current employment, including any consulting or advisory arrangement under which the employee is available to perform services, whether or not services are actually performed and whether or not the employee has received any compensation [disqualifying];

(3) Any formal or informal reemployment arrangement [disqualifying]; or

(4) Being under consideration for employment [disqualifying].

e. An "other relevant interest" is:

(1) The holding of any office, governing board membership, or relevant committee chairmanship in the applicant organization or, if applicable, in its alumni association (but membership in a professional society or association is not considered an office) [disqualifying]; or

(2) A blood or marriage relationship to the proposed principal investigator or project director [disqualifying]; or

(3) Any affiliation or interest held by one's spouse, one's minor child, or a blood relative living in one's immediate household that would be covered by this Circular if it were one's own affiliation or interest.

f. A "proposal" is any application to the Foundation for a grant or contract, solicited or unsolicited, but not any application for a fellowship.

4. *Penalties.* The Director may take appropriate disciplinary action, up to and including removal, against any employee who knowingly violates the requirements of this Circular. Any knowingly and willfully false or fraudulent disclosure or failure to make disclosure, moreover, may be a violation of the criminal statutes (18 U.S.C. § 1001).

5. *Reports to Congress.* The Director shall report annually to Congress on the administration and enforcement of this Circular.

RICHARD C. ATKINSON,
Director.

DECEMBER 22, 1977.

[FR Doc. 77-37101 Filed 12-29-77; 8:45 am]

[7555-01]

EXECUTIVE SUBCOMMITTEE FOR PHYSIOLOGY, CELLULAR, AND MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Executive Subcommittee of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

Date and time: January 20, 1978, 8:30 a.m. to 5:30 p.m.

Place: Room 325, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Henry C. Reeves, Division Director for Physiology, Cellular and Molecular Biology, Room 325, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4338.

Purpose of subcommittee: To provide advice and recommendations concerning support of research in the physiological, cellular and molecular aspects of biology.

Agenda: To review and evaluate internal records leading to an overview and appraisal of administrative performance in the division.

Reason for closing: The data being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 19, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 27, 1977.

[FR Doc. 77-37141 Filed 12-29-77; 8:45 am]

[7555-01]

OFFICE OF SCIENCE AND SOCIETY SCIENCE FOR CITIZENS PROGRAM

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Science for Citizens of the Advisory Committee on Science and Society.

Date and time: January 20, 1978, 9 a.m. to 5 p.m., and January 21, 1978, 9 a.m. to noon.

Place: Room 651, 5225 Wisconsin Avenue, Washington, D.C. 20550.

Contact person: Ms. Rachelle Hollander, Acting Program Manager, Science for Citizens Program, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7770.

Type of meeting: Open.

Purpose of committee: To provide advice and recommendations concerning the developmnent of the science for citizens program.

Agenda: January 20—(1) Current activities and status of program; (2) reports on site visits and problems of evaluation; and (3) SFC feasibility studies: review of draft letter. January 21—SFC feasibility studies (continuation of discussion).

Summary of minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, Washington, D.C. 20550.

M. REBECCA WINKLER,
Acting Committee Management Officer.

DECEMBER 27, 1977.

FR Doc. 77-37160 Filed 12-29-77; 8:45 am]

[7550-01]

NATIONAL MEDIATION BOARD

AVAILABILITY OF INFORMATION

Order

AGENCY: National Mediation Board.

ACTION: Notice of order.

SUMMARY: This Order determines that it would be impracticable and unnecessary to publish an index of all matters issued by the National Mediation Board or the National Railroad Adjustment Board which are required to be indexed by the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

Rowland K. Quinn, Jr., Executive Secretary, National Mediation Board, Telephone 202-523-5920.

The National Mediation Board hereby determines by Order that publication of indexes providing identifying information for the public as to any matter required to be made available or published by the National Mediation Board or the National Railroad Adjustment Board pursuant to 5 U.S.C. 552(a)(2) would be unnecessary and impracticable.

As provided in 29 CFR 1208.2(d), such indexes are available for public inspection and copies thereof will be furnished at a price not to exceed the direct cost of duplication.

By order of the National Mediation Board.

Dated: December 22, 1977.

ROWLAND K. QUINN, Jr.
Executive Secretary.

[FR Doc. 77-37103 Filed 12-29-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON TRANSPORTATION OF RADIOACTIVE MATERIALS

Meeting

The ACRS Working Group on Transportation of Radioactive Materials will hold an open meeting on January 17, 1978 at the Albuquerque Inn, 3rd and Marquette NW., Albuquerque, N. Mex., to review the final qualification test criteria and test results for the Plutonium Package Certification Program.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Working Group, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to

allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, January 17, 1978

1 p.m. until the conclusion of business. The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will hear presentations by and hold discussions with representatives of the NRC Staff and their consultants pertinent to the above topics. The Working Group may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether additional meetings of the Working Group will be required.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-634-1374, between 8:15 a.m. and 5 p.m., EST.

Date: December 22, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 77-36855 Filed 12-29-77; 8:45 am]

[7590-01]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to facility operating license No. DPR-51, issued to Arkansas Power & Light Co. (the licensee), which revised the technical specifications for operation of Arkansas Nuclear One—Unit No. 1 (ANO-1) (the facility) located in Pope County, Ark. The amendment will become effective as of January 1, 1978.

The amendment revised the technical specifications for the facility to delete the requirement for an annual operating report while retaining the requirements which had been contained therein for submittal of an annual occupational exposure data report and the report of steam generator tube inservice inspection. Because of the additional information now required in the monthly operating report, that report submittal date has been modified to the 15th (vice the 10th) of each month following the calendar month covered by the report. The licensee's requested additions to technical specification pages 77 and 110d, and a portion of the requested change to page 110m shall be reviewed at a later date in conjunction with review of the licensee's October 19, 1977 submittal. This submittal and the requested changes concern revised inservice inspection requirements to conform with the requirements of 10 CFR 50.55a(g).

The application for the admendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) the application for amendment dated November 1, 1977, (2) amendment No. 29 to license No. DPR-51, and (3) the Commission's related safety evaluation. All of these items and the October 19, 1977 application by the licensee are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Arkansas Polytechnic College, Russellville, Ark. 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of December 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-37171 Filed 12-29-77; 8:45 am]

[7590-01]

[Docket No. 50-471]

BOSTON EDISON CO., ET AL. (PILGRIM NUCLEAR GENERATING STATION, UNIT 2)

Order

On October 21, 1977, the Board ordered that the evidentiary hearings would resume at 10 a.m. on January 10, 1978, at a place to be designated in Plymouth, Mass. We find it necessary to delay the resumption until 1 p.m. on January 10, 1978.

It is ordered, That evidentiary hearings herein will resume at 1 p.m. on January 10, 1978, in the Blue Room, Memorial Hall, Plymouth, Mass.

Dated at Bethesda, Md., this 23d day of December 1977.

For the Atomic Safety and Licensing Board.

FREDERIC J. COUFAL,
Chairman.

[FR Doc. 77-37168 Filed 12-29-77; 8:45 am]

[7590-01]

[Docket No. 50-341 (Amendment to Construction Permit CPPR-87)]

THE DETROIT EDISON CO. (ENRICO FERMI ATOMIC POWER PLANT, UNIT 2)

Notice of Special Prehearing Conference

Before the Atomic Safety and Licensing Board.

On September 22, 1977, the U.S. Nuclear Regulatory Commission (Commission) published in the FEDERAL REGISTER (42 FR 47894) a notice of "Consideration of Issuance of Amendment to Construction Permit" in this matter. The proposed amendment would add Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. (Cooperative), as 20 percent coowners of the Fermi 2 facility. The notice provided, inter alia, that any person whose interest may be affected by the proposed amendment might file a petition for leave to intervene by October 25, 1977. The notice also summarized the provisions of 10 CFR § 2.714, the Commission's rules which set forth the required content of petitions for leave to intervene and particularly noted that "[c]ontentions shall be limited to the matters within the scope of the amendment under consideration."

In response to this notice, Mrs. Martha G. Drake of Petoskey, Mich., and Citizens for Employment and Energy (CEE) filed timely petitions for leave to intervene and affidavits in support of such petitions which set forth statements of interests to be adversely affected. Included among the affidavits filed in support of CEE's petition were three affidavits filed by Mr. Keith Stanley Titus of Alpena County, Mich. As Mr. Titus does not

appear to be a member of CEE, Mr. Titus' pleadings may be considered as an individual petition for leave to intervene.

The Detroit Edison Co. (applicant) on November 7, 1977, filed a consolidated answer to the above petitions, requesting that each be denied. The NRC Staff filed an answer dated October 27, 1977, in opposition to Mrs. Drake's intervention petition and on November 15, 1977, also filed an answer requesting that the petitions of CEE and Mr. Titus be denied.

Please take notice that a special prehearing conference pursuant to the provisions of § 2.751a of the Commission's rules of practice (10 CFR § 2.751a) will be held at 9:30 a.m., local time, on January 19, 1978, at the U.S. Courthouse, Room 1057 Bankruptcy Courtroom, 231 West Lafayette Street, Detroit, Mich. 48226. All parties and petitioners for intervention or their counsel are directed to appear at such special prehearing conference to consider all intervention petitions, including the interest or standing of petitioners under either the judicial standing tests for intervention as a matter of right, or intervention as a matter of discretion, as well as the identification of at least one relevant contention with reasonable specificity and with some basis assigned for it.

It is so ordered.

Dated at Bethesda, Md., this 22d day of December 1977.

For the Atomic Safety and Licensing Board.

ROBERT M. LAZO,
Chairman.

[FR Doc. 77-37170 Filed 12-29-77; 8:45 am]

[7590-01]

[Byproduct Material License No. 20-00302-02]

J. G. SYLVESTER ASSOCIATES, INC.

Order Cancelling Hearing

On December 20, 1977, Counsel for the Nuclear Regulatory Staff reported that discussions with the principal officer of the Licensee had resulted in a proposed disposition of the proceeding and the removal of any need for hearing. Staff counsel also stated that it was expected that a stipulation would soon be executed and submitted for consideration.

Upon the basis of the foregoing, it is concluded that the prehearing conference presently scheduled for January 4, 1978, in Boston should be cancelled and consideration will be given later to the terms of the expected stipulation.

Wherefore, it is *Ordered*, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that the prehearing conference now scheduled to convene at 10:30 a.m. on Wednesday, January 4, 1978, in Room 1900-A, John F. Kennedy Building, Government Center, Cambridge Street and New Sudbury, Boston, Mass., is cancelled.

Issued: December 27, 1977 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

SAMUEL W. JENSCH,
Administrative Law Judge.

[FR Doc. 77-37324 Filed 12-29-77; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear powerplants. These codes and guides will be developed in the following five areas: Government organization, siting, design, operation, and quality assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries. Using this collation as a starting point, an IAEA working group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA senior advisory group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states. The senior advisory group then considers the member state comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, safety guide SG-D5, "Man-Induced Events," has been developed. An IAEA working group, consisting of Mr. K. Guenther of Federal Republic of Germany, Mr. V. Ramachandran of India, and Mr. J. F. Costello (U.S. Nuclear Regulatory Commission) of the United States of America developed this draft from an IAEA collation during a meeting on October 24-28, 1977, and we are soliciting public comment on it. Comments on this draft received by March 1, 1978, will be useful to the U.S. representatives to the Technical Review Committee and senior advisory group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 20th day of December 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

FR Doc. 77-37172 Filed 12-29-77; 8:45 am]

[7590-01]

MIXED OXIDE FUEL

Order

Under a November 1975 policy statement (40 FR 53056), the Commission has been conducting proceedings on the generic environmental statement on mixed oxide fuel (GESMO) to determine whether and under what conditions uranium and plutonium might be recycled from spent light water nuclear reactor fuel and fabricated into fresh mixed oxide fuel on a wide scale. Under the same policy statement, the Commission has also been processing applications for the construction, operation, and modification of facilities to reprocess spent fuel, fabricate mixed oxide fuel, and perform related functions. The U.S. Court of Appeals for the Second Circuit held that the Commission could not issue such licenses for commercial-scale activities until it had completed the GESMO proceedings. *Natural Resources Defense Council, Inc.* v. *Nuclear Regulatory Commission*, 539 F. 2d 824 (1976), cert. granted, 430 U.S. 944 (1977).

On April 7, 1977, President Carter announced a nuclear nonproliferation policy which called for the indefinite deferral of domestic commercial reprocessing and recycling of plutonium and the commencement of domestic and international studies of alternative fuel cycles. The Commission suspended the GESMO proceeding in April and in May announced its intention to reassess the November 1975 policy statement and sought public comment and the President's views on the appropriate future course for plutonium recycle-related proceedings. Public comments were received in June and a letter stating the President's views in October. The Commission then sought public comment on the President's views and on several specified alternative courses of action. Comments were received in November.

In light of these events and after consideration of all the comments re-

ceived, the Commission decided at public meetings in December 1977—

(1) To terminate the GESMO proceeding;

(2) To terminate the proceedings on pending or future plutonium recycle-related license applications, except for—

(a) Proceedings on licenses for the fabrication or use of small quantities of mixed oxide fuel for experimental purposes, and

(b) Those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination, or decommissioning of existing plants;

(3) To reexamine the above matters after the completion of the ongoing alternative fuel cycle studies, now expected to take about two years;

(4) To publish the draft safeguards supplement to the GESMO document as a staff technical report;

(5) As a consequence of the above decisions, to withdraw the November 1975 policy statement; and

(6) To reserve for decision, if it arises, the question of whether a facility such as the Barnwell facility may be licensed for experimental and feasibility purposes on a noncommercial basis to investigate processes which support the nation's nonproliferation objectives.

The proceedings affected by this decision are the generic environmental statement on mixed oxide fuel (Docket No. RM-50-5), Allied-General Nuclear Services (Barnwell nuclear fuel plant separations facility, uranium hexafluoride facility, and plutonium product facility) (Docket Nos. 50-332, 70-1327, and 70-1821), Exxon Nuclear Co., Inc. (Nuclear Fuel Recovery and Recycling Center) (Docket No. 50-564), Westinghouse Electric Corp. (recycle fuels plant) (Docket No. 70-1432), and Nuclear Fuel Services, Inc. (West Valley reprocessing plant) (Docket No. 50-201). This order shall be filed in these dockets and shall be served on all parties of record.

Commissioner Gilinsky notes that he considers the inclusion of item (6) above unnecessary and inappropriate in this order.

Commissioner Kennedy notes that he would prefer the use of the term "defer" to "terminate" in items (1) and (2) above.

The Commission will shortly publish a statement of the reasons underlying this decision. This statement will include the separate views of Commissioner Kennedy on the above-mentioned matter.

It is so *ordered.*

Dated at Washington, D.C., this 23d day of December 1977.

For the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-37169 Filed 12-29-77; 8:45 am]

[7590-01]

[Docket No. 50-549; Case 80006]

POWER AUTHORITY OF THE STATE OF NEW YORK, ET AL.

Hearing Schedule

DECEMBER 23, 1977.

In the Matter of Power Authority of the State of New York (Greene County Nuclear Power Plant); State of New York Department of Public Service Board on Electric Generation, Siting and the Environment; application of the Power Authority of the State of New York (Greene County Nuclear Generating Facility).

By an order dated October 12, 1977, an Atomic Safety and Licensing Board of the U.S. Nuclear Regulatory Commission and a Presiding Examiner and an Associate Examiner of the Board on Electric Generation, Siting and the Environment of the State of New York scheduled hearings in the above-indicated matter, inter alia, for the period January 3 through January 6.

The hearings scheduled for January 3 through January 6 are cancelled.

The next scheduled hearings will take place beginning at 1 p.m. on January 16, 1978, at the offices of the Public Service Commission, Agency Building 3, Empire State Plaza, Albany, N.Y.

It is so ordered.

Dated at Bethesda, Md., this 23rd day of December 1977.

For the Atomic Safety and Licensing Board.

JOHN F. WOLF,
Chairman.

For the New York State Siting board.

EDWARD D. COHEN,
Presiding Examiner.

[FR Doc. 77-37166 Filed 12-29-77; 8:45 am]

[7590-01]

[Docket No. 50-305]

WISCONSIN PUBLIC SERVICE CORP., ET AL.

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corp., Wisconsin Power & Light Co. and Madison Gas & Electric Co. (the licensee), for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wis.

The amendment would increase the spent fuel storage capacity at Kewaunee.

By January 30, 1978, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Steven E. Keane, Esq., Foley, Sammond & Lardner, 777 East Wisconsin Avenue, Milwaukee, Wis. 53202, attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated November 14, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Kewaunee Public Library, 314 Milwaukee Street, Kewaunee, Wis. 54216.

Dated at Bethesda, Md., this 17th day of December 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 77-37167 Filed 12-29-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14299; File No. SR-Amex-77-30]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 5, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

American Stock Exchange, Inc. ("Amex's"), Statement of Terms of Substance of the Proposed Rule Change

The proposed amendments to sections 151, 152, and 153 of the American Stock Exchange Co. guide will revise the Exchange's original, supplemental and annual listing fees to help offset the increased costs of fulfilling the Exchange's self-regulatory responsibilities and providing necessary services to listed companies.

The Board directed that the increased fees set forth in section 151 of the company guide should become effective on March 1, 1978; and directed that the increased fees set forth in sections 152 and 153 should become effective on January 1, 1978.

The text of the proposed amendments is attached as Exhibit A.

AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed amendments to the Amex Co. guide is to revise the Exchange's listing fee schedules to reflect increased costs of providing necessary surveillance and other services to listed companies. Since 1974, the last time listing fees have been revised, listing revenues as a percentage of total Exchange income have steadily declined. At the same time, costs of maintaining the Exchange's market surveillance, specialist evaluation, and other regulatory programs have risen, owing both to inflation and increased personnel and equipment costs. Increased costs have also been experienced in the areas of market development and listed company liaison. The revised fee schedules are necessary to offset these increased costs.

The proposed amendments to the company guide will result in a more equitable allocation of dues, fees and other charges among Amex members, Amex-listed companies and other persons using the Exchange's facilities.

The proposed amendments to the Amex Co. guide were discussed with, and unanimously approved by, the Exchange's Listed Company Advisory Committee. This committee consists of nine persons, each of whom is the chief executive officer of an Amex-listed company.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 10549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 23, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1977.

EXHIBIT A—AMERICAN STOCK EXCHANGE, INC.

Brackets [ ] indicate words to be deleted, and italics indicate words to be added.[1]

§ 151. Original Listing Application

(a) Stock Issues—The original listing fees for stock issues are as follows: 1¢ per share for the first two million shares; ½¢ per share for the second two million shares; ¼¢ per share for the next six million shares; ⅛¢ per share for the balance of shares applied for. In addition to the above per-share initial fee, there is a one-time charge of [$3,500] *$7,500* for the original listing of stock and warrant issues of a company with no other listed issues. This charge will also apply to "back door" listings.

There is no maximum fee applicable to original listings of stock issues. Where the original listing of more than one class of stock is included in the same application, the fee is based on the aggregate number of shares of all such classes applied for.

(b) Bond Issues—The original listing fees for bond issues are as follows: $100 per million dollars ($1,000,000) face value, of fraction thereof. Maximum fee per issue $5,000. Minimum fee per issue $500. In addition, there is a one-time charge of $1,500 for companies not presently listed.

(c) Warrant Issues—The original (as well as the continuing and supplemental) listing fees for long-term warrant issues are the same as those for stock issues, and are based upon the aggregate number of shares that the warrants evidence the right to purchase.

§ 152. Continuing Annual Fee

(a) Stock Issues—[1/10¢ per share for the first 4,000,000 shares issued and outstanding (including shares held in the treasury) and 1/20¢ per share for the excess. Minimum Fee: $2,500, Maximum Fee: $7,500.]

$2,500 for the first one million shares (or fraction thereof) issued and outstanding; plus $500 for each additional one million shares (or fraction thereof) up to a total, including the first one million shares, of ten million shares issued and outstanding; plus $1,000 for the next one million shares (or fraction thereof) up to a total, including the first ten million shares, of eleven million shares issued and outstanding; plus $1,000 for any shares issued and outstanding in excess thereof, with a maximum fee of $9,000.

For purposes of this Section, treasury shares shall be deemed issued and outstanding.

This fee is based on the total number of outstanding shares of all classes of stock listed on the Exchange on June 30 of each year, payable in July of each year.

The continuing annual fee is also required to be paid by companies with stock issues admitted to unlisted trading privileges on the Exchange based on the number of outstanding shares of the issue admitted to unlisted trading privileges (including shares held in the treasury).

[1] Amended fees in Section 151 are effective as of March 1, 1978, and amended fees in Sections 152 and 153 are effective as of January 1, 1978.

(b) Bond Issues—There is no continuing annual fee for bonds.

(c) Warrant Issues—The schedule applicable to stock issues also applies to listed warrants, based on the agregate number of shares to which the warrants evidence the right to subscribe.

After payment in full of the continuing fee for any year, if securities of the issuer are removed from listing and registration on the Exchange, the Exchange will on request refund that part of the continuing fee applicable to the months of the year remaining after the month of removal.

§153. Supplemental Listing Application

(a) Listing of additional shares (of the same class) subsequent to original listing—1¢ per share for shares in excess of amount previously listed to a maximum of [$7,500] *$10,000* for all such shares per application. (If amount applied for in any one application exceeds [750,000] *1,000,000* shares the maximum of [$7,500] *$10,000* is applicable.) Minimum fee on each application [$500] *$1,000.* (If amount applied for is less than [50,000] *100,000* shares, the fee is [$500] *$1,000.*)

(b) Listing of securities (stocks or bonds) of an issue, class or series not previously listed—The schedule for original listing (see §151 above) will be applicable.

(c) "Substitution" Listing—In cases where, after original listing, a change is effected by charter amendment or otherwise under which shares listed upon the Exchange are reclassified, or changed into or exchanged for another security, either with or without a change in par value, the fee for the listing of such number of "new" substituted shares to be listed as is not in excess of the amount previously listed shall be $2,500. The full basic listing fee will be charged, i.e., 1¢ per share, for all shares included in the application in excess of the amount previously listed. The maximum fee for the aggregate of all such "new" substituted shares and excess shares is $12,500.

(d) Reincorporation, Merger or Consolidation—If a listed corporation reincorporates, or merges with or consolidates into, one or more corporations, the "substitution" listing fee (see above) is applicable.

In the case of an application for the relisting of previously listed bonds on their assumption by another obligor, involving no change in original terms, the listing fee will be $500.

[FR Doc. 77-37113 Filed 12-29-77; 8:45 am]

[8010-01]

[Release No. 34-14297; File No. SR-BSE-77-4]

BOSTON STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 1, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGES

The text of the proposed rule changes is as follows (italics indicate new material and brackets indicate deletions):

RULES OF THE EXCHANGE CHAPTER II

DEALINGS ON THE EXCHANGE

Sec. 2. Except as provided in section 18 of this Chapter II, it shall be the duty of sellers to see that records of all sales are transmitted promptly to [the station] the comparison service on the Floor designated by the Exchange for the recording of the transaction[s] which is the subject of such sale (the "Comparison Service").

Sec. 5. Deliveries on sales made "Regular Way" will be made to complete transactions [, whether through the Clearing House or directly at members' offices,] on the fifth fullbusiness day following the transaction.

CHAPTER III

COMPARISONS—LIABILITY ON CONTRACTS

Sec. 1. It shall be the duty of every member to report each of his transactions as promptly as possible to his office, where prompt verification shall be made with the comparison report received from the [Boston Stock Exchange Clearing Corp.] Comparison Service.

CHAPTER V

UNIT OF DELIVERY—PAYMENT FOR DELIVERIES—TRANSFERS

Sec. 2. In all deliveries of securities, the party delivering shall have the right to require the purchase money to be paid upon delivery; if delivery is made by transfer, payment may be required at time and place of transfer. [, provided, however, that payment on deliveries through Boston Stock Exchange Clearing Corp. shall be made in conformity with its By-Laws and Rules].

* * * * *

CHAPTER XXVII

LISTED SECURITIES—POLICY ON INFORMING THE PUBLIC

Sec. 1. The prime requisite for listing on the Boston Stock Exchange is the quality of the corporation. Its products and services must enjoy public acceptance and good reputation. Its management must operate the company in the public interest. Its securities must also meet the technical requirements of an auction market.

The Exchange is desirous of assisting new enterprises, as well as smaller businesses, but it is not interested in purely promotional ventures or in a company whose products and services do not benefit the public. The following are merely guidelines and are not mandatory in each case, but will be considered by the Exchange and by the Committee on Stock List in processing an application for listing:

* * * * *

D. It shall maintain stock transfer [and register] facilities [independent of each other. The transfer agency may be the corporate office of the company, but the registrar must be a bank or trust company.] with a transfer agent (which may be itself) registered under the provisions relating to transfer agents of the Securities Exchange Act of 1934 as amended.

* * * * *

DELIVERY RULES OF THE BOSTON STOCK EXCHANGE, INC.

Part I. Deliveries in General.

In all deliveries of securities the party delivering shall have the right to require the purchase money to be paid upon delivery; if delivery is made by transfer, payment may be required at the time and place of transfer [, provided, however, that payment on deliveries through Stock Clearing Corporation of Boston shall be made in conformity with its By-Laws and Rules.]

[Through Stock Clearing Corp.: If the receipt or delivery is made through Boston Stock Exchange Clearing Corp., the right to require receipt or delivery by transfer shall be exercised only as prescribed by the By-Laws and Rules of Boston Stock Exchange Clearing Corp.].

CONSTITUTION

ARTICLE XI

SIGNING OF CONSTITUTION

Sec. 8. No person elected to membership by the Board of Governors shall

be admitted to the privileges thereof until he shall have signed the Constitution of the Exchange. By such signature he binds himself, his heirs, legal representative and estate, any partnership, the present and future partners thereof, or corporation, its officers and directors, registered by such member, to abide by the Constitution and by all subsequent amendments thereto, and by rules adopted pursuant to the Constitution. No allied member shall serve on the Board of Governors or on any committee or as an officer of the Exchange until he shall have pledged in writing that he will abide by the Constitution and rules of the Exchange.

[This Section shall not apply to the Boston Stock Exchange Clearing Corporation, except that it shall be bound by the provisions of the Constitution as it has been or shall be from time to time amended, and by all rules and regulations adopted pursuant to the Constitution unless specifically exempted therefrom.]

ARTICLE XVII, SECTION 3

[RULES] COMPARISON SERVICE

Sec. 3. [The By-Laws of Boston Stock Exchange Clearing Corp. and the Rules for Clearing adopted thereunder, and all amendments thereto shall be binding upon members of the Exchange equally with the laws included in the Constitution].

The Exchange shall select one or more Registered Clearing Agencies to maintain on the floor of the Exchange a station or stations for the reporting to the Exchange and comparing of sales (a "Comparison Service"). Such selection shall be made after consideration of various factors including the ability of such agency to report such sales promptly and accurately and the fees charged to the membership by such agency for such comparison service. The Exchange may impose a charge to any such agency for the privilege of maintaining such a station. Boston Stock Exchange Clearing Corporation is hereby selected to maintain such Comparison Service provided that such selection may be revoked at any time by the Board of Governors.

STATEMENT OF BASIS AND PURPOSE

In a letter dated September 27, 1977, the Commission cited transaction completion rules of the self-regulatory organization that do not comply with the Act as amended by the Securities Acts Amendments of 1975. The Commission requested that the organization submit proposed rule changes to conform such rules to the Act as amended or submit further arguments concerning why no changes to the cited rules are necessary or appropriate. The proposed rule changes were submitted in response to that letter. In addition to the proposed amendments, the Boston Stock Exchange, Inc. ("BSE") submitted by letter dated November 9, 1977, data, views and arguments as to why it is not amending certain other BSE rules cited by the Commission in its September 27, 1977 notice to the BSE pursuant to section 31(b) of the Securities Acts Amendments of 1975.

The proposed rule changes are designed to establish a separate comparison service for the reporting of trades on the Boston Stock Exchange, to remove unnecessary burdens of competition between transfer agents, and to remove unnecessary regulation of users of the services of Boston Stock Exchange Clearing Corp., a subsidiary.

The proposed rule changes are being adopted in order to increase the capacity of the Boston Stock Exchange to carry out the purposes of the Securities Exchange Act of 1934 as amended, including enforcement of said Act and the Rules of the Exchange, by specifically establishing a comparison service separate and distinct from clearing and settlement functions and by removing unnecessary rules.

No comments on the proposed rule changes have been solicited or received.

The proposed rule changes impose no burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

DECEMBER 21, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37112 Filed 12-29-77; 8:45 am]

[8010-01]

[File No. 500-1]

EAGLE CLOTHES INC.

Suspension of Trading

DECEMBER 20, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Eagle Clothes Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:30 a.m. (EST) on Tuesday, December 20, 1977, through midnight on December 29, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37120 Filed 12-29-77; 8:45 am]

[8010-01]

[File No. 81-294; Admin. Proceeding File No. 3-5344]

EL CHICO CORP.

Application and Opportunity for Hearing

DECEMBER 19, 1977.

Notice is hereby given that El Chico Corp. (the "Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting the Applicant from the provisions of section 15(d) for the current fiscal year ending June, 1978.

Section 15(d) provides that each issuer that has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act in respect of a security registered pursuant to section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of the 1934 Act if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part: 1. On September 29, 1977, the Applicant became a wholly-owned subsidiary of Campbell Taggart, Inc. ("Campbell Taggart") as the result of the merger of a Campbell Taggart wholly-owned subsidiary into the Applicant.

2. Campbell Taggart files reports with the Commission under sections 13 and 15(d) of the 1934 Act.

3. Prior to the merger, the Applicant had common stock registered pursuant to section 12(g) of the 1934 Act and filed reports under sections 13 and 15(d) of that Act.

4. As a result of the merger, Campbell Taggart is the sole holder of record of the Applicant's securities.

In the absence of an exemption, the Applicant would be required to file reports on Forms 8-K and 10-Q as well as an annual report on Form 10-K for the current fiscal year ending June 2, 1978. The Applicant believes that its request for an order exempting it from the provisions of section 15(d) of the 1934 Act is appropriate in view of the fact that the Applicant is now a wholly-owned subsidiary whose securities are held of record by only one person. The Applicant believes that the time, effort and expense involved in the preparation of the periodic reports for the current fiscal year, before the obligation to file such reports is suspended pursuant to Rule 15d-6, would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than January 13, 1978 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. 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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, By the Division of Corporation Finance, Pursuant to Delegated Authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37119 Filed 12-29-77; 8:45 am]

[8010-01]

[Rel. No. 10069]

INA CAPITAL BOND TRUST

Notice of Application Pursuant to Section 6(c) of the Act for an Order of Exemption from the Provisions of Rule 22c-1 Thereunder

DECEMBER 22,1977.

Notice is hereby given that INA Capital Bond Trust ("Applicant" or "Trust"), an open-end diversified investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on August 16, 1977, and amendments thereto on November 10 and December 19, 1977, for an order of the Commission pursuant to Section 6(c) of the Act exempting it from the provisions of Rule 22c-1 under the Act to permit it to value its assets for the purpose of investments in and redemptions of Applicant's shares on designated valuation dates. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Applicant, a Pennsylvania trust, acts as a group trust for the pooling of funds of pensions and profit-sharing plans qualified under Section 401(a) of the Internal Revenue Code and subject to the Employee Retirement Income Security Act of 1974. Applicant states that its investment objective is to maximize the total return on a portfolio of fixed income investments, primarily bonds and other debt instruments. Applicant states that the minimum initial investment will be $250,000; subsequent investments may be made in any amount. INA Capital Management Corporation is Applicant's investment manager.

Applicant states that the Trust will only accept investments and sell units at the net asset value per unit as determined once each month as of the close of trading on the New York Stock Exchange on the last day that such Exchange is open for trading in such month (the "Investment Date") if the exemption sought hereby is obtained. The Applicant believes that it would be beneficial were the Trust able to compute the current net asset value of its shares as of the close of trading on the New York Stock Exchange on (i) the Investment Date and (ii) every date that the Trust receives a request for redemption in proper form, rather than daily as Rule 22c-1(b) would require. The Applicant is therefore requesting an exemption from Rule 22c-1(b).

Applicant states that in the event that the Trust or its agent receives (i) a check more than five business days before an Investment Date, or (ii) funds by wire more than two business days before an Investment Date, the Trust's agent will inform the prospective investor by telephone that the standard procedure of the Trust and its agent is to return the check or wire the funds back to the prospective investor. If the prospective investor so requests, the agent will hold the check or funds in safekeeping but without interest for the account of the prospective investor until the Investment Date. The agent will acknowledge in writing the receipt of a check or wired funds which are received more than five or two business days respectively before an Investment Date, and any instructions which the agent has received from the prospective investor. Neither the Trust nor its agent will deposit any check for collection until the order has been accepted for investment. The Trust believes that the likelihood is remote that checks will be received by the Trust or its agent prior to five business days before an Investment Date. The Trust has been informed by New England Merchants National Bank, the Transfer Agent and Custodian of the Trust, that it is not practical to make arrangements for checks or wired funds which are received more than five or two business days, respectively, in advance of an Investment Date to earn interest for a prospective investor in the short period of time that will remain before an Investment Date because of the necessity of obtaining written authorization and other documents. Orders may be withdrawn by prospective investors until they are accepted by the Trust.

Rule 22c-1 provides, in pertinent part, that no registered investment company issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of a order to purchase or sell such security. Current net asset value of any such security shall be computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of the close of trading on such exchange.

Applicant asserts that pricing its shares every day that the New York Stock Exchange is open as required by Rule 22c-1 would serve no useful purpose and would increase the operating expenses of Applicant. Applicant believes that monthly pricing, when combined with pricing on any day a redemption order in proper form is received, would help keep its expenses to a minimum. Furthermore, it is asserted that the cost saving if pricing is done monthly will promote healthy competition between the Applicant and other potential sources of management for pension and profit-sharing plans.

Applicant points out that Investment Company Act Release No. 5519 ("Release") states that Rule 22c-1 was intended to: (1) eliminate or reduce any dilution in the value of outstanding redeemable securities of registered investment companies occurring through the sale of such securities at a price below their net asset value, or through the redemption or repurchase of such securities above their net asset value, and (2) minimize speculative trading practices which are encouraged by the practice of selling investment company shares at a previously determined net asset value. Applicant asserts that the exemption requested herein is not inconsistent with the concerns underlying Rule 22c-1 since no dilution of the Applicant's shares will occur. Because the shares will be purchased only once a month and are redeemable but not otherwise transferable, speculative trading practices will not be encouraged. Applicant further states that an application for an exemption is expressly contemplated in the Release where an investment company believes that the once daily pricing requirement will be unduly burdensome. Applicant asserts that failure to obtain an exemption from Rule 22c-1 will be unduly burdensome since it will weaken Applicant's ability to manage investments for pension and profit-sharing plans on a competitive basis. Because investors in the Applicant will be institutions rather than individuals, it is believed unnecessary to sell shares daily. Applicant believes that monthly pricing will benefit its institutional investors, is in the public interest and is consistent with the protection of investors generally.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from an provisions of the Act or any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than January 16, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive 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 postponents thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37108 Filed 12-29-77; 8:45 am]

[8010-01]

[Release No. 34-14298; File No. SR-ISE-77-1]

INTERMOUNTAIN STOCK EXCHANGE

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 23, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

TEXT OF PROPOSED RULE CHANGES

The text of the proposed rule changes is as follows (italics indicate new material and brackets indicate deletions):

Article VI, Rule 15 of the Exchange:

To constitute good delivery, certificates of stock must be properly endorsed, dated and witnessed and in cases where certificates are not in the name of a member, member firm or member corporation of the Exchange, the signature must be guaranteed by the member, member firm or member corporation making delivery *or in any other manner acceptable to the transfer agent.*

Appendix A6, Rules of the Exchange:

Each company will maintain a Transfer Agent [in Salt Lake City, Utah] and will notify the Exchange of any change in Transfer Agent or additional appointment of more than one Transfer Agent. Where the company maintains a Registrar, like requirements shall apply.

The basis and purpose of the foregoing proposed rule changes are as follows:

These changes are being made pursuant to Section 31(b) of the Securities Acts Amendments of 1975 and in response to a letter from George A. Fitzsimmons, Secretary, Securities and Exchange Commission, dated September 27, 1977, in which these changes were requested in order to expedite development of a national clearing and settlement system and to lessen burdens on competition.

Within 35 days after the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes it reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1977.

[FR Doc. 77-37111 Filed 12-29-77; 8:45 am]

[8010-01]

[File No. 1-7500]

NATIONAL HARDGOODS DISTRIBUTORS, INC.

Notice of Application to Withdraw From Listing and Registration

DECEMBER 22, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of National Hardgoods Distributors, Inc. was listed for trading on the BSE on January 14, 1975. Since that time the average monthly trading volume has been 13,448 shares.

The Company's Board of Directors believes that its shares would attain a broader distribution through trading in the over-the-counter market rather than through listing on a regional exchange.

Any interested person may, on or before January 20, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37110 Filed 12-29-77; 8:45 am]

[8010-01]

[Release No. 34-14302; File No. SR-PSD-77-3]

PACIFIC SECURITIES DEPOSITORY TRUST CO.

Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms
Substance of the Proposed Rule
Text of Proposed Rule Change

The Pacific Securities Depository Trust Company (PSDTC) proposes to amend Section 1.1 of Article I of its By-Laws relating to the annual meeting. The text of the proposed rule change is as follows (brackets indicate deletions, new material is italicized):

Section 1.1. Annual Meeting. The annual meeting of stockholders for the election of Directors and for such other business as may properly come before *the* [said] meeting shall be held on the third Thursday of January of each year. *The annual meeting may be held at any place within the State of California, as designated by the Board of Directors or by the written consent of the stockholders entitled to vote thereat.* [The place of the annual meeting shall be the San Francisco offices of the Pacific Securities Depository Trust Company].

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change is intended to remove the restriction requiring the annual meeting to be held in San Francisco, and vest meeting site designation with the Directors or shareholders.

The proposed rule change is concerned solely with the administration of PSDTC.

Comments on the proposed rule change were not solicited and none were received.

The proposed rule change would not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments, concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 23, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1977.

[FR Doc. 77-37114 Filed 12-29-77; 8:45 am]

[8010-01]

[Rel. No. 14300; SR-PSE-77-32]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

DECEMBER 21, 1977.

On October 21, 1977, the Pacific Stock Exchange Inc. ("PSE"), 618 South Spring Street, Los Angeles, Calif. 90014, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Exchange Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change amends Exchange Rule IX to reduce fees associated with the purchase, transfer and financing of exchange memberships.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14150 (November 9, 1977)) and by publication in the FEDERAL REGISTER (42 FR 59792 (November 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

More specifically, the Commission finds the proposed change to be consistent with section 6(b)(2) of the Act. Section 6(b)(2) provides, subject to the provisions of subsection (c) of that section, that the rules of an exchange provide that any registered broker-dealer or natural person associated with a registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof. By reducing fees associated with the purchase, transfer and financing of memberships, this proposal may enhance the ability of registered brokers or dealers to become members of the exchange.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the

above-mentioned proposed rule change filed with the Commission on October 21, 1977 be, and hereby is, approved.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37122 Filed 12-29-77; 8:45 am]

[8010-01]

[File No. 1-7624]

PERTEC COMPUTER CORP.

Notice of Application To Withdraw From Listing and Registration

DECEMBER 22, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of Pertec Computer Corp. has been listed for trading on the Amex since August, 1972. The New York Stock Exchange, Inc. ("NYSE") approved the issuer's application for the listing of its common stock on October 26, 1977 and trading of such stock on the NYSE commenced on October 31, 1977. In making the decision to withdraw its common stock from listing on the Amex, the issuer considered the direct and indirect costs and expenses attendant to maintaining the dual listing of its common stock on the NYSE and Amex. The issuer does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

The application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection to this matter.

Any interested person may, on or before January 20, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission will, on the basis of the application and any other information submitted to it, issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37109 Filed 12-29-77; 8:45 am]

[8010-01]

[Rel. No. 10068, 811-1373]

SUPER MARKET CAPITAL INVESTMENT CO.

Proposal To Terminate Registration Pursuant to Section 8(f) of the Act

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Super Market Capital Investment Co. ("Fund"), 2188 San Diego Avenue, San Diego, Calif. 92110, a California corporation registered under the Act as a closed-end, non-diversified management company, has ceased to be an investment company as defined in the Act.

Fund was organized on January 31, 1966, and filed a Form N-8A Notification of Registration on February 28, 1966. On March 25, 1966, Fund filed, as a small business investment company, a Form N-5 Registration Statement under the Act and the Securities Act of 1933. The Registration Statement covered the proposed offering of 3,235 shares of common stock, $50 par value, and 1,010 shares of preferred stock, $150 par value.

The Registration Statement never became effective, and the capitalization of the Fund was never completed. On October 30, 1973, the Fund was notified that its Registration Statement might be declared abandoned unless the Fund, within 30 days of its receipt of such notice, filed the necessary amendments, withdrew the Registration Statement, or provided a satisfactory explanation as to why such action could not be taken. No such action was taken, and, accordingly the Registration Statement was declared abandoned on December 4, 1973. It appears that Fund has never sold any of its shares and does not propose a public offering of its shares.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than January 16, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be isssued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. 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 Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37123 Filed 12-29-77; 8:45 am]

[8010-01]

[Rel. No. 14295, SR-NASD-77-18]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

Order Approving Proposed Rule Change

DECEMBER 21, 1977.

On November 9, 1977, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal"), to amend Schedule D under Article XVI of its By-Laws. The Proposal would (1) clarify the reporting requirements applicable to issuers of securities quoted on NASDAQ, and (2) permit new issues which are authorized for inclusion in the NASDAQ System and are also the subjects of applications for listing on national securities exchanges to be quoted in the NASDAQ System during the period following such an issue's offering date through the date on which the issue becomes listed on an exchange, without payment of full NASDAQ entry and annual fees. The Proposal would establish an interim inclusion fee applicable to such situations. It would also

provide that in the event an issue is not accepted for listing on an exchange within 60 calendar days of inclusion in the NASDAQ System, the regular entry and annual fees will apply to that issue, and the interim inclusion fee will be credited toward their payment.

Notice of the Proposal together with the terms of substance thereof was given by publication of a Commission Release (Securities Exchange Act Release No. 14166, November 11, 1977), and by publication in the FEDERAL REGISTER (42 FR 59790, November 21, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered securities associations, and, in particular, the requirements of section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the act, that the Proposal be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-37121 Filed 12-29-77; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA"), has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after January 1, 1978, under Section 7 of the Small Business Act, as amended, and Section 502 of the Small Business Investment Act, as amended.

Effective January 1, 1978, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaranteed revolving line of credit shall be ten percent (10%) per year, and the maximum rate on an immediate participation loan shall be nine percent (9%) per year. These maximum interest rates are one-half percent higher than the rates published in the FEDERAL REGISTER on October 3, 1977 (42 FR 53693), and shall remain in effect until notification of a change is issued by SBA.

The "SBA Optional Peg Rate" for the January-March 1978 quarter will be seven and three-eighths percent (7⅜%) per year. This is an optional "peg" rate for use in connection with fluctuating-interest rate loans made in participation with SBA.

This Notice is issued under 13 CFR 120.3(b)(2)(iv). Catalog of Federal Domestic Assistance Programs:

No. 59.002 Economic Injury Disaster Loans (E, F).
No. 59.012 Small Business Loans (E, F).
No. 59.013 State and Local Development Company Loans (E, F).
No. 59.014 Coal Mine Health and Safety Loans (E, F).
No. 59.017 Meat and Poultry Inspection Loans (E, F).
No. 59.018 Occupational Safety Health Loans (E, F).
No. 59.001 Displaced Business Loans (E, F).
No. 59.003 Economic Opportunity Loans for Small Businesses (E, F).
No. 59.010 Product Disaster Loans (E).
No. 59.020 Base Closing Economic Injury Loans (E, F).
No. 59.021 Handicapped Assistance Loans (E, F).
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E, F).
No. 59.023 Strategic Arms Economic Injury Loans (E, F).
No. 59.024 Water Pollution Control Loans (E, F).
No. 59.025 Air Pollution Control Loans (E, F).

Dated: December 28, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc. 77-37310 Filed 12-29-77; 8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

[Redelegation of Authority No. 165-24]

AID AFFAIRS OFFICER, BARBADOS

Pursuant to the authority vested in me as Assistant Administrator, Bureau of Latin America, by the Foreign Assistance Act of 1961, as amended, and the delegations of authority issued thereunder, I hereby delegate to the AID Affairs Officer in Barbados, or the person acting in his stead, authority to approve under AID loans and grants source waivers relating to procurement of commodities not in excess of $25,000 per transaction from countries included in AID Geographic Code 899, subject to the provisions of chapter 2 of AID Handbook 15.

This redelegation shall become effective on the date of its execution.

Dated: December 6, 1977.

ABELARDO VALDEZ,
Assistant Administrator,
Bureau of Latin America.

[FR Doc. 77-37102 Filed 12-29-77; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

LEATHER WEARING APPAREL FROM THE REPUBLIC OF CHINA

Final Countervailing Duty Determination

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that it has been determined that the Government of the Republic of China (Taiwan) has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of leather wearing apparel within the meaning of the U.S. Countervailing Duty Law.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Duty Assessment Division, Technical Branch, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On July 27, 1977, a "Notice of Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 38249) announcing that on the basis of an investigation conducted pursuant to section 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily had been determined that the Taiwanese leather wearing apparel industry had received benefits under three programs administered by the Government of the Republic of China but that the benefits bestowed thereunder involved an aggregate amount of eight one-hundredths of one percent (0.08 percent) which was considered to be de minimis and which, therefore, did not constitute bounties or grants within the meaning of section 303 of the Act.

Benefits were paid under the following programs:

1. Preferential export financing.
2. Exemption from customs duties on imported capital items for firms located in export processing zones.
3. Income tax holidays for newly established firms or firms expanding production facilities granted under the Statute for Encouragement of Investment.

Three practices were preliminarily determined not to constitute the bestowal of bounties or grants, and four other measures were determined to be not applicable or never utilized by the leather wearing apparel industry.

The notice stated further that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing within 30 days from the date of the notice with respect to the preliminary determination.

No data, views or arguments have been submitted to the Commissioner of Customs which would warrant the alteration of the preliminary determination.

Accordingly, for the reasons stated above, it is hereby determined that no

bounties or grants are being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of leather wearing apparel from the Republic of China.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, and the provisions of the Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,
Acting General
Counsel of the Treasury.

DECEMBER 23, 1977.

[FR Doc. 77-37242 Filed 12-29-77; 8:45 am]

[4810-22]

Customs Service

IMPRESSION FABRIC OF MAN-MADE FIBER FROM JAPAN

Determination of Sales at Less Than Fair Value, Exclusion From and Final Discontinuance of Antidumping Investigation

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value, Final Exclusion From and Final Discontinuance of Antidumping Investigation.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that, with the exception of the product supplied by two producers, impression fabric of man-made fiber from Japan is being sold at less than fair value, within the meaning of the antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This case is, therefore, being referred to the United States International Trade Commission for a determination whether such sales are causing or threaten to cause injury to an industry in the United States.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Office of Operations, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On February 7, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Bomont Industries, Totowa, N.J., Schwarzenbach-Huber, a company of Carisbrook Industries, Inc., New York, N.Y., and Standard Products Corp., New Rochelle, N.Y., indicating a possibility that impression fabric of man-made fiber from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER, of March 15, 1977 (42 FR 14198). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States. However, the evidence on record, including the existence of the Multi-fiber Agreement limiting imports of textile products such as the merchandise that is the subject of these proceedings, was such that substantial doubt existed as to whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. Accordingly, the United States International Trade Commission was advised of such doubt pursuant to section 201(c) (2) of the Act (19 U.S.C. 160(c) (2)).

On April 11, 1977, the United States International Trade Commission notified the Secretary of the Treasury that, on the basis of its inquiry it did not determine that there was no reasonable indication that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of impression fabric of man-made fiber from Japan. Accordingly, the Customs investigation in this proceeding was not terminated.

The investigation resulted in the publication of a notice of "Withholding of Appraisement, Tentative Exclusion From and Tentative Discontinuance of Investigation," in the FEDERAL REGISTER, of September 22, 1977 (42 FR 47908).

For purposes of this notice, the term "impression fabric of man-made fiber" means finished impression fabric, slit or uncut, and not inked.

DETERMINATION OF SALES AT LESS THAN FAIR VALUE: On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that the purchase price of impression fabric of man-made fiber from Japan, except that produced by Asahi Chemical Industry Co., Ltd., and Shirasaki Tape Co., Ltd., is less, or is likely to be less, than the fair value, of such or similar merchandise. In the case of impression fabric of man-made fiber from Japan produced by Asahi, I hereby exclude such merchandise from this determination. In the case of such merchandise produced by Shirasaki, I hereby discontinue the antidumping investigation.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED: a. *Scope of the Investigation.* Of imports of the subject merchandise from Japan, approximately 99.6 percent was sold for export to the United States by Asahi Chemical Industry Co., Ltd., Osaka, Japan (Asahi), Nissei Co., Ltd., Osaka, Japan (Nissei), and the Shirasaki Tape Co., Ltd., of Fukui, Japan (Shirasaki). Therefore, the investigation was limited to these three manufacturers.

b. *Basis of Comparison.* For purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and sales for exportation to countries other than the United States of such or similar merchandise on sales by Asahi and Shirasaki, and between purchase price and home market price of such or similar merchandise on sales by Nissei. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales by the three companies were made to nonrelated customers in the United States.

In accordance with section 153.2, Customs Regulations (19 CFR 153.2), home market sales were used in the case of Nissei since such or similar merchandise was sold in the home market in sufficient quantities to form an adequate basis of comparison.

In accordance with section 153.3, Customs Regulations (19 CFR 153.3), sales for exportation to countries other than the United States were used for Asahi since such or similar merchandise was not sold in the home market, and for Shirasaki since such or similar merchandise was not sold in the home market in sufficient quantities to form an adequate basis of comparison.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning export and appropriate home market sales of impression fabric of man-made fiber from Japan during the period October 1, 1976, through March 31, 1977.

c. *Purchase Price.* For purposes of this determination of sales at less than fair value, purchase price has been calculated on the basis of the c.i.f. or f.o.b. price to the United States customers or the price to an unrelated trading company for export to the United States. Deductions have been made for ocean freight, marine insurance, shipping expenses, Japanese inland freight, containerization, an association fee, and an inspection fee, as appropriate.

d. *Home Market Price.* For the purpose of this determination of sales at less than fair value, adjustments have been made on the following bases. The home market price has been calculated on the basis of the delivered price in the home market to unrelated purchasers. Adjustments have been made for differences in inland freight, packing, and interest expenses between home market sales and export sales. A deduction has been made for rebates made on home market sales which are directly related to the sales under consideration. Adjustments have also been made, where applicable, for differences in the merchandise compared.

A claim made by Nissei for an adjustment resulting from having obtained a beneficial rate of currency exchange was not allowed because of lack of adequate documentation.

e. *Sales Price for Exportation to Countries Other Than the United States.* For the purpose of this determination, the sales price for exportation to countries other than the United States has been calculated on the basis or the c.i.f. or f.o.b. price to unrelated customers in countries other than the United States or the price to an unrelated trading company for export to countries other than the United States. Deductions have been made for ocean freight, marine insurance, shipping expenses, Japanese inland freight, containerization, and an inspection fee, as appropriate. Adjustments have been made for differences in interest expenses incurred between sales to the United States and sales for exportation to countries other than the United States. Adjustments have also been made for differences in the merchandise compared, where applicable.

f. *Result of Fair Value Comparisons.* Using the above criteria, analysis suggests that in certain instances purchase price will be lower than the home market price of such or similar merchandise. Comparisons were made on approximately 98 percent of the sales of the subject merchandise to the United States by manufacturers during the period. Margins were found ranging from 3 to 14 percent on sales made by Nissei on 92 percent of the sales compared, ranging from 0.3 to 4.3 percent on sales made by Shirasaki on 16 percent of the sales compared and from 0.1 to 1 percent on sales made by Asahi on 25 percent of the sales compared. Weighted-average margins over the total sales compared for each firm were approximately 7.5 percent for Nissei, 0.15 percent for Asahi, and 0.34 percent for Shirasaki.

In the case of Asahi, the weighted-average margin on the firm's sales compared was considered to be de minimis.

In the case of Shirasaki, the weighted-average margin on that firm's sales compared was considered to be minimal in relation to the total volume of sales. In addition, formal assurances have been received from that producer tht it would make no future sales at less than fair value within the meaning of the Act.

During the course of this investigation the Treasury Department was cognizant of the existence of a restraint agreement entered into between the governments of the United States and Japan under the Multifiber Agreement on certain of the merchandise subject to this investigation. Because that. Agreement already limited imports of the merchandise, this case was referred to the U.S. International Trade Commission (ITC) pursuant to section 201(c)(2) of the Act. In the face of such limitations, substantial doubt existed that a U.S. industry is being, or is likely to be, injured by reason of the alleged sales at less than fair value. However, the ITC did not conclude that there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the alleged sales at less than fair value. Therefore, the investigation continued. Accordingly, for the remainder of the investigation of sales at less than fair value, it was determined that it would no longer be appropriate to consider the effect of the restraint agreement.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CRF 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKELL, JR.,
Acting General Counsel of the Treasury.

DECEMBER 23, 1977.

FR Doc. 77-37241 Filed 12-29-77; 8:45 am]

[4810-25]

Office of the Secretary

ICE HOCKEY STICKS FROM FINLAND

Antidumping; Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that ice hockey sticks from Finland are being sold at less than fair value under the Antidumping Act. (Sales at less than fair value generally occur when the price of merchandise for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) This case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

John R. Kugelman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: Information was received in proper form on March 2, 1977, from the Northland Group, Inc. of Chaska, Minn., alleging that ice hockey sticks from Finland were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (Referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of March 16, 1977 (42 FR 14798). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury or likelihood of injury to, or prevention of establishment of an industry in the United States.

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of September 22, 1977 (42 FR 47190).

DETERMINATION OF SALES AT LESS THAN FAIR VALUE

I hereby determine that for the reasons stated below, ice hockey sticks from Finland are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

a. *Scope of the Investigation.* It appears that 100 percent of the imports of the subject merchandise from Finland were sold for export to the United States by Koho-Tuote Oy, Forsa, Finland (Koho), Oy Montreal-Urheilu, Tampere, Finland (Montreal), and karhu-Titan Oy, Helsinki, Finland (Karhu). Koho accounted for approximately 75 percent of sales to the United States during the investigatory period and therefore fair value comparisons were confined to sales made by that firm.

b. *Basis of comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales appear to be made to a nonrelated customer in the United States.

In accordance with section 153.2(a), Customs Regulations (19 CFR 153.2(a)), fair value was based on home market sales of such or similar merchandise to unrelated purchasers, which occurred in sufficient quantities to form an adequate basis of comparison.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning export and appropriate home market sales of ice hockey sticks from Finland during the period October 1, 1976, through March 31, 1977.

c. *Purchase Price.* For the purpose of this determination of sales at less than fair value, purchase price has been calculated on the basis of the c.i.f. price to the U.S. customer, which already includes a quantity discount. Deductions have been made for ocean freight and marine insurance. An addition was made of the amount Value Added Tax ("VAT") included in the home market price, pursuant to section 203 of the Act (19 U.S.C. 162).

d. *Home Market Price.* For the purpose of this determination of sales at less than fair value, the home market price has been calculated on the basis of the ex-factory price in the home market to unrelated purchasers. Adjustments have been made for quantity discounts, a seasonal discount, credit cost and packing differentials, and for certain advertising and promotional expenses pursuant to section 153.10, Customs Regulations (19 CFR 153.10), as appropriate.

The credit cost adjustment was granted to take into account differences in those costs between home market sales and sales for export to the United States.

e. *Result of Fair Value Comparisons.* Using the above criteria, purchase price is lower than the home market price of such or similar merchandise. Comparisons were made on approximately 98 percent of the sales of the subject merchandise to the United States by Koho during the investigatory period. Margins were found ranging from 0 to 21 percent on sales by Koho on 98 percent of the sales compared. The weighted-average margin found on all Koho sales was 10.5 percent.

Although the general question of the appropriateness of present regulations and practices in the making of adjustments for differences in circumstances of sale (section 153.10, Customs Regulations, 19 CFR 153.10) and level of trade (section 153.15, Customs Regulations, 19 CFR 153.15), remains under study in the Treasury Department, it has been determined that in this case an additional adjustment to the home market price is appropriate under section 153.15, supra, for differences in the level of trade between sales to the U.S. and sales in Finland. In the home market, sales are generally made from inventory that is stored at the producer's expense until the stock is delivered for sale to Koho's customers. Sales to the United States are made to a single distributor that, itself, bears the cost of holding the inventory for resale. Accordingly, an adjustment for the additional costs of warehousing incurred in the home market will be allowed if the appropriate costs are ascertained and verified by the U.S. Customs Service. As soon as this adjustment has been calculated, and new fair value comparisons made, Treasury will issue an appropriate amendment of this notice and notify the U.S. International Trade Commission of any resulting revision in the size of the sales at less than fair value margins.

No adjustments will be made for alleged differences in invoicing, collection and selling costs, all of which appear to be related to general overhead and not directly allocated to differences in the level at which sales are made in the two markets under consideration.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

The U.S. International Trade Commission is being advised of this determination.

This determination is being published pursuant to Section 201(d) of the Act (19 U.S.C. 160(d)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

DECEMBER 23, 1977.

[FR Doc. 77-37243 Filed 12-29-77; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

Meeting

Notice is hereby given pursuant to section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on January 27, 1978, at 1 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building—U.S. Courthouse, Room A-220, 110 9th Avenue South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in United Schools, Inc., Weisgarber Road at Casey Road, Knoxville, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: December 23, 1977.

R. S. BIELAK,
Director, Veterans Administration Regional Office, 110 9th Avenue South, Nashville, Tenn.

[FR Doc. 77-37173 Filed 12-29-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION(S) FOR RELIEF

DECEMBER 23, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before January 16, 1978.

FSA No. 43480—*Soda Ash From Points In Wyoming.* Filed by Western Trunk Line Committee, Agent (No. A-2746), for interested rail carriers. Rates on soda ash (other than modified soda ash), in bulk, in covered hopper cars, as described in the application, from Alchem Stauffer, Tg Soda, and Westvaco, Wyoming, to New Wales, Fla.

Grounds for relief—Market competition.

Tariff—Supplement 181 to Western Trunk Line Committee, Agent, tariff

134-R, ICC A-4949. Rates are published to become effective January 16, 1978.

FSA No. 43481—*Beet Or Cane Sugar To Ripon, Wis.* Filed by Western Trunk Line Committee, Agent, (No. A-2745), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from Renville, Minn., and points in transcontinental and western trunkline territories, to Ripon, Wis.

Grounds for relief—Rate relationship and return shipment of commodities.

Tariffs—Supplement 199 to Western Trunk Line Committee, Agent, tariff 159-0, ICC A-4481, and three other schedules named in the application. Rates are published to become effective January 19, 1978.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 77-37192 Filed 12-29-77; 8:45 am]

[Notice No. 274]

MOTOR CARRIER TRANSFER PROCEEDINGS

December 30, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77462. By application filed December 14, 1977, PAUL D. SCHOMAKER, an individual, d.b.a. SCHOMAKER TRUCKING, 501 P Avenue, Milford, Iowa 51351, seeks temporary authority to transfer the operating rights of IOWA PACKERS XPRESS, INC., P.O. Box 231, Spencer, Iowa 51301, under section 210a(b). The transfer to Paul D. Schomaker, an individual, d.b.a. Schomaker Trucking, of the operating rights of Iowa Packers Xpress, Inc., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 77-37193 Filed 12-29-77; 8:45 am]

[7035-01]

[Notice No. 275]

MOTOR CARRIER TRANSFER PROCEEDINGS

December 30, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77471. By application filed December 21, 1977, M. D. SERVICE, INC., 502 South Harris Avenue, Indianapolis, Ind. 46221, seeks temporary authority to transfer a portion of the operating rights of Fischbach Trucking Co., 921 Sherman Street, Akron, Ohio 44311, under section 210a(b). The transfer to M. D. Service, Inc., of the operating rights of Fischbach Trucking Co., is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 77-37194 Filed 12-29-77; 8:45 am]

[7035-01]

[Notice No. 276]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before January 30, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77437, filed December 1, 1977. Transferee: BLUE HEN LINES, INC., Box 280, Milford, Del. 19963. Transferor: William F. Dickerson, Route 14, Harrington Highway, Milford, Del. 19963. Applicant's representatives: Jack R. Turney and J. William Cain, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 141072, issued October 16, 1975, as follows: *Canned goods*, from Dover, Del., and points within 20 miles thereof, and those points in Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, Md., to Washington, D.C., and points in New York, New Jersey, Maryland, Connecticut, Virginia, and a specified area in Pennsylvania, from Linesboro, Md., and points in Harford, Cecil, Kent, Queen Annes, Talbot, Caroline, Dorchester, Wicomico, Worcester, and Somerset Counties, Md., and those in Delaware, to Wilmington, Del., Perryville and Baltimore, Md., Washington, D.C., and points in New York, New Jersey, and a specified area in Pennsylvania. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 72069 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77440, filed December 1, 1977. Transferee: PERRY TRANSPORTATION, INC., 400 Amboy Ave., Metuchen, N.J. 08840. Transferor: M. G. Roux Trucking Corp., 400 Amboy Avenue, Metuchen N.J. 08840. Transferee's attorney: Ronald I. Shapss, Esq., 450 7th Ave., New York, N.Y. 10001. Transferor's attorney: Robert Hendler, Esq., 75 Patterson Street, New Brunswick, N.J. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate Nos. MC-7860, MC-7860 (Sub-No. 2), MC-7860 (Sub-No. 6), and MC-7860 (Sub-No. 7), issued January 29, 1941, June 14, 1965, June 1, 1967, and March 1, 1973, as follows: *Building and construction materials and equipment*, between points and places within 150 miles of the City Hall, New York, N.Y., in New York, Connecticut, New Jersey, and Pennsylvania; *Fire brick and fire clay*, from Woodbridge, N.J., to New York, N.Y., Bristol, Easton, Philadelphia, Reading, Bethlehem, and Allentown, Pa.; and *empty pallets*, from New York, N.Y., and Bristol, Easton, Philadelphia, Reading, Bethlehem, and Allentown, Pa., to Woodbridge, N.J.; *Asphalt paving blocks*, from Hastings, N.Y., to points in New Jersey, New York, and Pennsylvania; from points in New Jersey, New York, and Pennsylvania, to New Brunswick, N.J.; *Brick, and asphalt paving blocks*, from Genasco, Linden, Picton, East Rutherford, and Manville, N.J., to points in New York and Pennsylvania; between New Brunswick, N.J., on the one hand, and on the other, points in New York and Pennsylvania; *Fire brick, and mortar in bags and clay*, in mixed shipments with fire brick, from the site of the Valentine Fire Brick Co., in Woodbrige, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, Rhode Island, Virginia, West Virginia,

and the District of Columbia; *Refractory products, aggregate materials, bonding materials and coatings, castables, and gunning materials, insulations, metal anchors, clips and castings, and plastics and ramming mixes* (except commodities in bulk), from the plantsite of Remmey Division of A.P. Green Fire Brick Co., located at Philadelphia, Pa., to points in New York, New Jersey, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and a described area of Maine; *Pitch, asphalt, and roofing and siding materials and supplies* (except commodities in bulk), from the plantsites of the Pi-Pet Chemical Corp., at Bronx, N.Y., and Trenton, N.J., to points in New York, New Jersey, Connecticut, Pennsylvania, Massachusetts, Rhode Island, Delaware, Maryland, West Virginia, and the District of Columbia, (except those points in Connecticut, New York, New Jersey, and Pennsylvania which are within 150 miles of the City Hall, New York, N.Y.); *Roof deck and joists and accessories and supplies*, used in the installation of roof decks and joists, from the plantsite of United Steel Deck, Inc., at South Plainfield, N.J., to points in New York (except those within 150 miles of City Hall, New York, N.Y.), Massachusetts, Rhode Island, Delaware (except Wilmington), and Maine. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77443, filed December 1, 1977. Transferee: GREEN LINE TRANSPORTATION, INC., 376 Duncan Avenue, Jersey City, N.J. 07306. Transferor: Bair Transport, Inc., North Creek Road, Delanco, N.J. Transferee's representative: Ronald I. Shapss, Esq., 450 7th Avenue, New York, N.Y., 10001. Transferor's representative: Oscar A. Hunsicker, Jr., 501 1st Nat'l Bank Bldg., Akron, Ohio 44304. Authority sought for purchase by transferee of that portion of the operating rights of transferor as set forth in Certificate No. MC-116810 issued September 12, 1960, as follows: *General commodities*, with specified exceptions, over irregular routes, between points in Sussex County, N.J., on the one hand, and on the other, Providence, R.I., Corning, N.Y., points in that part of Pennsylvania east of the Susquehanna River, points in that part of New York within 150 miles of Newark, N.J., points in that part of Massachusetts on and east of U.S. 5, points in that part of Connecticut on and east of U.S. 5, and those on U.S. 1 between the N.Y.-Conn. State line and New Haven, Conn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77449, filed December 5, 1977. Transferee: COLUMBIA COACHWAYS, INC., P.O. Box 569, St. Helens, Oreg. 97051. Transferor: Vancouver-Portland Bus Co. (Robert E. Wiswall-Trustee), P.O. Box 228, Vancouver, Wash. 98660. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-544, issued March 26, 1942, as follows: *Passengers and their baggage, and express, and newspapers*, in the same vehicle with passengers, over specified regular routes, between Portland, Oreg., and Vancouver, Wash. Service is authorized to and from the intermediate points of Jantzen Beach and Peninsula Golf Club, Oreg. Transferee is presently authorized to operate as a common carrier under Certificate No. MC-123178 and subs thereafter. Application has not been filed for temporary authority under section 210a(b).

H. G. Homme Jr.,
Acting Secretary.

[FR Doc. 77-37195 Filed 12-29-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 50]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

December 23, 1977.

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

NOTICE

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the Federal Register notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 76 (M1) (Notice of filing of Petition to Broaden Territory), filed November 8, 1977. Petitioner: MAWSON & MAWSON, INC., P.O. Box 125, Langhorne, Pa. 19047. Petitioner's representative: Dwight L. Koerber, Jr., 666 Eleventh Street NW., Washington, D.C. 20001. Petitioner holds a motor *common carrier* Certificate in No. MC 76, issued April 5, 1973, authorizing transportation, over irregular routes, of, as pertinent: *Steel, steel products*, and *commodities* the transportation of which, because of size or weight, requires the use of special equipment, between Philadelphia, Pa., and points in Pennsylvania, within 150 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland. By the instant petition, petitioner seeks to add points in Pennsylvania as radial points in the above authority.

No. MC 1515 (Sub-No. 7) (M1) (Notice of filing of Petition to Remove Restriction), filed October 17, 1977. Petitioner: GREYHOUND LINES, INC., Greyhound Tower—Suite 1602, Phoenix, Ariz. 85077. Petitioner's representative: W. L. McCracken (same address as applicant). Petitioner holds a motor *common carrier* Certificate in No. MC 1515 (Sub-No. 7), issued April 15, 1965, Eighth Revised Certificate No. MC 1515 (Sub-No. 7), issued February 25, 1970, authorizing, transportation, as pertinent, over regular routes, of: *Passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, (19) Between Phoenix, Ariz. and Flagstaff, Ariz., from Phoenix over Interstate Highway 17 to Flagstaff. Alternate route to be used for operating convenience only, with no service at intermediate points, subject to the restriction that said route shall not be used in the transportation of passengers moving over carrier's authorized routes in interstate commerce solely between Phoenix, Ariz., on the one hand, and, on the other, Flagstaff, Ariz., and Amarillo, Tex., and intermediate points on U.S. Highway 66 between Flagstaff and Amarillo. By the Instant petition, petitioner seeks to remove the restriction. If granted, route (19) would read: Between Phoenix and Flagstaff: From Phoenix over Interstate Highway 17 to Flagstaff. Alternate route for operating convenience only, serving no intermediate points.

No. MC 7597 (M1) (Notice of filing of Petition to Broaden Territory), filed October 31, 1977. Petitioner: ASBESTOS TRANSPORTATION CO., INC., Main Street, Manville, N.J. 08835. Petitioner's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Petitioner holds a motor *contract carrier* Permit in No. MC 7597, issued August 27, 1943, authorizing transportation, over irregular routes, of, as pertinent: *Such merchandise* as is usually dealt in by manufacturers of building, insulating, asphalt, and asbestos materials and products, and in connection therewith, *equipment, materials,* and *supplies* used in the conduct of such business, between Manville, N.J., on the one hand, and, on the other, points and places in Connecticut, New Jersey, New York, and Pennsylvania. By the instant petition, petitioner seeks to add Delaware as a destination.

No. MC 19013 (M1) (Notice of filing of Petition to Delete Restriction and Broaden Territory), filed October 28, 1977. Petitioner: GEORGE HILLMAN TRUCKING CO., INC., 285 Highland Cross, Rutherford, N.J. 07070. Petitioner's representative: Robert A. Russell, 121 Shelley Drive, Hackettstown, N.J. 07840. Petitioner holds a motor *contract carrier* Permit in No. MC 19013, issued June 8, 1960, authorizing transportation, over irregular routes, of: (1) *Electrical cable,* on reels requiring loading or unloading and transportation in winch-equipped vehicles, from the site of the plant of The Okonite Co., at North Brunswick, N.J., to points in New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Maryland, and Delaware within 175 miles of Paterson, N.J.; and *Empty reels,* from the destination points specified above, to the site of the plant of The Okonite Co., at North Brunswick, N.J., under a continuing contract or contracts with The Okonite Co., (a New Jersey corporation) at North Brunswick, N.J. *Electrical cable, insulating tape* and *empty reels,* from Paterson and Passaic, N.J., to Poughkeepsie, Fishkill, Kingston, and Coxsackie, N.Y., and points in that part of New York on and east of U.S. Highway 9W, and south of a line beginning at Newburgh, N.Y., and extending east through Beacon and Patterson, N.Y., to the New York-Connecticut State line, including the points named; and *empty reels and damaged empty reels, electrical cable and insulating tape,* from the above-described destination points to Paterson and Passaic, N.J. *Electrical cable and insulating tape,* in quantities of 5,000 pounds or more, in winch trucks, from Passaic and Paterson, N.J., to points in New York, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Maryland, and Delaware, within 175 miles of point of origin. *Empty reels,* from the destination points specified immediately above, to Passaic and Paterson, N.J.; and *Materials and supplies* used in the manufacture of cable, from New York, N.Y., to Passaic and Paterson, N.J. By the instant petition, petitioner seeks to delete the description "winch-equipped vehicles" from where it appears in the above authority and to broaden its authority to include the following: Materials and supplies used in the manufacture of cable, from points in New York, Connecticut, Rhode Island, Massachusetts, Pennsylvania, Maryland, and Delaware, within 175 miles of Passaic, Paterson, and North Brunswick, N.J., to Passaic and Paterson, N.J.

No. MC 25399 (Sub-No. 10)(M1) (notice of filing of petition to delete restriction), filed November 8, 1977. Petitioner: A-P-A TRANSPORT CORP., 2100 8th Street, North Bergen, N.J. 07047. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 25399 (Sub-No. 10), issued June 15, 1977, authorizing transportation, over irregular routes, of: *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 Philadelphia, Pa., on the one hand, and, on the other, points in Salem, Atlantic, Cumberland, and Cape May Counties, N.J., restricted against use by carrier for its provision of service to or from Philadelphia, Pa., or points in its commercial zone, except for the purpose of joining or tacking at Philadelphia, or points in its commercial zone, the operations authorized hereinabove with carrier's operations authorized in its Certificates No. MC 25399 and No. MC 25399 (Sub-Nos. 5, 6, 7, and 8); and restricted against use by carrier for purpose of its providing service between New York, N.Y., on the one hand, and, on the other, points in Salem, Atlantic, Cumberland, and Cape May Counties, N.J. By the instant petition, petitioner seeks to delete all restrictions.

No. MC 26396 (Sub-No. 129)(M1) (notice of filing of petition to broaden commodity description), filed November 11, 1977. Petitioner: POPELKA TRUCKING CO., d.b.a., THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Petitioner's representative: David C. Jordan, Suite 300, 2033 K Street NW., Washington, D.C. 20006. Petitioner holds a motor *common carrier* certificate No. MC 26396 (Sub-No. 129), issued August 2, 1977, authorizing transportation, over irregular routes, of: *Processed sulphur,* in bags, from ports of entry on the United States-Canada Boundary line located in Montana and North Dakota, to points in California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Washington, Wisconsin, and Wyoming, restricted to transportation of traffic originating at the plant site of Agri-Sul Canada, Ltd., at or near Didsbury, Alberta, Canada. By the instant petition, petitioner seeks to delete the words "in bags" from where it appears above, and to add the following: and restricted against transportation in pneumatic tank trailers.

No. MC 109307 (Sub-No. 17)(M1) (notice of filing of petition to add plantsite), filed October 17, 1977. Petitioner: THE KANSAS-ARIZONA MOTOR EXPRESS, INC., 2630½ West Beverly Boulevard, Montevello, Calif. 90640. Petitioner's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Petitioner holds motor *contract carrier* permit in No. MC 109307 (Sub-No. 17), issued February 11, 1977, authorizing transportation, over irregular routes, of: (1) *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 MCC 209 and 766, and *foodstuffs,* from the plantsite of Geo. A. Hormel & Co., at or near Ottumwa, Iowa, to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and (2) *meats, meat products, meat by-products, articles distributed by meat packinghouses, and such commodities* as are used by meatpackers in the conduct of their business when destined to or for use by meatpackers, as described in sections A, C, and D of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, and *foodstuffs,* from points specified in (1) above to the plantsite of Geo. A. Hormel & Co., at or near Ottumwa, Iowa, restricted in (1) and (2) above, against the transportation of hides and commodities in bulk, and further restricted to the transportation of traffic originating at, or destined to, the named plantsite. By the instant petition, petitioner seeks to add the following: (3) *Foodstuffs, and 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 Cerfificates, 61 MCC 209 and 766, from the plantsites and storage facilities of George A. Hormel & Co., at or near Fremont, Nebr., and Fort Dodge, Iowa, to points in California, Arizona, Idaho, Montana, New Mexico, Oregon, Utah, Wyoming, and Washington, restricted to movements in mixed shipments with traffic originating at Ot-

tumwa, Iowa, under a continuing contract or contracts in (1), (2), and (3) above, with Geo. A. Hormel & Co.

No. MC 115322(M1) (notice of filing of petition to delete restrictions), filed November 3, 1977. Petitioner: RED-WING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Petitioner's representative: L. W. Fincher (same address as applicant). Petitioner holds a motor *common carrier* certificate in No. MC 115322, issued June 8, 1965, authorizing transportation, over irregular routes, of, as pertinent: *Foods* (other than meats, meat products, meat by-products, poultry, processed lobsters, candy, pie and pastry fillings, and soda fountain preparations and extracts), in vehicles equipped with mechanical refrigeration, from Boston, Mass., to points in Florida. By the instant petition, petitioner seeks to delete the exceptions, so that the authority would read as follows: *Foods*, in vehicles equipped with mechanical refrigeration, from Boston, Mass., to points in Florida.

No. MC 117119 (Sub-No. 568)(M1) (notice of filing of petition to broaden territorial description), filed October 18, 1977. Petitioner: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Petitioner's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Petitioner holds a motor *common carrier* certificate in No. MC 117119 (Sub-No. 568), issued September 29, 1976, authorizing transportation, over irregular routes, of: *Such merchandise* as is dealt in by retail, discount department or variety stores (except commodities in bulk), from the facilities of Wesmor Shipping, Inc., located at or near Secaucus, N.J., to the warehouse facilities of Wal-Mart Stores, Inc., located at or near Bentonville, Ark., restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. By the instant petition, petitioner seeks to broaden the origin authority to read as follows: From New York, N.Y., and points in its commercial zone.

No. MC 126514 (Sub-No. 18)(M1) (notice of filing of petition to modify restriction), filed November 22, 1977. Petitioner: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Road, Glendale, Ariz. 85301. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a motor *common carrier* certificate in No. MC 126514 (Sub-No. 18), issued March 23, 1973, authorizing transportation, over irregular routes, of: *General commodities* (except commodities in bulk, foodstuffs, commodities which because of their size or weight require the use of special equipment, classes A and B explosives, and household goods as defined by the Commission), from Portland, Oreg., Longview and Seattle, Wash., and San Francisco, Los Angeles, Long Beach, and San Diego, Calif., to New York, White Plains, and Middletown, N.Y., Baltic, Conn., and Webster, Worcester, Boston, and Springfield, Mass., restricted to the transportation of shipments having a prior movement by water carrier and destined to the warehouses and distribution and manufacturing facilities used by Belvis Industries, Inc., at the above-named destination points. By the instant petition, petitioner seeks to change the restriction to read as follows: Restricted to the transportation of shipments having a prior movement by water carrier and destined to the above-named destination points.

No. MC 128285 (Sub-No. 5)(M1) (notice of filing of petition for substitution of contracting shipper), filed November 9, 1977. Petitioner: MELLOW TRUCK EXPRESS, INC., P.O. BOX 17063, Portland, Oreg. 97217. Petitioner's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Petitioner holds a motor *contract carrier* permit in No. MC 128285 (Sub-No. 5) issued September 3, 1971, authorizing transportation, over irregular routes, of: *Feed, feed ingredients and fertilizer* (except liquid commodities in bulk), from points in California, to points in Oregon and Washington, under a continuing contract or contracts with H.J. Stoll & Sons, Inc., of Portland, Oreg. By the instant petition, petitioner seeks to substitute North Pacific Trading Co., a division of North Pacific Lumber Co., as the contracting shipper.

No. MC 133591 (Sub-No. 19)(M1) (notice of filing of petition to add commodities), filed October 17, 1977. Petitioner: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, Mo. 65712. Petitioner's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Petitioner holds a motor *common carrier* certificate in No. MC 133591 (Sub-No. 19), issued November 11, 1976, authorizing transportation, over irregular routes, of: (1) *Feed, feed ingredients, drugs and insecticides*, from Lee's Summit, Mo., to points in New Mexico, and (2) *Drugs and insecticides*, from Lee's Summit, Mo., to points in California, Arizona, Nevada, and Utah, restricted in (1) and (2) above against the transportation of commodities in bulk. By the instant petition, petitioner seeks to change the commodities in (1) to read: *Feed, feed ingredients, drugs, insecticides, pesticides, animal care products, breading compounds and advertising;* and in (2) to read: *Drugs, insecticides, pesticides, animal care products, breading compounds and advertising materials;* the territory remains the same.

No. MC 133591 (Sub-No. 26)(M1) (notice of filing of petition to broaden commodity description), filed October 19, 1977. Petitioner: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, Mo. 65712. Petitioner's representative: Harry Ross, 58 South Main Street, Winchester, Ky. 40391. Petitioner holds a motor *common carrier* certificate in No. MC 133591 (Sub-No. 16), issued August 18, 1977, authorizing transportation, over irregular routes, of: *Household appliances, and fixtures, electrical appliances and tools, and lawn and garden tools* (except in bulk and commodities which because of size or weight require the use of special equipment), from Columbia and Sedalia, Mo., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Texas, Utah, Washington, and Wyoming. By the instant petition, petitioner seeks to add the following commodities: *Tool boxes, electrical parts, and electrical equipment.*

No MC 135078 (Sub-No. 2)(M1) (notice of filing of petition to broaden commodity description), filed October 17, 1977. Petitioner: AMERICAN TRANSPORT, INC., P.O. Box 37406, Omaha, Nebr. 68137. Petitioner's representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, Mo. 64141. Petitioner holds motor *common carrier* authority in No. MC 135078 (Sub-No. 2), issued November 15, 1976, authorizing transportation, over irregular routes, of: *Abrasive coated cloth, abrasive cut-off blades, abrasive wheels, abrasive discs, diamond wheels, blades, clamps, connectors, couplings, fittings, joints, sleeves, and tees*, from Westboro, Mass and Bradford, Pa., to points in Indiana, Illinois, Kentucky, Michigan, New York, Ohio, Pennsylvania, and Wisconsin. By the instant petitioner, petitioner seeks to add the commodity *empty pallets and drums.*

No. MC 142284 (Sub-No. 1)(M1) (Notice of filing of Petition to Add Contracting Shipper). Petitioner: AIR COURIERS INTERNATIONAL, INC., 2150 East Thomas, Phoenix, Ariz. 85016. Petitioner's representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Petitioner holds a motor *contract carrier* Permit in No MC 142284 (Sub-No. 1 issued April 12, 1977, authorizing transportation, over irregular routes, of: *Business records*, between the facilities of American Home Assurance Co., at New York, N.Y., and the facilities of American Home Assurance Co., at Manchester, N.H., under a continuing contract or contracts with American Home Assurance Co., of New York, N.Y. By the instant petition, petitioner seeks to add the Home Insurance Co., Manchester, N.H., as a second contracting shipper.

and to transport business records, between the facilities of The Home Insurance Co., at New York, N.Y., and the facilities of The Home Insurance Co., at Manchester, N.H., under a continuing contract or contracts with The Home Insurance Co., of Manchester, N.H.

No. FF-426 (Sub-No. 1), M1 (Notice of filing of petition for modification of permit to remove a restriction in port), filed November 3, 1977. Petitioner: EXPRESS FORWARDING & STORAGE CO., INC., 19 Rector Street, New York, N.Y. 10006. Petitioner's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Petitioner holds a freight forwarder Permit in No. FF-426 (Sub-No.1), issued August 10, 1976, authorizing in part, the transportation of: (3) *General commodities* (except classes A and B explosives, household goods as defined by the Commission, unaccompanied baggage, used automobiles, and commodities in bulk), in containers, between the ports of Baltimore, Md., Boston, Mass., Houston, Tex., New Orleans, La., Norfork Va., Detroit, Mich., Savannah, Ga., Charleston, S.C., those in Los Angeles Harbor and San Francisco Bay, Calif., and those in New York, and New Jersey located within the New York, N.Y., Commercial Zone as defined by the Commission, on the one hand, and on the other, points in Alabama, California, Connecticut, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, Michigan, New Jersey, New York, New Hampshire, Ohio, Pennsylvania, Rhode Island, Tennessee, and Wisconsin. Restriction: The authority granted in (3) above is subject to the following conditions: Said authority in (3) above is restricted to the forwarding of import or export shipments having an immediately prior or subsequent movement by water in the nonvessel operating (NVO), water common carrier service of carrier. Said authority in (3) above is restricted against the forwarding of shipments moving to or from Puerto Rico or the Virgin Islands. By the instant petition, petitioner seeks to delete the following words from the restriction: "* * * in the nonvessel operating (NVO), water common carrier service of carrier."

Republications of Grants of Operating Rights Authority Prior to Certification

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this Federal Register notice. Such pleading shall comply with Special Rule 247(d) of the Commission's general rules of practice (49 CFR 1100.247), addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 68860 (Sub-No. 26) (Republication), filed June 7, 1977, published in the Federal Register issue of July 28, 1977, and republished, this issue. Applicant: RUSSELL TRANSFER, INC., 444 Glenmore Drive, Salem, Va. 24153. Applicant's representative: Liniel G. Gregory, Jr. (same address as applicant). An order of the Commission, Review Board No. 3, decided December 9, 1977, and served December 19, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *incandescent electric lamps*, from the facilities of GTE Sylvania Lighting Products Group at St. Marys, Pa., to Charlotte, N.C., and Springfield and Roanoke, Va.; and (2) *paper containers*, from Roanoke, Va., to the above facilities of GTE Sylvania Lighting Products Group named as the point of origin in (1); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to show the authority actually granted.

No. MC 114457 (Sub-No. 306) (Republication), filed May 12, 1977, published in the Federal Register issue of June 23, 1977, and republished, this issue. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). An Order of the Commission, Review Board No. 1, decided December 1, 1977, and served December 13, 1977, finds that the present public and future public convenience and necessity requires operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from International Falls, Minn., to those points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Minnesota, Wisconsin, and those in the Chicago, Ill., commercial zone); and (2) *returned or refused shipments* from the named destination points used in part (1) above, to International Falls, Minn.; that applicant is fit, willing, and able properly to perform the service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to show authority actually granted.

No. MC 135913 (Sub-No. 9) (Republication), filed February 24, 1977, published in the Federal Register issue of April 14, 1977, and republished, this issue. Applicant: BREEN TRUCKING, INC., 8459 Church Road, Gross Ile, Mich. 48138. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Ave., NW., Suite 600, Washington, D.C. 20036. An Order of the Commission, Review Board No. 3, decided November 7, 1977, and served December 6, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Phenolic polymers* (except in bulk), (1) from Detroit, Mich., to the plantsite of Polymer Applications, Inc., at or near Tonawanda, N.Y., and (2) from the facilities utilized by Polymer Applications, Inc., at or near Tonawanda, N.Y., and Atlanta and Savannah, Ga., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Texas (excluding points in Oklahoma), under a continuing contract or contracts, in (1) and (2) above, the Polymer Applications, Inc., of Tonawanda, N.Y.; that applicant is fit, willing, and able properly to perform the authorized service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to show the additional origin of Atlanta, Ga. in part (2).

No. MC 142770 (Sub-No. 2) (Republication) filed March 9, 1977, published in the Federal Register issue of April 28, 1977, and republished this issue. Applicant: ARTHUR L. KINDT AND JOHN Y. KINDT II, doing business as KINDT'S MOVING & STORAGE, P.O. Box 1058, 1144 East Highway 40, Vernal, Utah 84070. Applicant's representative: John Y. Kindt II (same address as applicant). An order of the Commission, Review Board Number 3, decided November 1, 1977, and served November 23, 1977, finds that operation by applicants, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Fort Duchesne, Utah, to points in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana

(except Alaska and Hawaii), and (2) *materials and supplies* used in the manufacture of new furniture, from points in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Alaska and Hawaii), to Fort Duchesne, Utah, under a continuing contract or contracts with the Ute Indian Tribe, doing business as Ute Fab Ltd.; will be consistent with the public interest and the national transportation policy; and that applicants are fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is (1) to broaden applicant's commodity description from unfinished furniture to new furniture; and (2) to include all of Louisiana and Minnesota as origin and destination territories, in lieu of partial states.

No. MC 143432 (Republication), filed June 27, 1977, published in the FEDERAL REGISTER issue of August 11, 1977, and republished this issue. Applicant: GUILFORD LIVERY SERVICE INC., 115 Church Street, Guilford, Conn. 06437. Applicant's representative: George P. Hudson, 19 Farrell Street, Hamden, Conn. 06518. An Order of the Commission, Review Board No. 3, decided November 22, 1977, and served December 1, 1977, indicates a need for service as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, in special operations, in nonscheduled door-to-door service, limited to the transportation of not more than six passengers in any one vehicle (not including the driver), between Clinton, Durham, Madison, and Guilford, Conn., on the one hand, and on the other, New York, N.Y., restricted to the transportation of passengers having an immediately prior or subsequent movement by aircraft.

NOTE.—The applicant's fitness is not resolved. The purpose of this republication is to indicate the broadening of the territorial description.

MOTOR CARRIER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method, whether by joinder, interline, or other means, by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 3281 (Sub-No. 10), filed November 16, 1977. Applicant: POWELL TRUCK LINE, INC., 800 South Main Street, Searcy, Ark. 72143. Applicant's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority is 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), serving the plantsite and facilities of American Greetings Corp., at or near Harrisburg, Ark., as an off-route point in connection with Applicant's regular-route operations.

NOTE.—If an oral hearing is deemed necessary, it is requested that it be held in Memphis, Tenn., or Little Rock, Ark.

No. MC 18037 (Sub-No. 5), filed November 11, 1977. Applicant: CHAS. LEVY CIRCULATING CO., 1200 North Branch Street, Chicago, Ill. 60622. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Newspapers, including the comic supplements and magazine sections thereof, magazines, and such books and other periodicals and publications as are normally distributed to the public through newsdealers, and calendars, catalogs, display racks, prizes, premiums, pamphlets and other advertising materials pertaining to all of the aforesaid items*, from Chicago, Ill., to points in Illinois, Indiana, points in Iowa on and east of Interstate Highway 35, and points in Wisconsin on and south of U.S. Highway 10; (2) *Return shipments* of the items designated in (1) above, from points in Illinois, Indiana, points in Iowa on and east of Interstate Highway 35, and points in Wisconsin on and south of U.S. Highway 10 to Chicago, Ill., under continuing contract or contracts with, Select Magazines Inc.; Time Inc.; National Enquirer; Dayton Press Inc.; Aladdin Distributing Corp.; R.R. Donnelley & Sons Co.; Downe Communications Inc.; Midnight Publishing Corp.; Independent News Co Inc.; W.F. Hall Printing Co.; Triangle Publications Inc.; Mid America Webpress Inc.; and Kable News Co.

NOTE.—If a hearing is deemed necessary, the applicant request it at Chicago, Ill.

No. MC 19311 (Sub-No. 37), filed October 25, 1977. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, Mich. 48077. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road Suite 102, Bloomfield Hills, Mich. 48013. Authority southt to operate as a *common carrier*, by motor vehicle, in interstate and foreign commerce as follows: over regular and irregular routes: (1) Over regular routes in the transportation of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving the plantsite of Central Foundry Division of General Motors Corp., at Bedford, Ind., as an off route point in connection with otherwise authorized service. (2) Over irregular routes in the transportation of *scrap metal*, in bulk, from points in Michigan, Ohio, and Erie and Niagara Counties, N.Y., to Bedford, Needmore, and Wabash, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C., or Detroit, Mich.

No. MC 21436 (Sub-No. 6), filed November 10, 1977. Applicant: RELI-

ANCE VAN CO., INC., 67 West Kings Highway, Maple Shade, N.J. 08052. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Used household goods*, restricted (1) to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and (2) to the performance of pickup and delivery service in connection with packing, crating, or containerization, or unpacking, uncrating, or decontainerization or such shipments, between points in Maryland, District of Columbia, and the counties of Arlington, Fairfax, Falls Church, and Prince William, Va., and the cities of Alexandria, Virginia, and Fairfax, Va., and the county of New Castle, Del.

NOTE.—Applicant states it intends to tack it's present authority in No. MC 21436 (Sub-No. 2), with the above requested authority at points in New Castle County, Del. If a hearing is deemed necessary, applicant requests that it be held in Maple Shade, N.J. Common control may be involved.

No. MC 21866 (Sub-No. 91), filed November 11, 1977. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Ave., Boyertown, Pa. 19512. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden blocks*, from Bowling Green, Ky., to Reading, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 21866 (Sub-No. 93), filed November 14, 1977. Applicant: WEST MOTOR FREIGHT, INC., 740 South Reading Avenue, Boyertown, Pa. 19512. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer* (except in bulk), from the facilities of the Wegro Division of Old Fort Industries, Inc., located at or near Grand Rapids, Ohio, to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C., or Philadelphia, Pa.

No. MC 25798 (Sub-No. 300), filed November 3, 1977. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food, foodstuffs, and food ingredients* (except in bulk, in tank vehicles), *cartons, aluminum containers, aluminum foil, plastic bags, plastic food utensils, plastic covers, plastic trays, paper labels, detergents, and adhesives*, from points in Connecticut, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin, and the District of Columbia, to Crozet, Va., restricted to traffic destined to the plantsite or storage facilities of Morton Frozen Foods, Division of Continental Baking Co., at Crozet, Va., (2) *frozen foods*, from Crozet, Va., to points in North Carolina and Maryland, restricted to traffic originating at the plantsite or storage facilities of Morton Frozen Foods, Division of Continental Baking Co., and destined to the states named, and (3) *frozen foods*, from Russellville, Ark., to points in Alabama, Florida, Georgia, Mississippi, and Tennessee, restricted to traffic originating at the plantsite or storage facilities of Morton Frozen Foods, Division of Continental Baking Co., and destined to the states named.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C., or Tampa, Fla.

No. MC 41915 (Sub-No. 41), filed November 18, 1977. Applicant: MILLER'S MOTOR FREIGHT, INC., 1060 Zinn's Quarry Road, York, Pa. 17405. Applicant's representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and *filters*, from points in Marion County, Tenn., to points in Pennsylvania, New York, New Jersey, Rhode Island, Connecticut, Delaware, Maryland, West Virginia, Virginia, District of Columbia, North Carolina, South Carolina, Georgia, Florida, Alabama, Kentucky, Tennessee, and Ohio, restricted to traffic originating at points in Marion County, Tenn., (2) *materials, supplies, and equipment*, used in the manufacture, sale, and distribution of the commodities named in (1) above (except in bulk), from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn., and (3) *petroleum and petroleum products, vehicle body sealer, and/or sound deadener compound* (except in bulk) and *filters*, from points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. Common control may be involved.

No. MC 48441 (Sub-No. 14), filed October 11, 1977. Applicant: P. L. & M. EXPRESS, INC., P.O. Box 418, Streator, Ill. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from White Pigeon, Mich., to Whiting, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Chicago, Ill.

No. MC 49387 (Sub-No. 50), filed November 18, 1977. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Highway 24 East, P.O. Box 658, Moberly, Mo. 65270. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise dealt in by wholesale, retail, chain grocery, and food business houses*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Arkansas, Kansas, New Mexico, Oklahoma, and Texas, restricted to traffic originating at the above-named origin and destined to the above-named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 55896 (Sub-No. 58), filed October 11, 1977. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Iron and steel fluxing and purifying compounds* from the plantsite of Metalurgical Products, Inc., located at Sault Ste. Marie, Mich., to points in Indiana, Illinois, Kentucky, New York, Ohio, Pennsylvania, Tennessee, West Virginia, Wisconsin, and St. Louis, Mo.; (B) *materials, equipment, and supplies* used in the manufacture of the commodities named in paragraph A above from points in Indiana, Illinois, Kentucky, New York, Ohio, Pennsylvania, Tennessee, West Virginia, Wisconsin,

and St. Louis, Mo., to the plantsite of Metalurgical Products, Inc., at Sault Ste. Marie, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 57697 (Sub-No. 13), filed October 18, 1977. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation and sprinkling systems, parts and accessories* thereof, from Denver, Colo., to points in Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Wisconsin, Wyoming, and points in Texas in and north of Parmer, Castro, Swisher, Briscoe, Hall, and Childress Counties; and (2) *equipment, materials, and supplies* used in or incidental to the manufacturing of commodities in (1) above, from points in Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Wisconsin, Wyoming, and points in Texas in and north of Parmer, Castro, Swisher, Briscoe, Hall, and Childress Counties, to Denver, Colo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 59150 (Sub-No. 109), filed November 9, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and Steel articles*, from the plantsite and storage facilities of Penn-Dixie Steel Corp. at/or near Jackson, Miss., and (2) *cement* from the plantsite and storage facilities of Penn-Dixie Industries, Inc., at/or near Salisbury, N.C.; Atlanta, Ga.; Knoxville, Kingsport, and South Pittsburg, Tenn.; to points in Florida, Georgia, Alabama, North Carolina, South Carolina, Louisiana, Mississippi, Virginia, and Tennessee, restricted against the transportation of commodities in bulk.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 60014 (Sub-No. 59), filed October 26, 1977. Applicant: AERO TRUCKING INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and construction materials and iron and steel articles* (except commodities in bulk) from the plantsites and warehouses of Penn-Dixie Industries, Inc., at or near Detroit, Holland, and Petoskey, Mich.; Cabot and Nazareth, Pa.; Kingsport, Knoxville, and South Pittsburg, Tenn.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Atlanta, Ga.; and Salisbury, N.C., to points in the United States (except Alaska and Hawaii); (2) *building and construction materials and iron and steel articles* (except commodities in bulk) from the plantsites and warehouses of Penn-Dixie Steel Corp at or near Fort Wayne, Kokomo, and North Judson, Ind.; Blue Island and Joliet, Ill.; Grand Rapids and Lansing, Mich.; Columbus and Toledo, Ohio; Denver, Colo.; Centerville, Iowa; Jackson, Miss.; and Albuquerque, N. Mex., to points in the United States (except Alaska and Hawaii); and (3) *steel springs* from the plantsites and warehouses of Stevens Spring Co. at or near Cicero, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 63417 (Sub-No. 120), filed November 18, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, Va. 24034. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except commodities in bulk) *and filters*, from points in Marion County, Tenn., to points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Michigan, Illinois, Kentucky, North Carolina, South Carolina, Florida, Alabama, Georgia, Mississippi, Arkansas, Louisiana, Missouri, Oklahoma, Texas, District of Columbia, restricted to traffic originating at points in Marion County, Tenn.; (2) *Materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk) from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn. (3) *petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except commodities in bulk) *and filters* from points in Ohio, New York, Pennsylvania, West Virginia, to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 65941 (Sub-No. 45), filed November 11, 1977. Applicant: TOWER LINES, INC., 3rd and Warwood Avenue, Box 6010, Wheeling, W. Va. 27003. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Steel culvert pipe, and corrugated steel pipe and materials, and supplies* used in the production or distribution of steel culvert pipe and corrugated steel pipe (except commodities in bulk), between the plantsites and warehouses of Wheeling Corrugating Co., a division of Wheeling-Pittsburgh Steel Corp. at or near Olean N.Y.; Jamesburg, N.J.; Jeffersonville, Ind.; Havana, Ill.; Stoughton, Wis.; Statesville, N.C.; Columbus, Ohio; Chicago, Ill.; Detroit, Mich.; and Minneapolis, Minn., on the one hand, and, on the other, points in Indiana, Ohio, Pennsylvania, West Virginia, and Maryland, restricted to shipments originating at or destined to the plantsites or warehouses of Wheeling Corrugating Co., a division of Wheeling-Pittsburgh Steel Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Pittsburgh, Pa.

No. MC 69833 (Sub-No. 123), filed October 11, 1977. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th Floor, Grand Rapids, Mich. 49503. Applicant's representative: Harry Pohlad, 200 Monroe Avenue NW., 6th Floor, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Fibreboard, pulpboard, or strawboard*, (1) from Coldwater, Mich. to points in the States of Michigan, Ohio, Indiana, Illinois, Wisconsin, and points in Pennsylvania on and west of U.S. Highway 219; and (2) *materials, equipment, and supplies* used or useful in the manufacture, sale, or distribution of Fibreboard, pulpboard, or strawboard (except commodities in bulk) from points in the States of Michigan, Ohio, Indiana, Illinois, Wisconsin, and points in Pennsylvania on and west of U.S. Highway 219 to Coldwater, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Lansing, Mich., or Chicago, Ill.

No. MC 82079 (Sub-No. 55), filed November 17, 1977. Applicant: KELLER TRANSFER LINES, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes transporting: *Food and food products*, fresh and frozen products,

which require protection from heat or cold in mechanically refrigerated vehicles (except commodities in bulk), from the plantsite and warehouse facilities of U.S. Cold Storage in Chicago, Ill., to points in Michigan on east and south of the line beginning at the intersection of U.S. 23 and the Ohio/Indiana border, north to M-21, east on M-21 to and including Port Huron, Mich. Furthermore, the transportation herein is restricted to commodities originating at the origin point and destined to the points in Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich., or Chicago, Ill.

No. MC 84428 (Sub-No. 20), filed November 11, 1977. Applicant: CHESTER JACKSON CO., a corporation, 470 Schuyler Avenue, Kearny, N.J. 07030. Applicant's representative: Larsh B. Mewhinney, 235 Mamaroneck Avenue, White Plains, N.Y. 10605. Authority sought to operate as a *common carrier*, over regular routes transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, and those injurious to other lading), between Rockaway, N.J., on the one hand, and, on the other, points within 200 miles of Kearny, N.J., in New York, Massachusetts, Pennsylvania, Connecticut, and Maryland.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Newark, N.J., or New York, N.Y. The application is accompanied by a petition to dismiss on the ground that application holds the authority applied for, or in the alternative, to modify applicants existing authority to permit the operations for which authority is sought, or in the alternative, to reopen applicants grandfather proceeding to revise applicants certificate No. MC 84428.

No. MC 95876 (Sub.-No. 221), filed November 14, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Plastic pipe, plastic pipe fittings, and accessories* used in the installation thereof (except commodities in bulk, in tank vehicles, and plastic pipe and fittings used in or in connection with the discovery, development, distribution of natural gas and petroleum and their products and byproducts), from the facilities of Cresline Plastic Pipe Co., Inc., located at Council Bluffs, Iowa, to points in the United States (except Alaska and Hawaii); (2) *materials, supplies, and accessories* used in the manufacture and distribution of plastic pipe, plastic fittings, and accessories used in the installation thereof (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii), to the facilities of Cresline Plastic Pipe Co., Inc., located at Council Bluffs, Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. Common control may be involved.

No. MC 105886 (Sub-No. 24), filed November 17, 1977. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, Pa., 16112. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry facings, foundry core compounds and ground coke*, from the plantsite of Limewood Corporation in Cherry Township, Butler County, Pa. to Illinois, Indiana, and Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C. or Pittsburgh, Pa.

No. MC 106674 (Sub-No. 264), filed November 8, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Plastic bags, plastic bags and bags constructed of paper and plastic combined*: From the plantsite of Great Plains Bag Corp. at or near Jacksonville, Ark. to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. (2) *Materials*, equipment and supplies (except in bulk), used in or in connection with the manufacture, distribution, printing, processing or use of paper bags, plastic bags and bags constructed of paper and plastic combined from points in Iowa and Texas to the plantsite of Great Plains Bag Corporation at or near Jacksonville, Ark. Restriction: Restricted in parts (1) and (2) to the transportation of traffic either originating at or destined to the plantsite of Great Plains Bag Corp. at or near Jacksonville, Ark.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill., or Indianapolis, Ind.

No. MC 106674 (Sub-No. 266), filed November 18, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box. 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry foodstuffs (except in bulk)* from the plantsite and warehouse facilities of The Pillsbury Co. at Terre Haute, Ind. to Buffalo, N.Y. and Mechanicsburg, Pa. Restriction: Restricted to the transportation of traffic originating at the plantsite and warehouse facilities of The Pillsbury Co. at Terre Haute, Ind. and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 106674 (Sub-No. 267), filed November 18, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment and supplies used in the manufacture, installation and distribution of building, roofing, insulating and sound deadening materials* from points in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana to the plantsite and warehouse facilities of the GAF Corporation at or near Joliet, Ill.; Mt. Vernon, Ind., and St. Louis, Mo. Restriction: Restricted to the transportation of traffic destined to the plantsite and warehouse facilities of the GAF Corp. at or near Joliet, Ill.; Mt. Vernon, Ind., and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 107993 (Sub-No. 58), filed October 11, 1977. Applicant: J. J. WILLIS TRUCKING CO., 2608 Electronic, (P.O. Box 5328), Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products* (1) between points in Arizona, Colorado, New Mexico, and Utah; and (2) between points in Arizona, Colorado, New Mexico, and Utah, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Kansas, Louisiana, New Mexico, Texas, Utah, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver Colo. or Albuquerque, N. Mex.

No. MC 108341 (Sub-No. 74), filed November 18, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Plastic pipe, fittings, valves, hydrants and materials and supplies* used in the installation thereof, (except commodities in bulk), from the plantsite and storage facilities of Clow Corp. at or near Buckhannon, W. Va. to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hamphsire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 108380 (Sub-No.93), filed November 11, 1977. Applicant: JOHNSTON'S FUEL LINERS, INC., Box 100, Newcastle, Wyo. 82701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Petroleum and petroleum products* from Wolf Point, Mont. to points in South Dakota.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at rapid City, S.D. or Denver, Colo.

No. MC 108587 (Sub-No.24), filed December 14, 1977. Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Avenue, Colchester, Conn. 06415. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which require special equipment), between points in Onondaga County, N.Y., on the one hand, and, on the other, points in Luzerne and Lackawanna Counties, Pa.

NOTE.—The purpose of this application is to eliminate the gateway of New York, N.Y. This is a matter directly related to a section 5(2) proceeding in MC-F-13323, published in the FEDERAL REGISTER issue of October 20, 1977. If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn.

No. MC 109397 (Sub-No. 373), filed November 18, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Iron and steel articles*, and *building and construction materials, equipment and supplies* (except commodities in bulk), from the plantsites or warehouses of Penn-Dixie Steel Corp. and/or Penn-Dixie Industries, Inc., at or near Albuquerque, N. Mex.; Denver, Colo.; Blue Island, Joliet, and Chicago, Ill.; Grand Rapids, Lansing, Petoskey, Holland, and Detroit, Mich.; Toledo and Columbus, Ohio; Winterset, Centerville, and West Des Moines, Iowa; Fort Wayne and Kokomo, Ind.; Jackson, Miss.; Kingsport, Knoxville, and South Pittsburg, Tenn.; Salisbury, N.C.; Atlanta, Ga.; Nazareth, Pa.; and Milwaukee, Wis., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture of iron and steel articles and building and construction materials, equipment and supplies (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to origin points listed in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, Mich. or Indianapolis, Ind.

No. MC 111231 (Sub-No. 222), filed November 4, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission and commodities requiring special equipment): (1) Between Atlanta, Ga. and Livingston, Ala., serving all intermediate points in Alabama: From Atlanta over U.S. Highway 78 and Interstate Highway 20 to Birmingham, thence over U.S. Highway 11 and Interstate Highways 20 and 59 to Livingston, and return over the same route, restricted against the transportation of traffic moving between Atlanta, Ga., and Birmingham, Ala., and points in their respective commercial zones; (2) Between Atlanta, Ga., and New Orleans, La., serving the intermediate points of Mobile and Montgomery, Ala., and all intermediate points in Mississippi and Louisiana; From Atlanta over U.S. Highway 29, and Interstate Highway 85 to Montgomery; thence over U.S. Highway 31 and Interstate Highway 65 to Mobile; thence over U.S. Highway 90 and Interstate Highway 10 to New Orleans, and return over the same route, restricted against the transportation of traffic moving between Atlanta, Ga., and Montgomery, Ala., and points in their respective commercial zones; (3) Between Birmingham and Montgomery, Ala., as an alternate route for operating convenience only, serving Montgomery, Ala., as a point of a joinder only: From Birmingham over U.S. Highway 31 and Interstate Highway 65 to Montgomery and return over the same route; and (4) Between Montgomery, Ala., and the intersection of U.S. Highways 80 and 11, and Interstate Highway 20/59 at or near Cuba, Ala., serving said intersections as points of joinder only, and serving no intermediate points: From Montgomery over U.S. Highway 80 to its intersection with U.S. Highway 11 and Interstate Highway 20/59 at or near Cuba, Ala., and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., Birmingham, Ala., Mobile, Ala., and New Orleans, La.

No. MC 111729 (Sub-No. 718), filed October 11, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records*, and *audit and accounting media* of all kinds, between Nashville, Tenn., on the one hand, and, on the other, points in South Carolina.

NOTE.—Applicant holds contract carrier authority in MC 112750 and Sub Numbers thereunder, and therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 112184 (Sub-No. 57), filed October 3, 1977. Applicant: THE MANFREDI MOTOR TRANSIT CO., a Corporation, 11250 Kinsman Road, Newberry, Ohio 44065. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint products*, in bulk in tank vehicles, from (1) Oak Creek, Wis. and Walingford, Conn., to Cleveland, Ohio; and (2) from Cleveland, Ohio to Leeds, Mo.; Chicago, Ill.; Tarreytown, N.Y.; Wilmington, Del.; Oklahoma City, Okla.; Baltimore, Md.; Atlanta, Doraville and Lakewood, Ga.; Arlington, Tex.; Norfolk, Va.; Minneapolis and St. Paul, Minn.; Louisville, Ky.; Fremont, San Jose, Southgate, and Van Nuys, Calif.; and ports of entry on the International Boundary line between the United States and Canada which lie between Buffalo, N.Y. and Calais, Maine, including Buffalo, N.Y. and Calais, Maine, under a continuing contract or contracts with PPG Industries, Inc.

NOTE.—Applicant holds common carrier authority in No. MC-128302 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 112750 (Sub-No. 345), filed October 11, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: *Commercial papers, documents and written instruments* (except currency and negotiable securities) as are used in the business of banks and banking institutions, Between Sturgis, Mich., on the one hand, and, on the other, Auburn, Howe, Indianapolis, Kendallville, Lagrange, and Middlebury, Ind., under a continuing contract or contracts with Information Technology Services, Corp.

NOTE.—Applicant holds common carrier authority in No. MC 111729 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (Sub-No. 437), filed November 17, 1977. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses.* (1) from the facilities of the Clorox Co. at or near Atlanta, Ga., to points in Arkansas, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas; (2) from the facilities of the Clorox Co. at or near Houston, Tex., to points in New Mexico and Oklahoma; (3) from the facilities of the Clorox Co. at or near Oakland, Calif., to points in Montana, Oregon, Utah, Washington, and Wyoming.

NOTE.—In MC-112822 (Sub-No. 105), (Sub-No. 148), (Sub-No. 177), (Sub-No. 193), and (Sub-No. 416 TA), applicant holds authority partially duplicating that sought herein, although applicant seeks authorization for new origin or destination territory hereby. The purpose of the present application is to permit applicant to transport new commodities now being introduced and to be introduced by the Clorox Co. without applicant's being required to seek new commodity authorization each time a new product is introduced. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 114211 (Sub-No. 329), filed November 7, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, 324 Manhard Street, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, over irregular routes transporting: *Used irrigation systems and accessories* between points within the United States (except Alaska and Hawaii). Restriction: Restricted to shipments moving for the account of Valmont Industries, Inc., Valley, Nebraska.

NOTE.—If a hearing is deemed necessary, we request it be held at either Omaha, Nebr. or Chicago, Ill. at the same time and place as similar applications filed by Hunt Transportation, Inc. and Grain Belt Transportation Co.

No. MC 114457 (Sub-No. 339), filed November 14, 1977. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Plastic containers and accessories*, from Crosby and Winona, Minn., to Toledo, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn., or Chicago, Ill.

MC 115056 (Sub-No. 20), filed November 11, 1977. Applicant: LANE TRUCK LINES, INC., 120 Newby Court, Rocky Mount, N.C. 27801. Applicant's representative: Thomas L. Young, 131 North Church Street, Rocky Mount, N.C. 27801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden boxes, box shooks and wooden pallets* from points in Stokes County, N.C. to points in Connecticut.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Raleigh, N.C.

No. MC 116004 (Sub-No 45), filed October 11, 1977. Applicant: TEXAS OKLAHOMA EXPRESS, INC., P.O. Box 47112, Dallas, Tex. 75247. Representative: Doris Hughes, P.O. Box 47112, Dallas, Tex. 75247. 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), (1) between Fort Worth, Tex. and Kansas City, Mo., serving all intermediate points and serving the junction of U.S. Highway 66 and Kansas Highway 26 and the junction of U.S. Highways 69 and 66 as points of joinder only: From Fort Worth over U.S. Highway 80 (or Texas Highway 183, or Dallas-Fort Worth Turnpike) to Dallas, Tex., thence over U.S. Highway 75 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highways 69 and U.S. Highway 66, thence over U.S. Highway 66 to Riverton, Kans., thence over Kansas Highway 26 to junction U.S. Highway 69, thence over U.S. Highway 69 to Kansas City, Mo., and return over the same route; (2) between Tulsa, Okla. and Muskogee, Okla.: From Tulsa, Okla. over U.S. Highway 64 to Muskogee, Okla. and return over the same route, serving junction U.S. Highways 64 and 69 as a point of joinder only, as an alternate route for operating convenience only

NOTE—Applicant states that it is presently authorized to operate between the major termini over the route described in (1) above and by this application seeks to serve intermediate points. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex. and Tulsa, Okla.

No. MC 115162 (Sub-No.389), filed November 7, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, P.O. Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Pipe, fittings, valves, fire hydrants, castings, and materials and supplies* used in the installation thereof, from Jefferson, Calhoun, Talladega and Tuscaloosa Counties, Ala. and Hamilton County, Tenn. to points in the United States in and east of North Dakota, South Dakota, Wyoming, Colorado, New Mexico, and Texas; and (B) *Materials and supplies* used in the manufacture of commodities shown in (A) above (except commodities in bulk, in tank vehicles) from points in the United States in and east of North Dakota, South Dakota, Wyoming, Colorado, New Mexico, and Texas to Jefferson, Calhoun, Talladega, and Tuscaloosa Counties, Ala. and Hamilton County, Tenn.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Birmingham, Ala or Washington, D.C.

No. MC 116544 (Sub-No.161), filed November 14, 1977. Applicant: ALTRUK FREIGHT SYSTEMS INC., P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Kirk Wm. Horton, 260 Sheridan Avenue, Palo Alto, Calif. 94306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail and chain grocery and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc. at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia. Restricted to traffic originating at the above-named origin and destined to the above-named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 117119 (Sub-No.655), filed October 3, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: M. M. Geffon, P.O Box 388, Willingboro, N.J. 08046. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Chemicals, pigments, paints and dyes, and personnel safety devices* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Bound Brook, N.J.; Willow Island, W. Va.; and Marietta, Ohio to Portland, Oreg.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Newark, N.J., New York, N.Y. or Washington, D.C.

No. MC 117786 (Sub-No.2), filed October 12, 1977. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, Ariz. 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper* (other than newsprint), *machine parts*, iron or steel, *paper labels and tags, printing presses*, in boxes or crates, *wire pins, hand tools*, other than power, *plastic articles, corrugated boxes, advertising matter, printing ink*, in containers, *plastic hangers*, from Dayton, Ohio, to points in Arizona, California, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Idaho, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Cincinnati or Columbus, Ohio.

No. MC 117940 (Sub-No. 240), filed November 11, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities as are dealt in by retail stores*, (except foodstuffs, furniture, household goods as defined by the Commission, and commodities in bulk), and (2) *furniture*, such as is dealt in by retail department stores when moving in mixed loads with the commodities described in (1) above, from points in Georgia and North Carolina to points in Minnesota, restricted to traffic originating at the named origins and destined to the facilities of Dayton's, Target Stores, Inc., Northern Cargo Association, and Gamble-Skogmo, Inc., at named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Paul or Minneapolis, Minn. Applicant holds contract carrier authority in No. MC 114789 (Sub-No. 16) and other subs thereunder, therefore, dual operations may be involved.

No. MC 118535 (Sub-No. 108), filed November 17, 1977. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Mo. 64730. Applicant's representative: Wilburn Williamson, 280 National Foundation Life Center, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry urea*, from Eddy County, N. Mex. to points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas, and (2) *dry potash, potash products and potash byproducts*, from Eddy and Lea Counties, N. Mex. to points in Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 119176 (Sub-No. 17), filed November 7, 1977. Applicant: THE SQUAW TRANSIT CO., a corporation, P.O. Box 9368, Tulsa, Okla. 74107. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pipe, boiler tubing, and fabricated steel pipe, boilers and boiler parts including valves, coal crusher-feeders and burners, fabricated steel weldments, steel castings, and steel plate*, between the plantsites of Riley Stoker Corp., at or near Erie, Pa., and Sapulpa, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Tulsa, Okla.

No. MC 119399 (Sub-No. 74), filed November 18, 1977. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, Mo. 64801. Applicant's representative: Dean Williamson, 280 National Foundation Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal, fish and poultry feed*, dry, (except in bulk), from the plantsite and storage facilities of Doane Products Co. in Jasper County, Mo., to points in Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo., or Dallas, Tex.

No. MC 119988 (Sub-No. 126), filed October 11, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peat, perlite, potting soil, soil conditioner, activated charcoal, vermiculite, moss, and such other commodities, equipment, and supplies as are dealt in by nursery and horticultural stores, and materials and supplies used in the manufacture and distribution of such commodities*, between Polk County, Tex., on the one hand, and, on the other, points in Oklahoma, Kansas, Louisiana, Arkansas, Missouri, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests, it be held at Houston, Tex., or Dallas, Tex.

No. MC 120822 (Sub-No. 3), filed October 13, 1977. Applicant: INDUSTRIAL FREIGHT SYSTEM, INC., 9120 San Fernando Road, Sun Valley, Calif. 91352. Applicant's representative: Gary W. Wigand, 13031 San Antonio Dr., Suite 214, Norwalk, Calif. 90650. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except used household goods, commodities, the transportation of which because of size or weight require the use of special equipment, commodities in bulk, Classes A and B explosives, livestock and commodities requiring special equipment) (1) between Los Angeles, Calif., and Las Vegas, Nev.: From Los Angeles over Interstate Highway 5 to the junction with California Highway 14, thence over California Highway 14 to its junction with California Highways 138 and 18, thence over California Highway 18 (also known as Pearblossom Highway), to its junction with Interstate Highway 15, thence over Interstate Highway 15 to Las Vegas, and return over the same route; (2) between Los Angeles, Calif., and Glendale, Nev.: From Los Angeles over the same routes as described in (1) above to Las Vegas, Nev., thence over Interstate Highway 15 to Glendale, and return over the same route; (3) between Los Angeles, Calif., and Boulder City, Nev.: From Los Angeles over the same routes as described in (1) above to Las Vegas, Nev., thence over Interstate Highway 95 to Boulder City and return over the same route; (4) between Los Angeles, Calif., and Las Vegas, Nev.: From Los Angeles over Interstate Highway 10 to the junction of Interstate Highway 15, thence over Interstate Highway 15 to Las Vegas, and return over same route; and furthering on to Glendale, Nev., and Boulder City, Nev., as described in (2) and (3) above, respectively, and return over the same routes. Serving all intermediate points and off route points lateral-

ly 20 miles on either side of the above named highways.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 123255 (Sub-No. 127), filed November 11, 1977. Applicant: B&L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except commodities in bulk), from the facilities utilized by Dow Chemical Co., at or near Bay City, Mich., and East Camden, Ark., to points in the United States on and east of U.S. Highway No. 85.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123255 (Sub-No. 128), filed November 14, 1977. Applicant: B&L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Malt beverages*, from Eden, N.C., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana; (2) *materials, supplies and equipment*, used in the manufacture, sale and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Eden, N.C. and (3) *malt beverages*, from Milwaukee, Wis., and South Volney, N.Y., to Eden, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 123872 (Sub-No. 78), filed December 15, 1977. Applicant: W&L MOTOR LINES, INC., P.O. Box 2607, Hickory, N.C. 28601. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, D.C. 20004. Applicant seeks authority to engage in operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *carpets and rugs and materials and supplies* used in the installation and sale thereof (except commodities in bulk), from points in Bartow, Catoosa, Chattoga, Floyd, Gilmer, Gordon, Murray, Rabun, Troup, Walker, and Whitfield Counties, Ga., to points in Iowa, Kansas, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Applicant also holds contract carrier authority in No. MC 142483, therefor dual operations may be involved. Applicant does not specify the location of an oral hearing should it be deemed necessary.

No. MC 124821 (Sub-No. 27), filed October 11, 1977. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting: *Paper and paper products, and equipment, materials and supplies* used in the manufacture thereof (except commodities in bulk), between the plantsite and warehouse facilities of the International Paper Co., at or near Jay and Livermore Falls, Maine, on the one hand, and, on the other, points in Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Wisconsin, and points in New York on and west of Interstate 81, points in Pennsylvania on and west of Interstate 81 and 83, and Emigsville, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa. Common control may be involved.

No. MC 124947 (Sub-No. 86), filed November 17, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting *construction, mining and agricultural equipment*, between Albuquerque, N. Mex., on the one hand, and on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 124947 (Sub-No. 79), filed October 10, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and wood products*, from points in Arizona, New Mexico, Utah, Colorado, and Wyoming to points in the United States in and east of North Dakota, South Dakota, Kansas, Nebraska, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Denver, Colo. Common control may be involved.

No. MC 125103 (Sub-No. 5), filed October 11, 1977. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, Minn. 56101. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. 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 commodities, in bulk), from the facilities of Kenosha Beef International, Ltd., and Birchwood Meat and Provision, Inc., at or near Kenosha, Wis., to points in Colorado, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, under a continuing contract or contracts with Kenosha Beef International, Ltd., and Birchwood Meat and Provision, Inc., a subsidiary thereof.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Milwaukee, Wis., or Minneapolis or St. Paul, Minn.

No. MC 125433 (Sub-No. 130), filed November 17, 1977. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard* consisting of plywood faced on one side with rock aggregate mixed with epoxy resin, from Santa Clara County, Calif., to points in the United States excluding Hawaii and Alaska.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at San Francisco, Calif., or Salt Lake City, Utah.

No. MC 125433 (Sub-No. 131), filed November 17, 1977. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wet electrostatic precipitators and components* thereof, between Phoenix, Ariz., and Avon, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, Utah, or Phoenix, Ariz.

No. MC 126844 (Sub-No. 41), filed October 3, 1977. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D.

Jones, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, 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 the plantsites and storage facilities of Swift & Co. located at or near Grand Island and Omaha, Nebr., and Des Moines, Glenwood, Marshalltown, and Sioux City, Iowa, to points in Tennessee, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 127820 (Sub-No. 10), filed November 16, 1977. Applicant: TRANS-SERVICE, INC., 1943 South Lawn Extension, Coshocton, Ohio 43812. Applicant's representative: Taylor C. Burneson, 1631 Northwest Professional Plaza, Columbus, Ohio 43220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *glass tubing and rubber articles* between Sumter, S.C., on the one hand, and, on the other, Broken Bow, Columbus, and Holdrege, Nebr., and (2) *medical and surgical supplies* (a) between Hancock, N.Y., and Ocala, Fla., (b) between Ocala, Fla., on the one hand, and, on the other, Atlanta, Ga., Fairfield, N.J., Itasca, Ill., and Benicia, Calif., and (c) between North Canaan, Conn., on the one hand, and, on the other, Los Angeles, Calif., Parsippany, N.J., New York, N.Y., Atlanta, Ga., and Chicago, Ill., under a continuing contract with Becton, Dickinson and Company, of Rutherford, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Columbus, Ohio or Washington, D.C.

No. MC 128256 (Sub-No. 34) (Correction), filed October 14, 1977, published in the FEDERAL REGISTER issue of December 1, 1977 as 128256 (Sub-No. 33), and republished, as corrected, this issue. Applicant BLOSSER TRUCKING, INC., d.b.a. BLOSSER TRUCKING, 215 N. Main Street, Middlebury, Ind. 46540. Applicant's representative: Sheldon Silverman, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, moulding, plastic articles*, and *accessories* used in the installation thereof (except commodities in bulk), from Norfolk, Va. and Chesapeake, Va. to points in Ohio, Indiana, Illinois, Michigan, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Norfolk, Va. or Richmond, Va. The purpose of this correction is to show the correct Sub-No. as (Sub-No. 34) in lieu of (Sub-No. 33) as previously published.

No. MC 128270 (Sub-No. 27), filed December 12, 1977. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, Lake Station, Ind. 46405. Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and Steel articles*, between points in El Paso, Dallas and Ft. Worth, Tex., on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Kansas, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, Oklahoma, Texas, Utah, Washington, and Wyoming

NOTE.—Applicant requests consolidated hearing with Newman Bros. Trucking Co. and Warren Transport, Inc.

No. MC 129262 (Sub-No. 3), filed October 27, 1977. Applicant: AYERS & MADDUX, INC., 510 E. Olympic Blvd., Los Angeles, Calif. 90005. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Blvd., Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportation of: *Liquid foodstuffs* and *beverages*, in bulk, in tank vehicles, between points of entry on the International Boundary line between the United States and the Republic of Mexico, on the one hand, and on the other, points in the United States, (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., Nogales, Ariz. or El Paso, Tex.

No. MC 129897 (Sub-No. 6), filed November 17, 1977. Applicant: M.S.B.P., INC., P.O. Box 904, Council Bluffs, Iowa 51501. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tankage and meat scraps* from Denver and Greeley, Colo., to points in Missouri, Nebraska, and Iowa, under a continuing contract, or contracts, with Mid-States By-Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Omaha, Nebraska, or Lincoln, Nebr.

No. MC 133099 (Sub-No. 6), filed November 10, 1977. Applicant: THE GLASGOW & DAVIS CO., a Corporation, P.O. Box 1717, Salisbury, Md. 21801. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Eden, N.C. to points in that part of Maryland and Virginia south of the Chesapeake and Delaware Canal and east of the Chesapeake Bay.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Salisbury, Md.

No. MC 134105 (Sub-No. 23), filed October 31, 1977. Applicant: CELERY-VALE TRANSPORT, INC., 1318 East 23rd Street, Chattanooga, Tenn. 37402. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common 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 hides and commodities in bulk), from the plantsite and warehouse facilities of The Meat Co. located at Calhoun, Ga. and Chattanooga, Tenn., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin, restricted to traffic originating at the name origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chattanooga, Tenn. or Atlanta, Ga.

No. MC 134477 (Sub-No. 196), filed November 11, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. 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: *Foodstuffs and bone chews* (except commodities in bulk), from the plantsite and facilities of Sanna Division of Beatrice Foods Co., located at or near Cameron, Eau Claire, Menomonie, Vesper and Wisconsin Rapids, Wis., to points in Georgia, Kentucky, North Carolina, and Tennessee. Restricted to the transportation of traffic originating at the named origins and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, the applicant request it be held at Minneapolis, Minn.

No. MC 134670 (Sub-No. 4), filed November 10, 1977. Applicant: DIVERSIFIED TRANSPORTATION, INC., P.O. Box 1406, Mountain View, Calif. 94042. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carri-*

er, by motor vehicle, over irregular routes, transporting: *General commodities* (except (1) used household goods, and personal effects, (2) automobiles, trucks and buses, (3) livestock, (4) liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles, (5) commodities when transported in bulk in dump trucks or in hopper-type trucks, (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit, (7) cement, (8) logs, (9) articles of extraordinary value, (10) trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper, (11) commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment, (12) dangerous articles, (13) radiopharmaceuticals and radioactive chemicals, (14) live animals, and (15) diagnostic kits, medical or hospital), between points in the San Francisco, Calif. territory as described in Note A.

NOTE.—A

SAN FRANCISCO TERRITORY

San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point of the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of State Highway 82; southerly along a line one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road to the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Avenue; easterly along Seminary Avenue to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

NOTE.—B: Common control may be involved. The purpose of this application is to convert existing Certificate of Registration No. MC 134670 (Sub No. 2) to a certificate of public convenience and the necessity. If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

No. MC 135518 (Sub-No. 9), filed October 25, 1977. Applicant: EVERETT TRUCKING, INC., a corporation, P.O. Box 1105, Mt. Vernon, Wash. 98273. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sought to operate as *common carrier*, over irregular routes, transporting: *Meats, meat products, meat by-products*, and *articles distributed by meat packinghouses* as described in Section A and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plant site of Columbia Foods, Inc., at or near Wallula, Wash. to (a) points in Oregon, Nevada, California, and Arizona, (b) ports of entry on the United States/Canada boundary line located in Washington, Idaho, Montana, North Dakota (Part (b) restricted to traffic destined to points in Canada).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Sioux City, Iowa or Sioux Falls, S. Dak.

No. MC 136228 (Sub-No. 32), filed October 25, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, Milton-Freewater, Oreg. 97862. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. 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 packing houses as described in Section A and C of Appendix I to the report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles) from the plant site and/or storage facility utilized by Columbia Foods, Inc. in Walla Walla County, Wash., to points in Oregon, California, Nevada, and Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Sioux City, Iowa or Sioux Falls, S. Dak.

No. MC 136384 (Sub-No. 10), filed November 11, 1977. Applicant: PALMER MOTOR EXPRESS, INC., New Dean Forest Road, P.O. Box 103, Savannah, Ga. 31402. Applicant's representative: W. W. Palmer, Jr. (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials*, and materials, equipment and supplies used in the manufacture, installation, and distribution of roofing and building materials, between Savannah, Ga. and points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, in non-radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Savannah or Atlanta, Ga., or Washington, D.C.

No. MC 136605 (Sub-No. 38), filed November 10, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour glue extender* in sacks or bags (1) From Los Angeles County, Calif., to points in Washington and Oregon; (2) From Weber County, Utah to points in Idaho, Washington, Oregon, and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont. or Portland, Oreg.

No. MC-136904 (Sub-No. 23), filed November 11, 1977. Applicant: WORSTER-MICHIGAN, INC., R.D. No. 1, Gay Road, North East, Pa. 16428. Applicant's representative: Joseph F. MacKrell, 23 West Tenth Street, Erie, Pa. 16501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

Frozen foods, (except in bulk) from the plantsite of Banquet Foods, Corp., at Wellston, Ohio to the plantsites and storage facilities of Banquet Foods, Corp., located at Macon, Marshall, Carrollton, and Sedalia, Mo., restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. Common control may be involved.

No. MC 13176 (Sub-No. 5), filed November 17, 1977. Applicant: MARVIN RENTZ, d.b.a. Rentz Farm Supply, Route 1, Brinson, Ga. 31725. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road, NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over *irregular* routes, transporting: *Blackstrap molasses and blackstrap molasses, mixed with other ingredients*, from points in Georgia to points in Alabama and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 138235 (Sub-No. 17), filed November 11, 1977. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, N.J. 07444. Applicant's representative: George A. Olsen, P.O. Box 357., Gladstone, N.J. 07934. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) *motor vehicles* (except trucks, automobiles, and motor homes; and except new tractors and chassis in secondary movements, in driveway service), *hardware, conveyors and conveyor equipment, furniture, lawn mowers, power equipment, and wheel goods*, (2) *parts, attachments and accessories* for the commodities in (1) above, and (3) *materials, equipment and supplies* used in the manufacture and sale of the commodities in (1) and (2) above (except commodities in bulk), between facilities of MTD Products, Inc., located at or near Westfield, Mass., on the one hand, and on the other, points in the States of Alabama, Florida, Georgia, Arkansas, Louisiana, North Carolina, South Carolina, Mississippi, Oklahoma, Tennessee, Texas, under a continuing contract or contracts, with MTD Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Indianapolis, Ind., or Washington, D.C.

No. MC 139023 (Sub-No. 3), filed November 10, 1977. Applicant: 2-G TRANSPORTATION, INC., 10 East Minnesota Street, Savage, Minn. 55378. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and insulation materials* from Kenosha, Wis., to points in Minnesota, North Dakota, and South Dakota; (2) *Fertilizer and fertilizer ingredients* (except in bulk, in tank vehicles), from Kenosha and Union Grove, Wis. to points in Illinois, Indiana, Iowa, Minnesota, Missouri, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Milwaukee or Madison, Wis.

No. MC 139495 (Sub-No. 285), filed November 11, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Intravenous solutions, related drugs, medicines, and related medical supplies* from the plantsite and storage facilities of Travenol Laboratories, Inc., located at or near Memphis, Tenn., to San Francisco, Calif., Los Angeles County Calif., Orange County, Calif., Seattle, Wash., Phoenix, Ariz., Denver, Colo., Billings, Mont., Kansas City, Kans., and Des Moines, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 141069 (Sub-No. 1), filed November 17, 1977. Applicant: PHILIP R. BERNSTEIN, d.b.a. PHIL BERNSTEIN TRUCKING CO., 2101 Epps Street, Fort Worth, Tex. 76104. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transportating: *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 the railroad TOFC ramp facilities in Dallas and Ft. Worth, Tex., and their respective commerical zones as defined by the Commission, on the one hand, and on the other, points in Texas on, east, or north of the line extending along U.S. Highway 277 from the Texas-Oklahoma boundary to its intersection with U.S. Highway 84 at Abilene, Tex., thence along U.S. Highway 84 to its intersection with U.S. Highway 183 at or near Brownwood, Tex., thence along U.S. Highway 183 to its intersection with U.S. Highway 290 at Austin, Tex., thence along U.S. Highway 290 to its intersection with Interstate Highway 45 at Houston, Tex., thence along Interstate Highway 45 to Galveston, Tex. Restricted to traffic having a prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex.

No. MC 141570 (Sub-No. 11), filed November 17, 1977. Applicant: ELECTRONICS TRANSPORT, INC., 3231 Eighth Avenue North, Post Office Box 31103, Birmingham, Ala. 35222. Applicant's representative: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, Fla. 33802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *duplicating and reproducing machines, and parts and supplies used in the installation of such commodities*, between the plantsite and storage facilities of Xerox Corp., at Charlotte, N.C. on the one hand, and on the other, points in South Carolina under a continuing contract, or contracts, with Xerox Corp.

NOTE.—Applicant states it holds common carrier authority under MC 136369 (Sub-No. 2). The purpose of this application is to convert a currently held common carrier certificate, MC 136269 (Sub 2), to a contract carrier permit. If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga.

No. MC 141804 (Sub-No. 88), filed November 7, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Milled Talc*, in paper bags (except commodities in bulk), from Three Forks, Montana and Grand Island, Nebr., to points in Illinois, Indiana, Michigan, and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, Tenn., or Los Angeles, Calif.

No. MC 141861 (Sub-No. 2), filed November 17, 1977. Applicant: DANA EXUM, P.O. Box 2245, Merced, Calif. 95340. Applicant's representative: John T. Reed, Pacific Coast Tariff Bureau, 450 Mission Street, San Francisco, Calif. 94105. 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 Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Columbia Foods, Inc., in Walla Walla County, Wash., to points in Oregon and Nevada, under a continuing contract, or contracts, with Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, Inc.,

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Sioux City, Iowa, or Sioux Falls, S. Dak.

No. MC 142167 (Sub-No. 1), filed November 8, 1977. Applicant: MICHAELSEN TRUCK LINE, INC., 1619 South Garfield, Mason City, Iowa 50401. Applicant's representative: Steven C. Schoenebaum, 1200 Register and Tribune Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Soybean meal* (except liquid commodities in bulk or in tank vehicles), from the facilities of Farmers Grain Dealers Association of Iowa located at or near Mason City, Iowa, to Arlington, Wis.; Burlington, Wis.; Columbus, Wis.; Fond du Lac, Wis.; Spencer, Wis.; the facilities of Midland Cooperative, Inc. located at or near Spencer, Wis.; and Watertown, Wis.; restricted to a transportation service to be performed under a continuing contract or contracts with Farmers Grain Dealers Association of Iowa; and (2) *Meat scraps* (except liquid commodities in bulk or in tank vehicles), from Chippewa Falls, Wis.; Eau Claire, Wis.; Green Bay, Wis.; Madison, Wis.; Neillsville, Wis.; and Whitehall, Wis.; to the facilities of Mason City By-Products located at or near Mason City, Iowa; restricted to a transportation service to be performed under a continuing contract or contracts with Mason City By-Products.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Des Moines, Iowa; St. Paul/Minneapolis, Minn.; or Chicago, Ill.

No. MC 142236 (Sub-No. 2), filed November 18, 1977. Applicant: ATKINSON WRECKER AND SUPPLY CORP., 619 West 700 South, Salt Lake City, Utah 84101. Applicant's representative: Michael J. Norton, P.O. Box 2135, Suite 100, Commercial Club Bldg., Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* as described in appendix V of the Description in Motor Carrier Certificates, 61 M.C.C. 276, from points in Oregon, Washington, and California to the plant and warehouse facilities of Atkinson Steel Corp., located at or near Salt Lake City, Utah, and North Salt Lake, Utah, under a continuing contract or contracts with Atkinson Steel Corp., (2) *crushed cars* from points in Oregon, Washington, Idaho, Montana, Wyoming, Colorado, Utah, Nevada, Arizona, and New Mexico to points in California under a continuing contract or contracts with Atkinson Steel Corp.

Note.—If a hearing is necessary, applicant requests that it be held at Salt Lake City, Utah.

No. MC 142447 (Sub-No. 4), filed November 17, 1977. Applicant: LOUISIANA-PACIFIC TRUCKING CO., a corporation, P.O. Drawer AB, New Waverly, Tex. 77358. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) *Lumber and plywood* from Louisiana-Pacific Corp. Chip & Saw mill in or near New Waverly, Tex. to points in Louisiana; (2) *Lumber and plywood* from Louisiana-Pacific Corp. mills in Carthage, Tex., and Jasper, Tex., to points in Louisiana; and (3) *Particleboard* from Louisiana-Pacific Corp. Particleboard plant in Corrigan, Tex., to points in Louisiana, under continuing contract or contracts with Louisiana Pacific Trucking.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, Tex.

No. MC 143144 (Sub-No.1), filed October 6, 1977. Applicant: PACIFIC DUMPTRUCKS INC., 1507 East Illinois, Bellingham, Wash. 98225. Applicant's representative: Michael Duppenthaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, loose or on pallets, in containers, (1) from points in Oregon and California to the plantsites of Friese Hide & Tallow Co., Inc., located in Washington, and (2) from the plantsites of Friese Hide & Tallow Co., Inc., located in Washington to Seattle, Wash., under a continuing contract or contracts with Friese Hide & Tallow Co., Inc. Restricted to the transportation of traffic having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 143163 (Sub-No.4), filed October 25, 1977. Applicant: RICHARDSON TRUCKING, INC., P.O. Box 967, Greeley, Colo. 80631. Applicant's representative: Winston A. Hollard, 5900 West Colfax Avenue, Suite 20, P.O. Box 14006, Denver, Colo. 80214. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, inedible meat, and meat byproducts* (except hides and commodities in bulk, in tank vehicles), used as, or in the manufacture of animal feed and feed ingredients, (1) from Denver, Fort Collins, Fort Morgan, Greeley, Grand Junction, Lamar, Rocky Ford, and Sterling, Colo., and Scottsbluff, Nebr., and their Commercial Zones, to Los Angeles, Calif., Algona, Fort Dodge, and Des Moines, Iowa, Crete, Fremont, Hastings, Lincoln, Omaha, and York, Nebr., Independence, Kansas City, and St. Joseph, Mo., Forest Grove, Hillsboro, and Portland, Oreg., and Jefferson, Wis., and their Commercial Zone, and (2) from Cherokee, Esterville, and Storm Lake, Iowa, Austin and Worthington, Minn., and Sioux Falls, S. Dak., and their Commercial Zones to Denver, Colo., and its Commercial Zone, under a continuing contract or contracts with Valley Feed and Provision Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 143167 (Sub-No.3), filed November 11, 1977. Applicant: SEYFORTH EXPRESS, INC., Suite 1209, Barnett Regency Tower, Jacksonville, Fla. 32211. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drink preparation powder, vitamins, liquid food supplements, cosmetics, bookbinders, printed matter, and polyester bags* (except in bulk), between the warehouse facilities used by Seyforth Laboratories, Inc., located in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Seyforth Laboratories, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Jacksonville, Fla.

No. MC 143236 (Sub-No.5), filed November 18, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, N.J. 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07094. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Starches and chemicals* (except in bulk), from Piers in New York Harbor, N.Y., as defined by the Commission, and Keokuk, Iowa, to points in the United States in and east of Minnesota, Missouri, Illinois, Wisconsin, Oklahoma, and Texas, restricted to the transportation of shipments originating at the named origins and destined to the named destinations. Restricted to shipments in mechanical refrigerated equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in New York, N.Y., or Washington, D.C.

No. MC 143250 (Sub-No. 4), filed October 11, 1977. Applicant: WILDCAT CONSTRUCTION CO., INC., St. Albans Bay, Vt. 05481. Applicant's representative: David M. Yarnell, Esq., 99 North Main Street, St. Albans, Vt. 05478. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products*, from (1) Swanton, Vt. to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, Dis-

trict of Columbia, Maine, Rhode Island, South Carolina, North Carolina, Georgia, West Virginia, Ohio, New Hampshire, Alabama, Louisiana, Mississippi, and Tennessee, (2) from Brooklyn, Albany, and Schenectady, N.Y., and Baltimore, Md. to Swanton, Vt., under a continuing contract or contracts with Lucille Farm Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., Boston, Mass., or Albany, N.Y.

No. MC 143509 (Sub-No. 2), filed November 8, 1977. Applicant: ROY V. BRECKENRIDGE d.b.a. BRECKENRIDGE TRUCKING, 6108 Denver Circle, Las Vegas, Nev. 89107. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated and non-carbonated beverages, flavoring syrups, flavoring compounds in disposable and returnable containers*, from the plant and warehouse sites of Royal Crown Bottling Co. and United Beverage Co. at Los Angeles, Buena Park, Baldwin Park, Torrance, and San Diego, Calif., and from the plant and warehouse sites of Pepsi Cola Metropolitan Bottling Co. at Phoenix, Ariz., to Las Vegas, Nev., Kingman, Ariz., and St. George, Utah, under a continuing contract or contracts with Pepsi Cola Metropolitan Bottling Co. of Purchase, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Las Vegas, Nev.

No. MC 143549 (Sub-No. 1), filed October 25, 1977. Applicant: E-TOWN CO., INC., 3371 Mill Street, North Bend, Ohio 45052. Applicant's representative: Thomas J. Kimpel, 602 Main Street, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk and in dump vehicles, from points in Morgan, Johnson, Breathett, and Magoffin Counties, Ky., to points in Kanawha, Cabell, and Wayne Counties, W. Va., Dearborn, Shelby, and Fayette Counties, Ind., Lawrence, Scioto, Hamilton, Clark, Butler, Montgomery, Fairfield, Richland, Hancock, and Franklin Counties, Ohio, under a continuing contract or contracts with E-Town Supply Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, or Columbus, Ohio.

No. MC 143680 (Sub-No. 1), filed November 7, 1977. Applicant: M. EVAN GRASS, doing business as M. E. GRASS & SONS, Box 292, Mars Hill, Maine 04758. Applicant's representative: William D. Pinansky, 443 Congress Street, Portland, Maine 04101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rock salt*, in bulk, in dump vehicles, from the international boundary line between the United States and Canada at the port of entry at or near Bridgewater, Maine, to points in Aroostook and Washington Counties, Maine, restricted to traffic originating in Province of Canada, under a continuing contract or contracts with Morton Salt Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Maine, with Bangor, Maine, as an alternate location.

No. MC 143774 (Sub-No. 1), filed October 25, 1977. Applicant: ROBERT J. SALZ, 1908 Cedar Avenue, Broomfield, Colo. 80020. Applicant's representative: Raymond M. Kelley, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: (1) *Steel cable, iron castings, steel bars and plates, hydraulic lifting equipment, hydraulic stressing equipment and galvanized tubing;* (a) Between the facilities of VSL Corp., located at or near Campbell, Calif., Grand Prairie, Tex., and Springfield, Va.; (b) and between the facilities of VSL Corp., located at or near Campbell, Calif., Grand Prairie, Tex., and Springfield, Va., on the one hand and on the other hand points in Arizona, California, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, New Mexico, Ohio, Oregon, Pennsylvania, Texas, Utah, Virginia, Washington, and Wisconsin.

(2) *Steel bars and plates;* From Coatesville, Pa., to the facilities of VSL Corp., at or near Campbell, Calif.

(3) *Iron and steel castings;* From Columbus, Ga., to the facilities of VSL Corp., at or near Campbell, Calif.

All of the above under a continuing contract or contracts with the VSL Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. 2 MC 143825, filed October 11, 1977. Applicant: CHILDS MOVING & STORAGE, INC., 451 Redland Road, Homestead, Fla. 33030. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Miami or Jacksonville, Fla.

No. MC 143832, filed October 11, 1977. Applicant: L. E. C. FRIDAY, INC., 2000 Winding Brook Way, Scotch Plains, N.J. 07076. Applicant's representative: Robert A. Russell, Attorney at Law, P.O. Box 215, Mountain Lakes, N.J. 07046. Authority sought sought to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: *Industrial chemicals, lithographic inks, printing products*, including *equipment and supplies:* 1. from New York, N.Y. and its commercial zones, as described by the Interstate Commerce Commission as of April 9, 1977, to points in the United States (except Alaska and Hawaii). 2. materials and supplies used in the manufacture of industrial chemicals and printing products from destination to origin points. Operations are to be conducted under a continuing contract with the Polychrome Corp. of Yonkers, N.Y., and its subsidiaries, Cellofilm Corp. and Cellomer Corp.

NOTE.—Applicant states that the contract carriage authority sought herein is to be substituted for existing private carriage operations. If a hearing is deemed necessary, applicant requests it be held at either Newark, N.J. or New York, N.Y.

No. MC 143873 (Sub-No. 1), filed November 11, 1977. Applicant: TITAN TRANSFER, INC., 4302 South 30th Street, Omaha, Nebr. 68107. Applicant's representative: Bruce A. Bullock, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought 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, 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 commodities in bulk), (1) from Omaha, Nebr., to: (a) points in that part of Iowa on and west of a line beginning at the Iowa-Minnesota State line, thence south along U.S. Highway 65 to its junction with U.S. Highway 34, thence east along U.S. Highway 34 to its junction with U.S. Highway 63, thence south along U.S. Highway 63 to the Iowa-Missouri State line; and (b) points in that part of Missouri on and north of a line beginning at the Missouri River, thence east along U.S. Highway 136 to its junction with U.S. Highway 69, thence south along U.S. Highway 69 to its junction with Missouri Highway 6, thence east along Missouri Highway 6 to its junction with U.S. Highway 63, thence north along U.S. Highway 63 to the Iowa-Missouri State line; and (2) from Omaha and Hastings, Nebr., to points in Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Omaha, Nebr.

No. MC 143876, filed October 25, 1977. Applicant: CURLY'S DELIVERY SERVICE, INC., P.O. Box 238, Swisher, Iowa 52338. Applicant's representative: C. J. Cacioppo, P.O. Box 238, Swisher, Iowa 52338. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used by retail stores*, (except foodstuffs and commodities in bulk), between the distribution facilities of Ardan Wholesale, Inc. located at or near Des Moines, Iowa on the one hand, and on the other points in Iowa and Illinois.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 143884 (Sub-No. 2), filed November 18, 1977. Applicant: PERSONALIZED AGENT SERVICE, INC., POB 45111 Airport, Atlanta, Ga. 30320. Applicant's representative: Kim G. Meyer, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Atlanta, Ga.; Columbus, Ga.; Macon, Ga.; and Albany, Ga.; and Chattanooga, Tenn.; Knoxville, Tenn.; Nashville, Tenn.; and Memphis, Tenn.; and, Birmingham, Ala.; Huntsville, Ala.; and, Montgomery, Ala., Municipal Airports on the one hand, and, on the other, points in Georgia, Alabama, and Tennessee. Restricted to the transportation of traffic having an immediately prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143909 (Sub-No. 1), filed October 25, 1977. Applicant: KIRBY TRANSPORT, INC., 6677 North Northwest Highway, Chicago, Ill. 60631. Applicant's representative: Miles L. Kavaller, Mandel & Kavaller, 315 South Beverly Dr., Ste. 315, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Equipment and supplies* used by clinical, industrial, educational and research laboratories, in trailers equipped with mechanical refrigeration units: (1) from Edison and Gibbstown, N.J., to the plant and storage facilities of Scientific Products Division of American Hospital Supply Corp. located at or near Tempe (Phoenix), Ariz.; Irvine and Menlo Park, Calif.; Denver, Colo.; Miami and Ocala, Fla.; Stone Mountain (Atlanta), Ga.; Gurnee and McGaw, Ill.; Harahan (New Orleans), La.; Romulus, Mich.; Minneapolis, Minn.; North Kansas City, Mo.; Charlotte, N.C.; Obetz, Ohio; Houston and Grand Prairie (Dallas), Tex.; Salt Lake City, Utah; and Redmond (Seattle), Wash.; and (2) from Gurnee, Ill., to the plant and storage facilities of Scientific Products Division of American Hospital Supply Corp. located at or near Tempe (Phoenix), Ariz.; Irvine and Menlo Park, Calif.; Denver, Colo.; Harahan (New Orleans), La.; Maryland Heights (St. Louis), Mo.; North Kansas City, Mo.; Grand Prairie (Dallas), and Houston, Tex.; Salt Lake City, Utah; and Redmond (Seattle), Wash.; and (3) from Miami, Fla., to the plant and storage facilities of Scientific Products Division of American Hospital Supply Corp. and the plant and storage facilities of Hycel, Inc., located at or near Houston, Tex., and the plant and storage facilities of Scientific Products Division of American Hospital Supply Corp. located at or near Tempe (Phoenix), Ariz.; and Irvine and Menlo Park, Calif., under a continuing contract or contracts in (1), (2) and (3) above with Scientific Products Division, American Hospital Supply Corp.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 143923, filed October 27, 1977. Applicant: RICHARD B. LIVINGSTONE, Box 1578, Forks, Wash. 98331. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cedar shakes* and *shingles* from points in Washington and Oregon to points in California, Arizona, Texas, Oklahoma, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Seattle, Wash.

No. MC 143938 (Sub-No. 1), filed November 3, 1977. Applicant: P & H TRUCKING CO., INC., 184 West 33rd South, Salt Lake City, Utah 84115. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84115. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from points in Georgia, to the plantsite or storage facilities of Midwest Floor Coverings, Inc. at South Salt Lake, Utah.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah or Washington, D.C.

No. MC 143954 (Sub-No. 1), filed November 11, 1977. Applicant: CHARLES RAILA, d.b.a. K-R CONTRACTORS, 1795 Firwood, Orlando, Fla. 32808. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes in the transportation of: *Aerials or antennae, for other than television receiving sets*, directional non-parabolic or parabolic, from the plantsite of Scientific Atlanta, Inc., at Atlanta, Ga., to points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts, with Scientific Atlanta, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143961 (Sub-No. 1), filed November 11, 1977. Applicant: JACK A. BRANSON, d.b.a. JAB TRUCKING CO., 517 East 2nd, Ellinwood, Kans. 67526. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fiberglass storage tanks and accessories*, from Ellinwood, Kans., to Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming; (2) *resin*, from Kansas City, Mo., and Dallas, Tex., to Ellinwood, Kans; and (3) *glass*, from Kansas City, Mo., and Dallas, Tex., to Ellinwood, Kans.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Kansas City, Mo.

No. MC 143989 (Sub-No. 1), filed November 14, 1977. Applicant: GREEN MOUNTAIN CARRIERS, INC., R.D. 1, Box 150, Westerlo, N.Y. 12193. Applicant's representative: Philip H. Hoff, 192 College Street, Burlington, Vt. 05401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, printing* (other than newsprint) from Glens Falls, N.Y., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia, under continuing contract or contracts with Finch Pruyn and Co.

NOTE.—As applicant has common carrier authority under MC 136647 (Sub-No. 8) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., Albany, N.Y., or Burlington, Vt.

No. MC 143989 (Sub-No. 2), filed November 14, 1977. Applicant: GREEN MOUNTAIN CARRIERS, INC., R.D. 1, Box 150, Westerlo, N.Y. 12193. Applicant's representative: Philip H. Hoff, 192 College Street, Burlington, Vt. 05401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper, printing* (other than news-

print), from Glens Falls, N.Y., to points in Illinois, Indiana, Iowa, Michigan, Missouri, Ohio, and Wisconsin, under continuing contract or contracts with Finch Pruyn and Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., Washington, D.C., or Burlington, Vt. As applicant holds motor common carrier authority in MC 136647 (Sub-No. 8) and other subs, therefore dual operations may be involved.

No. MC 13027 (Sub-No. 26) (amendment), filed September 6, 1977, published in the FEDERAL REGISTER issue of October 27, 1977, and republished, as amended, this issue. Applicant: SHORT WAY LINES, INC., 900 West Central Avenue, Toledo, Ohio 43612. Applicant's representative: Arthur Wagner, 600 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Passengers and their baggage*, in the same vehicle, and special and charter operations incidental to said regular routes, and *package express*, between Toledo, Ohio, and Fort Wayne, Ind., from Toledo, over Interstate Highway 75 to junction Interstate Highway 475, thence over Interstate Highway 475 to junction U.S. Highway 23, thence over U.S. Highway 23 to junction Ohio Highway 2, thence over Ohio Highway 2 to junction Indiana Highway 37, thence over Indiana Highway 37 to Fort Wayne, and return over the same routes, serving all intermediate points; and (2) *passengers and their baggage*, in special and charter operations, and *package express*, beginning and ending at points in part (1) above, and extending to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio, or Fort Wayne, Ind.

No. MC 58522 (Sub-No. 11), filed October 5, 1977. Applicant: RIVER TRAILS TRANSIT LINES, INC., P.O. Box 307, Highway 20 West, Galena, Ill. 61036. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip, special, and charter operations beginning and ending at points in Bureau, Henry, Mercer, Rock Island, and Whiteside Counties, Ill., and Clinton, Jackson, Muscatine, and Scott Counties, Iowa, and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Davenport, Iowa; Rock Island, Moline, or Chicago, Ill.

No. MC 127738 (Sub-No. 7), filed September 22, 1977. Applicant: YELLOWSTONE PARK LINES, INC., Yellowstone National Park, Wyo. 82190. Applicant's representative: William K. Bormuth, P.O. Box 589, Cody, Wyo. 82414. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, (1) beginning and ending at points in Bonneville County, Idaho, and extending to points in Park and Teton Counties, Wyo., and points in that part of Gallatin County, Mont., south of the Gallatin Gateway on U.S. Highway 191; and (2) beginning and ending at Park and Sweetgrass County, Mont., and Park and Teton Counties, Wyo., and extending to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Cody, Wyo., or Gardiner, Mont.

No. MC 143875, filed October 25, 1977. Applicant: J.T.F. TRANSPORTATION SERVICE, INC., 52 Dupew Street, Pleasantville, N.Y. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, in nonscheduled door-to-door service limited to the transportation of not more than 11 passengers in any one vehicle between the counties of Westchester, Rockland, Putnam, and Dutchess in the State of New York and the counties of Fairfield, Hartford, and New Haven, in the State of Connecticut on the one hand, and Atlantic City, N.J., on the other hand.

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at White Plains, N.Y., or New York, N.Y.

No. MC 144011, filed November 8, 1977. Applicant: CLIFFORD T. GLENN d.b.a. TALLY-HO CHARTER SERVICE, 1501 North Stanton, No. 6, El Paso, Tex. 79902. Applicant's representative: Clifford T. Glenn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Passengers and their baggage*, in same vehicle with passengers, in special and charter party operations, beginning and ending in El Paso, Tex., and extending to points in New Mexico, Arizona, and points on and east of U.S. Highway 15 in Utah, and points on and west of U.S. Highways 25 and 90 in Wyoming, and points on and west of U.S. Highway 25 in Colorado. Limited to twelve passengers including chauffeur in limousines.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either El Paso, Tex., or Albuquerque, N. Mex.

BROKERS

No. MC 12821 (Sub-No. 2), filed December 1, 1977. Applicant: WILLIAM DANIEL DIPERT, doing business as DAN DIPERT'S TRAVEL SERVICE, 103 South Mesquite, Arlington, Tex. 76010. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Houston, Arlington, and Fort Worth, Tex.; Little Rock, Ark.; Oklahoma City, Okla.; and Atlanta, Ga., to sell or offer to sell the transportation of passengers and their baggage in the same vehicle with passengers in all-expense one way and round trip special and charter, sightseeing and pleasure tours, between points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Fort Worth, Tex.

No. MC 130281 (Sub-No. 2), filed December 15, 1977. Applicant: HOLIDAY TRAVEL, INC., 2842 London Square Mall, Eau Claire, Wis. 54701. Applicant's representative: Douglas P. Stoffers (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Eau Claire, La Crosse, and Hudson, Wis., and Davenport, Iowa, to sell or offer to sell the transportation of: *Passengers and their baggage*, in round trip, special, and charter operations, beginning and ending at points in Iowa, Michigan, Minnesota, and Wisconsin and extending to points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Eau Claire, Wis., or Minneapolis, Minn.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rules 240(c) or 240(d) of the Commission's general rules of practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

REPUBLICATION

No. MC-F-13197. Applicant: JACK C. ROBINSON d.b.a. ROBINSON

FREIGHT LINES, 3600 Papermill Road, P.O. Box 10234, Knoxville, Tenn. 37919. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought for the merger by JACK C. ROBINSON, a sole proprietor, doing business as ROBINSON FREIGHT LINES, of the certificates issued to him in Docket No. MC 110144 and subs thereunder, with the certificate issued to CUMBERLAND EXPRESS, INC., Box 38, Cornelia, Ga. 30531, in Docket No. MC 139144. Operating rights of CUMBERLAND: *General commodities*, except those of unusual value, classes A and B explosives, household goods, as described by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes; between Tompkinsville, Ky., and Whitley City, Ky., serving all intermediate points; between junction U.S. Highway 127 and Kentucky Highway 90 and Albany, Ky., serving all intermediate points; between Whitley City, Ky., and Atlanta, Ga., serving no intermediate points, but serving Chattanooga, Tenn., and junction U.S. Highway 27 and Interstate 40 for purposes of joinder only; between junction U.S. Highway 27 and Interstate 40 at or near Harriman, Tenn., and Tompkinsville, Ky., serving no intermediate points, but serving junction U.S. Highway 27 and Interstate Highway 40 and Tennessee Highway 53 and Interstate Highway 40 for purposes of joinder only; between Chattanooga, Tenn., and junction Tennessee Highway 53 and Interstate Highway 40, serving no intermediate points and serving Chattanooga and junction Tennessee Highway 53 and Interstate Highway 40 for purposes of joinder only. Operating Rights of ROBINSON: *General commodities*, except those of unusual value, classes A and B explosives, household goods, as described by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular and irregular routes; between Memphis, Tenn., and Chattanooga, Tenn., serving the Hales Bar Dam site as an intermediate point; Between Knoxville, Tenn., Harriman, Tenn., and Louden, Tenn., serving intermediate and off-route points; between points in Tennessee on and east of U.S. Highway 27 on the one hand, and, on the other, Jackson, Miss. The authorities sought to be merged may be tacked and joined at Chattanooga, Tenn., and the junction U.S. Highway 27 and Interstate Highway 40 at or near Harriman, Tenn. This republication is for the purpose of requesting authority to merge the certificates of Cumberland and Robinson above described, in addition to Robinson's original request for authority to control Cumberland through the purpose of its stock. Hearings will commence in Dallas, Tex., on February 13, 1978. Any party filing a timely protest pursuant to this republication may participate therein.

No. MC-F-13441. Authority sought for purchase by INTERIOR TRANSPORT, INC., 2128 North Waterworks Way (P.O. Box 3347TA), Spokane, Wash. 99220, of the operating rights of RUSSELL BARTLETT, 13202 East Fourth Street, Spokane, Wash. 99216, and for acquisition by JAMES C. WILLIAMS, North 2128 Waterworks Way, Spokane, Wash. 99220, of control of such rights through the transaction. Applicants' attorney: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Operating rights sought to be transferred: *Prefabricated metal buildings*, complete, knocked down or in sections, *prefabricated metal building parts and fixtures, and materials and supplies* used in the erection thereof, as a *contract carrier* over irregular routes from Turlock, Calif., to points in Oregon, Idaho, and Washington, with no transportation for compensation on return except as otherwise authorized, with restrictions; (1) Prefabricated metal buildings, complete, knocked down, or in sections; prefabricated metal building parts and fixtures, and materials and supplies (except commodities in bulk), used in the erection thereof, (a) from Turlock, Calif., to points in Nevada, Arizona, Utah, New Mexico, Texas, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, and Oklahoma, and (b) between the plants of Lear Siegler, Inc./Cuckler Division, at Monticello, Iowa, and Turlock, Calif., and (2) structural steel from Geneva, Utah, and Pueblo, Colo., to the plantsite of Lear Siegler, Inc./Cuckler Division, of Turlock, Calif.; under continuing contract or contracts with Lear Siegler, Inc./Cuckler Division, of Turlock, Calif. Vendee is authorized to operate as a contract carrier in Washington, Oregon, California, Idaho, Montana, North Dakota, Minnesota, Nevada, Arizona, Utah, New Mexico, Colorado, Wyoming, Texas, Oklahoma, Kansas, Nebraska, Iowa, Illinois, South Dakota, Wisconsin, and Missouri, and as a common carrier in Idaho, California, Colorado, Arizona, and New Mexico. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13446. Authority sought for control by AMNACO, INC. (noncarrier), 2661 South Broadway, Green Bay, Wis., of NATIONAL BULK TRANSPORT, INC., P.O. Box 5078, Atlanta, Ga. 30302, and for acquisition by AL J. SCHNEIDER and DONALD J. SCHNEIDER, 2661 South Broadway, Green Bay, Wis. 54304, of control of such rights through the transaction. Applicant's attorney: Charles W. Singer, 2440 East Commercial Boulevard, Fort Lauderdale, Fla. 33308. Operating rights sought to be controlled: *Amorphous polypropylene*, in bulk, in mechanically heated trailers, from Crowley, La., to points in the United States (except Alaska, Hawaii, and Louisiana). The above authority was authorized to be issued to Schneider Tank Lines, Inc. by order issued in No. MC 110988 (Sub-No. 321). By separate order, National Bulk Transport, Inc., was substituted as applicant in the proceeding. Amnaco, Inc. is not a motor carrier, however, it is in control of several regulated motor carriers, including Schneider Tank Lines, Inc. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13450. Authority sought for purchase by Reeves Transportation Co., Route 5, Dews Pond Road, Calhoun, Ga. 30701, of a portion of the operating rights of Patterson Trucking Co., 318 Winchester Road, Memphis, Tenn. 38116, and for acquisition by Oliver W. Reeves, Route 4, Calhoun, Ga. 30701, and John C. Vogt, Jr., 406 North Morgan Street, Tampa, Fla. 33602, of control of such rights through the purchase. Applicants' attorney: John C. Vogt, Jr., 406 North Morgan Street, Tampa, Fla. 33602. Operating rights sought to be purchased: *General commodities* (except in bulk), as a *common carrier* over regular routes, between Memphis, Tenn., and West Memphis, Ark., serving no intermediate points: From Memphis over U.S. Highway 70 to West Memphis and return over the same route, as described in Certificate No. MC 108065. Transferee is authorized to operate as a *common carrier* in Docket No. MC 129537 and subs thereto in the States of Florida, Georgia, Texas, and Arkansas. Transferee will tack the authority sought to be purchased at West Memphis, Ark., so as to be able to provide a through service from Transferee's origin points in the State of Georgia to Memphis, Tenn. and its commercial zone. Approval of the proposed transaction will not result in dual operations or duplicating authority. The approval of the proposed transaction will result in splitting Transferor's operating authority, leaving with Transferor only the authority which it holds in MC 108065 (Sub-No. 2), which reads as follows: "*General commodities*, with usual exceptions, serving the Holiday Industrial Park, in DeSoto County, Miss., as an off-route point in connection with carrier's regular route operations." Application has not been filed for temporary authority under section 210a(b). This application is not related to any pending or simultaneously filed applications.

No. MC-F-13454. Authority sought for control by F-B TRUCK LINE CO., 1945 South Redwood Road, Salt Lake

City, Utah 84104, of Con-Ag Transport, Inc. (noncarrier), 2645 East 51st Ave., Denver, Colo. 80216, and for acquisition by MERLIN J. NORTON, 1945 South Redwood Road, Salt Lake City, Utah 84104, of control of Con-Ag Transport, Inc., through the acquisition by F-B Truck Line Co. Applicants' attorney: Gordon L. Roberts, P.O. Box 11898, Salt Lake City, Utah 84111. Operating rights sought to be controlled: Con-Ag Transport, Inc., a noncarrier, is a holding company which controls and owns all of the outstanding stock of Lester Smith Trucking, Inc., and Boyer Truck Line, Inc. Lester Smith Trucking, Inc., is authorized to operate under MC-57697 as a *common carrier*, over irregular routes, transporting *agricultural commodities*, other than in containers, between points in Logan County, Colo. Between points in Sedgewick, Phillips, Logan, and Morgan Counties, Colo., that part of Weld County, Colo., east of a line drawn north and south through Briggsdale, Colo., and that part of Washington County, Colo., north of a line drawn east and west through Rago, Colo., on the one hand, and on the other, points in Wyoming, Nebraska, Iowa, Missouri, and Kansas; *Building and fencing materials, farm machinery, used farm equipment, feed, seed, hides, wool, and irrigation supplies*, between points in Sedgewick, Phillips, Logan, and Morgan Counties, Colo., that part of Weld County, Colo., east of a line drawn north and south through Briggsdale, Colo., and that part of Washington County, Colo., north of a line drawn east and west through Rago, Colo., on the one hand, and on the other, points in Wyoming, Nebraska, Iowa, Missouri, and Kansas; *Household goods*, as defined by the Commission, between points in Sedgewick, Phillips, and Logan Counties, Colo., and that part of Washington County, Colo., on and north of Colorado Highway 38, on the one hand, and on the other, points in that part of Wyoming, Kansas, and Nebraska within 250 miles of Sterling, Colo.; *Livestock*, between Denver, Colo., on the one hand, and on the other, points in Kansas, Missouri, and Iowa, those in Nebraska 25 miles or more Chappell, Nebr., and those in Campbell, Crook, Weston, Converse, Niobrara, Alabany, Platte, Goshen, and Laramie Counties, Wyo. Between points in Logan County, Colo.; Between points in Sedgewick, Phillips, Logan and Morgan Counties, Colo., that part of Weld County, Colo., east of a line drawn north and south through Briggsdale, Colo., and that part of Washington County, Colo., north of a line drawn east and west through Rago, Colo., on the one hand, and on the other, points in Wyoming, Nebraska, Iowa, Missouri, and Kansas. Between points in Wyoming, Nebraska, Iowa, Missouri, and Kansas. *Machines*, other than farm, maximum 5,000 pounds each, between points in Sedgewick, Phillips, and Logan Counties, Colo., and that part of Washington County, Colo., on and north of Colorado Highway 38 on the one hand, and on the other, points in Wyoming, Kansas, Nebraska, Iowa, and Missouri. *Oil well casing, pipe, and supplies*, between Sterling, Colo., and points within 25 miles of Sterling, on the one hand, and on the other, points in Wyoming, with restrictions; By an order served in MC-F-12827 on July 12, 1976, Lester Smith Trucking Inc., was granted temporary authority of Archer Freight Lines, Inc. (MC-F-12827, published in the FEDERAL REGISTER May 6, 1976). Lester Smith Trucking, Inc., pending authority as follows: MC-57697 (Sub-No. 4), published in the FEDERAL REGISTER November 18, 1976, MC-57697 (Sub-No. 6) published February 24, 1977, MC-57697 (Sub-No. 7) published September 1, 1977, MC-57697 (Sub-No. 8) published September 1, 1977, MC-57697 (Sub-No. 9) published September 15, 1977, MC-57697 (Sub-No. 10) published September 22, 1977, and MC-57697 (Sub-No. 11) published October 20, 1977. Boyer Truck Line, Inc., is authorized to operate under MC-93674, as a *common carrier* over regular routes transporting: *Livestock*, between De Witt, Iowa, and Chicago, Ill., serving the intermediate and off-route points within 15 miles of De Witt: From De Witt over U.S. Highway 30 to junction Illinois Highway 85, thence over Illinois Highway 65 to junction U.S. Highway 34, and thence over U.S. Highway 34 to Chicago, and return over the same route; *Feed, chipboard, boxes, paper, fibre-board, pulpboard, binder twine, and farm machinery*, from Chicago, Ill., to De Witt, Iowa serving the off route point of Forest Park, Ill., for pick up of feed only. From Chicago over the above specified route to De Witt, and return over the same route with no transportation for compensation except as otherwise authorized; *Binder twine and farm machinery*, from Sandwich, Rockford, Moline, East Moline, and Rock Island, Ill., to De Witt, Iowa, with no transportation for compensation on return except as otherwise authorized. *Livestock*, from Low Moor and De Witt, Iowa, to points in Carroll, Whiteside, Rock Island, and Henry Counties, Ill., with no transportation for compensation on return except as otherwise authorized. From Geneseo, Ill., to points in Scott and Clinton Counties, Iowa, with no transportation for compensation on return except as otherwise authorized. From Maguoketa, Iowa, and points within 35 miles thereof, to Chicago, Ill., and points in that part of Illinois north of U.S. Highway 34 and west of a line beginning at Princeton, Ill., and extending along Illinois Highway 26 to Dixon, Ill., thence along U.S. Highway 52 to Polo, Ill., and thence along Illinois Highway 26 to the Illinois-Wisconsin State line, including points on the indicated portion of the highways specified, with no transportation for compensation on return except as otherwise authorized. *General commodities*, with exceptions from Chicago, Ill., to Maquoketa, Iowa; and *Empty malt beverage containers*, from Maquoketa, Iowa, to Chicago, Ill. *Coal*, from points in Rock Island, Henry, and Mercer Counties, Ill., to Mequoketa, Iowa, and points within 35 miles thereof, with no transportation for compensation on return except as otherwise authorized. *Agricultural implements*, from Rock Falls, Rockford, Moline, and Canton, Ill., to Maquoketa, Iowa, and points within 35 miles thereof, with no transportation for compensation on return except as otherwise authorized. *Feed and Livestock*, from Chicago, Ill., to Maquoketa, Iowa, and points within 35 miles thereof, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in all of the continental States. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13455. Authority sought for control by ROMANO'S SCHOOL BUS SERVICE, INC. (Noncarrier), of Philboro Coach Corp., 1701 Arch Street, Philadelphia, Pa. 19101, and for acquisition by George R. Romano, Sr., 1065 Belvoir Road, Norristown, Pa. 19401, of control of such rights through the transaction. Applicants' representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Operating rights sought to be controlled: *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over regular routes (1) between the southern boundary of Borough of Glassboro, N.J., and Philadelphia, Pa., serving all intermediate points; (2) between Pitman, N.J., and Wenonah, N.J., serving all intermediate points; *passengers and their baggage*, (1) between Woodbury, N.J., and Westville, N.J., serving no intermediate points; (2) between Philadelphia, Pa., and Brooklawn, N.J., serving intermediate points south of junction U.S. Highway 130 and Browning Lane, in Brooklawn, N.J.: *Passengers and their baggage*, restricted to traffic originating at the point indicated, in charter operations, over irregular routes, from Philadelphia, Pa., to points in New Jersey, Delaware, Maryland, New York, and the District of Columbia, and return; (2) *passengers and their baggage*, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at Philadelphia, Pa., and

extending to the Nenry Francis DuPont Winterthur Museum located on Delaware Highway 52, the Hagley Museum located on Delaware Highway 141, both located in New Castle County, Del., and Longwood Gardens located about two miles northeast of Kennett Square, Pa., on U.S. Highway 1. Romano's School Bus Service, Inc., holds no authority from this Commission. However the Stock of School Bus Service, Inc., is owned 100 percent by George R. Romano, Sr., who owns 100 percent of the stock of Bivins Freight Service, Inc., and also controls through management Romano's Bulk Carriers, Inc. Romano's Bulk Carriers, Inc., is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, Delaware, Maryland, the District of Columbia, Connecticut, and New York. Bivins Freight Service, Inc., is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, New York, Maryland, Delaware, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13457. Authority sought for purchase by P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, N.J. 08610, of a portion of the operating rights of Calore Freight System, Inc., 275 Pine St., Seekonk, Mass. 02771, and for acquisition by Philip Liedtka, 110 Patterson Ave., Trenton, N.J. 08610, of control of such rights through the purchase. Applicants' Attorneys, Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102, and Kenneth B. Williams, 84 State St., Boston, Mass. 02109. Operating rights sought to be transferred: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), as a *common carrier*, over irregular routes, between Providence, R.I., and points in Rhode Island within 10 miles of Providence, on the one hand, and on the other New York, N.Y. Approval of the proposed transaction will not result in dual operations. Approval thereof will result in a split of vendor's authority, but vendee proposes to accept a restriction in the rights being transferred which would preclude any duplication of service. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 127974 (Sub-No. 11), is a directly related matter.

No. MC-F-13458. Authority sought for purchase by HOLLAND MOTOR EXPRESS, INC., 750 E. 40th St., Holland, Mich. 49423, of a portion of the operating rights of Navajo Freight Lines, Inc., 1205 South Platte River Dr., Denver, Colo. 80223, and for acquisition by Charles Cooper, Robert Cooper and Gerald Cooper, all also of 750 E. 40th St., Holland, Mich. 49423, of control of such rights through the purchase. Applicants' attorneys: Daniel C. Sullivan, Esq., Suite 1600, 10 South LaSalle St., Chicago, Ill. 60603, and Leonard R Kofkin, Esq., 39 South LaSalle St., Chicago, Ill. 60603. Operating rights sought to be purchase: (1) *General commodities* (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), as a *common carrier* over regular routes: (a) between Bay City, Mich. and Pontiac, Mich.; from Bay City, Mich., over U.S. Highway 23 to Saginaw, Mich.; thence over U.S. Highway 10 to Pontiac, Mich.; and return over the same route; (b) between Flint, Mich., and Fort Wayne, Ind., serving the intermediate points of Angola, Auburn, and Garrett, Ind.; from Flint, Mich., over Michigan Highway 21 to Owosso, Mich.; thence over Michigan Highway 52 (formerly Michigan Highway 47), to junction Interstate Highway 69 (formerly Michigan Highway 78), thence over Interstate Highway 69 to Lansing, Mich.; thence over U.S. Highway 27 to Fort Wayne, Ind., and return over the same route; (c) between Flint, Mich., and Jackson, Mich.; from Flint, Mich., over Interstate Highway 69 (formerly Michigan 78), to Lansing, Mich.; and thence over U.S. Highway 127 to Jackson, Mich., and return over the same route; (d) between Ypsilanti, Mich., and Battle Creek, Mich., from Ypsilanti, Mich.; over Michigan Highway 17 to Ann Arbor, Mich.; thence over Interstate Highway 94 (formerly U.S. Highway 12), to Battle Creek, Mich., and return over the same route; (e) between Charlotte, Mich., and Battle Creek, Mich.; from Charlotte, Mich., over Interstate Highway 69 to the junction of Michigan Highway 78 and Interstate Highway 69, thence over Michigan Highway 78 to Battle Creek, Mich., and return over the same route; with service authorized in (a), (b), (c), (d), and (e) above at all intermediate points in Michigan except those on Interstate Highway 69 (formerly Michigan Highway 47), between Flint, Mich., and the junction of Interstate Highway 69 and Michigan Highway 52 (formerly Michigan Highway 47). (2) *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 Howell, Mich., and junction Michigan Highway 59 and U.S. Highway 23 (about 2 miles south of Hartland, Mich.), serving no intermediate points or the termini; from Howell, Mich., over Michigan Highway 59 to junction U.S. Highway 23, and return over the same route; (b) between Lansing, Mich., and junction Interstate Highway 96 and U.S. Highway 23, serving no intermediate points, and the service authorized is subject to the condition that no traffic shall be transported over said route which carrier both picks up and delivers in Michigan; from Lansing, Mich., over Interstate Highway 96 (formerly U.S. Highway 16), to junction U.S. Highway 23, and return over the same route; (c) between Ann Arbor, Mich., and Flint, Mich., serving no intermediate points, and the service authorized is subject to the condition that no traffic shall be transported over said route which carrier both picks up and delivers in Michigan; from Ann Arbor over U.S. Highway 23 to Flint, and return over the same route; (d) between junction Michigan Highway 59 and U.S. Highway 23 (about 2 miles south of Hartland, Mich.), and Pontiac, Mich., serving no intermediate points, and the service authorized is subject to the condition that no traffic shall be transported over said route which carrier both picks up and delivers in Michigan; from junction Michigan Highway 59 and U.S. Highway 23 (about 2 miles south of Hartland, Mich.), over Michigan Highway 59 to Pontiac, Mich., and return over the same route; (e) between Saginaw, Mich., and junction Michigan Highway 13 and Interstate Highway 69 (formerly Michigan Highway 78), somewhat south of Lennon, Mich., serving no intermediate points in connection with carrier's regular route operations authorized herein; from Saginaw over Michigan Highway 13 to junction Interstate Highway 69 (formerly Michigan Highway 78), and return over the same route. Vendee is authorized to operate as a *common carrier* in Michigan, Indiana, Illinois, Iowa, and Ohio. Approval of the proposed transaction will result in a split of vendor's authority. Vendor is authorized to operate over numerous routes between California in the West and New England in the East. Vendor proposes to split its authority at Fort Wayne, Ind., and sell all its Michigan authority except (1) a route between Coldwater, Mich., and Detroit, Mich., and (2) a route between Detroit, Mich., and Toledo, Ohio. Application has not been filed for Temporary Authority under Section 210a(b).

NOTE.—No. MC 76032 (Sub-No.331) is a directly related matter. Application seeks general commodities with usual exceptions regular route over Interstate 69 between Angola, Ind., and Coldwater, Mich., serving no intermediate points.

No. MC-F-13459. Authority sought for control and merger by ARROW

MOTOR FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, Iowa 50702, with Takin Bros. Freight Line, Inc. of the same address, and for acquisition by Allen E. Kroblin also of 2125 Commercial Street, Waterloo, Iowa 50702 of control of the rights and property through the merger. Applicants representative: Allen E. Kroblin, 2125 Commercial Street, Waterloo, Iowa 50702. Operating rights sought to be controlled and merged: *General commodities* with exceptions, and numerous other specified commodities, as a common carrier over regular and irregular routes, between Chicago, Ill., points in Iowa on specified routes, Omaha, Nebr. and points in Nebraska on and east of Nebraska Highway 61, and between New York City and points in Connecticut and Rhode Island on specified routes and points in Massachusetts, as more fully described in MC 22278. Vendee is authorized as a common carrier of general commodities, between Minneapolis-St. Paul, Winona, Rochester, Minnesota, La Crosse, Wis., points in Iowa and Kansas City, Mo. as more fully described in Docket MC 87909. Vendee-Vendor are affiliated in common control with Kroblin Refrigerated Xpress, Inc. MC 30844. Approval of the application will not result in dual operations, or duplicating authority. Application has been filed under Section 210a(b). Vendee has filed a simultaneous application under Section 5(2) of the Act to become substituted purchaser in Docket MC-F-13187 Kroblin Refrigerated Xpress, Inc.—Control and Merger—A.C.E. Freight, Inc. Vendee intends to tack the acquired authority to that now held at points on Vendor's regular routes in Iowa and Illinois.

NOTE.—In MC-F-13187 Arrow Motor Freight Line's affiliated company Kroblin Refrigerated Xpress, Inc. has received approval for acquisition of the stock of A.C.E. Freight, Inc. and pursuant to an assignment, the purchase of said stock has been assigned to Arrow Motor Freight Line. By this application, Arrow Freight Line also seeks to have A.C.E. merged into it, so that the three carriers (Arrow, Takin Bros., and A.C.E.) are merged into one company.

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 3419 (Sub-No. 11), filed December 13, 1977. Applicant: THE CLEVELAND, COLUMBUS & CINCINNATI HIGHWAY, INC., a.k.a. The C.C.C. Highway, Inc., 201 Stouffer Building, 1375 Euclid Avenue, Cleveland, Ohio 44115. Applicant's representative: Roland Rice, Suite 501, 1111 E Street NW., Washington, D.C. 20004. Authority is sought to operate as a *common carrier* by motor vehicle, over regular routes, transporting: *General Commodities* (except perishables, livestock, petroleum and its products, in tank trucks, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment), Between Cincinnati, Ohio, and Louisville, Ky., serving no intermediate points; and serving the plant site of the Ford Motor Co., at the intersection of Westport Road and Murphy Lane, Jefferson County, near Louisville, Ky., as an off-route point in connection with carrier's regular-route operations to and from Louisville, Ky., sought herein. From Cincinnati over U.S. Highway 50 to Versailles, Ind., thence over U.S. Highway 421 to Madison, Ind., thence over Indiana Highway 62 to Jeffersonville, Ind., and thence across the Ohio River to Louisville, and return over the same route.

NOTE.—This application is directly related to MC-F-13100, The Cleveland, Columbus & Cincinnati Highway, Inc.—Purchase (Portion)—Great Lakes Express Co., published in the FEDERAL REGISTER on February 10, 1977, and does not seek any authority not included in the purchase proposal. Applicant states that the purpose of this application is, out of an abundance of caution, to cover the temporary authority held in MC-0F-13100. Common control may be involved. Hearing: Set for hearing on January 24, 1978 at 9:30 a.m. local time, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 76032 (Sub-No. 331), filed December 12, 1977. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between Coldwater, Mich., and Junction U.S. Highway 27 and U.S. Highway 20, serving the termini for joinder only, from Coldwater over U.S. Highway 27 to Junction U.S. Highway 20 and return over the same route.

NOTE.—This application is directly related to MC-F-13458, Holland Motor Express, Inc.—Purchase (Portion)—Navajo Freight Lines, Inc., published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to maintain a bridge route betwen applicant's current authorities. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127974 (Sub-No. 11), filed December 12, 1977. Applicant: P. LIEDTKA TRUCKING, INC., 110 Patterson Ave., Trenton, N.J. 08610. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment), between points in Massachusetts, on the one hand, and, on the other, New York, N.Y. (except points in the New York, N.Y., commercial zone, in New Jersey and Connecticut).

NOTE.—This application is directly related to Section 5 purchase application captioned P. Liedtka Trucking, Inc.—Purchase (Portion)—Calore Freight System, Inc., MC-F-13457, published in a previous section of this FEDERAL REGISTER issue. The purpose of this application is to eliminate the gateway involved in the purchase and to authorize the performance of the resultant through-service. If a hearing is deemed necessary, applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on the quality

of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC 108835 (Deviation No. 9), HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, Minn. 55104, filed December 12, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lincoln, Nebr., over U.S. Highway 34 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction U.S. Highway 24 near Topeka, Kans., thence over U.S. Highway 24 to junction Interstate Highway 70, thence over Interstate Highway 70 to Kansas City, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Lincoln, Nebr., over U.S. Highway 77 to Wahoo, Nebr., thence over Nebraska Highway 92 to Omaha, Nebr., thence across the Missouri River to Council Bluffs, Iowa, thence over U.S. Highway 275 to junction U.S. Highway 34, thence over U.S. Highway 34 to Afton, Iowa, thence over U.S. Highway 169 to junction Iowa Highway 259, thence over Iowa Highway 259 to Tingley, Iowa, thence over unnumbered highway to Grand River, Iowa, thence over Iowa Highway 294 to junction Iowa Highway 2, thence over Iowa Highway 2 to Bedford, Iowa, thence over Iowa Highway 148 to the Iowa-Missouri State line, thence over Missouri Highway 148 to junction U.S. Highway 71, thence over U.S. Highway 71 to St. Joseph, Mo., thence over U.S. Highway 59 to Donavant, Kans., thence over unnumbered highway via Easton, Kans., to junction U.S. Highway 73, thence over U.S. Highway 73 to Kansas City, Mo., and return over the same route.

No. MC 108835 (Deviation No. 10), HYMAN FREIGHTWAYS, INC., 1745 University Avenue, St. Paul, Minn. 55104, filed December 13, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Lincoln, Nebr., over U.S. Highway 34 to junction U.S. Highway 75, thence over U.S. Highway 75 to junction Nebraska Highway 2, thence over Nebraska Highway 2 to junction Interstate Highway 29, thence over Interstate Highway 29 to Kansas City, Mo., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Lincoln, Nebr., over U.S. Highway 77 to Wahoo, Nebr., thence over Nebraska Highway 92 to Omaha, Nebr., thence across the Missouri River to Council Bluffs, Iowa, thence over U.S. Highway 275 to junction U.S. Highway 34, thence over U.S. Highway 34 to Afton, Iowa, thence over U.S. Highway 169 to junction Iowa Highway 259, thence over Iowa Highway 259 to Tingley, Iowa, thence over unnumbered highway to Grand River, Iowa, thence over Iowa Highway 294 to junction Iowa Highway 2, thence over Iowa Highway 2 to Bedford, Iowa, thence over Iowa Highway 148 to the Iowa-Missouri State line, thence over Missouri Highway 148 to junction U.S. Highway 71, thence over U.S. Highway 71 to St. Joseph, Mo., thence over U.S. Highway 59 to Donavant, Kans., thence over unnumbered highway via Easton, Kans., to junction U.S. Highway 73, thence over U.S. Highway 73 to Kansas City, Mo., and return over the same route.

No. MC 111231 (Deviation No. 66), JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark., filed December 13, 1977. Carrier's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Interstate Highway 35E to Denton, Tex., thence over Interstate Highway 35 to Wichita, Kans., thence over Interstate Highway 35W to junction U.S. Highway 81, thence over U.S. Highway 81 to Belleville, Kans., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Dallas, Tex., over U.S. Highway 67 to Garland, Tex., thence over Texas Highway 78 to Farmersville, Tex., thence over Texas Highway 160 to Whitewright, Tex., thence over U.S. Highway 69 to Kansas City, Kans., thence over U.S. Highway 24 to Clay Center, Kans., thence over Kansas Highway 15 to junction Kansas Highway 9, thence over Kansas Highway 9 to Concordia, Kans., thence over U.S. Highway 81 to Belleville, Kans., and return over the same route.

No. MC 111651 (Deviation No. 6), MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott Avenue, St. Louis, Mo. 63147, filed December 15, 1977. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Louisville, Ky., over Interstate Highway 65 to junction Interstate Highway 465, thence over Interstate Highway 465 to junction Interstate Highway 74, thence over Interstate Highway 74 to junction Interstate Highway 57, thence over Interstate Highway 57 to Chicago, Ill., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Louisville, Ky., over U.S. Highway 150 to junction U.S. Highway 50, thence over U.S. Highway 50 to St. Louis, Mo., thence over U.S. Highway 66 to Chicago, Ill., and return over the same route.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-37069 Filed 12-29-77; 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).

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[6210-01]

1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, January 4, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Proposed negotiation of a competitive purchase of computer equipment at the Federal Reserve Bank of Minneapolis.

2. Federal Reserve Bank and Branch director appointments. This matter was originally announced for a meeting on December 21, 1977.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

December 27, 1977.

[S-2172-77 Filed 12-28-77; 10:17 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

[M-90, amdt 1 12/27]

NOTICE OF DELETION OF ITEM FROM THE DECEMBER 29, 1977 MEETING

TIME AND DATE: 10 a.m., December 29, 1977.

PLACE: Room 1027, 1825 Connnecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3. Docket 28273, Frontier's Motion For Hearing on Tucson-San Diego (Memo No. 7657, 7657-A, BOR, OCCR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This item is subject to the new procedure established by the Board at its November 23, 1977 meeting which rescheduled deferred and newelyfiled route applications for comparative consideration at regular 60-day intervals. This item was inadvertently scheduled for the December 29, meeting but pursuant to the new procedure will be considered in the late January 60-day review. Accordingly, the following Members have voted that agency business requires the deletion of this item from the December 29, 1977 agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn.
Vice Chairman, Richard J. O'Melia.
Member, G. Joseph Minetti.
Member, Lee R. West.
Member, Elizabeth E. Bailey.

[S-2178-77 Filed 12-28-77; 3:48 pm]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2158-77, 42 FR 64782, Dec. 28, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, January 3, 1978.

CHANGES IN THE MEETING: Date and Time of Meeting: Postponed until 9:30 a.m. (Eastern Time), Tuesday, January 10, 1978.

Agenda: Addition to Open Portion: Proposal to fund Native American Employment Rights Project for a second year.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued December 27, 1977.

[S-2175-77 Filed 12-28-77; 2:33 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, Page 63676 December 19, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 A.M., Wednesday, December 21, 1977.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda: Safety and Special Radio Service.

Item No. 1.

Subject: Waiting period for filing applications in the Safety and Special Radio Services after a denial, a dismissal with prejudice or after a revocation (Docket No. 21351).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: December 22, 1977.

[S-2174-77 Filed 12-28-77; 12:52 pm]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORP.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:55 a.m. on December 27, 1977, the Board of Directors of the Federal Deposit Insurance Corp. met by telephone conference call originating from Room 6108 of the FDIC Building located at 550 17th Street

NW., Washington, D.C., to consider the following matter:

Application of The Sanwa Bank of California, San Francisco, Calif., an insured State nonmember bank, for consent to merge under its charter and title with Golden State Bank, Downey, Calif., and for consent to establish the 11 offices of the latter bank as branches of the resulting bank.

On motion of Chairman George A. LeMaistre, seconded by director John G. Heimann (Comptroller of the Currency), the matter was considered in closed session pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)), on the basis of the Board's determination that the public interest did not require consideration of the matter in a meeting open to public observation.

In holding the meeting, the Board determined, on motion of chairman LeMaistre, with Director Heimann seconding the motion, that Corporation business required consideration of the matter on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, executive secretary of the Corporation, at 202-389-4446.

DATED: December 27, 1977.

For the Federal Deposit Insurance Corp.

HOYLE L. ROBINSON,
Assistant, Executive Secretary.

[S-2171-77 Filed 12-28-77; 9:09 am]

[6715-01]

6

FEDERAL ELECTION COMMISSION.

DATE & TIME: Wednesday, January 4, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit matters, compliance, personnel.

DATE & TIME: Thursday, January 5, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

I. Future meetings.

II. Correction and approval of minutes.

III. Advisory opinions:

AOR 1977-44. Commission Memorandum No. 1565.

AOR 1977-53. Commission Memorandum No. 1566.

AOR 1977-64. Commission Memorandum No. 1567.

AOR 1977-66. Commission Memorandum No. 1568.

IV. Appropriations and budget.

V. Procuedures on non-filers.

VI. Qualified multi-candidate committee status.

VII. Pending legislation.

VIII. Pending litigation.

IX. Classification action.

X. Liaison with other federal agencies.

XI. Routine administrative matters.

Portions closed to the public: Compliance matters (if not concluded January 4).

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer. 202-523-4065.

[S-2173-77 Filed 12-28-77; 12:52 pm]

[6740-02]

7

FEDERAL ENERGY REGULATORY COMMISSION.

DECEMBER 28, 1977.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

TIME AND DATE: January 4, 1978, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.)

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 46TH MEETING, JANUARY 4, 1978, REGULAR MEETING

P-1. Docket No. ER78-103, Indiana & Michigan Electric Co.

P-2. Docket No. ER77-546, The Dayton Power & Light Co.

P-3. Docket No. ER77-59, Superior Water, Light & Power Co.

P-4. Docket No. ER76-781, Michigan Power Co.

MISCELLANEOUS AGENDA, 46TH MEETING, JANUARY 4, 1978, REGULAR MEETING

M-1. Docket No. RM74-16, Natural gas companies' annual report of proved domestic gas reserves: FPC Form No. 40.

M-2. Docket No. RM75-25, policy with respect to certification of pipeline transportation agreements.

GAS AGENDA, 46TH MEETING, JANUARY 4, 1978, REGULAR MEETING

G-1. Docket No. RP76-90, Kansas-Nebraska Natural Gas Co., Inc.

G-2. Docket No. RP75-79, *Lehigh Portland Cement Co. v. Florida Gas Transmission Co.*

G-3. Docket No. CP78-6, et al., Alabama-Tennessee Natural Gas Co., et al.

G-4. Docket No. CP75-362, El Paso Natural Gas Co.

G-5. Docket No. CP76-424, Kentucky West Virginia Gas Co.

GAS AGENDA, 46TH MEETING, JANUARY 4, 1978, REGULAR MEETING

CAG-1. Docket No. RP74-100, National Fuel Gas Supply Corp.

CAG-2. Docket No. RP78-29, Southern Natural Gas Co.

CAG-3. Docket No. RP72-115 (PGA No. 78-1), Oklahoma Natural Gas Corp.

CAG-4. Docket No. RP78-11, Trunkline Gas Co.

CAG-5. Docket No. RP77-56, Northern Natural Gas Co.

CAG-6. Docket No. CP72-118, Sea Robin Pipeline Co.

CAG-7. Docket Nos. CP77-597 and CP77-651, Trunkline Gas Co.

CAG-8. Docket No. CP76-184, Transcontinental Gas Pipe Line Corp.; Docket No. CP76-202, United Gas Pipe Line Co.

CAG-9. Docket No. CP77-193, Northern Natural Gas Co.

[S-2182-77 Filed 12-28-77; 3:48 am]

[7030-01]

8

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., January 5, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public. Dockets 74 and 332-C, Sioux; Dockets 335 and 338, Shawnee.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, 202-653-6174.

[S-2177-77 Filed 12-28-77; 2:37 pm]

[7035-01]

9

INTERSTATE COMMERCE COMMISSION.

DECEMBER 28, 1977.

TIME AND DATE: 9:30 a.m., Tuesday, January 3, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED:

1. Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels;* briefing by the staff. See Deputy Director Rosenak's memorandum of December 20, 1977.

Item 2 is amended to read as follows:

2. Ex Parte No. MC 98, *New Procedures in Motor Carrier Restructuring Proceedings;* briefing and discussion of released rates only; voting possible. See circulation of November 2, 1977, and subsequent votes.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-2184-77 Filed 12-28-77; 3:48 pm]

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, January 4, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 4 are open to public observation. Status is not applicable to matters 5 and 6.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held December 13, 1977, and other Board meetings, if any.
2. Supplemental request for commercial exemption, Cla-Val Co., fiscal year ended March 31, 1975.
3. Report of the Chairman concerning: (a) Budget; (b) case processing; (c) personnel actions; (d) organization progress of the staff; (e) rulemaking and regulations.
4. Proposed rulemaking and notice for the FEDERAL REGISTER: Segmentation.
5. Approval of agenda for meeting to be held January 17, 1978.
6. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446; 202-254-8277.

Dated: December 28, 1977.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2180-77 Filed 12-28-77; 3:48 pm]

[7910-01]

11

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 10, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to the public. Status is not applicable to matters 4 and 5.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held January 4, 1978, and other board meetings, if any.
2. Application for commercial exemption (list No. 3001) Contour Saws, Inc., fiscal year ended October 31, 1975.
3. Recommended clearances without assignment (list No. 1891):

A. Eaton Corp., fiscal years ended December 31, 1973, 1974 and 1975.

B. Hazeltine Corp., fiscal years ended December 31, 1973, 1974 and 1975.

B-1. Hazeltine Research, Inc., fiscal year ended December 31, 1973.

C. Libby Welding Co., Inc., fiscal year ended June 30, 1974.

D. Jet Electronics and Technology, Inc., fiscal years ended April 30, 1974, 1975 and 1976.

E. Eltra Corp., fiscal years ended September 30, 1972, 1973, 1974 and 1975.

E-1. American Manufacturing Co., Inc., fiscal years ended December 31, 1972, 1973, 1974 and 1975.

E-2. Automatic Timing & Controls, fiscal year beginning January 1, 1972 and ended August 31, 1972.

4. Approval of agenda for meeting to be held January 24, 1978.
5. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Washington, D.C. 20446, 202-254-8277.

Dated: December 28, 1977.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-2181-77 Filed 12-28-77; 3:48 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 64216, December 22, 1977.

CHANGES IN THE MEETING: Deletion of item on open meeting agenda.

The following item will not be considered at the open meeting scheduled for Thursday, December 29, 1977:

Consideration of proposed rulemaking statement requesting comment with regard to the conditions under which mutual funds might be permitted to bear distribution expenses.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that the above change was necessary and that no earlier notice thereof was possible.

DECEMBER 28, 1977.

[S-2183-77 Filed 12-28-77; 3:48 pm]

[7020-02]

13

UNITED STATES INTERNATIONAL TRADE COMMISSION.

[USITC SE-77-78]

TIME AND DATE: 2 p.m., Tuesday, January 10, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. C.B. radios (Inv. TA-201-29), staff briefing.
6. Further discussion of the fiscal year 1977 annual report.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-2176-77 Filed 12-28-77; 2:33 pm]

[4410-01]

14

U.S. PAROLE COMMISSION.

United States Parole Commission, National Commissioners (the Commissioners presently Maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, January 5, 1978; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(10) and 28 C.F.R. 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-2179-77 Filed 12-28-77; 3:48 pm]

federal register

FRIDAY, DECEMBER 30, 1977
PART II

DEPARTMENT OF LABOR

Employment and Training Administration

■

UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

New Rate Schedule

[4510–30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 614—UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEN

New Schedule of Remuneration

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is revising 20 CFR 614.19 to increase the monthly rates of remuneration in the Schedule of Remuneration used to compute the Federal wages of ex-servicemen and women covered by the program of Unemployment Compensation for Ex-Servicemen (UCX Program). The new schedule will apply to new claims that are filed on and after January 1, 1978.

EFFECTIVE DATE: January 1, 1978, with respect to first claims filed on and after that date.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone: 202–376–7032.

SUPPLEMENTARY INFORMATION: Section 8521(a)(2) of Chapter 85, Title 5 of the United States Code (5 U.S.C. 8521(a)(2)) requires the Secretary of Labor to issue from time to time, after consultation with the Secretary of Defense, a Schedule of Remuneration specifying the pay and allowances for each pay grade of members of the military services, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind.

The new Schedule of Remuneration revised in this document adjusts the scheduled monthly rates of pay upward to reflect the military pay increase that became effective on October 1, 1977, under Executive Order 12010. The new schedule set forth in this document shall be effective with respect to first claims which are filed after the end of this year; that is, new claims beginning on and after January 1, 1978. Although the effective date will necessitate making the new schedule effective less than 30 days after this publication, the reasons for making the new schedule effective at the beginning of 1978 are believed to be overriding.

This revision of § 614.19 of Title 20 of the Code of Federal Regulations was published as a proposal with opportunity for public participation at 42 FR 60166, on November 25, 1977, with a comment period ending on December 12, 1977. No comments were received, and no changes are made in the revision as proposed.

NOTE.—The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction and control of Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202–376–7032.

Accordingly, § 614.19 of Chapter V of Title 20, Code of Federal Regulations, is revised as set forth below.

§ 614.19 Schedule of remuneration.

(a) The following Schedule of Remuneration is issued pursuant to 5 U.S.C. 8521(a)(2), and shall apply to first claims which are filed after December 31, 1977:

Pay grade	*Monthly rate*
(1) Commissioned officers:	
O–10	$4,919
O–9	4,752
O–8	4,410
O–7	3,886
O–6	3,219
O–5	2,643
O–4	2,180
O–3	1,831
O–2	1,469
O–1	1,081
(2) Warrant officers:	
W–4	2,060
W–3	1,715
W–2	1,422
W–1	1,260
(3) Enlisted personnel:	
E–9	1,793
E–8	1,521
E–7	1,320
E–6	1,120
E–5	941
E–4	802
E–3	712
E–2	665
E–1	612

(b) The Schedule of Remuneration published at 42 FR 1459 remains applicable to first claims filed prior to the effective date of the new Schedule of Remuneration set forth in paragraph (a). The new schedule in paragraph (a) does not revoke the prior schedule or any preceding schedule or change the periods of time they were in effect.

Signed at Washington, D.C., on December 27, 1977.

WILLIAM B. HEWITT,
Acting Assistant Secretary for Employment and Training.

[FR Doc.77-37274 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977

PART III

CIVIL AERONAUTICS BOARD

■

CHARTER TRIPS

Minimum Group Size; Reduction of Advance Purchase Period

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Docket 31520; Regulation ER-1032, Amdt. 13]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Charter Flight Limitations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in SPR-142, issued contemporaneously, the Board is amending its general charter regulations to reduce from 40 to 20 the minimum Advance Booking Charters (ABC), One-Stop-Inclusive Tour Charter (OTC), and Inclusive Tour Charter (ITC) group size required for split charters.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly, the Board hereby amends 14 CFR Part 207 as set forth below.

Revise the proviso at the end of § 207.11(c) to read as follows:

§ 207.11 Charter flight limitations.

* * * * *

(c) * * *

Provided, That with respect to subparagraphs (6), (7), and (8) of paragraph (c), each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to subparagraphs (1), (2), (3), (4), and (5) of paragraph (c), each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (c) shall not be construed to apply to movements of property.

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36948 Filed 12-29-77;8:45 am]

[6320-01]

[Docket 31520; Regulation ER-1033, Amdt. 12]

PART 208—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Charter Flight Limitations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in SPR-142, issued contemporaneously, the Board is amending its general charter regulations to reduce from 40 to 20 the minimum Advance Booking Charter (ABC), One-stop-inclusive Tour Charter (OTC), and Inclusive Tour Charter (ITC) group size required for split charters.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly, the Board hereby amends 14 CFR Part 208 as set forth below.

Revise the proviso at the end of § 208.6 (c) to read as follows:

§ 208.6 Charter flight limitations.

(c) * * *

* * * * *

Provided, That with respect to subparagraphs (3), (7), and (8) of paragraph (c), each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to subparagraphs (1), (2), (4), (5), and (6) of paragraph (c) each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (c), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (c) shall not be construed to apply to movements of property.

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36950 Filed 12-29-77;8:45 am]

[6320-01]

[Docket 31520; Regulation ER-1034, Amdt. 22]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Charter Flight Limitations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in SPR-142, issued contemporaneously, the Board is amending its general charter regulations to reduce from 40 to 20 the minimum advance Booking Charter (ABC), One-stop-inclusive Tour Charter (OTC), and Inclusive Tour Charter (ITC) group size required for split charters.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly the Board hereby amends 14 CFR Part 212 as set forth below.

Revise the proviso at the end of § 212.8 (b) to read as follows:

§ 212.8 Charter flight limitations.

* * * * *

(b) * * *

Provided, That with respect to subparagraphs (6), (7), and (8) of paragraph (b), each person engaging less than the entire capacity of an aircraft shall contract and pay for 20 or more seats. With respect to subparagraph (1), (2), (3), (4), and (5) of paragraph (b), each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats: *And provided further*, That paragraph (b) shall not be construed to apply to movements of property.

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36591 Filed 12-29-77;8:45 am]

[6320-01]

[Docket 31520; Regulation ER-1035, Amdt. 20]

PART 214—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Charter Flight Limitations

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons set forth in SPR-142, issued contemporaneously, the Board is amending its general charter regulations to reduce from 40 to 20 the minimum Advance Booking Charter (ABC), One-Stop-Inclusive Tour Charter (OTC), and Inclusive Tour Charter (ITC) group size required for split charters.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly, the Board hereby amends 14 CFR Part 214 as set forth below.

Revise the proviso at the end of § 214.7 (b) to read as follows:

§ 214.7 Charter flight limitations.

* * * * *

(b) * * *

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *And provided further,* That with respect to subparagraphs (6) and (7) of paragraph (b) each person engaging less than the entire capacity of the aircraft shall contract and pay for 20 or more seats. With respect to subparagraphs (1), (2), (3), (4), and (5) of paragraph (b), each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 seats, except that, if the entire capacity of an aircraft having less than 80 seats is engaged by no more than two persons described in paragraph (b), then either one of such persons may contract and pay for a minimum of 20 seats.

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36952 Filed 12-29-77;8:45 am]

[6320-01]

SUBCHAPTER D—SPECIAL REGULATIONS

[Docket 31520; Regulation SPR-142, Amdt. 8]

PART 371—ADVANCE BOOKING CHARTERS

Interim Liberalization of Charter Rules

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The Board is relaxing various restrictions in its charter regulations on an interim basis in response to a recent proliferation of discount fares by scheduled airlines. The principal changes are a reduction of the advance purchase period for Advance Booking Charters (ABC's) to 15 days, an allowance of 15 percent fill-up sales on ABC's, elimination of minimum-duration restrictions on ABC's and One-stop-inclusive Tour Charters (OTC's), and a reduction of the minimum charter group size to 20 on ABC's, OTC's, and Inclusive Tour Charters (ITC's). This proceeding was instituted at the Board's initiative in October, 1977.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking SPDR-61,[1] the Board instituted this expedited proceeding to consider liberalizing its charter rules in several respects. The proposals were made in response to a number of deeply discounted fares recently offered by scheduled carriers which, in our judgment, pose a serious threat to the survival of charter services and supplemental (charter-only) carriers. As we have stressed, this development endangers not only individual competitors but the long-run survival of effective price competition in the air transportation industry itself. The rules were to be made effective on an interim basis, until completion of a more comprehensive charter liberalization rulemaking proceeding to be undertaken in the near future.

We received numerous comments on SPDR-61 from charter tour operators, U.S. and foreign scheduled carriers, supplemental carriers, U.S. government agencies, foreign governments, and other interested persons and organizations.[2] The proposed rules are generally opposed by scheduled carriers, the European Civil Aviation Conference, and twelve European governments as premature, unwise, and eliminating the distinction between charter and scheduled services. On the other hand, supplemental carriers, the Departments of Justice and Transportation, and many tour operators support the proposals as a legitimate response to the increasing number of discount charter-competitive fares. Other parties urge the Board to take further action in this proceeding to liberalize charter restrictions, suspend discount fares, and secure foreign acceptance of our relaxed charter rules.

After careful consideration of the comments and other relevant matters, we have decided to adopt the proposed rules, but with certain modifications discussed below.

At the outset, we are concerned by comments of several European governments in opposition to the proposed rules. It goes without saying that the Board attaches great importance to securing acceptance of U.S. charter traffic by those countries, and we have carefully considered their views.[2a] However, we believe

[1] October 14, 1977, 42 FR 55823, October 19, 1977.

[2] Comments were filed by the Ad Hoc Committee to Support International Student Charters, Aerlinte Eireann Teoranta (Air Lingus), Air Charter Tour Operators of America (ACTOA), American Automobile Association, American Institute for Foreign Study, American Society of Travel Agents, ASTA-New Jersey chapter, Aviation Consumer Action Project, British Airways, Capitol International Airways, Charter Travel Corporation, Charter Ventures, Continental Illinois National Bank and Trust Company of Chicago, Council on International Educational Exchange, David Travels and OTC Tours jointly, Department of Justice (DOJ), Department of Transportation (DOT), Duncan Tours, Golden Holiday Tours, Holiday Travel and Tours, International Travel Arrangers, International Travel Service, Japan Air Lines, Lufthansa German Airlines, P T. Merpati Nusantara Airlines, National Air Carrier Association (on behalf of Evergreen International Airlines, Trans International Airlines, and World Airways), Overseas National Airways, Donald L. Peysner, Sabena Belgian World Airlines, Scandinavian Airlines System, Robert M. Sears, Suntours Limited, Certain Trunkline Carriers (American Airlines, Delta Air Lines, Eastern Air Lines, Northwest Airlines, Pan American World Airways, Trans World Airlines, and Western Air Lines), United Air Lines, and Unitours and Pleasant Hawaiian Holidays jointly. In addition, the Department of State has forwarded the views of the European Civil Aviation Conference, Austria, Belgium, Denmark, Federal Republic of Germany, France, Greece, Iceland, Ireland, Italy, the Netherlands, Norway, Switzerland, and the United Kingdom.

[2a] Two of those countries now accept U.S.-originating ABC's without restriction, two reject ABC's entirely, and the others impose various conditions and limitations upon their acceptance. Those European destinations received approximately 66 percent of all U.S.-originating ABC passengers in the first three quarters of 1977.

it unwise at least for this interim period to incorporate special restrictions directly into our rules because of foreign opposition.

We are also met with the contention, advanced by several U.S. and foreign scheduled carriers, that the Board has failed to set forth an adequate factual basis for relaxing the charter regulations at this time. They argue that charter traffic has grown rapidly under existing rules, and that the charter industry is now healthy and not in need of protection from scheduled service competition. They also assert that the Board cannot liberalize its charter rules in the absence of documented evidence of injury to charter services from the new low fares, that the Board has failed to produce the evidence, and that in any event charter operations will not be materially affected in this off-season period.

We find these arguments unpersuasive. Moreover, we firmly reject any notion that the Board cannot adopt rules designed to forestall the likelihood of harm to the public. In the first place, the growth of the charter industry to which the scheduled carriers refer occurred before the establishment of the new charter competitive fares, and therefore is not necessarily indicative of the prospects for the success of charters in the quite different environment now prevailing. The popularity of charter service with the traveling public does, however, underscore the importance of acting without delay to ensure that these low cost air transportation services remain widely available and that in the long run there exists a competitive environment that produces low fares. We are responding here to an unprecedented threat to the charter industry, resulting from a wave of sharply reduced scheduled fares in prime charter markets, both domestically and abroad.[3] Were the Board to stay its hand until unequivocal evidence of injury to charter interests became available, we might unwittingly permit irreparable injury to a class of carriers that has played a leading role in fostering genuine price competition in the air transportation industry and has provided the incentive for the very fares which now endanger their economic health. Disaster need not strike before the Board may act. We attach little significance to the fact that charter operations are now in an off-peak period. The liberalized rules will affect not only the charter programs actually operated in the interim period but also programs planned and filed in the interim for operation in the next several months. Thus any action—or inaction—on our part at this juncture will have an impact on charter activity well into the peak summer season.

The scheduled carriers argue also that the relief proposed in SPDR–61 goes beyond what is necessary to achieve its intended result. It is contended that no need has been shown for liberalized charter rules in markets where the supplemental carriers are not active or where deep-discount fares are not offered. This assertion rests upon an unduly narrow reading of SPDR–61. As we stated there, the purpose of liberalized charter rules is to provide relief for "charter services in general and supplemental * * * carriers in particular," and the basis for the proceeding was clearly tied to domestic as well as international low fare developments. Thus, insofar as a uniform relaxation of our charter rules in all markets promotes the availability of charter services—whether domestically or internationally, whether offered by scheduled or supplemental carriers—our action will have achieved a desired result. Our purpose in this rulemaking is not just to restore a competitive balance in a certain few markets but, more broadly, to create the sort of regulatory environment which will encourage vigorous and healthy price competition in the long run throughout the industry. These rules of general applicability will further that objective by expanding the opportunities for charter service in new and undeveloped markets as well as existing ones. Finally, we point out that our charter rules already contain provisions which could be used to remedy any unintended consequences that our action here may have upon particular scheduled operations.[4] These provisions eliminate any need to incorporate directly into the rules different restrictions for different markets. Such a cumbersome regulatory scheme would very likely cause confusion to the public, impose an unnecessary administrative burden on the Board, and run counter to our long range goal of a simplified charter regime.

Opponents argue also that the proposed rules will only induce further scheduled fare reductions, leading ultimately to a devastating price war and industry instability. We recognize, and do not necessarily discourage, the possibility of a competitive response by scheduled carriers to these new rules. We certainly cannot assume in advance that any response would not represent legitimate price and service competition that would benefit the traveling public. Nor do we rule out the possibility of further relaxation of charter rules to account for changing circumstances. Yet the Board is not powerless to prevent the sort of ruinous instability some parties envisage. We have ample authority, through tariff suspension, rulemaking, and other means, to curtail any forms of competition which we believe to be detrimental to the public interest.

Finally, the scheduled carriers contend that the proposed rules are unlawful because they fail to maintain an adequate distinction between charters and individually ticketed service, as required under the Federal Aviation Act. We disagree. Despite similar arguments raised in the past against other liberalizations of the Board's charter rules, the courts have long held that Congress intended to give the Board wide latitude to define the term "charter" in accordance with experience and changing circumstances.[5] It is established law that no particular restriction or set of restrictions is essential to the legality of a charter rule, so long as all the elements of the rule, taken together, tend to maintain the distinction from individually ticketed scheduled service. The ABC and OTC restrictions we are now modifying were adopted in large measure not to satisfy a legal concept of "charters" but to guard against the possibility of excessive diversion from scheduled operations to the new charter services. In light of our experience under these rules and the changed circumstances now affecting charter operations, we believe that these particular restrictions are no longer necessary to protect the integrity of scheduled services and can be relaxed without impairing the legality of the charter rules.

Certain trunkline carriers argue that an evidentiary hearing, or at least oral argument, must be held before final rules may be adopted in this proceeding. This action is clearly rulemaking within the meaning of the Administrative Procedure Act (5 U.S.C. 551 et seq.) and thus no oral presentation is legally required. Although we will deny the trunklines' request, we note that all parties will have further opportunity to explore the issues

[3] In addition to the fares discussed in SPDR–61, a number of other potentially charter-competitive scheduled fares have recently been proposed or have become effective, e.g. the extension of super-APEX fares to various European points, U.S.-Israel Holiday fares by El Al, GIT and Special-APEX fares by LOT, U.S.-Mexico APEX and ITX fares by American Airlines, United's refiled Group–50 Mainland-Hawaii fares, Pan American's Budget fares to the North/Central and South Pacific, TWA's refiled Super Jackpot fares to Las Vegas and AeroBus and Super No-Frills fares between N.Y. and Miami/Ft. Lauderdale. While Board action upon these fares is in various stages, and not all the fares may become effective in their present form, they do represent a significant trend toward the introduction of low scheduled fares in important charter markets.

[4] The ABC and OTC rules provide that, whenever reasonable grounds exist for believing that charter operations in particular markets may be detrimental to the public interest, the Board may, on its own initiative or in response to a petition for relief, impose limitations on the number of charter flights operated to and from those points. 14 CFR §§ 371.5, 378a.5. These provisions empower the Board to employ show-cause procedures or, when the public interest requires, to act without prior notice in imposing such limitations or additional restrictions on charter operations.

[5] *Trans World Airlines, Inc.* v. *CAB*, 545 F.2d 771 (2d. Cir. 1976); *Pan American World Airways, Inc.* v. *CAB*, 517 F.2d 734 (2d Cir. 1975); *Saturn Airways, Inc.* v. *CAB*, 483 F.2d 1284 (D.C. Cir. 1973); *American Airlines, Inc.* v. *CAB*, 348 F.2d 349 (D.C. Cir. 1965).

in greater depth in the next phase of this rulemaking.

Several commenters favor liberalization of charter regulations but doubt that the rules proposed in SPDR–61 will have much practical effect, since foreign governments are likely to oppose them.[6] The Board is urged to suspend all new discount fares or at least to condition their effectiveness to foreign points upon the foreign government's acceptance of liberalized charter rules. We believe that such a fare moratorium is unwarranted. With respect to international low fare filings, the Board has been following a policy, developed after consultation with the Executive branch, of permitting otherwise acceptable charter-competitive fares to become effective upon the conclusion of ad hoc agreements with the affected governments which would allow the Board to suspend the fares at a later time should they prove unduly damaging to charter interests. Finally, our action here to liberalize the charter rules reduces the need for any across-the-board suspension of low fares in domestic markets, and we shall continue to evaluate new tariffs on a case-by-case basis.

ABC Advance Purchase Period and Fill-Up Sales

SPDR–61 proposed to reduce the advance purchase period for ABC's from 45 days (European ABC's) and 30 days (all others) to 15 days, and to allow additional sales after the advance booking period of 15 percent of the seats contracted for. These proposals are endorsed by many commenters as important elements of relief for ABC operations. The scheduled carriers and other parties, however, argue that the relaxation of the advance booking requirement will cause substantial diversion of traffic from scheduled services and that the fill-up authority will be unenforceable and detrimental to consumers.[7]

We continue to believe that a lengthy advance purchase requirement imposes a significant obstacle to efficient marketing of ABC's and is no longer necessary to protect competing scheduled operations. The reduction to 15 days, coupled with the limited 15 percent fill-up authority, will enable ABC operators to compete for travelers who, for whatever reason, are unwilling or unable to make firm plans several weeks in advance. We are not persuaded by the unsubstantiated arguments of the scheduled carriers that these modifications will have an unduly diversionary impact. Although scheduled carriers have regularly raised the spectre of massive diversion in opposition to expanding charter authority, no such untoward results have ever materialized.[8] Nor do we believe that the provision for fill-up sales will present significant administrative or enforcement problems in this interim period.[9]

Although we raised the possibility in SPDR–61 of establishing a single percentage limit on fill-up sales and substitutions combined, we have decided at least for this interim period to adopt separate limits of 15 percent for each.[10] This determination has the advantage of retaining some incentive for the ABC operator to arrange substitutions for passengers who wish to cancel without incurring substantial forfeiture of monies paid. As several commenters recognize, a combined limitation on substitutions and fill-ups together would encourage the operator to treat all late booking passengers as fill-ups, which are clearly more profitable to the operator than substitutions.

Although some parties urge us to go further in protecting the interests of cancelling passengers—for example, by prohibiting the operator from exercising fill-up rights before making substitutions, or by granting cancelling passengers an unrestricted right to refunds upon tender of a substitute to the operator—such suggestions raise serious administrative and enforcement questions which have not been adequately examined in this proceeding. We will, however, consider these proposals further in the next stage of this rulemaking.

In recognition of the somewhat greater clerical burden of complying with the two separate percentage limitations, however, we are taking this opportunity to adopt a uniform 15 percent substitution allowance for all ABC's, thereby eliminating the special 20 percent limitation (10 percent from the general public and 10 percent from a standby list filed with the Board) for European ABC's. This change will retain an ample allowance for substitutions, but will simplify the duties of the operator, direct carrier, and Board staff. Furthermore, we have decided to permit operators of European ABC's to charge the same $25 fee for effecting substitutions as have heretofore been allowed for substitutions on non-European ABC's. As several ABC operators point out, the prohibition against charging fees for European ABC substitutions has been a deterrent to arranging for substitutions on those charters, and now that we are adopting a uniform substitution allowance for all ABC's it would be anomalous to retain this unique restriction.

Minimum-Stay Restrictions

Several charter operators, supplemental carriers, and DOT argue that minimum-stay requirements for ABC's (7 days for European ABC's, none for others) and OTC's (4 days for North American OTC's, 7 days for others) should be eliminated. They contend that the restrictions serve no purpose other than to protect scheduled services and are unnecessary in the current competitive climate. They also assert that the provisions have inhibited charter operations in a number of markets. Several scheduled carriers, on the other hand, argue that the restrictions simply accord with the travel desires of people who use charters, and no purpose would be served by eliminating them.

We believe that the tour operators are basically correct in asserting that the reasons which once supported the imposition of minimum-stay restrictions on these charters are no longer compelling. The OTC minimum durations, for example, were adopted primarily to reduce anticipated diversion of traffic from scheduled operations to the new charter service.[11] Later, in adopting the ABC rule, we stated that a minimum-stay requirement is not necessary, either to minimize diversion or to distinguish ABC's from scheduled service. Thus the Board would prefer not to adopt such a requirement for any ABC's. However, in order to move toward commonality of charter rules with

[6] Two of these parties—ACTOA and the Ad Hoc Committee to Support International Student Charters—urge the Board to abandon the SPDR–61 proposals in favor of their rulemaking petitions, respectively, for an "Air Charter" and an "International Student Charter." As we stated in SPDR–61, these petitions, along with several others requesting various forms of relief for charters, will be considered in the long term charter rulemaking.

[7] One commenter that favors the 15-day advance purchase period points out that that provision as now drafted might be injurious to consumers, since the operator would be permitted to cancel an ABC on the ground of insufficient participation as late as 15 days before departure. We do not anticipate significant problems in this respect during the interim period, but in the long-term proceeding we shall consider imposing on the operator a more restrictive noncancellation period, such as 30 days.

[8] It is interesting to note in this regard that only one application for relief has ever been filed under the provisions in the ABC and OTC rules authorizing an expedited procedure for curtailing charter operations in specific markets. That application, from a foreign air carrier in a fifth-freedom market, was denied in Order 76–4–46, April 12, 1976.

[9] The duty of the direct air carrier with respect to fill-up participants will be essentially the same as that toward substitute passengers, to wit, to record the participant's name on the passenger list, to verify his identity, and to see that the percentage limitation for fill-ups is not exceeded. It is immaterial that the direct carrier cannot ascertain which newly appearing passengers are substitutes and which are fill-ups, so long as the total numbers in each category—which are ascertainable—do not exceed the allowable amounts.

[10] More than 15 percent substitution will be permitted in cases where the operator has made fewer than the allotted 15 percent fill-up sales, so long as the total of substitutions and fill-ups do not exceed 30 percent. Although we do not anticipate such high substitution rates in most cases, we see no reason to forbid substitution beyond 15 percent when the operator is willing to arrange for it. However, the reverse will not be permitted, i.e., no more than 15 percent fill-up sales will be allowed even when fewer than 15 percent substitutions are made; to do otherwise would invite the operator to make additional fill-up sales to the detriment of passengers wishing to be substituted for.

[11] See the discussion in EDR–281 (39 FR 39572, November 8, 1974), EDR–281B (40 FR 17039, April 16, 1975) and SPR–85 (40 FR 34089, August 14, 1975).

European countries, the Board has decided to require a 7-day minimum stay period for European ABC's.[22]

In light of the substantial change in the competitive environment since the adoption of these restrictions, we believe they are no longer essential either to protect scheduled operations or to anticipate foreign opposition to our rules. It may well be true, as many comments assert, that elimination of the restrictions will open new markets to low-cost charter travel. On the other hand, if the opponents are correct that the restrictions simply represent normal travel needs, then we find no reason to perpetuate what are apparently unnecessary regulations.

MINIMUM GROUP SIZE

The proposed reduction in the minimum ABC and OTC group size from 40 to 20 is supported by many commenters as an appropriate relaxation of an impediment to efficient charter operations. Some parties, however, argue that a more restrictive minimum group size should be imposed on charter flights where aircraft capacity is split between two or more operators, or alternatively that a less restrictive requirement should apply where a single operator engages the entire capacity for use by separate charter groups. Other commenters urge us to abandon all limits on group size and instead place a limit only on the number of operators that may share aircraft capacity or on the number of groups which may be carried on a split charter.

We have decided to adopt the reduction in group size as proposed, with no distinction made between multi-operator and single-operator split charters. For the purposes of this interim period, we believe that fundamental changes in the application of the minimum group size restriction are unwarranted. The use of 20 seats as a lower limit for all ABC and OTC groups has the advantage of uniformity and simplicity, both for the charter industry and the Board.[23]

INTERMINGLING OF ABC GROUPS

Our proposal to allow intermingling of ABC groups is opposed by various commenters on a number of different grounds. The scheduled carriers contend that intermingling, coupled with the provisions allowing fill-up sales, amounts to individually ticketed transportation, rather than group travel, for at least a portion of the ABC participants. DOT, on the other hand, urges the Board to authorize one-way ABC's instead of permitting intermingling. DOT claims that intermingling authority would bestow an unfair competitive advantage on large tour operators, who could offer a far wider selection of return flight dates than their smaller competitors. Several charter operators support one-way ABC's as simpler and less costly than intermingling, and claim that they would not offer intermingling even if permitted. Only one operator expressed unqualified support for intermingling.

Without reaching a final judgment on the merits of these views, the Board is persuaded that intermingling raises several questions which should be examined at greater length in the next proceeding. The commenters may be correct that intermingling authority will lead to an undesirable restructuring of the tour industry, and we prefer to address ourselves to this issue more closely in the next phase, when one-way charters may also be considered. Moreover, it appears that interminging authority would be ineffective as an interim measure in any event. Unlike the other rule changes we are making, intermingling cannot easily be adapted for use in existing ABC programs, which are already being advertised with fixed return dates. In addition, the need for intermingling authority is lessened by the reduction in the minimum permissible group size to 20. A reduction in the group size requirement is designed to enable the charter operator to offer a wider variety of flights and itineraries, thereby achieving much the same goal as intermingling.

As a final matter, several tour operators urge the Board to announce that all charter programs filed in the interim period will be given "grandfather rights," or alternatively to set a termination date for effectiveness of these interim rules. Their concern is that the validity of charter programs filed and approved under the interim rules will be placed in doubt in the event that the Board later adopts more restrictive charter rules, before the expiration of the programs. The Board is aware of the theoretical possibility of this kind of conflict but we believe the specific relief requested is unnecessary. The Board has authority to act by waiver or other means to alleviate any unfairness which might arise in the application of these rules.

The Board finds that because these amendments relieve restrictions and public benefit will be derived from putting them into effect without delay, they may become effective immediately.

O'MELIA, VICE CHAIRMAN, CONCURRING IN PART, DISSENTING IN PART

I joined in the approval of SPDR–61, not only as a response to the threat that deeply discounted scheduled fares might pose for charters, but also because I have always advocated and pressed for a progressive program of charter liberalization and simplification. I believe that charter restrictions that are arbitrary and unnecessary should be reduced or eliminated whenever possible. However, in moving toward a more liberal and simplified charter system we cannot ignore the legitimate preoccupation of other governments, which are concerned, as we are, that further liberalization of charter rules should not serve unnecessarily to impair scheduled services.

We are aware from communications that have been made a part of the record in this proceeding that a substantial number of European governments feel very strongly that the changes presently under consideration are excessive and unwarranted. In the absence of bilateral agreements providing that the charter rules of the country of origin will prevail, countries of destination have the right to decide if foreign originating charters are to be admitted. We ourselves insist upon that right.[1] Perhaps in recognition of this, and in response to previous European resentment that their views were neither invited nor given any weight, the U.S. Government made a special point of inviting the comments of the European governments on the proposed changes. Almost universally they replied that the changes were unacceptable. This negative view is undoubtedly prompted in part by the fact that we have not had for other charter liberalizations adopted by the Board a period of experimentation of sufficient duration to be able to judge their impact with assurance. It is important, if we are to establish the more competitive regime that we desire, that we have to the greatest extent possible the support and cooperation of our foreign counterparts, particularly in Europe, a geographic area of major interest to our charter carriers and operators. We are much less likely to win their cooperation if we appear to be hastily seeking to ram down their throats charter changes that they fear and oppose. The Board unanimously recognized the need to seek acceptability of our charter rules in major destination countries when it first proposed special provisions for so-called "European charters".[2] That gesture of accommodation proved to be useful in our charter discussions with European governments, and in my opinion contributed to a better negotiating environment.

In considering the charter liberalizations now being adopted, I am not convinced that all of the changes set forth in SPDR–61 need to be implemented immediately. SPDR–61 was adopted as an "emergency relief" measure because the Board feared that recent sharply discounted fares of scheduled carriers would "endanger the survival" of charter services. At this time the Board does not claim to have factual evidence that charter operations indeed face such a threat, and the final rule has necessarily shifted its ground to "long run" considerations. A more modest modification at this time would, of course, not pre-

[22] Regulation SPR–110, 41 FR 37763, September 8, 1976.

[23] Certain tour operators request a parallel reduction in the ITC minimum group size, since ITC's are frequently operated in combination with ABC and OTC groups on split charters. In accordance with our goal of simplifying the charter regime, we see no reason to impose a more restrictive group size requirement on ITC's than on related charter types and we are amending the ITC rule accordingly.

[1] *Deutsche Lufthansa, A.G.* v. *C.A.B.*, 479 F. 2d 912 (D.C. Circuit, 1973).

[2] EDR–294, February 10, 1976, Docket 28852.

clude a more complete liberalization in the proceeding for a more permanent amendment of charter rules that we have already announced in SPDR-61 and that the final rule now says will be "undertaken in the near future".

This does not mean that I disagree with making a definitive move toward a freer charter environment at this time. I concur that we should finalize the proposed amendments and would dissent only in one respect. I would liberalize the ABC advance purchase requirement *uniformly*, by reducing the advance purchase period by 15 days for all destinations. This would appear more equitable than the results of the majority's decision, which, not only declines to give some measure of accommodation to the views solicited from the European authorities, but goes on to impose a more drastic liberalization to charters destined for Europe than to the rest.

In taking this position, I want to state again that I consider it very important to seek to negotiate charter bilateral agreements with principal charter destination countries that will assure charter carriers and operators an international environment in which they can plan and operate charter programs with greater ease and certainty. Agreements based on the charterworthiness rules of the country of origin would, in my opinion, be the most desirable and most conducive to a responsive and flexible regime. After obtaining country of origin agreements, and in preparation for entering into such agreements, we would want to see our foreign aviation partners adopt regulatory policies that are progressive, but also restrained and sensitive to possible dangers. I think it is incumbent upon us too to demonstrate equal restraint and sensitivity.

(S) RICHARD J. O'MELIA.

CHAIRMAN ALFRED E. KAHN, CONCURRING IN PART, DISSENTING IN PART

I agree with the views of Vice Chairman O'Melia.

(S) ALFRED E. KAHN.

Accordingly, the Civil Aeronautics Board hereby amends 14 CFR Part 371 as set forth below.

1. Amend the table of contents by redesignating § 371.14 as indicated in item 3, below.

Sec.

* * * * *

371.14 Substitution and fill-up sales.

* * * * *

2. Revoke and reserve paragraph (d) of § 371.10 and revise paragraph (b) of § 371.10 to read as follows:

§ 371.10 Advance booking charter general requirements.

* * * * *

(b) The charter contract must be for 20 or more seats.

* * * * *

(d) [Reserved]

* * * * *

3. Redesignate and revise § 371.14 to read as follows:

§ 371.14 Substitution and fill-up sales.

(a) Substitutes may be arranged for charter participants at any time preceding departure, but only in accordance with the following:

(1) The charter participant for whom a new participant is substituted shall receive a full refund of all monies paid to the charter operator with respect to the charter, except that, the charter operator may reserve the right to retain an administrative fee of not more than 25 dollars for effecting the substitution.

(2) The total number of substitutes shall be no greater than 15 percent of the number of seats contracted for.

(b) The charter operator may make fill-up sales to participants on and after the date on which the passenger list is filed, up to fifteen percent of the number of seats contracted for.

4. Revise paragraphs (b) and (c) of § 371.25 to read as follows:

§ 371.25 Operating authorization of tour operators.

* * * * *

(b) Not later than 15 days prior to the scheduled date of the departure of a charter, the charter operator shall simultaneously:

(1) Transmit to the direct air carrier(s): (i) a statement of the charter operator affirming that each participant has entered into a contract with the operator as provided in this part, and has made full payment of the total price of the charter; (ii) a statement of the depository bank, if any, affirming that it has received a deposit of the total charter price payable to the direct air carrier(s); and (iii) two copies of the passenger list, certified as required by paragraph (d) of this section; and

(2) File with the Board (Investigation and Audit Division, Bureau of Enforcement) an original passenger list. The passenger list shall be filed on CAB Form 371-1, which appears as Appendix A to this Part, and shall set forth the name of each passenger in alphabetical order, his or her address and telephone number, and the name, address, and telephone number of the travel agent (if any) who sold the charter to the passenger. The information required by this paragraph to be filed with the Board shall be deemed filed on the U.S. Postal Service postmark date imprinted on the envelope.

(c) A charter operator may correct typographical or spelling errors on filed passenger lists by filing a list of corrections with the Investigation and Audit Division, Bureau of Enforcement. A charter operator may make no other changes except corrections of clerical errors on filed passenger lists, in accordance with the following conditions:

(1) * * *

(2) The charter operator files the following documents with the Investigation and Audit Division, Bureau of Enforcement: (i) a list of corrections, (ii) a statement certifying that any name to be listed by means of correcting a filed passenger manifest would have appeared on the original manifest but for a clerical error in preparing the list, and (iii) a photostatic copy of the passenger's cancelled check, or if there be none, a copy of a receipt or other kind of written evidence showing full payment of the charter price prior to the filing of the passenger list.

* * * * *

§ 371.25 [Amended]

5. Revise paragraph (d) of § 371.25 by deleting the words "or standby."

§ 371.30 [Amended]

6. Revise paragraph (c) of § 371.30 by deleting the words "and the list of standbys have" and inserting in their place the word "has."

7. Revise paragraph (b) of § 371.41 to read as follows:

§ 371.41 Direct air carrier to identify enplanements.

* * * * *

(b) The direct air carrier shall, at the time of enplanement, enter on its copy of the passenger list the documentary source of the identification required by paragraph (a) above, including the number appearing on the documents, together with the name of any enplaning passenger whose name does not already appear on the passenger list. The number of newly entered names shall not exceed the total amounts of substitute passengers as specified in § 371.14(a) of this Part plus fill-up passengers as specified in § 371.14(b) of this Part.

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36947 Filed 12-29-77;8:45 am]

[6320-01]

[Docket 31520; Regulation SPR-144, Amdt. 20]

PART 378—INCLUSIVE TOUR CHARTERS

Minimum Group Size

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons discussed in SPR-142, issued contemporaneously, the Board is amending its Inclusive Tour Charter (ITC) rule to reduce the minimum ITC group size from 40 to 20.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly, the Board hereby amends 14 CFR Part 378 as set forth below.

Revise subparagraph (b)(5) of § 378.2 to read as follows:

§ 378.2 Definitions.

* * * * *

(b) * * *

(5) An aircraft under charter to one tour operator or foreign tour operator may carry any number of tour groups: *Provided*, That if more than one group is carried, the charter contract for each of the groups shall be for 20 or more seats.

* * * * *

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36953 Filed 12-29-77;8:45 am]

[6320-01]

[Docket 31520; Regulation SPR-143, Amdt. 16]

PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS

Minimum Group Size

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: For the reasons discussed in SPR-142, issued contemporaneously, the Board is amending its One-stop-inclusive Tour Charter (OTC) Rule to reduce the minimum OTC group size from 40 to 20, and to eliminate the requirements for minimum duration of OTC's.

DATES: Adopted: December 15, 1977. Effective: December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert W. Kneisley, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

The Board finds that because this amendment relieves restrictions and public benefit will be derived from putting it into effect without delay, it may become effective immediately.

Accordingly, the Board hereby amends 14 CFR Part 378a as set forth below.

Revoke and reserve paragraph (d) of § 378a.10 and revise paragraph (b) of § 378a.10 to read as follows:

§ 378a.10 One-stop-inclusive tour charter general requirements.

* * * * *

(b) The charter contract must be for 20 or more seats.

* * * * *

(Sections 101(3), 204(a) and 416(b) of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743 and 771; 49 U.S.C. 1301(3), 1324(a) and 1386(b).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-36949 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977
PART IV

CIVIL SERVICE COMMISSION

■

EXCEPTED SERVICE

Compilation and Republication of Regulations

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

AGENCY: Civil Service Commission.

ACTION: Compilation of regulations.

SUMMARY: Due to the large number of amendments to the excepted service regulations (5 CFR Part 213) which have been published during 1977, it has been determined that a republication without change would serve to set forth all published amendments in one codified statement. There is no substantive change in the provisions of this part. It is merely republished for the convenience of the users of the FEDERAL REGISTER and the Code of Federal Regulations. Therefore, Part 213 is revised to read as set forth below.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Grace Carpenter, 202-632-5555.

Part 213 is revised to read as follows:

PART 213—EXCEPTED SERVICE

Subpart A—General Provisions

Sec.
213.101 Definitions.
213.102 Identification of positions in Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

SCHEDULE A

213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.
213.3102 Entire executive civil service.
213.3103 Executive Office of the President.
213.3104 Department of State.
213.3105 Department of the Treasury.
213.3106 Department of Defense.
213.3107 Department of the Army.
213.3108 Department of the Navy.
213.3109 Department of the Air Force.
213.3110 Department of Justice.
213.3112 Department of the Interior.
213.3113 Department of Agriculture.
213.3114 Department of Commerce.
213.3115 Department of Labor.
213.3116 Department of Health, Education, and Welfare.
213.3118 Environmental Protection Agency.
213.3121 National Security Council.
213.3123 Cabinet Committee on Opportunities for Spanish-Speaking People.
213.3124 Board of Governors, Federal Reserve System.
213.3127 Veterans Administration.
213.3128 U.S. Information Agency.
213.3129 Federal Power Commission.
213.3130 Securities and Exchange Commission.
213.3131 Department of Energy.
213.3132 Small Business Administration.
213.3133 Federal Deposit Insurance Corporation.
213.3136 U.S. Soldiers' and Airmen's Home.
213.3137 General Services Administration.
213.3139 U.S. International Trade Commission.
213.3141 National Labor Relations Board.
213.3142 Export-Import Bank of the United States.
213.3143 Farm Credit Administration.
213.3146 Selective Service System.
213.3147 Federal Mediation and Conciliation Service.
213.3148 National Aeronautics and Space Administration.
213.3149 Panama Canal Company.
213.3152 U.S. Government Printing Office.
213.3153 Government of the District of Columbia.
213.3154 Federal Home Loan Bank Board.
213.3156 Commission on Civil Rights.
213.3157 National Credit Union Administration.
213.3158 Franklin Delano Roosevelt Memorial Commission.
213.3161 James Madison Memorial Commission.
213.3162 National Aeronautics and Space Council.
213.3165 President's Advisory Committee on Labor-Management Policy.
213.3170 Civil Service Commission.
213.3182 National Foundation on the Arts and the Humanities.
213.3194 Department of Transportation.
213.3199 Temporary boards and commissions.

SCHEDULE B

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213.3328 U.S. Information Agency.
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213.3333 Federal Deposit Insurance Corporation.
213.3334 Federal Trade Commission.
213.3337 General Services Administration.
213.3338 Federal Communications Commission.
213.3339 U.S. International Trade Commission.
213.3340 Civil Aeronautics Board.
213.3341 National Labor Relations Board.
213.3342 Export-Import Bank of the United States.
213.3343 Farm Credit Administration.
213.3344 Occupational Safety and Health Review Commission.
213.3345 Indian Claims Commission.
213.3346 Selective Service System.
213.3348 National Aeronautics and Space Administration.
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213.3350 Foreign Claims Settlement Commission of the United States.
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213.3366 National Commission for Manpower Policy.
213.3367 Federal Maritime Commission.
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213.3399 Temporary Boards and Commissions.

AUTHORITY: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218.

Subpart A—General Provisions

§ 213.101 Definitions.

In this chapter:

(a) Excepted service has the meaning given that term by section 2103 of title 5, United States Code, and includes all positions in the executive branch of the Federal Government which are specifically excepted from the competitive service by or pursuant to statute, by the President, or by the Commission under § 6.1 or § 9.20 of the civil service rules (Subchapter A of this chapter).

(b) "Excepted position" means a position in the excepted service.

§ 213.102 Identification of positions in Schedule A, B, or C.

The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under Schedule A, B, or C.

Subpart B—[Reserved]

Subpart C—Excepted Schedules

Schedule A

§ 213.3101 Positions other than those of a confidential or policy-determining character for which it is not practicable to examine.

(a) The positions enumerated in §§ 213.3102 to 213.3199 are positions other than those of a confidential or policy-determining character for which it is not practicable to examine and which are excepted from the competitive service and constitute Schedule A.

(b) An agency (including a military department) may not appoint the son or daughter of a civilian employee of that agency, or the son or daughter of a member of its uniformed service, to a position listed in Schedule A for summer or student employment within the United States. This prohibition does not apply to the appointment of persons (1) who are eligible for placement assistance under the Commission's Displaced Employee (DE) Program, (2) who are employed to meet urgent needs resulting from an emergency posing an immediate threat to life or property, or (3) who are members of families which are eligible to receive financial assistance under a public welfare program or the total income of which in relation to family size does not exceed limits established by the Commission and published in the Federal Personnel Manual, or (4) who are severely physically handicapped or mentally retarded when such appointments are approved in advance by the Civil Service Commission.

(c) An agency may appoint for summer employment within the United States in positions listed in Schedule A only in accordance with the terms of the Commission's summer employment program. This restriction does not apply to positions that are excepted only when filled by particular types of individuals.

(d) In this section "summer employment" means any employment beginning after May 12 which will end before October 1 of the same year. "Student employment" means the employment of persons who are enrolled or who have been accepted for enrollment, on a substantially full-time basis, as resident students of a secondary school or of an institution of higher learning; a resident student, for this purpose, is a student in actual physical attendance at a school as distinguished from a correspondence student.

§ 213.3102 Entire executive civil service.

(a) Positions of Chaplain and Chaplain's Assistant.

(b) Cooks, except at fixed locations such as hospitals, quarantine stations, and penal institutions.

(c) Positions to which appointments are made by the President without confirmation by the Senate.

(d) Attorneys.

(e) Law clerk trainee positions. Appointments under this paragraph shall be confined to graduates of recognized law schools or persons having equivalent experience and shall be for periods not to exceed 14 months pending admission to the bar. No person shall be given more than one appointment under this paragraph. However, an appointment which was initially made for less than 14 months may be extended for not to exceed 14 months in total duration.

(f) Chinese, Japanese, and Hindu interpreters.

(g) Any nontemporary position the duties of which are part-time or intermittent in which the appointee will receive compensation during his/her service year that aggregates not more than 40 percent of the annual salary rate for the first step of grade GS-3. This limitation compensation includes any premium pay such as for overtime, night, Sunday, or holiday work. It does not, however, include any mandatory within-grade salary increases to which the employee becomes entitled subsequent to appointment under this authority. Appointments under this authority may not be for temporary employment.

(h) Subject to prior approval by the Commission, positions in Federal mental institutions when filled by persons who have been patients of such institutions and been discharged and are certified by the medical head thereof as recovered sufficiently to be regularly employed but it is believed desirable and in the interest of the persons and the institution that they be employed at the institution.

(i) Subject to prior approval of the Commission, positions requiring temporary, part-time, or intermittent employment in wage board type occupations (i.e., position excluded from Classification Act coverage by section 202(7) of the Act) on construction or repair work, where the activity is carried on in localities where examination coverage for the positions has not been provided and where because of employment conditions there is a shortage of available candidates for the positions. Appointments under this paragraph shall not extend beyond 1 year, and the employment thereunder shall not exceed 180 working days a year. Seasonal employments of a recurring nature are not authorized under this paragraph.

(j) Subject to approval of the Director of Selective Service, positions for which in the opinion of the Commission a local recruiting shortage exists when filled by individuals performing reconciliation service pursuant to Presidential Proclamation No. 4313 of September 16, 1974. Initial appointments under this authority may not exceed 1 year, and an initial appointment may be extended for one or more periods to a total of not to exceed 1 year. Such appointment may be further extended for one or more periods not to exceed 1 additional year. No person may serve under this authority longer than 2 years. No new appointments may be made under this authority after June 30, 1977.

(k) Positions without compensation provided appointments thereto meet the requirements of applicable laws relating to compensation.

(l) Positions requiring the temporary or intermittent employment of professional, scientific, or technical experts for consultation purposes.

(m) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) in field establishments outside central office and regional office cities of the Commission where examination coverage has not been provided for the positions, as follows:

(1) For temporary, intermittent, or seasonal employment (exclusive of positions covered by paragraph (l) of this section) not to exceed 180 working days a year in the Departments of Agriculture, Commerce, Interior, and Energy, in the Federal Aviation Agency, and in the International Boundary and Water Commission; or

(2) When it is specifically held by the Commission that this authority is applicable, for employment in localities that are isolated with respect to labor supply and where there is a shortage of available candidates for the positions.

(n) Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(o) Positions of a scientific, professional, or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed. Employments under this provision shall not exceed 130 working days a year.

(p) Positions of a scientific, professional or analytical nature when filled by bona fide graduate students at accredited colleges or universities provided that the work performed for the agency is to be used by the student as a basis for completing certain academic requirements toward a graduate degree. Employments under this provision may be continued only so long as the foregoing conditions are met, and the total period of such employment shall not exceed one

year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year.

(q) Positions at grade GS–7 and below when appointees are to assist scientific, professional, or technical employees. Persons employed under this provision shall be: (1) Bona fide high school science or mathematics teachers or (2) bona fide students at high schools or accredited colleges or universities who are pursuing courses related to the field in which employed. No person shall be employed under this provision in (i) positions of a routine clerical type or (ii) in excess of 1040 working hours a year; except that the 1040 working-hours-a-year limitation shall not apply to positions at grade GS–4 and below which are established in connection with associate degree cooperative education programs. Students enrolled in bachelor's degree cooperative education programs as defined in § 213.3202(a) of this Part shall not be employed under this provision. Appointments under this authority may be made only to positions for which qualification standards established under Part 302 of this chapter are consistent with the education and experience standards established for comparable positions in the competitive service.

(r) All positions of a project nature when filled by individuals the salaries of whom are paid out of (1) funds allocated by the President under authority of Pub. L. 87–658, approved September 14, 1962, the Public Works Acceleration Act of 1962, or (2) funds allocated by the Secretary of Commerce under authority of title X of the Public Works and Economic Development Act of 1965, as amended. Employment under this authority shall be for a temporary period not to exceed 1 year. No new appointments of persons paid out of funds allocated under title X of the Public Works and Economic Development Act of 1965, as amended, may be made after February 28, 1978.

(s) [Reserved]

(t) Positions when filled by mentally retarded persons in accordance with written agreements executed between an agency and the Commission. Provisions to be included in such agreements are specified in the Federal Personnel Manual.

(u) Subject to prior approval of the Commission, positions when filled by severely physically handicapped persons who: (1) Under a temporary appointment have demonstrated their ability to perform the duties satisfactorily; or (2) have been certified by counselors of State vocational rehabilitation agencies or the Veterans Administration as likely to succeed in the performance of the duties. Prior Commission approval is not required for promotions or reassignments within the same agency or department when the physical qualification standards remain substantially the same and all other qualification requirements are met.

(v) Temporary Summer Aid positions whose duties involve work of a routine nature not regularly covered under the General Schedule and requiring no specific knowledge or skills, when filled by youths appointed for summer employment under such economic or educational needs standards as the Commission may prescribe. A person may not be appointed unless he has reached his sixteenth but not his twenty-second birthday, or employed for more than 700 hours under this paragraph. This paragraph shall apply only to the positions whose pay is fixed at the equivalent of the highest minimum wage rate established by the Fair Labor Standards Act of 1938, as amended. However, during 1974 an agency shall not fix the pay at a rate less than that paid to Summer Aids by Federal agencies (other than the Postal Service) in the geographic area concerned in 1973.

(w) Part-time or intermittent positions the duties of which involve work of a routine nature when filled by students appointed in furtherance of the President's Youth Opportunity Stay-in-School Campaign and when the following conditions are met: (1) Appointees are enrolled in or accepted for enrollment in a resident secondary school or institution of higher learning, accredited by a recognized accrediting body; (2) employment does not exceed 16 hours in any calendar week (40 hours in any calendar week which falls within a vacation period); (3) while employed, appointees continue to maintain an acceptable school standing, although they need not attend school during the summer; (4) appointees need the earnings from the employment to continue in school; and (5) salaries are fixed by the agency head at a level commensurate with the duties assigned and the expected level of performance. Appointments under this authority may not extend beyond 1 year: *Provided*, That such appointments may be extended for additional periods of not to exceed 1 year each if the conditions for initial appointment are still met. A person may not be appointed under this authority unless he has reached his 16th but not his 22d birthday. No new appointments may be made under this authority between May 1 and August 31, inclusive.

(x) Subject to prior approval of the Commission, positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States. Initial appointments under this authority may not exceed 1 year. An initial appointment may be extended for one or more periods not to exceed 1 additional year each with the prior approval of the Commission upon a finding that the inmate is still in a work-release status and that a local recruiting shortage still exists. No person may serve under this authority longer than 1 year beyond the date he is released from custody.

(y) Positions at grade GS–2 and below for summer employment, as defined in § 213.3101(d), of assistants to scientific, professional, and technical employees, when filled by finalists in national science contests under hiring programs approved by the Commission.

(z) Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.

(aa) Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies. Appointments are limited to persons referred by the National Research Council under its post-doctoral research associate program and may be made initially for 1 year only. An agency may extend an appointment made under this authority for up to 1 additional year when the program committee at the laboratory concerned determines that extension will benefit both the associate and the laboratory.

(bb) Subject to prior approval of the Commission, positions when filled by aliens in the absence of qualified citizens.

(cc) Positions at GS–15 and below when filled by persons identified as Interchange Executives by the President's Commission on Personnel Interchange. Appointments made under this authority may not extend beyond 2 years.

(dd)–(ee) [Reserved]

(ff) Not to exceed 25 positions when filled in accordance with an agreement between the Commission and the Department of Justice by persons in programs administered by the Attorney General of the United States under Pub. L. 91–452 and related statutes. A person appointed under this authority may continue to be employed under it after he ceases to be in a qualifying program only as long as he remains in the same agency without a break in service.

(gg) Positions providing direct services to Indo-Chinese refugees or directly aiding the refugee resettlement program when filled by noncitizens previously employed by the United States in Vietnam and Cambodia. Service under this authority may not exceed 2 years. No new appointments may be made under this authority after June 30, 1976.

(hh) Positions as needed not in excess of GS–13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 36 months from the date that funds are received by heads of Executive agencies for this program under title VIII of CETA. No new appointments may be made under this authority after 18 months form the above referenced date.

(ii) Positions of Presidential Intern, GS–9 and 11, in the Presidential Management Intern Program. Initial appointments must be made at the GS–9 level. No one may serve under this authority for more than 2 years. Upon completion of 2 years of satisfactory service under this authority, the employee may qualify for conversion to competitive appointment under the provisions of Executive Order 12008, in accordance with requirements published in the Federal Personnel Manual. Recommendation for conversion may be submitted within 90 days before completion of the service requirement, and conversion will be effective on the date the service requirement is met. Except for the requirement concerning competitive selection from a register, appointments under this paragraph are subject to all the requirements and conditions governing career-conditional appointment, including investigation by the Commission to establish an appointee's qualifications and suitability.

§ 213.3103 Executive Office of the President.

(a) *Office of Science and Technology.* (1) All professional positions on the Staff of the Office.

(b) [Reserved]

(c) *Council on Environmental Quality.* (1) Professional and technical positions in grades GS–13 through 15 on the staff of the Council.

(d) [Reserved]

(e) *Office of Telecommunications Policy.* (1) Professional positions in grades GS–13 through 15 on the staff of the Office.

[Revoked]

(f) *Office of Drug Abuse Policy.* (1) All positions on the staff of the Office of Drug Abuse Policy. No one may serve under this authority after September 30, 1978.

§ 213.3104 Department of State.

(a) *Office of the Secretary.*

(1)–(4) [Reserved]

(5) Executive Officer, Executive Secretariat.

(b) [Reserved]

(c) *International Boundary and Water Commission, United States and Mexico.* (1) Gage readers employed part-time or intermittently at isolated localities when, in the opinion of the Commission, appointment through competitive examination is impracticable.

(d) *International Boundary Commission, United States and Canada.* (1) Temporary and intermittent field employees such as instrumentmen, foremen, recorders, packers, cooks, and axemen, for not to exceed 180 working days within any 1 calendar year.

(e) *Bureau of Oceans and International Environmental and Scientific Affairs.*

(1) Six Physical Science Administration Officers at GS–14 and above.

(f) *Bureau of Intelligence and Research.* (1) Two positions of Intelligence Operations Specialist.

§ 213.3105 Department of the Treasury.

(a) [Reserved]

(b) *U.S. Customs Service.* (1) Positions in foreign countries designated as "interpreter-translator" and "special employees," when filled by appointment of persons who are not citizens of the United States; and positions in foreign countries of messenger and janitor.

(2) [Reserved]

(3) Positions of part-time, intermittent, or temporary Customs Inspectors, and Port Directors in Alaska paid at a rate not above GS–9 and for not more than 130 working days in a service year.

(4) Positions of day "pickup" laborers whose assignments are to intermittent duties of short duration that must be performed without delay in field establishments where hiring of "pickup" laborers is authorized by the Bureau of Customs headquarters. Persons appointed under this authority may not be employed in this kind of work in the Bureau of Customs for more than 180 working days a year under this authority or under a combination of this authority and any other authority for excepted appointment that may be appropriate. This authority is not appropriate for job employment.

(5) Positions at GS–9 and below of Customs Enforcement Officer, Customs Inspector, Customs Marine Clerk/Officer, Customs Aid (sampling), Customs Warehouse Officer, Port Director, Interpreter, and Laborer, with duties of a continuing nature that require the part-time or intermittent service of an employee for not more than 700 hours in his service year. An individual appointed under this exception may not be employed in the Bureau of Customs under a combination of this and any other exception for more than 700 hours in his service year.

(6) Twenty-five positions of Criminal Investigator for special assignments.

(7) [Reserved]

(8) Staff assistant positions established to aid in the reorganization of the Bureau of Customs under Reorganization Plan No. 1 of 1965, when filled by persons with 1 year or more of current service as a Presidential appointee in a key position in the Bureau. No person may be employed under this paragraph in excess of 3 years.

(9) Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(c) *Office of Trade, Energy, and Financial Resources Policy Coordination.* (1) Not to exceed 10 positions at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international trade and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(d) [Reserved]

(e) *Internal Revenue Service.* (1) Twenty positions of investigator for special assignments.

(f) *Office of the Assistant Secretary for International Affairs.* (1) Not to exceed 10 positions in the Research and Planning Office at the equivalent of GS–13 through GS–17 to supplement the permanent staff in the study of complex problems relating to international financial and economic policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken. Employment under this authority may not exceed 4 years.

(g) *Bureau of Alcohol, Tobacco, and Firearms.* (1) Forty-two positions of investigator for special assignments.

(h) *Office of New York Finance.* (1) Not to exceed 25 positions. Employment under this authority may not exceed June 30, 1979.

§ 213.3106 Department of Defense.

(a) *Office of the Secretary.* (1) Five Special Advisers in the immediate office of the Secretary or Deputy Secretary with responsibility for studies and recommendations in broad program areas. These positions have advisory rather than operating duties, except as operating or administrative responsibility may be exercised in connection with pilot studies.

(2) Positions assigned exclusively to Communications Intelligence Activities.

(3) Positions assigned to or in support of special classified training activities.

(4) Three Staff Assistants.

(5) Director, Intelligence Resources and Programs, OASD (Administration).

(6) One Executive Secretary, US-USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

(b) *Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force).* (1) Professional positions in Military Dependent School Systems overseas.

(2) Positions in attache systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

(3) Positions of clerk-translator, translator, and interperter overseas.

(4) Positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the Staffs of the Chaplains in the military services.

(5) Positions under the program for utilization of alien scientists approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

(6) Positions in overseas installations of the Department of Defense when filled

by dependents of military or civilian employees of the Department resident in the area. Employment under this authority may not extend longer than 2 months following the transfer from the area or the separation of a dependent's sponsor: *Provided*, That (i) a school employee may be permitted to complete the school year; and (ii) an employee other than a school employee may be permitted to serve up to 1 additional year when the military department concerned finds the additional employment is in the interest of management.

(7) Positions assigned to all Cryptologic Intelligence Activities/Functions of the Military Departments.

(8) The Dean, Associate Dean, Assistant Dean, faculty members, and teaching/research assistant positions on the staff of the Uniformed Services University of the Health Sciences.

(c) *Interdepartmental Activities.* (1) Positions in support of National Security Programs and Space Council Activities.

(d) *General.* (1) Positions concerned with advising, administering, supervising or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of the Commission, it is impracticable to examine. This authority does not apply to positions assigned to Cryptologic and Communications Intelligence Activities/Functions.

§ 213.3107 Department of the Army.

(a) *General*

(1) [Reserved]

(2) Unskilled laborers and munitions handlers engaged in handling Ordinance material, including ammunition, where temporary or intermittent employment is necessary.

(3) Student occupational therapist positions in Army hospitals. Appointments to these positions will not extend beyond the training period applicable to each individual case, which is a minimum of 3 months' training and a maximum of 12 months' training, depending upon the individual's previous clinical training.

(4) [Reserved]

(5) Positions assigned exclusively to Army Communications Intelligence Activities.

(6) Trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooke, Puerto Rico. Appointments to these positions will not extend beyond the training period applicable to each individual case, depending upon the individual's previous clinical training. Employment under this provision may not exceed 1 year in any individual case: *Provided*, That such employment may, with the approval of the Commission, be extended for not to exceed an additional year. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 80-330.

(7) [Reserved]

(8) Not to exceed 350 positions of members of treatment and counseling teams and related positions, such as those of ward attendants and occupational therapy assistants, to assist in the implementation of an alcohol and drug abuse prevention and control program, when filled by persons who have a history of alcoholism or drug addiction and who have been successfully treated.

(b) *Transportation Corps.* (1) Longshoremen and stevedores employed at ports of embarkation in the United States; and all positions on vessels operated by the Transportation Corps.

(c) *Corps of Engineers.* (1) Land appraisers employed on a temporary basis for a period not to exceed 1 year on special projects where knowledge of local values or conditions or other specialized qualifications not possessed by appraisers regularly employed by the Corps of Engineers are required for successful results.

(2) Nonsupervisory positions of custodial laborer (levels 1, 2, and 3) and general laborer (levels 2 and 3) on survey, construction, short-term maintenance, or floating-plant operations, where because of turnover, lack of housing facilities, mobility of work site, or remoteness of personnel servicing facilities, an adequate labor force can be recruited only by immediate gate hiring on a local basis. This authority can be used only when the Commission has determined that it is specifically applicable to a given situation; ordinarily, it will not be used for employment in Civil Service central office, regional, and branch office cities or in cities where there is a local Board of U.S. Civil Service Examiners to service the employing establishment.

(d) *U.S. Military Academy, West Point, N.Y.* (1) Civilian professors, instructors, teachers (except teachers at the Children's School), hostesses, chapel organist and choirmaster, librarian when filled by an officer of the Regular Army retired from active service, and military secretary to the Superintendent when filled by a Military Academy graduate retired as a regular commissioned officer for disability.

(e) [Reserved]

(f) *Joint Brazil-United States Defense Commission.* (1) One position of clerk-stenographer-translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish.

(g) *Defense Language Institute.*

(1) Positions of instructors whose duties require proficiency in the teaching of a foreign language, supervisory instructors whose duties require a background in language teaching, and foreign language subject-matter specialists whose duties require proficiency in a given foreign language to assist in the development and evaluation of instructional material and methods directly related to the teaching of foreign languages.

(2) Clerical and Education Aid positions (except at the English Language School) whose incumbents are required to have a foreign language knowledge and whose duties require rapid and accurate typing, writing, proofreading or related skills used in the production of foreign language materials.

(3) [Reserved]

(4) Foreign language instructor positions at local Army language training facilities established pursuant to the Defense Language Program.

(h) *Army War College, Carlisle Barracks, Pa.* (1) One position of Educational Specialist for employment of not to exceed 1 year: *Provided*, That such employment may, with the prior approval of the Commission, be extended for not to exceed 1 additional year.

(i) *Defense Systems Management School, Fort Belvoir, Va.* (1) The Deputy Commandant and professors in grades GS-13 through 15.

(j) *U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey.*

(1) Positions of Academic Director, Department Head and Instructor.

§ 213.3108 Department of the Navy.

(a) *General.*

(1)-(3) [Reserved]

(4) Not to exceed 50 positions of resident-in-training at U.S. naval regional medical centers, hospitals, and dispensaries which have residency training programs, when filled by residents assigned as affiliates for part of their training from non-Federal hospitals. Assignments shall be on a temporary (full-time or part-time) or intermittent basis, shall not amount to more than 6 months for any person, and shall be applied only to persons whose compensation is fixed under 5 U.S.C. 5351-54.

(5) One Staff Assistant to the Naval Aide to the President.

(6) [Reserved]

(7) Positions of student social worker for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements by such educational institution to qualify for a graduate degree in social work. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351-54.

(8) Positions of student practical nurse for temporary, part-time, or intermittent employment in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by trainees enrolled in a non-Federal institution in an approved program of educational and clinical training which meets the requirements for licensing as a practical nurse. This authority shall be applied only to trainees whose compensation is fixed under 5 U.S.C. 5351-54.

(9) One Personnel Security Specialist, Naval Personnel Program Support Activity, Bureau of Naval Personnel.

(10) Positions of medical technology intern in U.S. naval regional medical centers, hospitals, and dispensaries, when filled by students enrolled in approved programs of training in non-Federal institutions. Employment under this authority may be filled on a full-time, part-time, or intermittent basis but may not exceed 1 year. This authority shall be applied only to students whose compensation is fixed under 5 U.S.C. 5351–54.

(11) Positions of medical intern at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are serving medical internships at participating non-Federal hospitals and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(12) Positions of student speech pathologist at U.S. naval regional medical centers, hospitals, and dispensaries, when filled by persons who are enrolled in participating non-Federal institutions and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(13) Positions of student dental assistant in U.S. naval dental centers, clinics, and departments, when filled by students who are enrolled in an approved dental assistant program in a participating non-Federal institution, and whose compensation is fixed under 5 U.S.C. 5351–54. Employment under this authority may not exceed 1 year.

(14) [Reserved]

(15) Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes.

(b) *Naval Academy, Naval Postgraduate School, and Naval War College.* (1) Professors, instructors, and teachers; and the librarian, organist-choirmaster, registrar, the dean of admissions, and social counselors at the Naval Academy.

(c) *Naval Home.* (1) Positions of orderly when filled by the appointment of beneficiaries of the Home.

(d) *Military Sealift Command.* (1) All positions on vessels operated by the Military Sealift Command.

(e)–(f) [Reserved]

(g) *Office of Naval Research.* (1) Not to exceed 5 positions of Liaison Scientist, GS–13/15, in the office of Naval Research Branch Office in Japan, when filled by research scientists who have specialized experience in scientific disciplines of current interest to the Department and who have a demonstrated ability to deal with the Japanese scientific community in their disciplines. An appointment under this authority may be made initially for a period not to exceed 2 years. With the prior approval of the Commission, total employment under this authority may be for as long as 3 years.

§ 213.3109 Department of the Air Force.

(a) *Office of the Secretary.* (1) Three Special Assistants in the Office of the Secretary of the Air Force. These positions have advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

(b) *General.* (1) Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

(2) Fifty positions engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

(c) [Reserved]

(d) *U.S. Air Force Academy, Colorado.* (1) Positions of Cadet Hostesses, Instructors in Physical Education, and two Instructors in Music (Choirmasters).

(e) *Air Force Systems Command.* (1) Not to exceed 12 positions of engineer, GS–14–15, at the Aeronautical Systems Division, Wright-Patterson Air Force Base, when filled on a temporary basis by persons serving under an agreement with aerospace contractors. Employment under this authority is limited to 4 years.

§ 213.3110 Department of Justice.

(a) *General.* (1) Deputy U.S. Marshals employed on an hourly basis for intermittent service.

(2) Positions of temporary deputy marshals in lieu of bailiff in the U.S. courts when employed on an intermittent basis.

(3) U.S. Marshal in the Virgin Islands.

(4) [Reserved]

(5) Thirty positions of Field Representative, GS–9 through GS–14, in the Community Relations Service for temporary or intermittent employment for not to exceed 130 working days a year.

(6) Not to exceed 20 positions of Field Representative Trainee, GS–5–7, in the Community Relations Service, for employment on college campuses for not to exceed 130 working days a year. Employment under this authority is limited to 1 year: *Provided*, That an appointment may be extended for one additional year with the prior approval of the Commission.

(b) *Immigration and Naturalization Service.* (1) Information Officer.

(2) Four positions of Regional Commissioner.

(c) *Drug Enforcement Administration.* (1) 154 special agent positions for undercover work.

(2) 150 positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15.

(d) *U.S. Marshals Service.* (1) Three hundred intermittent positions of guard for employment not to exceed 1,040 hours a year.

§ 213.3112 Department of the Interior.

(a) *General.* (1) Temporary, intermittent, or seasonal positions in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

(2) All positions on Government-owned ships or vessels operated by the Department of the Interior.

(3) Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of the Commission.

(4) Temporary, intermittent, or seasonal field assistants at GS–5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 180 working days a year for positions at GS–4 and below in survey parties in the Bureau of Land Management and Geological Survey and shall not exceed 130 working days a year for other positions authorized under this subparagraph. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.)

(5) Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: *Provided*, That an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

(6) Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

(7) All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term "Indian."

(8) Subject to prior approval of the Commission, temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers; and positions of field assistants engaged in fishery management work. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area, there is no Board of U.S.

Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(9) Subject to prior approval of the Commission, temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work for not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area, there is no Board of U.S. Civil Service Examiners to service the employing establishment, and there is a shortage of available candidates for the positions.

(10) Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

(11) Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year.

(b) *Bureau of Indian Affairs.* (1) Housekeeper positions at a gross salary not in excess of the entrance rate of grade GS–4 or its equivalent when, because of isolation or lack of quarters, appointment through competitive examination is, in the opinion of the Commission, impracticable.

(2) Subject to prior approval of the Commission, assistants in Alaska native schools (not including teachers and instructors) at a salary rate not in excess of that of GS–4 or its equivalent where the schools are in isolated or remote areas or lack suitable quarters.

(c) *Indian Arts and Crafts Board.* (1) The Executive Director.

(d) [Reserved]

(e) *Office of Territories.* (1) The Clerk of the High Court of American Samoa.

(2)–(3) [Reserved]

(4) Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his immediate staff.

(f) *National Park Service.* (1) Park Ranger positions (appropriate specializations) at salaries equivalent to GS–5, or GS–4 and those equivalent to grade GS–7 or GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career protective or interpretive personnel of the National Park Service. (The total number of Park Ranger and Park Technician positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (2) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Ranger at a salary equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(2) Park Aid and Park Technician positions at salaries equivalent to GS–2 through GS–5 to perform technical and practical work supporting the management, conservation, interpretation, development, and use of park areas and resources; and positions at salaries equivalent to GS–7 and GS–6 in which the duties are supervisory or are limited to a highly specialized part of the duties performed by career resources management, interpretive or visitor service personnel of the National Park Service. (The total number of Park Technician and Park Ranger positions at salaries equivalent to GS–7 and GS–6 excepted under this subparagraph and subparagraph (1) of this paragraph shall not exceed 200.) Employment under this subparagraph is limited to persons who meet the qualification standards for each salary level which have been agreed upon by the Commission and the Department. These standards include as a minimum the following number of previous seasons' experience in the National Park Service as a Park Aid or Park Technician equivalent to the next lower grade:

(i) For IGS–7: Two seasons at IGS–6 level.

(ii) For IGS–6: Two seasons at IGS–5 level.

(iii) For IGS–5: One season at IGS–4 level.

(iv) For IGS–4: One season at IGS–3 level or its equivalent in experience.

(v) For IGS–3: One season at IGS–2 level or its equivalent in experience.

Employment under this subparagraph shall be only for duty that is temporary, intermittent, or seasonal, and no person shall be employed by the same appointing office in the National Park Service under this subparagraph or a combination of this and any other excepting authorities in excess of 180 working days a year.

(g) *Bureau of Reclamation.* (1) Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values or conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: *Provided*, That such employment may, with prior approval of the Commission, be extended for not to exceed an additional 50 working days in any single year.

(h) *Office of the Deputy Assistant Secretary for Territorial Affairs.* (1) Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

§ 213.3113 Department of Agriculture.

(a) *General.* (1) Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service, the Animal and Plant Health Inspection Service, or positions in the Statistical Reporting Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural Commodity grader (grain) and (meat), (poultry), and (dairy) agricultural commodity aid (grain), and tobacco inspection positions.

(2) Any local veterinarian employed on a fee basis or a part-time basis.

(3) Not to exceed 25 professional, scientific, or technical positions in grade GS–7 or higher to be filled on an exchange basis by qualified employees on the rolls of State governments, colleges, or universities, for a limited period not to exceed 1 year.

(4) [Reserved]

(5) Temporary, intermittent, or seasonal employment in the filled service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for subprofessional services; caretakers at temporarily closed camps or improved areas; field enumerators and supervisors; forest workers engaged primarily for fire prevention or suppression activities and other forest workers employed at headquarters other than forest supervisor and regional offices; State performance assistants in the Agricultural Stabilization and Conservation Service; collectors of the Farmers Home Administration; agricultural commodity aids (cotton) in the Agricultural Marketing Service; agricultural helpers, helper-leaders, and workers in the Agricultural Research and the Animal and Plant Health Inspection Service; and, subject to prior Commission approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: *Provided*, That an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraphs (i) and (m) of § 213.3102.

(6) Not to exceed eight positions whose incumbents serve on an intermittent or temporary basis as field representatives

of the Department of Agriculture and in this capacity represent the Department's Disaster Committee in conducting surveys and appraisals of conditions in areas whose status as "major disaster" areas under Pub. L. 81-875, is under consideration. Employment under this authority shall not exceed 130 working days a year.

(7) Not to exceed 20 Program Assistants, whose experience acquired in positions excepted from the competitive civil service in the administration of agricultural programs at the State level is needed by the Department for the more efficient administration of its programs. No new appointment may be made under this authority after December 31, 1977.

(b) *Office of the Secretary.* (1) Special Livestock Loans Committeemen employed for not more than 180 working days a year, to approve and direct the servicing of emergency livestock loans.

(2) The positions of the two members and two alternate members of the Board of Forest Appeals which must be filled under departmental regulation by persons who have not been Federal employees for 2 years before appointment. Employment under this exception shall be on a when-actually-employed basis.

(c) *Forest Service.* (1) Temporary, intermittent, or seasonal positions when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a national forest and as being dependent for livelihood primarily upon employment available within the national forest.

(2) Positions in Alaska of Laborers, Boat Operators, Mechanics, Equipment Operators, and Carpenters whose duties require the operation of boats in coastal waters and/or the establishment and maintenance of work camps in remote areas.

(d) *Agricultural Stabilization and Conservation Service.* (1) [Reserved]

(2) Members of State Committees.

(3) State Executive Directors.

(e) *Farmers Home Administration.* (1) State committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(2) County committeemen to consider, recommend, and advise with respect to the Farmers Home Administration program.

(3) Temporary positions whose principal duties involve the making and servicing of emergency loans pursuant to current statutes authorizing emergency loans. Appointments under this provision shall not exceed 1 year unless extended with the prior approval of the Commission for additional periods not to exceed 1 year each.

(4) State Directors and not to exceed three positions of State Director-at-Large.

(5) Temporary positions in State and county offices of the Farmers Home Administration whose principal duties involve the making and servicing of loans pursuant to the Economic Opportunity Act of 1964. Appointments under this provision shall not exceed 1 year unless extended with prior Commission approval for not to exceed 1 additional year.

(6) Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

(f) *Agricultural Marketing Service.* (1) Positions of supervisory cotton classers GS-11, cotton classers GS-9 and below, clerks GS-2, supervisory clerks GS-3 and GS-4, and laborers, employed on a seasonal basis in cotton-classing offices outside the Washington, D.C. Metropolitan Area. Employment under this authority (or under a combination of this authority and any other excepting authority) shall not exceed 1,280 hours a year in the case of supervisory cotton classers, cotton classers and laborers, and 1,040 hours a year in the case of clerks; except that a GS-5 cotton classer may be employed as a trainee during his first appointment for an initial period of 6 months for training purposes without regard to the above time limitation.

(2) [Reserved]

(3) Milk Market Administrators.

(4) All positions on the staffs of Milk Market Administrators.

(g) *Agricultural Research Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(h) *Foreign Agricultural Service.* (1) Agricultural Attaché positions at grade GS-16 and above where the duties require that the major portion of the employee's time be spent in foreign countries.

(i) [Reserved]

(j) *Food and Nutrition Service.* (1) Temporary positions in grade GS-4 and below, and the wage system equivalents, whose principal duties involve the distribution of food to needy families at Federal Commodity Distribution Centers. After June 30, 1971, appointments under this authority may be made only to replace employees on the rolls as of that date, or their successors.

(k) *Animal and Plant Health Inspection Service.* (1) Field employees on programs conducted under the terms of cooperative agreements or memorandums of understanding with States or other non-Federal cooperating organizations, provided the employees are jointly selected and their salary is supplied by the cooperators on the basis of not less than a 40-percent contribution by each of the cooperators.

(2) Temporary field positions concerned with the control, suppression, and eradication of emergency livestock diseases. Persons appointed under this authority may not be employed in these positions in the Animal and Plant Health Inspection Service for longer than 1 year under this authority, or under a combination of this and any other authorities for excepted appointment that may be appropriate, without prior approval of the Commission. This authority shall be appropriate only in situations declared by the Secretary of Agriculture to be emergencies threatening the livestock industry of the country.

(l) *Food Safety and Quality Service.* (1) Positions of agricultural commodity graders (processed fruits and vegetables), GS-9 and below, and of graders' aides (processed fruits and vegetables), GS-2-4; for temporary employment on a part-time or intermittent basis for not to exceed 1,280 hours a year.

(2) Temporary and intermittent positions of agricultural commodity graders (dairy) and agricultural commodity graders (poultry) at grade GS-9 and below. Employment under this authority may not exceed 1,280 hours a year.

(3) Positions of meat and poultry inspectors (veterinarians at GS-11 and below and nonveterinarians at appropriate grades below GS-11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

(m) *Federal Grain Inspection Service.* (1) One hundred fifty positions of Agricultural Commodity Aid (Grain), GS-2/4; 100 positions of Agricultural Commodity Technician (Grain), GS-4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS-5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

§ 213.3114 Department of Commerce.

(a) *General.* (1) Agents to take and transmit meteorological observations in connection with aviation who are employed on a part-time basis and whose compensation is based on a fee for each observation performed rather than on an hourly or per annum basis: *Provided*, That the number of observations shall not exceed a daily average of 12 during any calendar month.

(2) Employment of individuals, firms, or corporations for not to exceed 1 year for special statistical studies and statistical compilations, other than Personal Census Records Service, the compensation for which is derived from funds deposited with the United States under the Act of May 27, 1935 (49 Stat. 292): *Provided*, That such employments may, with the approval of the Commission, be extended for not to exceed an additional year.

(3) Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in continental United States for periods of orientation, training, analysis of data, and report writing.

(b) *Office of the Secretary.* (1) [Reserved]

(2) One Civil Aviation Specialist.

(3) One Advisor on Equal Employment Opportunity.

(c) *Coast and Geodetic Survey* (1) [Reserved]

(2) Temporary positions required in connection with the surveying operations of the field service of the Coast and Geodetic Survey. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

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

(2) Current Program Interviewers employed on an intermittent basis in the field service.

(e)–(g) [Reserved]

(h) *Maritime Administration.* (1) Public Information Officer.

(2)–(4) [Reserved]

(5) The positions of Chief Investigator and Security Officer and Deputy Chief Investigator and Security Officer.

(6) All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

(7) [Reserved]

(8) One Special Assistant to the Administrator (Tanker Advisor).

(9) Two Special Assistants to the Deputy Administrator.

(10) U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers; including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; and seven Company Officers.

(11) U.S. Merchant Marine Academy, positions of: the Superintendent; the Assistant Superintendent for Planning; Dean; Registrar; one Educational Specialist (Director of Admissions) and one Assistant Director of Admissions; Assistant Dean; Director, Office of External Affairs; Placement Officer; Administrative Librarian; the Special Assistant to the Superintendent; three Acadamy Training Representatives; and Shipboard Training Assistant.

(i) *Office of the Assistant Secretary for Domestic and International Business.* (1) Thirty positions at GS–12 and above in specialized fields relating to international trade or commerce in the Bureau of International Commerce or in other units under the jurisdiction of the Assistant Secretary for Domestic and International Business. Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Employment under this authority will not exceed 2 years for any individual appointee.

(2) Not to exceed 40 positions of Managers and Deputy Managers of International Trade Fairs and Exhibit Programs in foreign countries when the duties require a considerable portion of the employee's time to be spent in foreign countries.

(3) Not to exceed 30 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit practices applicable to one or more of the current segments of U.S. industry served by the Assistant Secretary for Domestic and International Business, and the subordinate components of his organization which are involved in Domestic Business matters. Appointments under this authority may be made for a period of not to exceed two years and may, with prior approval of the Commission, be extended for an additional period of two years.

(j) *National Oceanic and Atmospheric Administration.* (1) Subject to prior approval of the Commission, which shall be contingent upon a showing of inadequate housing facilities, meteorological aid positions at the following stations in Alaska: Barrow, Bethal, Kotzebue, McGrath, Northway, and St. Paul Island.

(2) Cook positions on Swan Island.

(3) All civilian positions on vessels operated by the National Ocean Survey.

(k) *Office of Minority Business Enterprise.* (1) Until Sept. 30, 1978, not to exceed 29 positions of Business Management Fellowship Program Specialists, GS–11/12.

(l) *Office of Communications and Information.* (1) Twelve professional positions in grades GS–13 through GS–15.

§ 213.3115 **Department of Labor.**

(a) *Office of the Secretary.* (1) Chairman and two members, Employees' Compensation Appeals Board.

(2) Chairman and two members, Benefits Review Board.

(b) *Bureau of Labor Statistics.* (1) Not to exceed 500 positions involving part-time and intermittent employment for field survey and enumeration work in the Bureau of Labor Statistics. This authority is applicable to positions where the salary is equivalent to GS–6 and below. Employment under this authority may not exceed 1,440 work hours in a service year. No new appointment may be made under this authority after December 31, 1978.

(c) *Office of Federal Contract Compliance.* (1) All positions at GS–15 and below involving performance of the functions of the program known as "Plans for Progress."

(d) *Manpower Administration.* (1) Not to exceed 10 positions of Manpower Development Officer and Manpower Development Specialist in the Division of Indian Manpower Programs when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities in the development and administration of comprehensive manpower training and employment programs.

§ 213.3116 **Department of Health, Education, and Welfare.**

(a) *Saint Elizabeth's Hospital.* (1) Three Medical Officers (Surgical Resident).

(2) Student Medical Interns for temporary or part-time employment.

(3) Temporary positions of graduate nurses appointed as students for the purpose of receiving 12 weeks of training equivalent to psychiatric affiliation. This authority shall be applied only to positions whose compensation is fixed in accordance with the provisions of section 3 of Pub. L. 80–330.

(4) Three positions of Medical Officers (Radiology Resident): *Provided*, That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident.

(5) 15 positions of psychodrama trainees, including interns and first- and second-year residents. This authority shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(6) Two Medical Officers (Anatomical Pathology Resident) for not to exceed 2 years' employment in the case of any one individual.

(7) Three Medical Officers (Internal Medicine Resident) for not to exceed 3 months' employment in the case of any one individual.

(8) Four positions of Medical Officer (Physical Medicine and Rehabilitation Resident): *Provided*, That employment under this authority shall not exceed 1 year, except that selected residents may be nominated and reappointed for an additional year of training when the parent hospital determines that the supplemental training will meet the specialized needs of the individual resident. Initial appointments may be made at any level within the 3-year residency as approved by the American Medical Association.

(9) Positions of Chaplain Residents: *Provided*, That employment under this authority shall not exceed 39 months for any individual. This authority shall be applied only to positions whose compen-

sation is fixed in accordance with the provisions of 5 U.S.C. sections 5351 and 5352.

(10) One position of Medical Officer (Ophthalmology Resident) when filled by persons whose compensation is fixed under 5 U.S.C. 5351–5356. Employment under this authority may not exceed 4 months.

(11) Ten positions of group dynamics and group psychotherapy trainees, including interns and residents in the Overholser Training and Research Division. Employment under this authority shall not exceed 2 years, and shall be applied only to positions with compensation fixed under 5 U.S.C. 5351 and 5352.

(b) *Public Health Service.* (1) Special escorts to accompany patients of the Public Health Service in accordance with existing laws and regulations. Employment under this subparagraph shall be only for the period of time necessary for the escort to deliver the patient to his destination and to return.

(2) Positions at Government sanatoria when filled by patients during treatment or convalescence.

(3) All positions in leprosy investigation stations.

(4) Positions concerned with problems in preventive medicine financed or participated in by the Department of Health, Education, and Welfare and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the cooperating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(5) Medical and dental interns, externs, and residents; and student nurses.

(6) Positions of scientific, professional, or technical nature when filled by bona fide students enrolled in academic institutions: *Provided*, That the work performed in the agency is to be used by the student as a basis for completing certain academic requirements required by an educational institution to qualify for a scientific, professional, or technical field: *And provided further*, That appropriate exclusions of the positions under the authority of Pub. L. 80–330 have been approved by the Civil Service Commission.

(7) Student Dietitians and Resident Physicians at Freedman's Hospital.

(8) All positions in the Public Health Service and other positions in the Department of Health, Education, and Welfare directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health, Education, and Welfare is responsible for defining the term "Indian."

(9) Not to exceed 30 positions of clerical assistants employed on a part-time and intermittent basis to aid cooperating clinicians in non-Federal tuberculosis sanatoria in the keeping of records and the preparation of reports in connection with research studies into the effectiveness of antimicrobial agents in the treatment of tuberculosis. Persons appointed under this authority may not be employed in this kind of work in the Public Health Service for more than 180 working days in a single year under this authority or under a combination of this and any other authority for excepted appointment that may be appropriate.

(10) Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas.

(c) *Office of Education.* (1) Positions concerned with problems in education financed and participated in by the Office of Education, Department of Health, Education, and Welfare, and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

(d) *Social Security Administration.* (1) Six positions of social insurance representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

(2) Seven positions of social insurance representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

(4) Not to exceed 195 positions directly concerned with programs conducted by the Department in connection with the problems of Cuban refugees; *Provided*, That new appointments shall be limited to Cuban refugees.

(5) Not to exceed 64 positions on the Indochinese Refugee Program Staff. Service under this authority may not exceed September 30, 1981.

(e) *General.* (1) Not to exceed 40 positions in medical and related occupations for employment under the Cuban refugee program. No new appointments may be made after December 31, 1968.

(f) *The President's Council on Physical Fitness.* (1) Three staff assistants, The President's Council on Physical Fitness.

(g) [Reserved.]

(h) *National Institute of Mental Health—Health Services and Mental Health Administration.* (1) Positions in the National Institute of Mental Health involving performance of various therapeutic and service assignments under a rehabilitation program concerned with the treatment of drug addicts, when filled by persons who have a history of drug addiction and who have been successfully treated.

(i) *National Center for Health Statistics.* (1) Not to exceed 20 positions of Health Examination Representative, grades GS–7 and 9, serving on Health and Nutrition Examination Survey teams of the Division of Health Examination Statistics.

(j) *Health Care Financing Administration.* (1) Not to exceed 50 professional and 4 clerical positions directly concerned with special teams to review the Medicaid program in selected States. Employment under this authority may not exceed June 30, 1979.

(k) *Office of Human Development Services.* (1) Thirty positions at GS–15 and below for employment not to exceed September 30, 1980, on the staff of the White House Conference on Families.

§ 213.3118 Environmental Protection Agency.

(a) Not to exceed 12 positions of Sanitation Facility Trainees, WG–1 through 5, to implement the Alaska Village Demonstration Projects under the Water Quality Improvement Act of 1970. Employment under this authority may not exceed 2 years.

§ 213.3121 National Security Council.

(a) All positions on the staff of the Council.

§ 213.3123 Cabinet Committee on Opportunities for Spanish-Speaking People.

(a) All positions on the committee staff.

§ 213.3124 Board of Governors, Federal Reserve System.

(a) All positions.

§ 213.3127 Veterans Administration.

(a) *Construction Division.* (1) Temporary construction workers paid from "purchase and hire" funds and appointed for not to exceed the duration of a construction project.

(b) Not to exceed 300 positions of rehabilitation counselors, GS–3 through GS–11, in drug and alcoholic treatment units when filled by former patients.

§ 213.3128 U.S. Information Agency.

(a) Two Liaison Officers (Congressional) in the Office of the General Counsel.

(b) One Chief of Religious Information.

§ 213.3129 Federal Power Commission.

(a) Three special assistants to the Commission.

§ 213.3130 Securities and Exchange Commission.

(a) Director, Division of Corporation Finance; Director, Division of Corporate Regulation; Director, Division of Trading and Markets.

(b) Nine positions of Regional Administrator.

(c) Positions of accountant and auditor, GS–13 through 15, when filled by persons selected under the SEC Accounting Fellow Program. No more than four positions may be filled under this au-

thority at any one time. An employee may not serve under this authority longer than 2 years.

(d) Positions of Economist, GS–13 through 15, when filled by persons selected under the SEC Economic Fellow Program. No more than four positions may be filled under this authority at any one time. An employee may not serve under this authority longer than two years unless selected under provisions set forth in the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3372(b)(2).

§ 213.3131 Department of Energy.

(a) *General.* (1) Temporary, intermittent, or seasonal field assistants at GS–5, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties. Employment under this authority shall not exceed 130 working days a year. This authority shall not apply to positions of field assistants engaged in fishery management work in Alaska.

(b) *Bonneville Power Administration.* (1) Five Area Managers.

§ 213.3132 Small Business Administration.

(a) When the President under 42 U.S.C. 1855–1855g, or the Secretary of Agriculture under 7 U.S.C. 1961 or the Small Business Administration under 15 U.S.C. 636(b)(1), declares an area to be a disaster area, positions filled by temporary appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

(b) [Reserved]

(c) Positions of Community Economic-Industrial Planner, GS–7 through 12, when filled by local residents who represent the interest of the groups to be served by the Minority Enterpreneurship Teams of which they are members. No new appointments may be made under this authority after May 1, 1977.

§ 213.3133 Federal Deposit Insurance Corporation.

(a) All field positions concerned with the work of liquidating the assets of closed banks or the liquidation of loans to banks, and all temporary field positions the work of which is concerned with paying the depositors of closed insured banks.

(b) One position of Chief Clerk in the San Juan, P.R., office.

§ 21.3136 U.S. Soldiers' and Airmen's Home.

(a) All positions.

§ 213.3137 General Services Administration.

(a) *General.* (1) Custodians, guards, watchmen, laborers, and other employees engaged in the custody, care, and preservation of plants, warehouses, shipyards, airfields, and surplus facilities of a similar nature pending disposition of such facilities.

(b) [Reserved]

(c) *Office of the Regional Administractor—Region 9.* (1) One Program Assistant.

§ 213.3139 U.S. International Trade Commission.

(a) The Secretary of the Commission.

§ 213.3141 National Labor Relations Board.

(a) Election Clerks and Election Examiners for temporary, part-time or intermittent employment in connection with elections under the Labor Management Relations Act.

§ 213.3142 Export-Import Bank of the United States.

(a) Three Special Assistants to the Board of Directors, grade GS–14 and above, with responsibility for carrying out special overseas assignments for the Board.

§ 213.3143 Farm Credit Administration.

(a) Federal Land Bank Association receivers and conservators.

(b) Not to exceed seven positions in the Credit Services of the Farm Credit Administration in grades GS–13 or above, requiring technical or administrative experience in the field of agricultural credit: *Provided*, That this authority may be used only when making appointments of persons who have acquired such experience in the Farm Credit Administration or in one or more of the institutions supervised by the Farm Credit Administration.

§ 213.3146 Selective Service System.

(a) State Directors.

(b) Deputy or Assistant State Directors and State Medical Officers in State Headquarters.

(c) [Reserved]

(d) Executive Secretary, National Selective Service Appeal Board.

§ 213.3147 Federal Mediation and Conciliation Service.

(a) Executive Secretary of a Board of Inquiry appointed under section 206 of the Labor-Management Relations Act of 1947 (29 U.S.C. 176).

§ 213.3148 National Aeronautics and Space Administration.

(a) One hundred fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

(b) Forty scientific specialists to be engaged on special research projects.

(c) [Reserved]

(d) Ten medical officer positions for employment of third year medical residents in the field of aerospace medicine. An individual may not be employed more than one year under this exception.

(e) Forty-five positions in the Secretarial Science Program at Langley Research Center when occupied by students at Thomas Nelson Community College. No one may be employed under this authority for more than 1,280 hours in a service year. No new appointments may be made under this authority after September 30, 1977.

§ 213.3149 Panama Canal Company.

(a) All positions on vessels operated by the Panama Canal Company.

§ 213.3152 U.S. Government Printing Office.

(a) One Umpire.

(b) Positions in the printing trades when filled by students majoring in printing technology employed under a cooperative education agreement with the Washington Technical Institute.

§ 213.3153 Government of the District of Columbia.

(a) *Board of Higher Education.* (1) Positions of noneducational employees of the Federal City College.

(b) *Board of Vocational Education.* (1) Positions of noneducational employees of the Washington Technical Institute.

(c) *Department of Housing and Community Development.* (1) One Executive Director.

(2) Positions of teachers engaged on a part-time or intermittent basis in the instruction of trainees enrolled in training programs for the maintenance and repair of buildings and grounds.

(3) Until March 1, 1978, seven positions of Resident Housing Manager, GS–5 through GS–8, under an experimental demonstration program for improvement of public housing management.

(4) Neighborhood Aide (Urban Renewal) positions when filled by residents of the urban renewal project area in which the Aides will serve. Employment under this authority may not exceed 2 years.

§ 213.3154 Federal Home Loan Bank Board.

(a) One Secretary, Federal Home Loan Bank Board.

(b) [Reserved]

(c) All temporary field positions in the Federal Savings and Loan Insurance Corporation concerned with the work of liquidating the assets of closed insured institutions, or the liquidation of loans or the handling of contributions to insured institutions and the purchase of assets therefrom, and all temporary field positions of the Federal Savings and Loan Insurance Corporation the work of which is concerned with paying the depositors of closed insured institutions.

§ 213.3156 Commission on Civil Rights.

(a) Twenty-five positions at grade GS–11 and above of employees who collect, study, and appraise civil rights information to carry out the national clearinghouse responsibilities of the Commission under Pub. L. 83–352, as amended. No new appointments may

be made under this authority after March 31, 1976.

§ 213.3157 National Credit Union Administration.

(a) Liquidation Agents employed on a temporary or intermittent basis in the field.

§ 213.3158 Franklin Delano Roosevelt Memorial Commission.

(a) All positions on the staff of the Commission.

§ 213.3161 James Madison Memorial Commission.

(a) One Executive Secretary.

§ 213.3162 National Aeronautics and Space Council.

(a) All positions.

§ 213.3165 President's Advisory Committee on Labor-Management Policy.

(a) One Assistant Executive Director.

§ 213.3170 Civil Service Commission.

(a) Persons employed on a WAE basis to serve as members of the International Organizations Employees Loyalty Board for the purpose of holding hearings overseas.

(b) Chairman, Federal Prevailing Rate Advisory Committee.

§ 213.3182 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts.* (1) [Reserved]

(2) Until September 30, 1980, Director of Federal-State Partnerships, when filled at GS–15 and below.

(3) Until September 30, 1980, eight Program Directors.

(4) Until September 30, 1980, one Assistant Director for Theatre Programs.

(5) Until September 30, 1980, one Director of Folk Arts Programs.

(6)–(10) [Reserved]

(11) Until September 30, 1980, four Project Evaluators.

(12) Until September 30, 1980, one Director of Museum Programs.

(13) Until September 30, 1980, two Assistant Directors for Federal-State Partnerships.

(14) Until September 30, 1980, two positions of Assistant Director of Music Programs.

(15) Until September 30, 1980, one Director of Developing Arts Programs.

(16) Until September 30, 1980, one Director for Public Media Programs.

(17)–(18) [Reserved]

(19) Until September 30, 1980, one Director, Interdisciplinary Programs.

(20) Until September 30, 1980, one Director of Special Projects.

(21) Until September 30, 1980, one Assistant Director of Expansion Arts Programs.

(22) Until September 30, 1980, one Assistant Director of Public Media Programs.

(23) Until September 30, 1980, one Assistant Director of Architecture and Environment Arts Programs.

(24) Until September 30, 1980, one Assistant Director of Dance.

(25) Until September 30, 1980, one Assistant Director of Visual Arts.

(26) Until September 30, 1980, one Assistant Director of Museum.

(27) Until September 30, 1980, one Assistant Director of Special Projects.

(28) Until September 30, 1980, one Crafts Coordinator.

(29) Until September 30, 1980, one Director of Performing Arts and Public Media Programs.

(b) *National Endowment for the Humanities.* (1) and (2) [Reserved]

(3) Until September 30, 1980, Director of Planning and Analysis, when filled at GS–15 and below.

(4) Until September 30, 1980, Director of Fellowships and Stipends.

(5) [Reserved]

(6) Until September 30, 1980, one Special Assistant to the Chairman.

(7) [Reserved]

(8) Until September 30, 1980, three Program Officers, Division of Research and Stipends.

(9) Until September 30, 1980, two Program Officers, Division of Fellowships and Grants.

(10) Until September 30, 1980, one Assistant to the Director of Planning and Analysis.

(11) Until September 30, 1980, Director of Education Programs.

(12) Until September 30, 1980, two Program Officers, Division of Public Programs.

(13) Until September 30, 1980, Director of Public Programs.

(14)–(16) [Reserved]

(17) Until September 30, 1980, one Program Officer, Special Projects, Division of Public Programs.

(18) [Reserved]

(19) Until September 30, 1980, two Special Assistants to the Deputy Chairman.

(20) Until September 30, 1980, one Program Analyst, Office of Planning and Analysis.

(21) [Reserved]

(22) Until September 30, 1980, one Bicentennial Coordinator, Office of the Chairman.

(23) Until September 30, 1980, one Deputy Director of Public Programs.

(24) Until September 30, 1980, one Program Officer/Deputy Director, Division of Research Grants.

(25) Until September 30, 1980, one Planning Officer, Office of Planning and Analysis.

(26) Until September 30, 1980, one Humanist Administrator, Division of Fellowships.

§ 213.3194 Department of Transportation.

(a) *U.S. Coast Guard.* (1) Continuing positions at grade GS–9 and below whose incumbents are engaged in the admeasurement or documentation of merchant vessels on a part-time or intermittent basis not exceeding 700 hours in a service year. A person appointed under this authority may not be employed in the Coast Guard under a combination of this authority and any other authority for excepted appointment for more than 700 hours during his service year.

(2) Lamplighters.

(3) Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Conn.

(b) *The Alaska Railroad.* (1) Temporary, part-time, or intermittent positions of nonsupervisory laborers in Alaska, involving railroad construction or repair work at locations outside the Fairbanks and Anchorage commuting areas when there are no local housing facilities available except crew cars and examination is impracticable because of the mobility of the work site, the short-term nature of a maintenance project, or the immediate need for a temporary work force to cope with unexpected turnover or unexpected situations requiring augmentation of the regular work crew in remote or isolated locations. Employment under this authority shall not exceed 180 working days a year.

(2) The General Manager.

(3) The Assistant General Manager.

(c) *Federal Highway Administration.* (1) Temporary, intermittent, or seasonal employment in the field service of the Bureau of Public Roads at grades not higher than GS–5 for subprofessional engineering aide work on the highway surveys and constructions projects, for not to exceed 180 working days a year, when in the opinion of the Commission appointment through competitive examination is impracticable.

(d) *Federal Aviation Administration.* (1) Caretakers and Light Attendants employed on emergency fields and other air navigation facilities who are paid on a fee basis.

(2) Medical Officer positions on Wake Island.

(3) Laborer positions on Swan Island.

(4) One Air Carrier Cabin Safety Specialist. Service under this authority may not exceed 2 years.

(e) *St. Lawrence Seaway Development Corporation.* (1) Assistant Manager, Seaway International Bridge.

(f) *Urban Mass Transportation Administration.* (1) Employment for not to exceed two years of up to six individuals in grades ranging from GS–11 through 15, for the international seminar on "The Role of Urban Transportation in Community Development."

§ 213.3199 Temporary boards and commissions.

(a)–(f) [Reserved]

(g) *The National Council on Indian Opportunity.* (1) Positions at GS–15 and below on the staff of the Council when filled by Indians who are of one-fourth or more Indian blood.

(h)–(i) [Reserved]

(j) *President's Commission on Mental Health.* (1) All positions on the staff of

the President's Commission on Mental Health. No one may serve under this authority after June 1, 1978.

(k) *American Revolution Bicentennial Administration.* (1) Positions in grades GS–9 through 15, other than those primarily concerned with administrative and internal management matters.

(l)–(n) [Reserved]

(o) *Marine Mammal Commission.* (1) Until June 30, 1977, all positions on the staff of the Commission.

(p) *Micronesian Claims Commission.* (1) Until October 15, 1976, 4 Legal Research Assistant positions on the staff of the Commission.

(q) *Alaska Native Claims Ad Hoc Appeals Board.* (1) Members of this Board.

(r) *Council on Wage and Price Stability.* (1) All positions on the staff of the Council. No new appointments may be made under this authority after September 30, 1979.

(s) *President's Commission on Olympic Sports.* (1) All positions on the staff of the Commission.

(t) *National Study Commission on Records and Documents.* (1) All positions at grades GS–15 and below.

(u) *National Center for Productivity and Quality of Working Life.* (1) Until September 30, 1978, positions in grade GS–15 and below on the staff of the Center.

(v) *President's Commission on Military Compensation.* (1) Professional staff positions in grade GS–15 and below, for employment not to exceed April 15, 1978.

SCHEDULE B

§ 213.3201 Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination.

The positions enumerated in §§ 213.3202 to 213.3299 are positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination and which are excepted from the competitive service and constitute Schedule B. Appointments to these positions are subject to such noncompetitive examination as may be prescribed by the Commission.

§ 213.3202 Entire executive civil service.

The positions established under paragraphs (a) through (c) are authorized under provisions of Executive Order 12015 and support career-related work-study programs.

(a) Student positions established in connection with a bachelor's degree cooperative education program which provide for a formally arranged scheduled of attendance at an institution of higher learning combined with at least 26 weeks, or 1040 hours, of study-related work in a Federal agency. The periods of work and study together must satisfy requirements for a bachelor's degree and must provide the experience necessary for a career or career-conditional appointment to administrative, professional or technical positions in the Federal career service upon the student's graduation.

(b) Student positions established in support of cooperative education programs for graduate students which provide for scheduled periods of attendance at a graduate school combined with at least 16 weeks or 640 hours of study-related work in a Federal agency. The periods of work and study must satisfy requirements for the graduate degree and provide experience necessary for career or career-conditional appointment in the Federal career service upon the student's graduation.

(c) Student positions established in connection with associate degree cooperative education programs which provide for formally arranged schedules of attendance at a recognized 2-year educational institution combined with at least 26 weeks or 1040 hours of study-related work in a Federal agency. The periods of work and study together must satisfy the requirements for graduation and must provide the experience necessary for career or career-conditional appointment in selected occupations in the Federal career service upon the student's graduation.

The Commission's requirements relating to appointments under this section will be published in the Federal Personnel Manual. Further, appointments under this section are subject to all the requirements and conditions governing career or career-conditional appointments, including investigation by the Commission to establish an appointee's qualifications and suitability. Appointments of participants may be converted to career or career-conditional at any time within a 120-day period after satisfactory completion of a career-related work-study program.

§ 213.3203 Executive Office of the President.

(a) *Office of Management and Budget.* (1) Seventy-five positions of senior staff member, GS–15, and staff member, GS–11/14, for employment not to exceed April 30, 1981, under the President's reorganization project.

§ 213.3204 Department of State.

(a) Persons formerly employed abroad in the Foreign Service of the United States (this means civilian employment in the executive branch) for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

(b) Technical cryptographic positions in the Communications Security Division, Office of Communications.

(c) Director and Deputy Director, Foreign Buildings Operations.

§ 213.3205 Department of the Treasury.

(a) Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

(b) [Reserved]

(c) Not to exceed two positions of Accountant (Tax Specialist) at grades GS–13 and above to serve as specialists on the accounting analysis and treatment of corporation taxes. Employments under this paragraph shall not exceed a period of 18 months in any individual case.

(d) Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by the Commission. Service under this authority may not exceed (1) a total of 4 years or (2) 120 days following completion of the service required for conversion under Executive Order 11203, whichever occurs first.

§ 213.3206 Department of Defense.

(a) *Office of the Secretary* (1) [Reserved]

(2) Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

(3) [Reserved]

(4) One Assistant for Counter-Insurgency, Office of the Assistant Secretary (International Security Affairs).

(5) One Net Assessment Coordinator.

(b) *Interdepartmental activities.* (1) Five positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

§ 213.3207 Department of the Army.

(a) *U.S. Army Command and General Staff College.* (1) Seven positions of professors, instructors, and education specialists. Total employment under this authority may not exceed 2 years.

(b) *National Defense University.* (1) Ten positions of professor for employment of any one individual not to exceed 1 year. Such employment may be extended twice for additional periods not to exceed 1 year with prior Commission approval. Total employment of any one individual under this authority may not exceed 3 years.

§ 213.3209 Department of the Air Force.

(a) [Reserved]

(b) Civilian Deans and Professors at the Air Force Institute of Technology, Wright-Patterson Air Force Base, Dayton, Ohio.

(c) One Director of Instruction and 14 civilian Instructors at the Defense Institute of Security Assistance Management, Wright-Patterson Air Force Base, Dayton, Ohio. Individual appointments under this authority will be for an initial 3-year period which may be followed by an appointment of indefinite duration.

(d) Seven positions of professor or associate professor at the Air University, Maxwell Air Force Base, Ala., for employment of any one individual not to exceed 2 years. Such employment may be extended once for an additional period of 2 years. Total employment of any one individual under this authority may not exceed 4 years.

§ 213.3210 Department of Justice.

(a) [Reserved]

(b) Positions of Port Receptionist and Supervisory Port Receptionist, Immigration and Naturalization Service.

§ 213.3212 Department of the Interior.

(a) Any competitive position at an Indian school when filled by the spouse of a competitive employee of the school, when because of isolation or lack of quarters, the Commission deems appointment through competitive examination impracticable.

§ 213.3214 Department of Commerce.

(a) *Bureau of the Census.* (1) Not to exceed 100 positions of interviewers, supervisors, and data collection specialists in the Census Bureau who conduct interviews in the hard-core poverty areas of large cities or who supervise the conduct of these interviews, when filled by residents of the areas served.

(2) Not to exceed 200 Community Services Specialist positions at the equivalent of GS–5 through GS–12. No initial appointment may be made under this authority after April 1, 1980. No one may serve under this authority after December 31, 1982.

(b) *Economic Development Administration.* (1) Four Area Supervisors.

(2) Four Assistant Area Supervisors.

(c) *Office of Minority Business Enterprise.*

(1) Fifteen positions of minority business opportunity specialist at grades GS–9 through GS–15. This authority may not be used for new appointments after December 31, 1977.

(d) *Office of Telecommunications.* (1) Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15. Employment under this authority may not exceed 2 years.

§ 213.3215 Department of Labor.

(a) and (b) [Reserved]

(c) Not to exceed 35 positions of Manpower Development Specialist at grades GS–9 through GS–15 in the Manpower Administration. This authority may not be used after June 30, 1973.

§ 213.3216 Department of Health, Education, and Welfare.

(a) *Office of Education.* (1) Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers. Appointments under this authority may be made for a period of not to exceed 1 year, and may, with the prior approval of the Civil Service Commission, be extended for an additional period of 1 year.

(b) [Reserved]

(c) Not to exceed 20 positions of HEW Fellows in grades GS–11 through 15. Employment under this authority may not extend beyond 1 year.

(d) *National Library of Medicine.* (1) Six positions of Librarian, GS–7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed September 30, 1978.

§ 213.3228 U.S. Information Agency.

(a) Persons formerly employed abroad in the Foreign Service of the United States or as Binational Center Grantees for a period of at least 4 years for service in executive and administrative positions, or for at least 2 years for professional positions, in grades GS–9 and above.

§ 213.3229 Federal Power Commission.

(a) A Chief Engineer.

§ 213.3242 Export-Import Bank of the United States.

(a) Not to exceed 24 positions of Loan Specialist, GS–7 through 14, when occupied by persons selected jointly by commercial banks and the agency for participation in the Eximbank-Commercial Bank Orientation Program. Appointments under this authority may not exceed 15 months.

§ 213.3246 Selective Service System.

(a) Positions in the Selective Service System when filled by persons who as commissioned officer personnel in the Armed Forces have previously been trained for or have been on active military duty in the Selective Service Program, and cannot, for some reason beyond their control, be brought to active military duty in the current Selective Service Program.

§ 213.3248 National Aeronautics and Space Administration.

(a) Not to exceed 40 positions of Command Pilot, Pilot and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

§ 213.3253 Government of the District of Columbia.

(a) Chairman, Secretary and Members of the Board of Police and Fire Surgeons, District of Columbia.

§ 213.3259 ACTION.

(a) *Office of Domestic and Anti-Poverty Operations.* (1) Not to exceed 25 positions of Program Specialist at grades GS–9 through GS–15.

(2) Not to exceed ten positions of Regional Director, GS–15. No one may be initially appointed under this authority after March 31, 1976.

§ 213.3268 Agency for International Development.

(a) Not to exceed 30 positions at GS–9 and above when filled by persons who have served overseas with the Agency for International Development for not less than 2 years.

§ 213.3270 Civil Service Commission.

(a) Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute. Individual appointments under this authority may be made for initial period(s) up to 3 years which may be followed by an appointment of indefinite duration.

§ 213.3272 Administrative Office of the United States Courts.

(a) Not to exceed thirteen positions of Federal Probation System Administrator in the Division of Probation, when filled by Federal Probation Officers on active service in the U.S. Courts.

(b) [Reserved]

(c) Three positions of Clerks Liaison Officer in the Division of Clerks of Court.

§ 213.3273 Community Services Administration.

(a) [Reserved]

(b) [Reserved]

(c) One Chief, Research and Plans Division.

§ 213.3274 Smithsonian Institution.

(a) *National Zoological Park.* (1) Two positions of Veterinary Intern, GS–9. Employment under this authority is not to exceed 15 months.

(b) *Freer Gallery of Art.* (1) Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

§ 213.3276 Appalachian Regional Commission.

(a) Two Program Coordinators.

§ 213.3282 National Foundation on the Arts and the Humanities.

(a) *National Endowment for the Arts and the Humanities.* (1) Until September 30, 1980, Assistant Director, Office of Program Development and Coordination.

(b) *National Endowment for the Humanities.* (1) Until September 30, 1980, Assistant Director, Research Materials Program.

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

(3) Until September 30, 1980, Deputy Director, Division of Education Programs.

(4) Until September 30, 1980, Director, Division of Research Grants.

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

(6) One Humanist Administrator, Pilot Grants, Institutional Grants, Division of Education Programs.

(7) One Humanist Administrator, Residential Fellowships, Division of Fellowships.

(8) Until September 30, 1980, three positions of Program Officer, Media Program, Division of Public Programs.

(9) Until September 30, 1980, one position of Assistant Director for the Institutional Grants Program, Division of Education Programs.

(10) Until September 30, 1980, one position of Assistant Director for the Elementary and Secondary Education Program, Division of Education Programs.

(11) Until September 30, 1980, one position of Assistant Director for the Museums and Historical Organizations Program, Division of Public Programs.

(12) Until September 30, 1980, one position of Humanist Administrator, Museums and Historical Organizations Program, Division of Public Programs.

SCHEDULE C

§ 213.3301 Positions of a confidential or policy-determining character.

The positions enumerated in §§ 213.3302 to 213.3399 are positions of a confidential or policy-determining character which are excepted from the competitive service, to which appointments may be made without examination by the Commission and which constitute Schedule C.

§ 213.3301a Special revocation of exceptions.

The exception from the competitive service for each position in the executive branch listed in Schedule C which is classified in grade GS–16, GS–17, or GS–18, and is covered by Civil Service Rule IX (§ 9.1 of Subchapter A of this chapter) is revoked effective November 17, 1967. Each such position is removed from Schedule C effective November 17, 1967.

§ 213.3301b Revocation of exceptions.

(a) Until May 1, 1977, the exception from the competitive service for each position at GS–15 and below in the executive branch listed in Schedule C is revoked when the position has been vacant for 120 calendar days or more. After May 1, 1977, the Commission will revert back to the automatic revocation provisions which provide that a Schedule C position is revoked when vacant 60 calendar days or more.

(b) Until May 1, 1977, the Commission will not delay the revocation action for an additional period of time. After May 1, 1977, the Commission will revert back to the provisions for extending Schedule C positions for an additional 60 calendar days.

(c) An agency shall notify the Commission within 3 work days after a Schedule C position at GS–15 and below has been vacated or filled.

§ 213.3302 Temporary Schedule C positions during a Presidential transition.

(a) An agency may establish temporary positions necessary to assist a department or agency head during the period immediately following a change in Presidential Administration. Such positions shall be either:

(1) identical to an existing Schedule C position if intent to vacate that position has been stated by management or the present incumbent, such position to be designated as Identical Temporary Schedule C (ITC); or

(2) a new temporary Schedule C position, to be designated New Temporary Schedule C (NTC), when it is determined that the department or agency head's needs cannot be met through establishment of an Identical Schedule C position and a plan for use of such positions has been submitted to and approved by the Civil Service Commission.

(b) Service under this authority may not exceed 120 days for persons appointed prior to May 1, 1977. Appointments made on or after May 1, 1977, may not exceed 90 days. No new appointments may be made under this authority after June 1, 1977. These positions must be of a confidential or policy-determining character, and are subject to instructions issued by the Civil Service Commission.

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*
(1) Five Secretaries to the Director.
(2) Two Special Assistants to the Deputy Director.
(3) One Private Secretary to the Deputy Director.
(4)–(5) [Reserved]
(6) One Secretary to each of four Associate Directors.
(7) Three Assistant Directors.
(8) One Secretary to each of three Assistant Directors.
(9) Two Special Assistants to the Director.
(10) Associate Director for National Security and International Affairs.
(11) Associate Director for Human and Community Affairs.
(12) Associate Director for Economics and Government.
(13) Associate Director for Natural Resources, Energy and Science.
(14) One Secretary to the Assistant to the Director for Public Affairs.
(15) [Reserved]
(16) One Confidential Secretary to the Administrator, Office of Federal Procurement Policy.
(17) One Secretary to the Special Assistant to the Deputy Director.
(18) One Congressional Relations Officer (Reorganization) to the Assistant Director (Reorganization and Management).
(19) One Special Assistant to the Executive Associate (Assistant) Director for Budget.

(b) *Council of Economic Advisers.*
(1) Two Secretaries to the Chairman and one to each of the other two members.
(c) [Reserved]
(d) *Office of the Special Representative for Trade Negotiations.* (1) [Reserved]
(2) One Executive Assistant to the Special Representative.
(3) One Motor Vehicle Operator (Chauffeur to the Special Representative).
(4) One Confidential Special Assistant to the Special Representative.
(5) One Secretary (Steno) to the Special Representative.
(e) [Reserved]
(f) *President's Commission on White House Fellows.* (1) The Executive Director.
(2) The Associate Executive Director.
(g) *Council on Environmental Quality.*
(1) One Special Assistant to the Chairman.
(2) Confidential Assistant to a Member of the Council.
(h) [Reserved]
(i) *Office of Telecommunications Policy* (1)–(3) [Reserved]
(4) [Reserved]
(5) [Reserved]
(6) [Reserved]
(7) One Confidential Secretary to the Deputy Director.
(j) [Reserved]
(k) [Reserved]

§ 213.3304 Department of State.

(a) *Office of the Secretary.* (1) [Reserved]
(2)–(3) [Reserved]
(4) Three Secretaries (Stenography) to the Secretary.
(5) One Special Assistant to the Deputy Under Secretary for Management.
(6)–(8) [Reserved]
(9) The Chief of Protocol.
(10) [Reserved]
(11) One Personal Assistant and two Special Assistants to the Under Secretary for Coordinating Security Assistance Programs.
(12) [Reserved]
(13)–(15) [Reserved]
(16) One Secretary (Stenography) to the Deputy Under Secretary for Management.
(17)–(18) [Reserved]
(19) One Assistant Chief of Protocol for Visits.
(20) [Reserved]
(21) One Secretary (Steno) and two Special Assistants to the Deputy Secretary.
(21) Two Special Assistants to the Deputy Secretary.
(22) One Protocol Officer (Visits).
(23) One Secretary (Stenography) to the Chief of Protocol.
(24) Two Secretarial Assistants (Stenography) to the Secretary.
(25) One Special Assistant to the Secretary.
(26) One Secretary (Stenography) to the Ambassador at Large and Special

Representative of the President for the Law of the Sea Conference.

(27) Two Staff Assistants to the Ambassador at Large and Special Representative of the President for the Law of the Sea Conference.

(28) Two Staff Assistants to the Deputy Under Secretary for Management.

(29) Four Members of the Policy Planning Staff.

(30) [Reserved]

(31) One Secretary to the Director, Management Operations.

(32) One Secretary (Stenography) to the Special Advisor to the Secretary of State for Soviet Affairs.

(b) [Reserved]

(c) *Office of the Assistant Secretary for Congressional Relations.*

(1) [Reserved]

(2) One Secretary to the Assistant Secretary.

(3) [Reserved]

(4) One Legislative Officer.

(5) One Special Assistant to the Assistant Secretary.

(d) *Bureau of Oceans and International Environmental and Scientific Affairs.* (1) One Secretary to the Assistant Secretary.

(2) One Confidential Assistant to the Assistant Secretary.

(e) *Bureau of Economic Affairs.* (1) One Private Secretary to the Assistant Secretary.

(f) *Bureau of Intelligence and Research.* (1) One Private Secretary.

(2) Director of Intelligence and Research.

(g) [Reserved]

(h) *Bureau of International Organization Affairs.* (1) One Secretary (Steno) to the Assistant Secretary.

(2) One Secretary and Personal Assistant and one Staff Assistant to the U.S. Representative to the Council of the Organization of American States.

(3) [Reserved]

(4) Two Secretaries (Stenography) to the U.S. Representative to the United Nations.

(5) One Special Assistant to the U.S. Representative to the United Nations.

(6) One Public Information Specialist to the Director, Secretariat of the U.S. National Commision for UNESCO.

(i) *Office of the Assistant Secretary for European Affairs.* (1) One Secretary (Stenography) to the Assistant Secretary.

(j) *Office of the Assistant Secretary for East Asian and Pacific Affairs.* (1) One Secretary (Stenography) to the Assistant Secretary.

(2) One Special Assistant to the Assistant Secretary.

(k)–(p) [Reserved]

(q) *Office of the Under Secretary for Economic Affairs.* (1) [Reserved]

(2) One Confidential Assistant to the Under Secretary.

(r) [Reserved]

(s) *Bureau of Educational and Cultural Affairs.* (1) One Private Secretary to the Assistant Secretary for Educational and Cultural Affairs.

(2) [Reserved]

(3) Deputy Assistant Secretary.

(t) *Office of the Inspector General, Foreign Assistance.* (1) One Private Secretary to the Inspector General, Foreign Assistance.

(2) One Private Secretary to the Deputy Inspector General, Foreign Assistance.

(u) [Reserved]

(v) *Bureau of Politico-Military Affairs.* (1) One Private Secretary to the Director.

(w)–(x) [Reserved]

(y) *Office of the Assistant Secretary for Public Affairs.* (1) One Secretary and Personal Assistant to the Assistant Secretary for Public Affairs.

(2) One Special Assistant to the Assistant Secretary for Public Affairs.

(z) *Office of the Assistant Secretary for Near Eastern and South Asian Affairs.* (1) Secretary to the Assistant Secretary.

(aa) *Bureau of Inter-American Affairs.* (1) One Special Assistant to the Assistant Secretary.

(bb) *Office of the Assistant Secretary for Human Rights and Humanitarian Affairs.* (1) One Secretary (Stenography) to the Assistant Secretary.

(2) One Special Assistant to the Assistant Secretary.

(cc) *Office of the Assistant Secretary for Consular Affairs.* (1) One Special Assistant to the Assistant Secretary.

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* (1) One Staff Assistant to the Secretary (Director, Executive Secretariat).

(2) Special Assistant to the Secretary (National Security Affairs).

(3)–(5) [Reserved]

(6) One Staff Assistant to the Special Assistant to the Secretary (National Security Affairs).

(7) One Staff Assistant to the National Director, U.S. Savings Bonds Division.

(8)–(9) [Reserved]

(10) One Deputy Special Assistant to the Secretary (National Security Affairs).

(11)–(12) [Reserved]

(13) One Secretary to the Secretary.

(14)–(17) [Reserved]

(18) One Executive Assistant, and one Special Assistant to the Assistant Secretary (Economic Policy).

(19) One Staff Assistant to the Assistant Secretary (International Affairs).

(20) Deputy to the Assistant Secretary, Saudi Arabian Operations and Policies.

(21) Deputy Assistant Secretary for Trade and Raw Materials Policy (International Affairs).

(22) One Confidential Staff Assistant to the Assistant Secretary for International Affairs.

(23)–(24) [Reserved]

(25) One Secretary to the Assistant Secretary (Public Affairs).

(26) One Confidential Assistant and one Special Assistant to the Under Secretary for Monetary Affairs.

(27)–(30) [Reserved]

(31) Deputy Assistant Secretary for Research and Planning (International Affairs).

(32) Deputy Assistant Secretary for Developing Nations Finance.

(33)–(34) [Reserved]

(35) One Special Assistant to the Under Secretary.

(36)–(37) [Reserved]

(38) One Secretary to the Deputy Assistant Secretary (Enforcement, Operations, and Tariff Affairs).

(39) One Staff Assistant and one Special Assistant to the Assistant Secretary (Administration).

(40) One Executive Assistant to the Deputy Secretary.

(41) One Staff Assistant to the Assistant Secretary (Legislative Affairs).

(42)–(45) [Reserved]

(46) Special Assistant to the Assistant Secretary for International Affairs.

(47) Two Staff Assistants to the Secretary.

(48) One Secretary to the Assistant Secretary (Legislative Affairs).

(49)–(50) [Reserved]

(51) Three Special Assistants to the Assistant Secretary (Legislative Affairs).

(52) Director, Office of Revenue Sharing.

(53) One Confidential Assistant to the Treasurer of the United States.

(54) [Reserved]

(55) One Confidential Assistant to the Secretary.

(56) [Reserved]

(57) Deputy Assistant Secretary (Financial Resources Policy Coordination).

(58) Deputy Assistant Secretary for Investment and Energy Policy (International Affairs).

(59) Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board).

(60) One Staff Assistant (Secretary) to the Counselor to the Secretary.

(61) [Reserved]

(62) One Special Assistant to the Under Secretary for Revenue Sharing and Intergovernmental Relations.

(63) One Special Assistant to the Assistant Secretary (Tax Policy).

(64) One Confidential Secretary to the Assistant Secretary (Tax Policy).

(65) One Public Information Specialist to the Assistant Secretary (Public Affairs).

(66) One Secretary to the Director, Office of Revenue Sharing.

(67) One Assistant to the Director Office of Revenue Sharing.

(68)–(69) [Reserved]

(70) Director, Office of International Development Banks, Office of the Deputy Assistant Secretary (Developing Nations Finance).

(71) Two Special Assistants to the Secretary (Economic Policy Group).

(72) One Staff Assistant to the Secretary (Economic Policy Group).

(73) One Special Assistant to the Assistant Secretary (Public Affairs).

(74) One Staff Assistant to the Assistant Secretary (Public Affairs).

(75) One Assistant to the Treasurer of the United States.

(76) One Staff Assistant (Liaison Officer) to the Assistant Secretary for Economic Policy.

(77) One Deputy Executive Secretary.

(b) [Reserved]

(c) *Bureau of Customs.* (1) Commissioner of Customs.

(2)–(4) [Reserved]

(5) One Congressional Liaison Officer.

(6) One Confidential Staff Assistant to the Commissioner.

(d)–(e) [Reserved]

(f) *Bureau of the Mint.* (1) [Reserved]

(2) One Confidential Assistant to the Director of the Mint.

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* (1) One Special Assistant, one Personal Assistant, and six Private Secretaries to the Secretary.

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), and the Assistant to the Secretary of Defense (Legislative Affairs); the General Counsel, the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(3) One Chauffeur to the Secretary and one Chauffeur to the Deputy Secretary.

(4) [Reserved]

(5) The Defense Advisor to USNATO in Brussels, Belgium.

(6) One Private Secretary to the Defense Adviser to USNATO in Brussels, Belgium.

(7) [Reserved]

(8) Two Assistants to the Secretary of Defense for Legislative Affairs.

(9) [Reserved]

(10) One Special Assistant to the Assistant Secretary of Defense (Legislative Affairs).

(11) One Personal Secretary to the Deputy Secretary of Defense.

(12) One Private Secretary and one Special Assistant to the Principal Deputy Assistant Secretary (International Security Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(13) One Confidential Assistant to the Special Assistant to the Secretary.

(14)–(15) [Reserved]

(16) One Staff Assistant to the Director of Economic Utilization Policy, Office of the Assistant Secretary of Defense (Installations and Logistics).

(17) One Confidential Assistant to the President of the Uniformed Services University of the Health Sciences.

(18) One position of Special Assistant for Foreign Affairs Legislation to the Assistant to the Secretary of Defense (Legislative Affairs).

(19)–(21) [Reserved]

(22) Special Assistant to the Assistant Secretary of Defense (International Security Affairs).

(23) Four Deputy Directors of Defense Research and Engineering and the Director, Advanced Research Projects Agency.

(24)–(28) [Reserved]

(29) Principal Deputy Assistant Secretary of Defense (Comptroller).

(30) [Reserved]

(31) One Private Secretary to the Deputy Assistant Secretary (Reserve Affairs).

(32)–(34) [Reserved]

(35) One Private Secretary to the Assistant Secretary (Health Affairs).

(36)–(37) [Reserved]

(38) Private Secretary to the Principal Deputy Assistant Secretary of Defense (Program Analysis and Evaluation).

(39) [Reserved]

(40) One Confidential Assistant to the Deputy Director of Defense Research and Engineering (Test and Evaluation).

(41)–(44) [Reserved]

(45) One Private Secretary to the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs).

(46)–(47) [Reserved]

(48) One Private Secretary to the Principal Deputy Assistant Secretary (Public Affairs).

(49) One Private Secretary to the Principal Deputy Assistant Secretary (Health Affairs).

(50) Defense Representative, Iran.

(51)–(53) [Reserved]

(54) One Private Secretary to the Secretary of Defense, Mutual and Balanced Force Representative.

(55) [Reserved]

(56) One Personal and Confidential Assistant to the Director of Net Assessment.

(57) One Private Secretary to the Director of Net Assessment.

(58) [Reserved]

(59) [Reserved]

(60) One Special Assistant for Communication and Community Liaison to the Deputy Assistant Secretary (Equal Opportunity).

(61) [Reserved]

(62) Principal Deputy Assistant Secretary of Defense (International Security Affairs).

(63) One Secretary to the President, Uniformed Services University of the Health Sciences.

(64) President of the Uniformed Services University of the Health Sciences.

(65)–(66) [Reserved]

(67) One Special Assistant to the Director of Defense Research and Engineering.

(68) One Private Secretary to the Principal Deputy Assistant Secretary (Legislative Affairs).

(69) One Staff Assistant to the Special Assistant to the Secretary.

(70) One Confidential Assistant to the Defense Representative, Iran.

(71)–(72) [Reserved]

(73) One Staff Assistant (Interdepartmental Activities) to the Assistant to the President for National Security Affairs.

(74)–(75) [Reserved]

(76) One Private Secretary to the Principal Deputy Director, Telecommunications, Command and Control Systems.

(77)–(82) [Reserved]

(83) One Special Assistant to the Assistant Secretary of Defense (Comptroller).

(84) One Private Secretary to the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence).

(85) One Principal Deputy Assistant Secretary of Defense (Communications, Command, Control and Intelligence).

(86) One Director of Policy Review.

(87) One Private Secretary to the Director of Policy Review.

(88) One Assistant to the Special Assistant to the Secretary of Defense.

(89) One Confidential Assistant to the Deputy Assistant Secretary (Near Eastern, African and South Asian Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

(90) One Private Secretary to the Personal Representative of the Secretary on the Strategic Arms Limitation Talks Delegation.

(91) One Special Assistant to the General Counsel.

(92) One Private Secretary to the Director, Department of Defense Strategic Arms Limitation Talks Task Force.

(93) One Private Secretary to the Deputy Director of Policy Review.

(94) One Confidential Assistant to the Assistant Secretary (International Security Affairs).

(95) One Private Secretary to the Deputy Negotiator from the Department of Defense for the Panama Canal Treaty Negotiations.

(96) Adviser to the Secretary and Deputy Secretary of Defense for NATO Affairs.

(97) One Private Secretary to the Advisor to the Secretary and Deputy Secretary of Defense for NATO Affairs.

(b) *Court of Military Appeals.* (1) One Private Secretary to each of three Judges of the Court.

(c) *Interdepartmental Programs.* (1) [Reserved]

(2) Two Private Secretaries engaged in the interdepartmental activities of the office of the Secretary of Defense.

(3) Two Staff Assistants (Interdepartmental Activities) to the Assistant to the President for Personnel.

(d) [Reserved]

(e) *Defense Civil Preparedness Agency.* (1) The Director.

(2) [Reserved]

(3) One Special Assistant to the Director.

(4) One Labor Liaison Advisor to the Director.

(5) Three Staff Assistants to the Director.

§ 213.3307 Department of the Army.

(a) *Office of the Secretary.* (1) One Private Secretary or Confidential Assistant to the Secretary, to the Under Secretary, and to each Assistant Secretary of the Army.

(2) The General Counsel.

(3) [Reserved]

(4) One Secretary to the Special Assistant to the Secretary.

(5) One Secretary (Stenography) to the General Counsel.

(6) One position of Public Affairs Officers to the Chief of Public Affairs.

(b) *Office of the Under Secretary.* (1) Adjutant General to the Director of the D.C. National Guard.

(2) One Secretary (Steno) to the Deputy Under Secretary.

(3) One Staff Assistant to the Under Secretary.

(4) One Special Assistant to the Deputy Under Secretary.

(c) *Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).*

(1) One Special Assistant to the Assistant Secretary of the Army (Manpower and Reserve Affairs).

§ 213.3308 Department of the Navy.

(a) *Office of the Secretary.* (1) [Reserved]

(2) One Staff Assistant to the Secretary and one Private or Confidential Secretary to the Under Secretary and to each Assistant Secretary of the Navy.

(3)–(8) [Reserved]

(9) Three Special Assistants to the Military Assistants to the President.

(10)–(11) [Reserved]

(12) General Counsel.

(13) One Special Assistant for Emergency Planning to the Military Assistant to the President.

(14) One Associate General Counsel.

§ 213.3309 Department of the Air Force.

(a) *Office of the Secretary.* (1) Two Private Secretaries to the Secretary, one Private Secretary to the Under Secretary, and one Private Secretary each to each of the three Assistant Secretaries.

(2) The General Counsel.

(3) One Private Secretary to the General Counsel.

(4)–(6) [Reserved]

(7) One Administrative Assistant and one Private Secretary in the Office of the Military Aide to the Vice President.

(8) Two Private Secretaries in the Office of the Military Assistant to the President.

(9) One Secretary to the Deputy Assistant Secretary of the Air Force (Research and Development).

(10) One Special Assistant to the Secretary.

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.*

(1)–(3) [Reserved]

(4) Two Confidential Assistants to the Attorney General.

(5) Two Secretaries for the Attorney General.

(6)–(7) [Reserved]

(8) Associate Attorney General.

(9) One Private Secretary to the Associate Attorney General.

(10) One Private Secretary to the Executive Assistant to the Attorney General.

(11) Staff Assistant (Secretary) to the Director, Office of Public Information.

(12) One Confidential Assistant to the Associate Attorney General.

(13) One Secretary (Steno) for the Attorney General.

(b) *Office of the Deputy Attorney General.* (1) One Confidential Assistant (Private Secretary) to the Deputy Attorney General.

(2)–(3) [Reserved]

(4) One Confidential Secretary to the Associate Deputy Attorney General.

(5) One Staff Assistant to the Deputy Attorney General.

(6) [Reserved]

(7) One Confidential Assistant to the Deputy Atorney General.

(c) *Office of the Solicitor General.* (1) One Confidential Assistant (Private Secretary) to the Solicitor General.

(2) One Special (Confidential) Assistant to the Solicitor General.

(d) *Anti-Trust Division.* (1) [Reserved]

(2) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(3) One Staff Assistant to the Assistant Attorney General.

(e) *Civil Division.* (1) [Reserved]

(2) One position of Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(3) [Reserved]

(4) [Reserved]

(f) *Criminal Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(g) *Tax Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(h) *Land and Natural Resources Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(i) *Drug Enforcement Administration.*

(1)–(2) [Reserved]

(3) One Director of Public Affairs.

(j) *Immigration and Naturalization Service.* (1) One Public Information Officer.

(2) Two Confidential Assistants to the Commissioner.

(3) One Confidential Assistant and two Special Assistants to the Deputy Commissioner.

(4) Two Special Assistants and one Special Assistant (Community Relations) to the Commissioner.

(k) [Reserved]

(l) *Office of Legal Counsel.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(m) *Bureau of Prisons.* (1) The Director.

(n) *Federal Prison Industries, Inc.* (1) The Commissioner of Industries.

(o) *Office of U.S. Attorney.* (1) Secretary and Confidential Assistant to the U.S. Attorney (24 positions).

(p) [Reserved]

(q) *Civil Rights Division.* (1) One Confidential Assistant (Private Secretary) to the Assistant Attorney General.

(2) One Special Assistant to the Assistant Attorney General.

(r) *Community Relations Service.* (1) One Private Secretary to the Director.

(2)–(4) [Reserved]

(5) One Special Assistant to the Director.

(6) One Special Assistant to the Deputy Director.

(7) One Staff Assistant to the Director.

(8) [Reserved]

(s) *Law Enforcement Assistance Administration.* (1) One Secretary (Steno) to the Administrator.

(2) [Reserved]

(3) One Special Assistant to the Administrator.

(4) [Reserved]

(5) One Secretary to the Director, National Institute of Law Enforcement and Criminal Justice.

(6) [Reserved]

(7) One Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice.

(8) One Special Assistant to the Deputy Administrator for Administration.

(9) One Secretary to the Deputy Administrator.

(10) One Special Assistant to the Deputy Administrator for Policy.

(11) One Special Assistant (Women and Minority Rights) to the Administrator.

(12) [Reserved]

(13) One Secretary (Stenography) to the Deputy Administrator for Policy Development.

(14) One Special Assistant to the Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention.

(t) *Office for Drug Abuse Law Enforcement.* (1) One Director.

(u) *Office of National Narcotics Intelligence.* (1) Director.

(2) [Reserved]

(v) *Office of Legislative Affairs.* (1) One Secretary to the Assistant Attorney General.

(2) Three Attorney Advisors to the Assistant Attorney General.

(3) One Special Assistant to the Assistant Attorney General.

(w) [Reserved]

(x) *Office of Justice Policy and Planning.* (1) One Confidential Assistant to the Director.

§ 213.3311 Federal Judicial Center.

(a) One Secretary (Stenography) to the Deputy Director.

(b) One Secretary (Stenography) to the Director.

§ 213.3312 Department of the Interior.

(a) *Office of the Secretary.* (1) Five Confidential Assistants to the Secretary.

(2) Four Special Assistants to the Secretary.

(3) Six Special Assistants (Field Representatives).

(4) [Reserved]

(5) Six Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the three Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks.

(6) One Assistant to the Assistant Secretary for Energy and Minerals (Congressional Liaison).

(7) [Reserved]

(8) Two Confidential Assistants to the Under Secretary.

(9) One Steward.

(10)–(11) [Reserved]

(12) One Assistant and Science Adviser to the Secretary.

(13)–(15) [Reserved]

(16) One Coal Policy Coordinator, Office of the Assistant Secretary for Energy and Minerals.

(17) Three Special Assistants to the Assistant to the Secretary and Director, Office of Congressional and Legislative Affairs.

(18)–(21) [Reserved]

(22) One Confidential Assistant to the Director, Office of Hearings and Appeals.

(23)–(29) [Reserved]

(30) One Special Assistant to the Assistant Secretary—Policy, Budget and Administration.

(31) Two Confidential Assistants to the Assistant Secretary—Policy, Budget and Administration.

(32)–(36) [Reserved]

(37) One Special Assistant to the Assistant Secretary for Energy and Minerals.

(38)–(43) [Reserved]

(44) One Assistant to the Assistant Secretary, Land and Water Resources.

(45) One Assistant to the Secretary.

(46) [Reserved]

(47) Three Special Assistants to the Assistant Secretary, Land and Water Resources.

(48) One Confidential Assistant to the Assistant Secretary for Fish and Wildlife and Parks.

(49) Staff Assistant to the Assistant Secretary—Energy and Minerals.

(50) Special Assistant to the Assistant Secretary—Energy and Minerals (Environment).

(b) *Office of the Solicitor.* (1) One Confidential Assistant to the Solicitor.

(2)–(3) [Reserved]

(c) *Mining Enforcement and Safety Administration.* (1) One Secretary (Typing) to the Administrator.

(d)–(g) [Reserved]

(h) *National Park Service.* (1) Director.

(2) [Reserved]

(3) One Special Assistant to the Director.

(4)–(6) [Reserved]

(7) Two Special Assistants to the Deputy Director.

(i)–(l) [Reserved]

(m) *Bureau of Outdoor Recreation.*

(1) The Director.

(2) [Reserved]

(3) One Confidential Assistant to the Director.

(n) *Bureau of Reclamation.*

(1) One Confidential Assistant to the Commissioner.

(2) One Staff Assistant to the Commissioner.

(o) *Office of Surface Mining Reclamation and Enforcement.*

(1) One Assistant to the Director for Congressional and Legislative Activities.

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* (1) One Administrative Assistant to the Secretary.

(2) One Assistant to the Secretary for Intergovernmental Affairs.

(3)–(4) [Reserved]

(5) Five Confidential Assistants to the Secretary.

(6) [Reserved]

(7) One Chauffeur for the Secretary.

(8) One Private Secretary to the Executive Assistant to the Secretary.

(9) One Confidential Assistant each to the Assistant Secretary for Food and Consumer Services and the Assistant Secretary for Marketing Services.

(10) One Private Secretary to each of the four Assistant Secretaries other than the Administrative Assistant Secretary.

(11) One Confidential Assistant to the Assistant Secretary for Conservation, Research, and Education.

(12) One Confidential Assistant to the Assistant Secretary for International Affairs and Commodity Programs.

(13) One Private Secretary to the Deputy Assistant Secretary for International Affairs and Commodity Programs.

(14)–(15) [Reserved]

(16) One Special Assistant to the Secretary.

(17)–(19) [Reserved]

(20) One Confidential Assistant to the Assistant Secretary for Rural Development.

(21)–(23) [Reserved]

(24) One Private Secretary to the Assistant to the Secretary for Intergovernmental Affairs.

(25)–(27) [Reserved]

(28) One Private Secretary to the Confidential Assistant to the Secretary.

(29)–(31) [Reserved]

(32) One Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services.

(33) One Private Secretary to the Deputy Assistant Secretary for Rural Development.

(34) One Special Assistant to the Secretary for Consumer Affairs.

(35)–(36) [Reserved]

(37) One Private Secretary to the Assistant Secretary for Marketing Services.

(38) One Private Secretary to the Deputy Assistant Secretary for Marketing Services.

(39) One Private Secretary to the Deputy Assistant Secretary for Conservation, Research, and Education.

(40) One Staff Assistant to the Secretary.

(41) One Confidential Assistant to the Executive Assistant to the Secretary.

(b) *Rural Electrification Administration.* (1) One Private Secretary to the Administrator.

(2)–(3) [Reserved]

(4) Two Assistants to the Administrator.

(c) *Office of the Deputy Secretary.* (1) One Administrative Officer and Private Secretary to the Deputy Secretary.

(2)–(3) [Reserved]

(4) One Private Secretary to the Deputy Under Secretary for Congressional and Public Affairs.

(5) [Reserved]

(6) Thirteen Confidential Assistants to the Director, Office of Congressional and Public Affairs.

(7) [Reserved]

(8) One Staff Assistant to the Deputy Under Secretary.

(9) One Director, Office of Congressional and Public Affairs.

(10) One Confidential Assistant to the Deputy Secretary.

(11) One Private Secretary to the Deputy Director for Congressional Affairs.

(12) One Private Secretary to the Deputy Director for Public Affairs.

(13) One Confidential Assistant to the Deputy Secretary.

(14) One Deputy Director for Congressional Affairs.

(15) One Private Secretary to the Assistant Deputy Secretary.

(d) *Office of General Counsel.*

(1)–(2) [Reserved]

(3) One Private Secretary to the General Counsel.

(4) Two Confidential Assistants to the General Counsel.

(e) *Foreign Agricultural Service.* (1) [Reserved].

(2) The Administrator.

(3) One Confidential Assistant to the Administrator.

(f) *Farmers Home Administration.*

(1)–(2) [Reserved]

(3) One Assistant to the Administrator.

(4) Two Confidential Assistants to the Administrator.

(5) One Private Secretary to the Administrator.

(6) Six Area Coordinators.

(g) *Federal Crop Insurance Corporation.* (1) The Manager.

(2) Members of the Board of Directors.

(3) One Private Secretary to the Manager.

(h) *Agricultural Stabilization and Conservation Service.* (1) Administrator.

(2) One Assistant Deputy Administrator Programs.

(3) [Reserved]

(4) Four Confidential Assistants to the Administrator.

(5) One Private Secretary to the Administrator.

(6) Director, Tobacco Division.

(7) [Reserved]

(8) [Reserved]

(9) Five State and County Program Coordinators.

(i) *Commodity Credit Corporation.*
(1) The President.
(2) The Executive Vice-President.
(3) The Secretary.
(j)–(l) [Reserved]
(m) *Agricultural Marketing Service.*
(1) The Administrator.
(2) One Private Secretary to the Administrator.
(3) Three Confidential Assistants to the Administrator.
(n) Agricultural Economics. (1) The Director.
(2) [Reserved]
(3) One Private Secretary to the Director.
(4) Three Confidential Assistants to the Director.
(o) [Reserved]
(p) *Science and Education.* (1) The Director.
(q) *Food and Nutrition Service.* (1) Four Confidential Assistants to the Administrator.
(r) [Reserved]
(s) *Packers and Stockyards Administration.* (1) One Private Secretary to the Administrator.
(t) *Rural Development Service.* (1) Three Confidential Assistants to the Administrator.
(2) One Private Secretary to the Administrator.
(u) *Federal Grain Inspection Service.*
(1) One Private Secretary to the Administrator.
(2) Two Confidential Assistants to the Administrator.
(v) *Food Safety and Quality Service.*
(1) One Private Secretary to the Administrator.
(2) Three Confidential Assistants to the Administrator.

§ 213.3314 Department of Commerce.

(a) *Office of the Secretary.* (1) Six Confidential Assistants to the Secretary.
(2) Two Private Secretaries to the Secretary.
(3) One Confidential Assistant and two Private Secretaries to the Under Secretary.
(4) [Reserved]
(5) One Confidential Assistant and one Private Secretary to the General Counsel.
(6) [Reserved]
(7) One Chauffeur for the Secretary.
(8) One Confidential Assistant to the Assistant Secretary for Administration.
(9) Three Congressional Liaison Officers.
(10) One Private Secretary to the Assistant to the Secretary for Congressional Affairs.
(11)–(14) [Reserved]
(15) One Private Secretary to the Assistant Secretary for Administration.
(16) [Reserved]
(17) Two Confidential Assistants to the Director, Office of Minority Business Enterprise.
(18) Chief Economist.
(19) Special Assistant to the Secretary for Policy Development.
(20) One position of Confidential Assistant to the Deputy Under Secretary for Field Programs.
(21) Assistant to the Secretary.
(22) [Reserved]
(23) One Confidential Assistant and one Special Assistant to the Chief Economist.
(24) One Private Secretary to the Chief Economist.
(25) One Private Secretary to the Assistant Secretary for Maritime Affairs.
(26) Assistant to the Secretary for Congressional Affairs.
(27) One Private Secretary to the Director, Office of Minority Business Enterprise.
(28) [Reserved]
(29) One Special Assistant to the Assistant Secretary for Administration.
(30)–(31) [Reserved]
(32) One Secretary to the Special Assistant to the Secretary for Energy Policy.
(33) Two Confidential Assistants to the Special Assistant to the Secretary for Energy Policy.
(34) Deputy Director, Office of Communications.
(35) Director, Executive Secretariat.
(b) *Office of the Assistant Secretary for Policy.*
(1) One Private Secretary to the Assistant Secretary.
(2) One Confidential Assistant to the Assistant Secretary.
(c)–(k) [Reserved]
(l) *U.S. Travel Service.*
(1) One Confidential Assistant to the Assistant Secretary for Tourism.
(2) [Reserved]
(3) One Private Secretary to the Assistant Secretary for Tourism.
(4) [Reserved]
(5) One Special Assistant to the Assistant Secretary for Tourism.
(m) *Office of the Assistant Secretary for Domestic and International Business.*
(1) One Private Secretary and two Confidential Assistants to the Assistant Secretary.
(2) One Confidential Assistant to the Deputy Assistant Secretary for Resources and Trade Assistance.
(3)–(6) [Reserved]
(7) National Export Expansion Coordinator.
(8)–(9) [Reserved]
(10) One Confidential Assistant to the Director, Bureau of Competitive Assessment and Business Policy.
(11)–(15) [Reserved]
(16) Deputy Assistant Secretary for Domestic and International Business.
(17) Deputy Assistant Secretary for Domestic Commerce.
(18) One Confidential Assistant to the Deputy Assistant Secretary for International Commerce.
(19) One Private Secretary to the Deputy Assistant Secretary for Domestic and International Business.
(20) One Confidential Assistant to the Director, Bureau of East-West Trade.
(21) One Confidential Assistant to the Deputy Assistant Secretary (Field Operations).
(22) One Confidential Assistant to the Deputy Assistant Secretary for International Economic Policy and Research.
(n) *Office of the Assistant Secretary for Science and Technology.* (1) One Special Assistant to the Assistant Secretary for Science and Technology.
(o)–(p) [Reserved]
(q) *Office of the Assistant Secretary for Economic Development.* (1) Confidential Secretary to the Assistant Secretary.
(2)–(6) [Reserved]
(7) Director, Office of Congressional Relations.
(8) One Special Assistant to the Deputy Assistant Secretary.
(9) Two Congressional Liaison Officers.
(10) Director, Office of Public Affairs.
(11) One Special Assistant to the Assistant Secretary.
(12) One Confidential Assistant to the Assistant Secretary.
(13) One Confidential Assistant to the Deputy Assistant Secretary for Operations.
(14) Deputy Director, Office of Special Projects.
(15) One Special Assistant to the Deputy Assistant Secretary for Economic Development Planning.
(r) *National Oceanic and Atmospheric Administration.* (1) One Private Secretary to the Administrator.
(2) One Private Secretary (Confidential Assistant) to the Deputy Administrator.
(3) One Secretary to the Assistant Administrator for Policy and Planning.
(s)–(t) [Reserved]
(u) *National Fire Prevention and Control Administration.* (1) One Confidential Assistant to the Administrator.
(2) Private Secretary to the Deputy Administrator.
(3) One Private Secretary to the Administrator.
(v) *Bureau of the Census.*
(1) One Special Assistant to the Director.
(w) *Industry and Trade Administration.*
(1) One Secretary (Steno) to the Deputy Assistant Secretary for Administrative and Legislative Policy.

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) One Private Secretary, one Special Assistant, one Confidential Assistant, and two Staff Assistants to the Secretary.
(2) One Private Secretary to the Under Secretary.
(3) One Private Secretary to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary for Policy, Evaluation and Research who has one Confidential Assistant.
(4)–(5) [Reserved]
(6) One Assistant to each Assistant Secretary of Labor appointed by the President except the Assistant Secretary

for Manpower and the Assistant Secretary for Labor-Management Relations.
(7) One Private Secretary to the Executive Assistant to the Secretary.
(8) Six Assistants to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
(9) The Manpower Administrator.
(10)–(12) [Reserved]
(13) One Special Assistant to the Under Secretary.
(14) [Reserved]
(15) Deputy Under Secretary for International Labor Affairs.
(16) One Staff Assistant and one Executive Assistant to the Deputy Under Secretary for International Affairs.
(17)–(20) [Reserved]
(21) One Confidential Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
(22) Four Special Assistants to the Assistant Secretary for Occupational Safety and Health Administration.
(23) One Assistant to the Deputy Assistant Secretary for Occupational Safety and Health.
(24)–(25) [Reserved]
(26) One Secretary to the Public Affairs Director.
(27) Two Secretaries to the Secretary.
(28)–(30) [Reserved]
(31) Counselor to the Secretary.
(32) [Reserved]
(33) Deputy Under Secretary for Legislative Affairs.
(34) [Reserved]
(35) One Executive Assistant to the Assistant Secretary for Occupational Safety and Health.
(36)–(37) [Reserved]
(38)–(39) [Reserved]
(40) Executive Director of the Pension Benefit Guaranty Corporation.
(41) Administrator for Pension and Welfare Benefits, Labor Management Services Administration.
(42) One Private Secretary to the Administrator for Pension and Welfare Benefits Programs.
(43) [Reserved]
(44) One Special Assistant to the Public Affairs Director.
(45) One Confidential Assistant to the Administrator for Pension and Welfare Benefits.
(46) One Special Assistant to the Assistant Secretary for Labor-Management Relations.
(47) One Assistant to the Special Assistant to the Secretary.
(48) One Executive Assistant to the Assistant Secretary for Employment Standards.
(49) [Reserved]
(50) One Executive Assistant to the Assistant Secretary for Labor-Management Relations.
(51) One Private Secretary to the Deputy Under Secretary for Legislation and Intergovernmental Relations.
(52) One Special Assistant to the ETA Administrator/Deputy Assistant Secretary for Employment and Training.
(53) One Private Secretary to the ETA Administrator/Deputy Assistant Secretary for Employment and Training.
(54) One Executive Assistant to the Assistant Secretary for Employment and Training.
(55) One Secretary (Steno) to the Deputy Assistant Secretary for Employment Standards.
(56) One Special Assistant to the Assistant Secretary for Employment and Training.
(57) Counselor and Executive Assistant to the Secretary.
(58) One Special Assistant to the Wage and Hour Administrator.
(59) One Staff Assistant to the Assistant Secretary for Employment Standards.
(60) Ten Regional Representatives.
(61) One Secretary to each of ten Regional Representatives.
(62) One Confidential Staff Assistant to the Deputy Assistant Secretary for Veterans' Employment, Employment and Training Administration.
(63) Two Special Assistants to the Deputy Assistant Secretary for Employment Standards.
(64) One Special Assistant to the Deputy Assistant Secretary for Employment and Training.
(65) One Special Assistant to the Administrator for Comprehensive Employment Development, Employment and Training Administration.
(66) One Special Assistant to the Assistant Secretary for Employment Standards.
(b) *Office of the Solicitor.* (1) One Private Secretary to the Solicitor.
(c)–(e) [Reserved]
(f) *Women's Bureau.* (1) [Reserved]
(2) Two Special Assistants and one Confidential Assistant to the Director.
(g)–(h) [Reserved]
(i) *Office of Federal Contract Compliance.* (1) One Special Assistant to the Director.
(j) *Office for Economic Policy Review.*
(1) One Private Secretary to the Deputy Under Secretary for Economic Policy Review.
(2) One Executive Assistant to the Deputy Under Secretary for Economic Policy Review.
(g)–(h) [Reserved]
(i) *Office of Federal Contract Compliance.* (1) One Special Assistant to the Director.
(j) *Office for Economic Policy Review.*
(1) One Private Secretary to the Deputy Under Secretary for Economic Policy Review.
(2) [Reserved]
(k) *Office of Workers' Compensation Programs.* (1) One Staff Assistant to the Director.
(l) *Office of the Commissioner of Labor Statistics.* (1) One Private Secretary to the Commissioner.

§ 213.3316 Department of Health, Education, and Welfare.

(a) *Office of the Secretary.* (1) [Reserved]
(2) One Confidential Assistant to the Secretary.
(3)–(4) [Reserved]
(5) One Confidential Secretary to the Under Secretary.
(6) Five Confidential Assistants to the Under Secretary.
(7) One Steward.
(8)–(10) [Reserved]
(11) Four Assistants to the Secretary for Special Programs.
(12) [Reserved]
(13) Four Assistants to the Secretary.
(14)–(18) [Reserved]
(19) Counselor.
(20) One Receptionist (Typing) to the Secretary.
(21)–(28) [Reserved]
(29) Three Special Assistants to the Assistant Secretary for Public Affairs.
(30) [Reserved]
(31) Commissioner, Youth Development.
(32) Deputy Commissioner, Youth Development.
(33) [Reserved]
(34) One Executive Assistant to the Secretary.
(35) One Secretary to the Executive Assistant to the Secretary.
(36) One Motor Vehicle Operator (Chauffeur for the Secretary).
(37)–(38) [Reserved]
(39) One Special Assistant to the Under Secretary.
(40) One Attorney-Advisor (Special Assistant to the Deputy General Counsel).
(41) One Confidential Assistant to the Deputy General Counsel.
(42) Ten positions of Director, Intergovernmental and Congressional Affairs.
(43) Ten positions of Director, Public Affairs.
(44) Five Special Assistants to the Secretary.
(b) [Reserved]
(c) *Office of Education.* (1) [Reserved]
(2) Deputy Commissioner for Occupational and Adult Education.
(3) Two Confidential Assistants to the Commisioner of Education.
(4)–(11) [Reserved]
(12) Assistant Commissioner for Public Affairs.
(13) One Personal Assistant to the Commissioner of Education.
(14) Three Special Assistants to the Commissioner of Education.
(15) Staff Director, Federal Interagency Committee on the Integration of Human Service Delivery Systems.
(16) One Special Assistant to the Deputy Commissioner for Elementary and Secondary Education.
(17) One Associate Deputy Commissioner for Indian Education.
(18) One Special Assistant to the Assistant Commissioner for Policy Studies.
(d)–(e) [Reserved]
(f) *Office of the Assistant Secretary for Legislation.* (1) Two Special Assistants to the Assistant Secretary.
(2) One Confidential Secretary to the Deputy Assistant Secretary for Legislation.
(3)–(6) [Reserved]
(7) One Special Assistant to the Deputy Assistant Secretary for Legislation (Education).

(8) One Deputy Assistant Secretary for Legislation (Welfare).
(9) One Special Assistant to the Deputy Assistant Secretary for Legislation (Welfare).
(10) Four Special Assistants to the Deputy Assistant Secretary for Congressional Liaison.
(11) One Special Assistant to the Deputy Assistant Secretary for Legislation (Health).
(12) One Confidential Assistant to the Assistant Secretary.
(13) [Reserved]
(14) One Confidential Secretary to the Assistant Secretary.
(g) *Welfare Administration.* (1) The Commissioner.
(2) [Reserved]
(3) One Confidential Assistant to the Commissioner.
(h) *Office of the Assistant Secretary for Health.* (1)–(4) [Reserved]
(5) The Commissioner, Food and Drug Administration.
(6) Administrator, Health Services Administration.
(7)–(10) [Reserved]
(11) Administrator, National Institutes of Health.
(12) One Confidential Assistant to the Deputy Assistant Secretary for Health.
(i) *Federal Council on the Aging.* (1) [Reserved]
(2) One Special Assistant to the Chairperson, Federal Council on the Aging.
(j) [Reserved]
(k) *Office of the Assistant Secretary for Planning and Evaluation.* (1)–(9) [Reserved]
(10) One Special Assistant for Telecommunications.
(11) One Confidential Assistant to the Deputy Assistant Secretary for Planning and Evaluation (Health).
(l) *Social Security Administration.*
(1) One Deputy Commissioner.
(2) [Reserved]
(m) *Office of Consumer Affairs.* (1) Director of Public Affairs.
(2) Director for External Liaison.
(3) [Reserved]
(4) One Writer-Editor.
(5) One Confidential Assistant, and one Confidential Secretary to the Special Assistant to the President for Consumer Affairs.
(n) *Office of the Assistant Secretary for Human Development.* (1) [Reserved]
(2)–(5) [Reserved]
(6) One Special Assistant to the Deputy Assistant Secretary for Youth and Student Affairs.
(7) One Special Assistant for Student Affairs to the Deputy Assistant Secretary for Youth and Student Affairs.
(8)–(14) [Reserved]
(15) One Confidential Assistant to the Commissioner of Vocational Rehabilitation.
(16) [Reserved]
(17) Director, Office of Native American Programs.
(18) One position of Deputy Director, Office of State and Community Affairs.
(19) One position of Special Assistant to the Director, Office of State and Community Affairs.
(20) One Special Assistant to the Assistant Secretary.
(21) One Special Assistant to the Assistant Secretary for Human Development Services for Special Projects.
(o) *Social and Rehabilitation Service.* (1) Administrator, Social and Rehabilitation Service.
(2) [Reserved]
(3) One Confidential Assistant to the Administrator.
(4) Commissioner of Vocational Rehabilitation.
(5)–(10) [Reserved]
(11) One Confidential Assistant to the Commissioner, Assistance Payments Administration.
(p) *Office of the General Counsel.* (1) One Confidential Secretary to the General Counsel.
(2)–(3) [Reserved]
(4) One Attorney-Advisor (Special Assistant) to the General Counsel.
(q) *Office of the Special Assistant to the Secretary for Civil Rights.* (1) Director, Office of Governmental Relations.
(2) One Confidential Secretary to the Special Assistant.
(3) One Assistant to the Special Assistant.
(4) Two Special Assistants for Special Groups.
(5) One Special Assistant for Public Affairs.
(6) [Reserved]
(7) Director, Office of Policy Communication.
(8) One Confidential Assistant to the Special Assistant.
(r) *Office of the Assistant Secretary for Education.* (1) Two Special Assistants to the Assistant Secretary.
(2) One Confidential Assistant to the Assistant Secretary.
(3) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications).
(4) One Special Assistant to the Deputy Assistant Secretary for Education (Policy Communications).
(5) One Executive Assistant to the Assistant Secretary.
(6) [Reserved]
(7) One Confidential Secretary to the Deputy Assistant Secretary for Education.
(8) Two Special Assistants to the Deputy Assistant Secretary for Education.
(9) Deputy Assistant Secretary (Policy Communications).
(10) [Reserved]
(11) Confidential Secretary to the Director, Institute of Museum Services.
(s) *Health Care Financing Administration.* (1) Administrator, Health Care Financing Administration.
(2) One Confidential Assistant to the Administrator.
(t) *Office of the Inspector General.*
(1) One Confidential Secretary to the Inspector General.
(2) One Confidential Secretary to the Deputy Inspector General.

§ 213.3317 Overseas Private Investment Corporation.

(a) One Chauffeur to the President.
(b) [Reserved]
(c) One Secretary (Steno) to the Vice President and General Counsel.
(d) One Secretary (Stenography) to the Vice President, Insurance.
(e) [Reserved]

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Eight Special Assistants and one Special Assistant (Political Coordination) to the Administrator.
(2) One Special Assistant to the Director, Office of Public Affairs.
(3)–(4) [Reserved]
(5) One Secretary to the Deputy Administrator.
(6) One Special Assistant to the Deputy Administrator.
(b) *Office of Legislation.* (1) One Assistant Director for Congressional Affairs.
(2)–(6) [Reserved]
(7) One Legislative Specialist.
(8) One Special Assistant (Congressional Affairs).
(c) *Office of Public Affairs.*
(1)–(3) [Reserved]
(4) One Public Information Specialist.
(5) One Special Assistant to the Director.
(d) *Office of the Assistant Administrator for Enforcement.* (1) One Special Assistant to the Assistant Administrator.
(e) *Office of Regional and Intergovernment Relations.* (1) One Liaison Specialist to the Director.
(f) *Office of the Assistant Administrator for Planning and Management.*
(1) One Special Assistant to the Assistant Administrator.

§ 213.3319 Administrative Conference of the United States.

(a) One Private Secretary to the Chairman.
(b) One Administrative Assistant to the Chairman.

§ 213.3320 [Reserved]

§ 213.3322 Interstate Commerce Commission.

(a) One Confidential Assistant to each of eight Commissioners.
(b) One Writer for the Chairman.
(c)–(d) [Reserved]
(e) One Confidential Assistant to the Chairman.
(f) One Secretary to the Congressional Liaison Officer.

§ 213.3325 The Tax Court of the United States.

(a) One Private Secretary and one Technical Assistant for the Chief Judge and one Private Secretary and two Technical Assistants for each Judge.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* (1) Three Confidential Assistants to the Spe-

cial Assistant to the Administrator.
(2) The Deputy Administrator.
(3) The General Counsel.
(4) The Associate Deputy Administrator.
(5) [Reserved]
(6) Four Confidential Assistants to the Administrator.
(7) One Confidential Assistant to the Executive Assistant to the Administrator.
(8) Three Confidential Assistants to the Assistant Deputy Administrator.
(9) Director, National Cemetery System.
(10) [Reserved]
(11) Four Confidential Assistants to the General Counsel.
(b) *Department of Veterans Benefits.*
(1) The Chief Benefits Director.
(c) *Office of the Chief Medical Director.* (1) One Confidential Assistant to the Chief Medical Director.

§ 213.3328 U.S. Information Agency.

(a) Two Secretarial Assistants to the Deputy Director.
(b) One Confidential Assistant to the General Counsel.
(c) One Secretarial Assistant to the Director.
(d) One Secretary to the Director.
(e)–(f) [Reserved]
(g) Deputy Director (Policy and Plans).
(h) Associate Director (Policy and Plans).
(i)–(k) [Reserved]
(l) One Special Assistant to the Assistant Director (Motion Picture and Television Service).
(m) One Special Assistant and one Secretarial Assistant to the Assistant Director (Broadcasting).
(n) One Policy Guidance Coordinator, Office of Policy and Plans.

§ 213.3330 Securities and Exchange Commission.

(a)–(c) [Reserved]
(d) Two Confidential Assistants to the Chairman and one Confidential Assistant to each of the other four Members of the Commission.
(e) [Reserved]
(f) One Secretary to the General Counsel.
(g) One Secretary to the Chief Accountant.
(h) One Executive Aide to the Executive Assistant to the Chairman.
(i) [Reserved]
(j) One Public Information Officer.
(k) One Secretary (Typing) to the Director of Economic and Policy Research.

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* (1) Two Confidential Secretaries and one Motor Vehicle Operator to the Secretary.
(2) Two Confidential Secretaries and One Motor Vehicle Operator to the Deputy Secretary.
(3) One Confidential Secretary to the Undersecretary.
(4) One Confidential Secretary to the Special Assistant to the Secretary.
(5) Fourteen Staff Officers.
(b) *Office of the General Counsel.* (1) One Confidential Secretary to the General Counsel.
(c) *Federal Energy Regulatory Commission.* (1) One Confidential Secretary to the Chairman.
(2) One Confidential Secretary to each of four Members.
(d) *Office of the Administrator of the Energy Information Administration.* (1) One Confidential Secretary to the Administrator.
(e) *Office of the Administrator of the Economic Regulatory Administration.* (1) One Confidential Secretary to the Administrator.
(2) One Executive Assistant to the Administrator.
(f) *Office of the Inspector General.* (1) One Confidential Secretary to the Inspector General.
(2) One Confidential Secretary to the Deputy Inspector General.
(3) One Staff Assistant to the Inspector General.
(g) *Office of the Director of Energy Research.* (1) One Confidential Secretary to the Director.
(h) *Office of the Assistant Secretary for Conservation and Solar Applications.* (1) One Confidential Secretary to the Assistant Secretary.
(i) *Office of the Assistant Secretary for Environment.* (1) One Confidential Secretary to the Assistant Secretary.
(j) *Office of the Assistant Secretary for Resource Applications.* (1) One Confidential Secretary to the Assistant Secretary.
(2) One Staff Assistant to the Assistant Secretary.
(k) *Office of the Assistant Secretary for Energy Technology.* (1) One Confidential Secretary to the Assistant Secretary.
(l) *Office of the Assistant Secretary for Defense Programs.* (1) One Confidential Secretary to the Assistant Secretary.
(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* (1) One Confidential Assistant (Secretary) to the Assistant Secretary.
(2) One Confidential Secretary to the Deputy Assistant Secretary for Legislative Affairs.
(3) One Confidential Secretary to the Deputy Assistant Secretary for Public Affairs.
(4) One Confidential Secretary to the Deputy Assistant Secretary for Governmental Affairs.
(5) One Staff Assistant, State Relations, and one Staff Assistant, City and County Relations, to the Director, Office of Intergovernmental Affairs.
(n) *Office of the Assistant Secretary for International Affairs.* (1) One Confidential Secretary to the Assistant Secretary.
(o) *Office of the Assistant Secretary for Policy and Evaluation.* (1) One Confidential Secretary to the Assistant Secretary.
(p) *Office of the Director of Administration.* (1) One Confidential Secretary to the Director.
(q) *Office of the Controller.* (1) One Confidental Secretary to the Controller.
(r) *Office of the Director of Procurement and Contracts Management.* (1) One Confidential Secretary to the Director.

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, Associate Administrator for Finance and Investment, Associate Administrator for Operations and the Associate Administrator for Procurement and Management Assistance.
(b) Two Special Assistants to the Associate Administrator for Operations.
(c) One Confidential Assistant to the Administrator.
(d) [Reserved]
(e) One Congressional Relations Officer.
(f) Director, Office of Congressional Relations.
(g) One Advisory Councils Officer.
(h)–(k) [Reserved]
(l) One Confidential Assistant (Secretary) to the Associate Administrator for Operations.
(m) One Executive Assistant to the Administrator.
(n) One Confidential Assistant to the Executive Assistant to the Administrator.
(o) [Reserved]
(p) Three positions of Special Assistant and one position of Confidential Assistant to the Associate Administrator for Minority Small Business.
(q) [Reserved]
(r) One Confidential Assistant (Secretary) to the Associate Administrator for Finance and Investment.
(s) One Confidential Assistant to the General Counsel.
(t) Two Special Assistants to the Deputy Administrator.
(u) [Reserved]
(v) One Confidential Assistant to the Assistant Administrator for Management Assistance.
(w) One Director, Office of Public Communications.
(x) Director, Office of Legislative Affairs.
(y) One Special Assistant to the Administrator.
(z) One Confidential Assistant and one Special Assistant to the Associate Administrator for Procurement Assistance.
(aa) One Confidential Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
(bb) One Congressional Relations Specialist.
(cc) One Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs.
(dd) Associate Administrator for Minority Small Business.

§ 213.3333 Federal Deposit Insurance Corporation.

(a) One Assistant to each member of the Board of Directors.
(b) One Confidential Assistant to the Board of Directors.
(c) General Counsel.
(d) One Special Assistant to the Chairman.
(e) Executive Assistant and Controller.
(f) [Reserved]
(g) One Special Assistant to the Director (Appointive).
(h) One Secretary to a Member of the Board of Directors.
(i) Counsel to the Chairman of the Board of Directors, Office of the Chairman.
(j) One Secretary to the Counsel to the Chairman of the Board of Directors.
(k) One Secretary to the Deputy to the Chairman of the Board of Directors.

§ 213.3334 Federal Trade Commission.

(a) One Staff Assistant and one Secretary to the Chairman.
(b) Director of Public Information.
(c) One Secretary to the Director of Public Information.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* (1) [Reserved]
(2) The Deputy Administrator.
(3) The Assistant Administrator.
(4) One Confidential Assistant to the Assistant Administrator.
(5) One Confidential Assistant to the Deputy Administrator.
(6) Two Confidential Assistants to the Administrator.
(7) Two Confidential Assistants to the Administrator.
(8)–(10) [Reserved]
(11) One Confidential Assistant to the General Counsel.
(12) [Reserved]
(13) Associate Administrator for Federal Management Policy.
(14) One Special Assistant to the Deputy Administrator.
(15) Director, Office of Preparedness.
(16) [Reserved]
(17) One Special Assistant to the Administrator.
(18) Deputy Director of Congressional Affairs.
(19) [Reserved]
(20) One Confidential Assistant to the Director of Congressional Affairs.
(21) One Confidential Assistant to the Director of Public Affairs.
(22) One Confidential Assistant to the Director of Administration.
(b) *Public Buildings Service.* (1) The Commissioner.
(2) Three Confidential Assistants to the Commissioner.
(c) *Federal Supply Service.* (1) The Commissioner.
(2) Four Confidential Assistants to the Commissioner.
(d) *National Archives and Records Service.* (1) The Archivist of the United States.
(e) [Reserved]
(f) *Property Management and Disposal Service.* (1) Commissioner.
(g) [Reserved]
(h) *Automated Data and Telecommunications Service.* (1) [Reserved]
(2) The Commissioner.
(3) One Confidential Assistant to the Commissioner.
(4) One position of Confidential Assistant to the Commissioner.
(i) [Reserved]

§ 213.3338 Federal Communications Commission.

(a) One Special Assistant to the Chairman.
(b) One Secretary to the Legal Assistant to the Chairman.
(c) One Special Assistant to a Commissioner.

§ 213.3339 U.S. International Trade Commission.

(a) One Confidential Assistant, one Secretary, one Administrative Assistant, and one Staff Assistant (Legal) to a Commissioner.
(b) One Staff Assistant (Legal), and two Staff Assistants to a Commissioner.
(c) One Staff Assistant (Legal), one Staff Assistant, and one Confidential Assistant to a Commissioner.
(d) One Staff Assistant (Legal), one Staff Assistant, and one Confidential Assistant to a Commissioner.
(e) One Professional Assistant (Legal), one Confidential Assistant, and one Secretary (Typing) to a Commissioner.
(f) One Staff Assistant (Legal), one Staff Assistant, one Confidential Assistant, and one Secretary to a Commissioner.
(g) [Reserved]
(h) One Congressional Liaison to the Commissioners.

§ 213.3340 Civil Aeronautics Board.

(a) One Administrative Assistant to each Member of the Board.
(b) One Secretary to each Member of the Board.
(c)–(f) [Reserved]

§ 213.3341 National Labor Relations Board.

(a) One Confidential Staff Assistant to the Chairman.
(b) One Confidential Assistant to the Chairman and one Confidential Assistant to each of four Board Members.
(c) [Reserved]
(d) One Confidential Assistant to the General Counsel.
(e)–(f) [Reserved]

§ 213.3342 Export-Import Bank of the United States.

(a) One Confidential Assistant to the President and Chairman.
(b) One Private Secretary to the First Vice-President.
(c) One Private Secretary to each of three members of the Board of Directors.
(d)–(h) [Reserved]
(i) One Secretary (Stenography) to the Senior Vice President for Exporter Credits, Guarantees and Insurance.
(j)–(k) [Reserved]
(l) One Secretary to the Senior Vice President, Research and Communications.
(m) [Reserved]
(n) One Public Affairs Officer.
(o) Executive Vice President.
(p) [Reserved]
(q) One Secretary to one Executive Vice President.
(r) [Reserved]
(s) [Reserved]
(t) One Secretary (Steno) to the Senior Vice President—Direct Credits and Financial Guarantees.
(u) One Assistant to the President and Chairman.
(v) One Special Assistant to the Senior Vice President, Research and Communications.

§ 213.3343 Farm Credit Administration.

(a) [Reserved]
(b) Deputy Governor, Credit and Operations.
(c) Deputy Governor, Finance and Research.
(d) Deputy Governor, Administration.
(e) Deputy Governor and General Counsel.
(f) Deputy Governor and Chief Examiner.
(g) One Congressional Liaison Officer.
(h) One Secretary (Stenography) to the Governor.

§ 213.3344 Occupational Safety and Health Review Commission.

(a) One Special Assistant to the Chairman.
(b) [Reserved]
(c) One Confidential Assistant to each member of the Commission other than the Chairman.
(d) The General Counsel.

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to the Chairman and one Private Secretary to each of the other four Commissioners.

§ 213.3346 Selective Service System.

(a) One Administrative Assistant to the Director.
(b)–(c) [Reserved]
(d) One Private Secretary to the Deputy Director of Selective Service.
(e)–(g) [Reserved]

§ 213.3348 National Aeronautics and Space Administration.

(a) One Secretary to the Administrator.
(b) One Secretary to the Deputy Administrator.
(c) One Secretary to the Associate Administrator for Manned Space Flight.
(d) Associate Administrator.
(e) Two Special Assistants to the Associate Administrator for External Affairs.
(f) [Reserved]
(g) Associate Administrator for Space Transportation Systems.
(h) Associate Deputy Administrator.
(i) Deputy Associate Administrator.
(j) General Counsel.

(k)–(l) [Reserved]
(m) One Secretary to the Associate Administrator.
(n) One Secretary to the Associate Administrator for Center Operations.
(o) [Reserved]
(p) Associate Administrator for Aeronautics and Space Technology.
(q) Associate Administrator for Space Science.
(r) Associate Administrator for Space and Terrestrial Applications.
(s) Associate Administrator for Space Tracking and Data Systems.
(t) Associate Administrator for Management Operations.
(u) One Executive Assistant to the Deputy Administrator.
(v) Associate Administrator/Comptroller.

§ 213.3349 Panama Canal Company.

(a) Secretary.

§ 213.3350 Foreign Claims Settlement Commission of the United States.

(a)–(b) [Reserved]
(c) One Private Secretary to the Chairman.

§ 213.3354 Federal Home Loan Bank Board.

(a) One Secretary and one Secretary (Typing) to the Chairman of the Board.
(b) Two Secretaries to Board Members.
(c) One Assistant to the Chairman and one Assistant to a Board Member.
(d) One Secretary to the Assistant to the Chairman and one Secretary (Steno) to the Assistant to the Board Member.
(e) Director, Office of Communications.
(f) Director, Office of Housing and Urban Affairs.
(g) One Special Assistant to the Chairman.
(h) One Secretary to the General Counsel.
(i) [Reserved]
(j) One Secretary to the Director, Office of Economic Research, and Adviser to the Board.
(k) One Secretary (Stenography) to the Director, Office of the Federal Home Loan Banks.
(l) One Congressional Liaison.
(m) One Secretary (Steno) to the Special Assistant to the Chairman.
(n) One Secretary (Steno) to the Congressional Liaison.

§ 213.3355 The Renegotiation Board.

(a) One Special Assistant to the Chairman and one Special Assistant to each of three Renegotiation Board Members.
(b) One Secretary to the Chairman.
(c) One Secretary to each of three Board Members.

§ 213.3356 Commission on Civil Rights.

(a) One Confidential Secretary to the Staff Director.
(b)–(c) [Reserved]
(d) One Confidential Secretary to the Deputy Staff Director.
(e) One Special Assistant to the Staff Director.
(f) One Director, Congressional Liaison.
(g) One Special Assistant to the Staff Director for Public Affairs.

§ 213.3357 National Credit Union Administration.

(a) [Reserved]
(b) One Public Information Officer.
(c) One Legislative Liaison Officer.
(d) One Staff Assistant to the Administrator.
(e) One Executive Officer (Policy Implementation).

§ 213.3359 ACTION.

(a) One Special Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
(b) One Chauffeur to the Director.
(c)–(f) [Reserved]
(g) One Motor Vehicle Operator to the Director.
(h) [Reserved]
(j) Three Staff Assistants to the Deputy Director.
(k) One Deputy Associate Director for ACTION Education Programs.
(l)–(n) [Reserved]
(o) One Special Assistant to the Assistant Director for Policy and Planning.
(p) One Confidential Secretary to the Deputy Associate Director (Domestic and Anti-Poverty Operations).
(q) Two Staff Assistants to the Director.
(r) Six Special Assistants to the Director.
(s) One Special Assistant to the Deputy Director.
(t) [Reserved]
(u) One Secretary (Steno) to the Executive Director.
(v) One Secretary (Steno) to the Executive Assistant for Programs.
(w) One Staff Assistant to the Associate Director for Domestic and Anti-Poverty Operations.
(x) One Writer to the Director.
(y) One Staff Assistant to the Assistant Director for Policy and Planning.

§ 213.3360 Consumer Product Safety Commission.

(a) Four Special Assistants, one Director of Congressional Relations, and one Public Information Officer to the Chairman.
(b) Three Special Assistants, one Staff Assistant, and one Secretary (Stenography) to a Commissioner.
(c) Two Special Assistants to a Commissioner.
(d) One Special Assistant to a Commissioner.
(e) Two Special Assistants to a Commissioner.

§ 213.3363 Harry S. Truman Scholarship Foundation.

(a) Executive Secretary.

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(a) One Private Secretary to the Director.
(b) One Private Secretary to the Deputy Director.
(c) One Private Secretary to each Assistant Director appointed by the President (four positions).
(d) One Public Affairs Adviser.
(e) The General Counsel.
(f) One Private Secretary to the General Counsel.
(g)–(h) [Reserved]
(i) One Special Assistant for Congressional Relations.
(j) [Reserved]
(k) One Private Secretary to the ACDA Representative to the Mutual and Balanced Force Reduction Talks.
(l) One Staff Assistant to the Deputy Director.
(m) One Private Secretary to the Counselor of the Agency.
(n) One Congressional Assistant to the General Counsel.

§ 213.3366 National Commission for Manpower Policy.

(a) One Special Assistant to the Director.

§ 213.3367 Federal Maritime Commission.

(a) One Confidential Assistant to each of four Commissioners.
(b) One Private Secretary to each Commissioner and one Administrative Assistant to the Managing Director.
(c) One Executive Assistant to the Chairman.
(d) One Administrative Assistant to the General Counsel.
(e) One Secretary to the Chairman.
(f) One Secretary to the Executive Assistant to the Chairman.
(g) One Special Assistant for International Programs.

§ 213.3368 Agency for International Development.

(a) *Office of the Administrator.* (1) [Reserved]
(2) One Confidential Assistant (Private Secretary) to the Administrator.
(3) One Chauffeur for the Administrator.
(4) One Executive Assistant to the Deputy Administrator.
(5) Two Special Assistants to the Administrator.
(b) [Reserved]
(c) *Office of the General Counsel.* (1) One Private Secretary to the General Counsel.
(2) The General Counsel.
(d) [Reserved]
(e) *Office of the Assistant Administrator for Legislative Affairs.* (1)–(4) [Reserved]
(5) One Congressional Liaison Officer.
(f) [Reserved]
(g) *Office of the Assistant Administrator of the Bureau for Asia.*
(1) One Confidential Assistant to the Assistant Administrator.
(h) *Office of the Assistant Administrator of the Bureau for Africa.*
(1) One Confidential Assistant to the Assistant Administrator.
(i) *Office of the Assistant Administrator of the Bureau for the Near East.*

(1) One Confidential Assistant to the Assistant Administrator.

(j) *Office of the Assistant Administrator of the Bureau for Latin America.*

(1) One Confidential Assistant to the Assistant Administrator.

(2) One Secretary (Bilingual) to the Assistant Administrator.

(k) *Office of the Assistant Administrator for Intergovernmental and International Affairs.* (1) One Confidential Assistant to the Assistant Administrator.

(l) *Office of the Assistant Administrator for Program and Policy Coordination.*

(1) One Confidential Assistant to the Assistant Administrator.

§ 213.3369 U.S. Water Resources Council.

(a) One Confidential Secretary to the Director.

§ 213.3370 Civil Service Commission.

(a) Two Special Assistants and one Administrative Assistant to the Chairman.

(b) One Policy Advisor and one Administrative Assistant to the Vice Chairman.

(c) One Policy Advisor and one Administrative Assistant to the Commissioner.

§ 213.3372 Administrative Office of the United States Courts.

(a) One Legislative Liaison Officer.

§ 213.3373 Community Services Administration.

(a) *Office of the Director.* (1)–(3) [Reserved]

(4) One Confidential Secretary and one Private Secretary to the Director.

(5) One Confidential Assistant to the Special Assistant to the Director.

(6) One Special Assistant to the Director.

(7) One Confidential Secretary (Stenography) to the Deputy Director.

(8) One Special Assistant to the Deputy Director.

(b)–(c) [Reserved]

(d) *Office of Legislative Affairs.* (1) The Associate Director.

(2) One Confidential Advisor to the Associate Director.

(3) Deputy Associate Director for Congressional Relations.

(4) One Confidential Secretary (Typing) to the Associate Director.

(e) *Office of Public Affairs.* (1) The Associate Director.

(2) [Reserved]

(3) One Special Assistant to the Associate Director.

(f) [Reserved]

(g) *Office of Interagency and External Affairs.*

(1) The Associate Director.

(2) One Staff Assistant and one Special Assistant to the Associate Director.

(h) *Office of Community Action.*

(1) One Executive Assistant to the Director.

(2) One Special Assistant to the Assistant Director.

(i) *Office of Program Development.*

(1) One Special Assistant to the Director.

(j) *Office of Policy, Planning, and Evaluation.*

(1) One Confidential Secretary to the Assistant Director.

(2) One Staff Assistant.

(k) *Office of Regional Operations.*

(1) One Executive Assistant to the Director.

(l) *Office of Economic Development.*

(1) One Special Assistant to the Associate Director.

§ 213.3376 Appalachian Regional Commission.

(a) One Special Assistant to the Federal Cochairman.

(b) One Private Secretary to the Federal Cochairman and one Private Secretary to his alternate.

§ 213.3377 Equal Employment Opportunity Commission.

(a) One Special Assistant to the Chair.

(b) One Special Assistant to each of four Members of the Commission and one Secretary to each Member of the Commission.

(c) Two Secretaries to the Chair and one Private Secretary and Confidential Assistant to the Chair.

(d)–(e) [Reserved]

(f) One Special Assistant to each of three members of the Commission.

(g) [Reserved]

(h) One Private and Confidential Assistant to the Director of Congressional Affairs.

(i) One Special Assistant to the Executive Director.

(j) [Reserved]

(k) One Director, Office of Congressional Affairs.

(l) One Director, Office of Public Affairs.

§ 213.3379 Commodity Futures Trading Commission.

(a) One Administrative Assistant to the Chairman.

(b) One Administrative Assistant to each of the four Commissioners.

(c) One Public Information Officer.

(d) One Congressional Relations Officer.

(e) The General Counsel.

(f) The Executive Director.

(g) Administrative Assistant to the Executive Director.

(h) [Reserved]

(i) One Assistant to the Chairman.

(j) One Special Assistant to the Vice Chairman.

(k) One position of Special Assistant to the Commissioner for each of four Commissioners.

(l) One Special Assistant for Intergovernmental Affairs.

(m) One Special Assistant for Policy Review.

§ 213.3382 National Foundation on the Arts and the Humanities.

(a) One Executive Secretary to the Chairman, National Endowment for the Arts.

(b) Two Assistants to the Chairman, National Endowment for the Arts.

(c) One Staff Assistant to the Chairman, National Endowment for the Arts.

(d) [Reserved]

(e) Three Special Assistants to the Chairman of the National Endowment for the Humanities.

(f)–(g) [Reserved]

(h) One Congressional Liaison Officer, National Endowment for the Arts.

(i) Two Staff Assistants to the Chairman, National Endowment for the Humanities.

(k) One Secretary (Steno) to the Chairman of the National Endowment for the Humanities.

(l) One Staff Assistant to the Special Assistant to the Chairman (for Policy), National Endowment for the Humanities.

(m) One Staff Assistant to the Special Assistant to the Chairman (for Constituency Liaison), National Endowment for the Humanities.

(n) One Secretary (Stenography) to the Staff Assistant to the Chairman (for Public Events), National Endowment for the Humanities.

§ 213.3384 Department of Housing and Urban Development.

(a) *Office of the Secretary.* (1) [Reserved]

(2) One Executive Secretary to the Secretary.

(3)–(5) [Reserved]

(6) One Private Secretary to the General Counsel.

(7)–(8) [Reserved]

(9) Three Special Assistants to the Under Secretary.

(10) [Reserved]

(11) [Reserved]

(12) Two Special Assistants to the Secretary.

(13)–(16) [Reserved]

(17) Federal Insurance Administrator.

(18) [Reserved]

(19) Two Special Assistants to the General Counsel.

(20) Deputy Assistant Secretary for Equal Opportunity.

(21) Deputy General Counsel.

(22) [Reserved]

(23) [Reserved]

(24) One Staff Assistant and one Executive Secretary to the Under Secretary.

(25) One Staff Assistant to the Assistant to the Secretary (Public Affairs).

(26)–(30) [Reserved]

(31) One Special Assistant to the Secretary.

(32)–(37) [Reserved]

(38) One Special Assistant to the Assistant Secretary for Consumer Affairs and Regulatory Functions and one Director, Office of Program Development and Evaluation.

(39) One Staff Assistant to the Assistant Secretary for Consumer Affairs and Regulatory Functions.

(40)–(43) [Reserved]

(44) One Deputy Under Secretary for Field Operations.

(45) [Reserved]
(46) One Public Information Officer, Office of the Assistant to the Secretary for Public Affairs.
(47) Three Public Information Specialists, Office of the Assistant to the Secretary for Public Affairs.
(48)–(52) [Reserved]
(53) Assistant to the Secretary (Public Affairs).
(54) One Deputy Departmental Adviser for Elderly and Handicapped Policy.
(55)–(56) [Reserved]
(57) Deputy Under Secretary for Management.
(58) [Reserved]
(59) One Staff Assistant and one Private Secretary to the Deputy Under Secretary for Field Operations.
(60) [Reserved]
(61) One Private Secretary to the Secretary.
(62) One Urban Policy Advisor to the Secretary and one Assistant to the Urban Policy Advisor to the Secretary.
(63) Counselor to the Secretary, Office of the Secretary.
(64) One Private Secretary to the Counselor to the Secretary.
(65) One Staff Assistant to each of two Executive Assistants to the Secretary.
(66) Two Special Assistants and one Secretary to the Assistant Secretary for Administration.
(67) Ten positions of Executive Assistant, one to each Regional Administrator.
(68) Ten positions of Secretary, one to each Regional Administrator.
(69) One Special Assistant to the Assistant to the Secretary for Public Affairs.
(b) *Office of the Assistant Secretary for Housing—Federal Housing Commissioner.* (1) One Private Secretary to the Assistant Secretaery-Commissioner.
(2) One Deputy Assistant Secretary-Commissioner.
(3)–(4) [Reserved]
(5) Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
(6)–(8) [Reserved]
(9) President, Government National Mortgage Association.
(10)–(13) [Reserved]
(14) One Secretary to the President, Government National Mortgage Association.
(15) One Executive Assistant to the President, Government National Mortgage Association.
(16) One Special Assistant to the Assistant Secretary for Housing Production and Mortgage Credit.
(17) One Executive Assistant to the Deputy Assistant Secretary for Assisted Housing.
(18) One Executive Assistant to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
(19) One Executive Assistant to the Deputy Assistant Secretary for Insured and Direct Loan Programs.
(20) Three Special Assistants to the Assistant Secretary—Commissioner.
(21) One Staff Assistant to the Assistant Secretary—Commissioner.
(22) One Special Assistant to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
(23) One Executive Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner.
(24) One Secretary to the Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.
(c) [Reserved]
(d) *Office of Assistant Secretary for Community Planning and Development.*
(1) One Private Secretary to the Assistant Secretary.
(2) [Reserved]
(3) Three Special Assistants to the Assistant Secretary.
(4)–(9) [Reserved]
(10) One Staff Assistant to the Deputy Assistant Secretary.
(11) Deputy Assistant Secretary for Community Planning and Development.
(e) [Reserved]
(f) *Office of the Assistant Secretary for Fair Housing and Equal Opportunity.*
(1) One Private Secretary to the Assistant Secretary.
(2) [Reserved]
(3) Four Special Assistants to the Assistant Secretary.
(4) [Reserved]
(g) *Office of the Assistant Secretary for Research and Technology.* (1) One Private Secretary to the Assistant Secretary.
(h) [Reserved]
(i) *Office of the Assistant Secretary for Policy Development and Research.*
(1)–(4) [Reserved]
(5) Two Special Assistants and one Staff Assistant to the Assistant Secretary.
(6) [Reserved]
(7) One Special Assistant to the Deputy Assistant Secretary for Economic Affairs.
(8) One Special Assistant to the Deputy Assistant Secretary for Research and Demonstration.
(9) One Private Secretary to the Assistant Secretary.
(10) One Special Assistant to the Deputy Assistant Secretary for Policy Development and Program Evaluation.
(j) *New Community Development Corporation.*
(1)–(2) [Reserved]
(3) One Special Assistant to the General Manager.
(4) One Administrative Aide to the General Manager.
(5) One Executive Assistant to the General Manager.
(k) *Office of New Communities Administration.* (1) [Reserved]
(2) Special Assistant to the Administrator.
(l) *Office of the Assistant Secretary for Neighborhood Organizations, Voluntary Associations, and Consumer Protection.*
(1) One Executive Assistant to the Assistant Secretary.
(2) Two Special Assistants to the Assistant Secretary.
(3) Director, Office of Neighborhood Development.
(4) One Special Assistant for Program Coordination.
(m) *Office of Legislation and Intergovernmental Relations.*
(1) One Private Secretary to the Assistant Secretary for Legislation and Intergovernmental Relations.
(2) One Private Secretary to the Deputy Assistant Secretary for Legislation.
(3) Three Senior Assistants for Congressional Relations.
(4) Nine Assistants for Congressional Relations.
(5) One Private Secretary to the Deputy Assistant Secretary for Intergovernmental Relations.
(6) Director, Office of Congressional Relations.
(7) One Executive Assistant to the Assistant Secretary for Legislation and Intergovernmental Relations.
(8) One Legislative Assistant to the Assistant Secretary for Legislation and Intergovernmental Relations.
(9) One Special Assistant to the Assistant Secretary for Legislation and Intergovernmental Relations.
(10) Four Intergovernmental Relations Officers.
(11) One Assistant Intergovernmental Relations Officer.
(12) One Staff Assistant to the Deputy Assistant Secretary for Intergovernmental Relations.
(n) *Office of the Assistant Secretary for Administration.*
(1) Two Special Assistants and one Secretary to the Assistant Secretary.
(2) One Director, Executive Secretariat.
(3) One Staff Assistant to the Director, Executive Secretariat.

§ 213.3386 Regional Commissions, Public Works and Economic Development Act of 1965.

(a) One Special Assistant to the Federal Cochairman of each Regional Commission (except Old West Regional Commission) established under the Public Works and Economic Development Act of 1965.
(b) One Special Assistant to the Alternate Federal Cochairman of each Regional Commission (except for the New England, Four Corners, and Old West Regional Commissions) established under the Public Works and Economic Development Act of 1965.
(c) One Private Secretary to the Federal Cochairman of each Regional Commission established under the Public Works and Economic Development Act of 1965.
(d) One Private Secretary to the Alternate Federal Cochairman of each Regional Commission (except for the Four Corners Regional Commission and the Ozarks Regional Commission) established under the Public Works and Economic Development Act of 1965.
(e) One Special Assistant (for Federal/State Liaison) to the Federal Co-

chairman, New England Regional Commission.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* (1)–(2) [Reserved]
(3) Two Confidential Secretaries to the Secretary.
(4) One Secretary to the Director, Materials Transportation Bureau.
(5) [Reserved]
(6) One Confidential Secretary to the General Counsel.
(7) One Confidential Secretary to the Deputy Secretary.
(8) Director, Materials Transportation Bureau.
(9) One Confidential Secretary to the Assistant Secretary for Systems Development and Technology.
(10) Special Assistant for Special Projects.
(11) One Special Assistant to the Deputy Secretary.
(12) One Chauffeur to the Secretary.
(13) One Chauffeur to the Deputy Secretary.
(14) [Reserved]
(15) One Special Assistant to the Deputy Under Secretary of Transportation.
(16) [Reserved]
(17) Eight Congressional Liaison Officers, Office of the Director of Congressional Affairs.
(18) Director, Office of Congressional Relations.
(19)–(20) [Reserved]
(21) One Secretary (Stenography) and one Special Assistant to the Assistant Secretary for Policy, Plans, and International Affairs.
(22)–(25) [Reserved]
(26) One Public Information Assistant and one Secretary (Steno) to the Director, Office of Public Affairs.
(27)–(28) [Reserved]
(29) Director, Office of Public Affairs.
(30)–(35) [Reserved]
(36) One Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs.
(37) [Revoked]
(38) One Special Assistant and one Staff Assistant to the Executive Secretary to the Secretary.
(39) [Reserved]
(40) [Reserved]
(41) One Secretary to the Special Assistant to the Deputy Secretary.
(42)–(43) [Reserved]
(44) Deputy Under Secretary.
(45)–(46) [Reserved]
(47) Two Intergovernmental Liaison Officers.
(48) One Secretary (Steno) to the Special Assistant to the Secretary.
(49) One Secretary (Steno) to the Secretary.
(50) One Intergovernmental Liaison Specialist.
(51) Two Intergovernmental Liaison Specialists to the Director, Office of Intergovernmental Affairs.
(b)–(c) [Reserved]
(d) *Federal Highway Administration.*
(1) Deputy Administrator.
(2) One position of Secretary (Steno) to the Administrator.
(3) [Reserved]
(4) One Specal Assistant to the Associate Administrator for Planning.
(5) One Secretary (Stenography) to the Deputy Administrator.
(e) *Federal Railroad Administration.*
(1)–(3) [Reserved]
(4) One Confidential Secretary to the Administrator.
(5) One Public Information Officer.
(6) One Secretary to the Deputy Administrator.
(7) One Special Assistant to the Administrator.
(8) [Reserved]
(f) *Urban Mass Transportation Administration.* (1) Public Information Officer.
(2) One Confidential Secretary to the Administrator.
(3) Deputy Administrator.
(4) One Secretary to the Deputy Administrator.
(5) One Special Assistant to the Administrator.
(6) One position of Special Assistant to the Associate Administrator for Policy and Program Development.
(g) *St. Lawrence Seaway Development Corporation.* (1) One Special Assistant to the Administrator.
(2) One Confidential Secretary to the Administrator.
(3) [Reserved]
(h) *Federal Aviation Administration.*
(1) One Private Secretary to the Administrator.
(2) One Special Assistant to the Administrator.
(3) Assistant Administrator for Information Services.
(4) One Private Secretary to the Chief Counsel.
(5)–(7) [Reserved]
(8) One Special Assistant to the Assistant Administrator for Public Affairs.
(9) Associate Administrator for Policy Development and Review.
(i) *National Highway Traffic Safety Administration.* (1) Deputy Administrator.
(2) One Private Secretary to the Administrator.
(3) One Special Assistant to the Administrator.
(4) One Public Information Officer.
(5) [Reserved]
(6) One Policy Advisor to the Administrator.

§ 213.3396 National Transportation Safety Board.

(a) *Office of the Chairman.* (1) One Administrative Assistant to the Chairman and each of four Board Members.
(2) One Confidential Assistant to the Chairman and each of four Board Members.
(b) *Office of the General Manager.* (1) One Confidential Secretary to the General Manager.
(2) One Legislative Affairs Officer.
(3) One Program Analysis Officer.

§ 213.3399 Temporary Boards and Commissions.

(a) [Reserved]
(b) *American Revolution Bicentennial Administration.* (1) Director.
(2) Deputy Executive Director for Program Development and Coordination.
(3) Deputy Executive Director for Communications and Field Services.
(4) Deputy Executive Director for Finance and Administration.
(5)–(6) [Reserved]
(c) *National Center for Productivity and Quality of Working Life.* (1) [Reserved]

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-37079 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Treatment of Payments Under State Equalization Programs

[4110-35]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 115—SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

Payments Under State Equalization Programs

AGENCY: Office of Education, HEW.

ACTION: Final regulation.

SUMMARY: This final regulation amends existing regulations that provide for the treatment of payments under State equalization programs. Comments had been received on the previously published regulations suggesting a standard based on the type of State school financing program which allows variations in local educational resources based on local choice but not on local taxable wealth advantages. This amendment provides a more appropriate measure of the relative equity for that type of program.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. These regulations will become effective on the forty-fifth day following the date of such transmission, subject to the provisions in section 431(d) concerning Congressional action.

ADDRESSES: School Finance Staff, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 4034, FOB-6, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Johns or Dexter A. Magers, 202-245-2920.

SUPPLEMENTARY INFORMATION: The other part of the regulation relating to the treatment of Pub. L. 81-874 payments under State Equalization programs, as provided in Section 5(d)(2) of that Act, was published in the FEDERAL REGISTER as a Notice of Proposed Rulemaking on May 1, 1975 (40 FR 19114), as interim regulations on June 25, 1976 (41 FR 26320) and as final regulations on March 22, 1977 (42 FR 15544). This amendment adds § 115.64 which was reserved, modifies § 115.65, and adds explanatory material to the appendix. The language of the amendment has been rewritten in part to clarify the meaning and application of "wealth neutrality." Discussion of the issues and rationales for the positions taken in those regulations were set forth previously in the FEDERAL REGISTER on May 1, 1976 (40 FR 19114), June 25, 1976 (41 FR 26320 and 26330), and March 22, 1977 (42 FR 15540 and 15544). They will not be repeated here. Several comments on the Notice of Proposed Rulemaking published March 22, 1977 were received. The comments and responses are as follows:

Comment: One commenter expressed the view that § 115.64(b)(2)(iii) concerning the equalization effects of mandatory budget limitations is an effort by the Federal government to set budget, expenditures, and tax effort levels in order for districts to be eligible for Pub. L. 81-874 funds.

Response: No change has been made in the regulations. It is not the intent to require any such actions under § 115.64(b)(2)(iii). The intent of the subparagraph is not to count as wealth neutral those revenues from an equalizing program realized by one district for a given tax effort but denied to another district because State restraints will not allow that second district to exercise an equal tax effort and thereby realize an equal yield. If a State exercises no restraint, those revenues are wealth neutral.

Comment: A commenter suggested that a State might not qualify because of extra funds (variations in yield) under an equalization program due to density variations, number of attendance centers, and long established edutional practices.

Response: The regulations have been clarified to specifically indicate that all extra funds (variations in yield) in the equalization program attributable to State adjustments for density or numbers of attendance centers are wealth neutral. State practices that do not impinge on the equal effort-equal yield principle as stated in the preamble to the proposed amendment will have no effect on the degree of wealth neutrality.

Comment: A commenter recommended that further thought be given to the regulations, and that the effective date be postponed until July 1, 1978.

Response: No change has been made in the effective date of the regulations. The amendment has been published twice in proposed form for comment. The first publication was June 25, 1976. Further postponement would frustrate the purpose of the "equalization" amendments to Pub. L. 81-874. However, the Office of Education will closely monitor the effectiveness of these regulations as applied to various State aid programs.

Comments: One commenter suggested that Section 5(d)(2) be repealed.

Response: Notice is taken of this viewpoint. However, it is not within the rulemaking authority of the Commissioner to repeal Section 5(d)(2).

Comment: One commenter listed several factors which he believed were eliminated from consideration in formulating the regulations. Listed were (1) support from a county to a school district, (2) income from optional local levies, (3) funding which is optional for capital outlay use, (4) capital outlay revenues, and (5) variations between assessments and market value.

Response: No change has been made in the regulations. The first three factors are specifically included in the wealth neutrality calculations. All local, intermediate, and State maintenance and operation funds are considered. This would include county funds distributed to school districts, as well as local optional levies. All funds which may be spent for maintenance and operation would also be included. The exclusion of capital outlay funds is based on the fact that Pub. L. 81-874 is a current expenditure program and as a consequence, it would be inconsistent to incorporate measures of classes of school expenditures which are unrelated to the purposes of the program in question. The valuation of wealth bases used in determining wealth neutrality is the same as is used in distributing State funds. As long as the valuations among districts are comparable, the ratio of assessed to market value will not affect the neutrality percentage.

Comment: One commenter stated the view that the proposed rule should not take into consideration State-imposed restrictions on budget, expenditure, or tax effort increases in determining wealth neutrality. It was pointed out that States have good reasons for such controls, that such controls apply fairly to all, and that a rich district receives no advantage from such restrictions. Kansas was cited as an example where this is true. It was suggested that the proposed rule published on June 25, 1976 be substituted for the present proposed rule with the qualification percentage changed to 85. The commenter also suggested that two substantially different rules had been published on "wealth neutrality."

Response: No change has been made in the regulation. The Commissioner does not accept the view that the proposed rule first published June 25, 1976 and republished March 22, 1977 are two different rules. The second publication provides operational detail implicit in the principle stated in the first publication. The commenter is objecting to the interpretation that implicit in a guarantee of the same fiscal return for the same fiscal effort is the right of all districts to make the same fiscal effort. To the degree that fiscal efforts are unequally restrained, equal fiscal return is not possible. Since the wealth base and tax rate available to school districts are determined by the State, any unequal delegation of tax rate authority is fully equivalent to an unequal distribution of the local wealth base which districts may tax. Thus any revenues realized from an advantageous delegation of access to wealth must not be considered wealth neutral. It is agreed that States have good reasons for establishing such restraints at the time of implementing a new program. However, discounting of funds paid to a district under Pub. L. 81-874 for a particular year should not be allowed based on a funding program which might achieve the required degree of equity several years hence. In response to the Kansas example, data furnished by the Kansas State Department of Education show that, during the first three years of the new program, the differences in revenue

per student between districts has widened each year for all size categories of districts.

Comment: A commenter suggested deletion of subsection (c) of § 115.65 which establishes criteria for evaluating State aid programs under the "exceptional circumstances" rule, because of the subjective nature of those criteria.

Response: No change has been made in the regulation. The purpose of § 115.65 is to provide relief from a mathematically precise standard in the rare event that a State can demonstrate that both the expenditure disparity and wealth neutrality standards apply unfairly because of exceptional circumstances. It was not intended to be a third mathematically precise standard. If a State program is so unique that it could not be judged fairly by objective data then the only alternative is to judge it on the basis of more subjective criteria. It is expected that this section will rarely, if ever, be used.

Comment: A commenter suggested ex clusion of school districts which serve the upper and lower 5 percent in number of pupils for the wealth neutrality of local leeway revenues calculation.

Response: No change has been made in the regulation. Such exclusions are appropriate to the expenditure disparity standard because it is a measure of the range of a set of data. The ranking of school districts by wealth in the neutrality test is only an intermediate step in a measure of the percent of a whole. The measures are of a fundamentally different statistical nature and the exclusion is not deemed appropriate in the wealth neutrality measure.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11281 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.478—School Assistance in Federally Affected Areas—Maintenance and Operations.)

Dated: July 18, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: December 23, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare.

Subpart G of Part 115, Title 45 of the Code of Federal Regulations is amended by adding § 115.64 and by revising § 115.65, and the Appendix to read as follows:

§ 115.64 Wealth neutrality test.

(a) *General rule.* (1) The Commissioner will consider a State aid program to have met the requirement of § 115.62 (d) if no less than 85 percent of the total State, intermediate, and local revenues for current expenditures for all local educational agencies in the State are wealth neutral revenues for the Fiscal Year for which a determination is made under this subpart.

(2) Paragraphs (b) and (c) of this section set forth rules for determining which State, intermediate, and local revenues are "wealth neutral revenues."

(3) With respect to calculations under paragraph (c), extra yields due to special cost differentials established under State law are considered wealth neutral. There are two allowable categories of special cost differentials:

(i) Those associated with pupils having special educational needs, such as handicapped children, economically disadvantaged children, and gifted and talented children; and

(ii) Those associated with sparsity or density of population, cost of living, or special socioeconomic characteristics within the area served by an agency.

(b) *General definition.* "Wealth neutral revenues" are those revenues received by a local educational agency which are not derived from any wealth advantage that a local education agency may have over any other agency in a State.

(c) *Rules of application.* (1) All State and local revenues considered under a State school finance equalization program are wealth neutral to the extent that each local educational agency receives the same amount of dollars per pupil under that program for the same tax effort and is allowed by the State to spend as much per pupil as any other local educational agency in the State under the program. Revenues in excess of those determined to be equally available to all local educational agencies under the program are not wealth neutral except those for special cost differentials specified in paragraph (a)(3) above.

Example No. 1. An equalization program requires all local educational agencies to contribute the yield of a 10 mill property tax to the equalization program. The State contributes to each local educational agency an amount that when combined with the local contribution provides an amount of $1,000 per pupil. If no local educational agency receives more or less than $1,000 per pupil under the program, then that amount per pupil in all local educational agencies is wealth neutral. If some local educational agencies earn more than $1,000 per pupil from the 10 mill tax and are allowed to spend those excess revenues, then those excess revenues are not wealth neutral.

Example No. 2. If, under the program described in Example No. 1, the State restricts budget, expenditures, or tax effort increases so that some local educational agencies receive less than $1,000 under the program, amounts above the least amount received by any local educational agency are not wealth neutral.

Example No. 3. If, under the program described in Example No. 1, the State establishes for some local educational agencies a guarantee level which is less or more than $1,000 because of prior expenditure levels and still requires all local educational agencies to contribute the yield of a 10 mill property tax to the program, only the amounts up to the least amount received by any local educational agency is wealth neutral.

Example No. 4. An equalization program guarantees to each local educational agency the difference between $100 per pupil per mill levied and the actual local yield per mill levied. If no local educational agency receives more or less than $100 per pupil per mill levied, then that amount per pupil in all local educational agencies is wealth neutral. If the yield per pupil per mill levied is greater than $100 for some local educational agencies and those agencies are allowed to spend those excess revenues, then those excess revenues are not wealth neutral.

Example No. 5. If, under the program described in Example No. 4, the State restricts budget, expenditure, or tax effort increases so that some local educational agencies are restricted from levying the same number of mills as other local educational agencies, then amounts above the least amount which could be received by any local educational agency under the program are not wealth neutral.

Example No. 6. If, under the program described in Example No. 4, the State establishes for some local educational agencies a guarantee level which is less or more than $100 per pupil per mill levied because of prior expenditure levels, only the amounts up to the least amount received by any local educational agency is wealth neutral.

(2) All State revenues received by a local educational agency under any other program of State aid are wealth neutral to the extent that each local educational agency receives the same dollar amount per pupil from such programs. Revenues in excess of those determined to be equally available to all local educational agencies under such program are not wealth neutral except those revenues for special cost differentials specified in paragraph (a)(3) above.

Example No. 1. A State distributes a payment of $100 per pupil for instructional materials to all local educational agencies. These amounts are wealth neutral.

Example No. 2. A State distributes variable per pupil payments to some or all local educational agencies for such purposes as transportation, special education, compensatory education, vocational education, geographic isolation, or for urban factors. These amounts are wealth neutral (see paragraph (a)(3) above).

Example No. 3. A State rebates to local educational agencies a portion of sales or income taxes collected in those local educational agencies. Amounts up to the least amount per pupil received in any local educational agency are wealth neutral.

Example No. 4. A State distributes a payment of $125 per pupil to those districts which receive no State aid under the equalization program because of high wealth. These amounts are not wealth neutral because they are earned on the basis of wealth advantage.

(3) All local educational agency tax revenues not considered under the equalization program are wealth neutral to the extent that each local educational agency receives the same amount of dollars per pupil for the same tax effort and is allowed by the State to spend as much per pupil as any other local educational agency in the State.

Example No. 1. A State allows local educational agencies to levy taxes on property (or other bases) independent of the equalization program. Amounts up to the least amount received per pupil per unit of tax effort are wealth neutral.

Example No. 2. Because of budget, expenditure, or tax effort increase limitations, some local educational agencies are restricted from

levying the same number of mills as other local educational agencies. Amounts above the least amount which could be received by any local educational agency are not wealth neutral.

(4) All local educational agency non-tax revenues which are not considered under the equalization program are wealth neutral to the extent that each local educational agency receives and is allowed to spend the same amount of dollars per pupil of such revenues.

Example No. 1. A State allows local educational agencies to earn and spend certain non-tax revenues such as interest earnings on deposits. Amounts up to the least amount per pupil received of such revenues by any local educational agency are wealth neutral.

Example No. 2. Because of budget or expenditure increase limitations, some local educational agencies are restricted from spending the same amount of dollars per pupil as other local educational agencies. Amounts up to the least amount per pupil which could be spent by any local educational agency are wealth neutral.

(d) The percent of wealth neutral revenues in a State program will be determined by:

(1) Calculating the total wealth neutral revenues for all local educational agencies in the State;

(2) Dividing the total of wealth neutral revenues by the total of all State, intermediate, and local revenues; and

(3) Multiplying by 100.

(e) In cases where per pupil amounts are necessary for calculations, those amounts will be calculated using whatever standard measurement of pupil count or other unit of need used in the State aid calculations.

(f) Further examples illustrating the use of the criteria for determining wealth neutral revenues are contained in the appendix.

(20 U.S.C. 240(d)(2)); S. Rep. No. 763, 93d Cong., 2d Sess. (1974); H.R. Rep. No. 805, 93d Cong., 2d Sess. (1974); Congressional Research Service, *Public Law 874 and State Equalization Plans* (H.R. Comm. Print (1974)).

§ 115.65 Consideration for exceptional circumstances.

(a) *General requirements.* A State program which does not conform to the standards of either § 115.63 or § 115.64 of this subpart may, nevertheless, qualify under this section if the Commissioner determines on the basis of information submitted by the State, that:

(1) A decision not to apply the exact disparity standard specified in § 115.63 to the program submitted by the State would be justifiable because of exceptional circumstances within the State related to disparities in current expenditures or revenue per pupil for education;

(2) A decision not to apply the wealth neutrality standard in § 115.64 would be justifiable because of exceptional circumstances related to the coverage of educational expenditures by the State equalization program;

(3) Current expenditures or revenues for education in that State will be more equalized if payments under the Act are taken into consideration under this subpart than if they are not; and

(4) The program meets the requirements of paragraph (c) of this section.

(b) *Determination of "more equalized."* For purposes of paragraph (a)(3) of this section, current expenditures or revenues for education within a State are considered "more equalized" if the distribution around the mean per pupil expenditure for all local educational agencies within the State is less when payments under the Act are taken into consideration than when they are not, as calculated according to accepted statistical methods appropriate to the circumstances.

(c) *Specific program requirements.* A program of State aid considered under this section is not considered a program designed to equalize expenditures among local educational agencies in the State unless the Commissioner finds that, in addition to meeting the requirements of the preceding paragraphs—

(1) The amount of the revenue available to local educational agencies in the State is not predominantly a function of the wealth of individual local educational agencies;

(2) The program is designed to ensure the provision of financially adequate educational programs and supportive services for every pupil in the State who is enrolled in public schools;

(3) In the determination of the relative financial need of local educational agencies, that program (i) makes provision for identifying those pupils with special educational needs (such as handicapped children, economically disadvantaged children, children with limited English-speaking ability), (ii) takes into consideration the additional costs of providing free public education for such children or categories of children; and (iii) takes into consideration the costs of providing education which might be associated with such factors as sparsity or density of population, cost of living, and socio-economic characteristics of the local educational agencies; except that nothing in this clause shall be construed to require any particular system of weighting of pupils.

(4) The program involves a substantial percentage of school revenues;

(5) The program is designed to provide systems and procedures for evaluating the degree to which the program is achieving its stated objectives.

(20 U.S.C. 240(d)(2); S. Rep. No. 763, 93d Cong., 2d Sess. 56 (1974): H.R. Rep. 805, 93d Cong., 2d Sess. 42–44 (1974); 102 Cong. Rec. S 8604–8607 (daily ed., May 20, 1974); *Id.*, H 7401 (daily ed., July 31, 1974); Congressional Research Service, *Public Law 874 and State Equalization Plans* 30–34 (H.R. Comm. on Education and Labor Print (March 1974))

APPENDIX

* * * * *

2. *Examples of wealth neutrality calculations under § 115.64.*

Example 1. State A has an equalization program under which each LEA is guaranteed $900 per pupil less the LEA contribution derived from a uniform required tax of 20 mills.

A minimum of $100 per pupil is paid even if the required tax produces more than $900. Each LEA is permitted to levy additional local taxes. Additional categorical State aid is made available for special cost programs. The State has no limitations on budget, expenditure or local tax effort increases. The State is composed of three LEAs with data as shown.

	LEA No. 1	LEA No. 2	LEA No. 3
Taxable wealth per pupil	$30,000	$60,000	$20,000
Enrollment	2,000	1,000	1,000
Yield per pupil from required local tax	$600	$1200	$400
Equalized State aid per pupil	300	100	500
Additional local tax per pupil	100	300	70
Additional State aid per pupil	150	150	155
Total State, intermediate, and local revenues per pupil	1,150	1,750	1,125

LEA No. 1

The $600 per pupil derived from the required local tax rate and the $300 per pupil in State equalization aid are neutral since $900 per pupil was the least amount realized by any LEA for the same required tax effort. One third of the $100 per pupil from the additional local tax is not neutral since the least wealthy LEA, #3, could only realize two-third of the revenue that LEA #1 could at the same tax rate. The $150 per pupil of State categorical aid is neutral. Thus, $1127 per pupil ($600+$300+⅔ of $100+$150) is wealth neutral and $33 per pupil is not neutral.

LEA No. 2

Of the $1,200 per pupil derived from local required effort $900 is neutral since that was the least amount realized by any LEA for the required local tax rate. The $300 per pupil above the guarantee and the $100 per pupil minimum State equalization aid are not neutral since they exceed the least amount realized by another agency. Two thirds of the $300 per pupil realized on the additional local tax, $200, is not neutral since the least wealthy, LEA #3, could only realize one-third of the revenue that LEA #2 could at the same rate. The $150 per pupil of State categorical aid is neutral. Thus, $1150 per pupil ($900+⅓ of $300+$150) is wealth neutral and $600 per pupil is not neutral.

LEA No. 3

The $400 per pupil derived from the required local tax rate and the $500 per pupil in State equalization aid are neutral since $900 is the least amount realized under the equalization program. All of the $70 per pupil realized from the additional local tax is neutral since LEA #3 is the least wealthy in the State. The $155 per pupil of State categorical aid is neutral. Thus, all of the $1125 per pupil is neutral.

The calculation of the percentage of wealth neutral funds for State A is as follows:

	Total revenues	
	Neutral	Not neutral
LEA No. 1	$1,127 per pupil ×2,000 pupils	$33 per pupil ×2,000 pupils
	$2,254,000	$66,000
LEA No. 2	$1,150 per pupil ×1,000 pupils	$600 per pupil ×1,000 pupils
	$1,150,000	$600,000
LEA No. 3	$1,125 per pupil ×1,000 pupils	None.
	$1,125,000	
Total neutral revenues	$4,529,000	
Total State, intermediate, and local revenues	$5,195,000	=87.2 pct neutral

Thus, State A qualifies under § 115.64(a).

Example 2. State B in the prior year had an equalization program which required a 5 mill effort and allowed 5 mills additional leeway. For the required 5 mill effort each LEA was guaranteed $600 per pupil. LEA #, on a wealth base of $60,000 per pupil, levied the full 10 mills producing $300 per pupil received $300 per pupil of State basic aid, and with the $300 per pupil leeway yield, had revenues of $900 pee pupil. LEA #2, on a wealth base of $160,000 per pupil, also levied the full 10 mills producing $800 per pupil from the required 5 mills which exceed the guarantee and thus received no State basic aid. The 5 mill leeway yielded an additional $800 per pupil for a total of $1,600 per pupil.

The State has instituted a new program raising the guarantee to $900 per pupil with a 10% budget increase limitation. LEA #1, (with 2,000 pupils), now realizes $300 per pupil from its required effort, receives $600 of State basic aid, received $300 per pupil 1.5 mills of local leeway for a yield of $90 per child because of its budget restraint of $990 per ihild. ($900 per ihild plus 10%), LEA #2 (with 1000 pupils), realizes $800 per pupil from its required effort, receives $100 per pupil in State equalization aid, levies 5 mills leeway for another $800 per pupil for a total of $1,700 per pupil which is still within its budget increase limitation of $1,760 per pupil.

Assuming that no other LEA is restrained below the $900 per pupil guarantee and that LEA #1 is the most restrained at $90 per pupil leeway then all of the revenues of LEA#2 above that level are not neutral.

The percentage of neutrality for the State is calculated in the same way as in Example 1. Assuming there are no other LEAs, the percentage of wealth neutral revenues is 80.7, and State B does not qualify under

Example 3. State C has an equalization program under which each LEA is guaranteed $900 per weighted pupil or 110 percent of the prior year's per weighted pupil revenue under the program, whichever is less, minus the LEA contribution derived from a required tax which is uniform for all LEA's guaranteed $900 per pupil and proportionately less for those LEA's guaranteed lesser amounts per pupil. No additional local leeway taxes are allowed. LEA #1 received $850 per pupil under the program in the prior year while LEA #2 received $800 per pupil under the program in the prior year. LEA #1 is limited to the $900 guarantee since 110 percent of its prior year's expenditure exceeds the $900 guarantee. LEA #2 qualifies for an $880 guarantee since 110 percent of $800 equals $880. LEA #2's required tax effort is also proportionately less.

Assume that neither LEA realizes revenues in excess of the guarantee. For LEA #1 (with 10,000 pupils), $880 of the $900 per pupil revenue is wealth neutral and for LEA #2 (with 2,000 pupils), all $880 in per pupil revenue is wealth neutral. (See § 115.64(b)(2)(iii)).

The percentage of neutrality for the State would be calculated a sin Example 1. The percentage of wealth neutral revenues is 98.2 and the State qualifies under § 1,5.64(a).

Example 4. State D has an equalization program which permits different local tax efforts from 1 mill to 10 mills and which guarantees $100 per pupil for each mill levied. LEA #1 taxes at 5 mills and realizes $300 per pupil. Since the guarantee level for 5 mills is $500 per pupil, State D gives LEA #1 $200 in equalization aid. LEA #2 also taxes at 5 mills, but realizes $800 per pupil. Since the guarantee for 5 mills is only $500 per pupil, LEA #2 receives no equalization aid. LEA #3 taxes at 8 mills and realizes $400 per pupil. Since the guarantee at 8 mills is $800 per pupil, LEA #3 receives $400 in equalization aid. LEA #4 taxes at 8 mills, and realizes $1,000 per pupil. Since the guarantee for 8 mills is only $800 per pupil, LEA #4 receives no equalization aid. All of the funds LEA #1 realized under the equalization program are neutral since there is no excess over the guaranteed amount for 5 mills. $300 per pupil of the funds realized by LEA #2 are not neutral, because that is the amount in excess of the amount guaranteed for a 5 mill tax effort under the equalization program, and is attributable to the greater wealth of LEA #2.

All of the funds realized by LEA #3 under the equalization program are neutral since there is no excess over the guaranteed amount for an 8 mill tax effort. $200 per pupil realized by LEA #4 is not neutral, because that is the amount in excess of the guaranteed amount for an 8 mill tax effort under the equalization program and is attributable to the greater wealth of LEA #4.

Example 5. State E has a foundation-type equalization program under which each LEA receives funds for a teacher salary, based on a salary schedule, for each 25 pupils in average daily attendance with additional teacher units allocated for small or sparsely populated districts, and special education programs such as handicapped and vocational classes. Each district also receives under the program a set amount of dollars per teacher unit for expenses other than salaries. Each LEA must make a tax effort of 10 mills to qualify for the foundation equalization aid. The yield from the 10 mills tax is deducted from the amount of the equalization guarantee. There are no State restrictions on budget, expenditure or tax effort increases over prior years. No LEA in the State realizes more than the guaranteed amount for the 10 mill effort. All of the funds realized by all LEAs under the foundation equalization program are neutral. Any excess in the amount of revenues realized by any agency over that realized by any other are attributable to differences in the designated needs. (See § 115.61(b)(3) the designated needs.

3. *Determination under § 115.66 as to maximum proportion of Pub. L. 81-874 payments that may be taken into consideration by a State under an equalization program.*

* * * * *

[FR Doc.77-37135 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977

PART VI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Urban Development Action Grants

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. R-77-471]

[24 CFR Part 570]

SUBPART G, URBAN DEVELOPMENT ACTION GRANTS

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rulemaking.

SUMMARY: HUD is soliciting comment on proposed rulemaking governing the Community Development block grant program under Title I of the Housing and Community Development Act of 1974, as amended. Subpart G, which covers the Urban Development Action Grant program, is proposed for modification to establish minimum standards for determining physical and economic distress in cities of under 50,000 population that are not central cities of standard metropolitan statistical areas, hereinafter called small cities; and to identify measures to be used in determining the primary criterion for selection projects for funding.

DATES: Comments must be received on or before January 30, 1978.

ADDRESS: Comments should be addressed to Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

David I. Dresser, Urban Development Action Grant Task Force, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6032.

SUPPLEMENTARY INFORMATION:

Minimum Standards for Determining Physical and Economic Distress

At the time of the initial proposed rulemaking for the Urban Development Action Grant program HUD did not propose minimum standards of distress applicable to small cities. HUD has completed its investigation of data available as measures of comparative urban distress among small cities. In establishing the action grant distress standards, a major component of determining eligibility for further consideration as a UDAG recipient, a number of objectives were considered. The individual standards need to reflect legislative intent to the fullest extent possible; the individual standards should meet both common sense and technical standards of urban distress; individual standards must be based on data that are, within reason, comparable for each city; each standard should contribute significantly to the overall judgement of distress, the total number of standards should be manageable; cities meeting these standards should have a distinct degree of urban distress throughout the community; and, subject to the previous conditions, the final results should not serve to exclude substantially all the cities of a given region.

Distress Standards for Small Cities

The minimum standards of distress for small cities must recognize, in addito the general conditions stated above, limitations of data for small cities. Because of the lower reliability of some of the data in cities as population levels decrease, a diminishing number of standards of distress will be measured within three population ranges: 49,999 to 25,000 (five standards); 24,999 to 10,000 (four standards); and 9,999 to 2,500 (three standards). HUD believes that small cities should meet levels of distress (medians) at least as significant as those in metropolitan cities. Accordingly, the minimum standards of physical and economic distress which small cities between 50,000 and 10,000 population must meet in order to be eligible for further consideration are based on the data for all metropolitan cities. Because there are no metropolitan cities under 10,000 population small cities below 10,000 population are required to meet the level of distress equivalent to that existing only in metropolitan cities between 50,000 and 10,000 population. These standards appear to be a more accurate measure of severe distress for cities of this smaller population group. The median figures in Section 570.452(b)(2) may change slightly when these regulations are published for effect because of the need to cross check systematically HUD data for metropolitan cities with the data sources specified.

Cities Under 2,500 Population

Only a small percentage of cities less than 2,500 population meet the Bureau of Census definition of "urbanized". The majority of such cities have decidedly less capacity and experience in undertaking the type of projects that are contemplated in the Urban Development Action Grant program. This lack of capacity would hamper severely the ability of such cities to compete successfully for funding through this program. For these reasons, cities of less than 2,500 population will not normally be eligible for grant assistance under this section. It is more appropriate that such communities look to the Small Cities program, described in Subpart F in HUD's Notice of Proposed Rules on Friday, November 18, 1977 (Federal Register, Vol. 42, 223, Part IV) for grant assistance.

Exceptions may be made if the Secretary determines (1) that a city has demonstrated its capacity to conduct a comprehensive program of community development; (2) and that the severe distress of the community can be resolved only through grant assistance available under this section; (3) that the city meets the minimum distress standards applied to cities between 2,500 and 10,000 population; (4) the city can meet the requirements of 570.452(c) concerning provision of housing; (5) and the requirements of 570.452(d) concerning equal opportunity.

HUD Action on Applications

Applications from small cities will be received during the second month of each quarter (February, May, August, November). Applications postmarked after the last day of the second month of each quarter will not be considered until the following quarter. HUD will make funding decisions on applications received during the second month of each quarter by the final day of the first month of the following quarter (April, July, October, January).

Other Program Considerations

All remaining regulations and requirements as published for effect in Subpart G, Urban Development Action Grants, shall apply to small cities as well as metropolitan cities and urban counties.

An Inflation Impact Statement, and a Finding of Inapplicability with respect to Environmental Impact, which was prepared in accordance with HUD Handbook 1390.1 were previously prepared for Subpart G. Copies of the Statement and Finding are available for inspection and copying inthe Office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed to add a new subsection 570.452(b) and a new subsection 570.457(a)(2) to Subpart G as follows:

§ 570.452 Eligible applicants.

* * * * *

(b) * * *

(2) * * *

(i) Cities of less than 2,500 population in 1975 are eligible for grant assistance under this section, only if the Secretary determines (1) that a city has demonstrated its capacity to successfully conduct a comprehensive program of community development; (2) that the severe distress of the community can be resolved only through grant assistance under this section; and (3) that the city meets the minimum distress standards under subparagraph (ii).

(ii) Cities of more than 2,500 and less than 10,000 population in 1975 must meet all of the following minimum standards of physical and economic distress, based on data for the community as a whole.

(A) *Age of Housing.* At least 38.5 percent of the applicant's year-round housing units were constructed prior to 1940, based on 1970 Census data;

(B) *Per capita income.* The net in-in per capita income for the period 1969-1974 was $1,361 or less, based on data compiled by the Bureau of the Census.

(C) *Poverty.* At least 13.2 percent of the persons within the applicant's jurisdiction is at or below the poverty level, based on 1970 Census poverty data, and 1975 population estimates by the Bureau of the Census.

(iii) Cities of more than 10,000 and less than 25,000 population in 1975 must meet

three of the four following minimum standards of distress, based on data for the community as a whole.

(A) *Age of housing.* At least 34.9 percent of the applicant's year-round housing units were constructed prior to 1940, based on 1970 Census data.

(B) *Per capita income.* The net increase in per capita income for the period 1969–1974 was $1,435 or less, based on data compiled by the Bureau of the Census.

(C) *Poverty.* At least 11.1 percent of the persons within the applicant's jurisdiction is at or below the poverty level, based on 1970 Census poverty data, and 1975 population estimates by the Bureau of the Census.

(D) *Population lag/decline.* For the period 1970–1975 the percentage rate of population decline was —.5 or more based on applicable U.S. Census data.

(iv) Cities of more than 25,000 and less than 50,000 population in 1975 must meet three of the five following minimum standards of distress based on data for the community as a whole, unless the applicant's percentage of poverty is less than one half of the median for all metropolitan cities, in which case the applicant must meet four of the five factors.

(A) *Age of housing.* At least 34.9 percent of the applicant's year-round housing units were constructed prior to 1940, based on 1970 Census data.

(B) *Per capita income.* The net increase in per capita income for the period 1969–1974 was $1,435 or less, based on data compiled by the Bureau of the Census.

(C) *Poverty.* At least 11.1 percent of the persons within the applicant's jurisdiction is at or below the poverty level, based on 1970 Census poverty data, and 1975 population estimates by the Bureau of the Census.

(D) *Population lag/decline.* For the period 1970–1975 the percentage rate of population decline was —.5 or more, based on U.S. Census data.

(E) *Job lag/decline.* The rate of growth in retail and manufacturing employment for the base period 1967–1972 was 7.1 percent or less, based on U.S. Census data. If one of the two data sources is not available for the applicant, the threshold will be the median of the available data source for those cities with both data sources available. If neither data sources is available, this standard will not be considered, and applicants must meet three of the remaining four standards of distress.

Issued at Washington, D.C., December 28, 1977.

ROBERT C. EMBRY, JR.,
Assistant Secretary for Community Planning and Development.

[FR Doc.77-37336 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977
PART VII

DEPARTMENT OF THE INTERIOR

Mining Enforcement and Safety Administration

■

NOTIFICATION, INVESTIGATION, REPORTS, AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND PRODUCTION IN MINES

[4310-68]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 50—NOTIFICATION, INVESTIGATION, REPORTS, AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND PRODUCTION IN MINES

AGENCY: Mining Enforcement and Safety Administration (MESA), Department of the Interior.

ACTION: Final rule.

SUMMARY: These regulations require mine operators to investigate mine accidents and injuries and to report mine accidents, injuries, illnesses, employment, and production. The Mining Enforcement and Safety Administration presently has two separate systems for reporting by mine operators of accident, illness, injury and employment and production information—one for coal mining and for metal/nonmetal mining This regulation consolidates the two systems into one uniform system for both the coal and metal/nonmetal mining industries.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert E. Barrett, Administrator, Mining Enforcement and Safety Administration, U.S. Department of the Interior, Room 618, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

SUPPLEMENTARY INFORMATION: On October 17, 1977, the Secretary of the Interior published a notice of proposed rulemaking as Part IV of the FEDERAL REGISTER, 42 FR 55568-55577, proposing uniform industry-wide mandatory reporting and record-keeping regulations for accident notification to MESA, accident and injury investigation by mine operators, and recording and reporting of accident, injury, illness, employment and coal production information. It was proposed to revise and combine 30 CFR Parts 58 and 80 into a new Part 50, and to revoke Parts 58 and 80 in order to establish one system of reporting and record-keeping for metal and nonmetal and coal mine industries.

SUMMARY OF COMMENTS

This statement summarizes the comments, suggestions, and objections received on the proposed regulations from 64 interested persons or organizations and describes the principal changes which are made in the final regulations. Only those comments which were considered substantive are noted in this summary.

1. REQUESTS FOR PUBLIC HEARING

Several respondents requested a public hearing on the proposed regulations. The authority for Part 50 are sections 103(e), 111, and 508 of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. sections 813(e), 821, and 957, and sections 4 and 13 of the Federal Metal and Nonmetallic Mine Safety Act, 30 U.S.C. 723 and 732. In the absence of specific rulemaking provisions for these regulations, which are not mandatory health or safety standards in these acts, the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq. apply. The applicable section, 5 U.S.C. 553, requires that an administrative agency give interested persons an opportunity to participate in rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation. The Secretary has discretion to permit oral presentations. It has been determined that a hearing will not be held because interested persons have had ample opportunity to make their views known, and because there is an urgent need to improve the data base, collection, and analysis under Parts 58 and 80, and to start the collection of this statistical data at the beginning of the calendar year, on January 1, 1978.

With respect to public participation, before proposing Part 50 MESA invited interested persons to meet with its representatives to discuss the proposed regulations. Separate comments were solicited from metal and nonmetal and coal mine operators and miners, and, consistent with MESA Practice, copies of the notice of proposed rulemaking were sent to mine operators and representatives of miners When Part 50 was published, all interested persons were invited to submit their comments and suggestions. All comments and suggestions received have been carefully considered.

2. OPERATOR REPORTING OF CONTRACTOR RELATED DATA

Proposed Part 50 contained a requirement in § 50.20 that operators report data respecting contractors' employees. Several comments were received regarding this requirement and MESA has deleted it from the final rule. Existing statutory authority and the Federal Mine Safety and Health Act of 1977, allow MESA to hold extraction operators, or contractors, or both, responsible for compliance with Part 50; the deletion does not foreclose these options. The deletion is therefore not a material change from the proposed rule nor does it represent an alteration of present policy.

3. SUBMISSION OF INVESTIGATION REPORTS

Several responses objected to the requirement in § 50.11 that operators submit accident or injury investigation reports to MESA upon request. Both the Coal and Metal Acts require operators to investigate or report accidents and to provide related information to the Secretary. The Secretary may require investigation of injuries and submission of related information. Only by requiring submission can MESA ensure that operators are in fact investigating accidents and injuries and are engaged in constant upgrading of health and safety practices.

Section 50.11 has been reworded to make it clear that operators must specify not only the cause of an occupational injury but also the cause of the related accident or occurrence which caused the injury. In order to diminish any paperwork burden upon small operators, § 50.11 has been reworded to indicate that while small operators must investigate each accident and occupational injury, Form 7000-1 will suffice as an investigation report by these operators respecting an occupational injury which is not related to an accident.

4. DEFINITIONS OF OCCUPATIONAL INJURY AND OF OCCUPATIONAL ILLNESS; RATE DETERMINATIONS

Some objections were made to the inclusion of injuries for which compensation awards have been made within the scope of the term "occupational injury." There is a wide discrepancy in State award criteria, and therefore this aspect of the definition has been deleted.

Some comments suggested that all miners' injuries arising out of and in the course of employment should be reported. This would result in injuries occurring off mine property, such as, injuries from automobile or airplane accidents, being reportable. MESA has no jurisdiction over such accidents, regardless of whether the injured miner was engaged in his employer's business at the time of injury. MESA seeks data only respecting injuries whose occurrence rate it can affect and diminish. Therefore, injuries to mine employees occurring outside MESA's jurisdiction are not required to be reported.

Several parties objected to the definition of occupational illness as being too broad. MESA and other agencies have found that illness data reporting has been minimal under present reporting criteria. Among the reasons for this lack of information respecting miners has been the restrictive definition of occupational illness in Parts 58 and 80 and the broad discretion allowed operators in determining illness occurrence.

A way to determine whether an illness is linked to mining is to require reports of its incidence. Abnormally high rates among miners, for example, may indicate an occupational cause. This is why all the illnesses listed in Part 50 must be reported. Illness reports can provide a data base upon which determinations or decisions to investigate causation can be based. Limiting reports to the few illnesses not definitely known to be mining related would hinder research, cause health protection efforts to lag far behind advances in mining and milling technology which may have effects on miners' health, and be contrary to Congress' desire that health protection activities be more comprehensive than has previously been the case.

Some responding parties stated that they are unaware of miners' medical conditions. MESA does recognize that some operators do not maintain medical files on their employees. However, many operators do maintain such files and so

become aware of illness occurrence rather quickly. Therefore, MESA believes it is reasonable to require reporting of an illness as it occurs or as the operator becomes aware of its existence.

Certain operators objected to the inclusion of an illness for which compensation has been awarded within the definition of occupational illness, and many feared that reporting any illness might constitute an admission of liability for its occurrence. MESA seeks only factual information respecting occurrence. The agency is not involved in awarding compensation, and reporting the fact that a doctor has diagnosed an illness or that compensation has been awarded respecting an illness is not an admission of responsibility. The information sought is, however, relevant to MESA's responsibilities respecting health conditions and practices in the mining industry and this information must be reported if improvement in mine health conditions and practices is to occur.

The preamble to proposed Part 50 included information concerning injury incidence and severity measurement determinations. The injury incidence rate system is compatible with OSHA and BLS computations. The severity measurement criteria are also compatible except that time charges will be made regarding permanent disability. The consolidation of reporting requirements is compatible with OSHA and BLS requirements. MESA will keep separate statistics for the coal and for the metal and nonmetal mining industries. However, MESA does not intend to develop at this time illness incidence rates similar to its injury incidence rates.

5. DEFINITION OF ACCIDENT

With respect to § 50.2(h)(8), unplanned roof or rib falls in active workings which impair ventilation or passage must be reported immediately, but falls which do not do so need not be reported immediately regardless of their size.

Several parties requested examples of § 50.2(h)(12), "an event at a mine which causes death or bodily harm to an individual not at the mine at the time the event occurs." Two examples are: (1) flyrock from open pit blasting which injures a passerby, and (2) failure of an impoundment which releases material which harms persons downstream from the impoundment.

6. VERIFICATION OF DATA

Some parties objected to § 50.41, asserting that it invades employees' privacy rights respecting medical data and improperly authorizes inspection and copying of records not specifically required to be maintained, including trade secrets and other internal company information. Many feared disclosure of any information copied.

The patient-physician confidentiality privilege is not absolute. Where disclosure of patient data is related to a valid purpose, disclosure has been held not to be violative of privacy rights. It is questionable whether employers have standing to assert employees' privacy rights and significant that no miner or representative of miners has objected to § 50.41.

Without inspection of records beyond those required to be kept it is impossible to verify the required records. The Secretary's power to acquire information related to his functions under the Coal Act and the Metal Act is not limited to any particular records. Section 111(b) of the Coal Act and § 13 of the Metal Act explicitly authorize analysis of other information related to his functions, and only the Secretary, subsequent to inspection and copying, can determine relevance. This is particularly important in development of an epidemiologic data base, where information not reported on a Part 50 form can help identify disease related agents or practices. Personal medical information or trade secrets are protected under 5 U.S.C. 552(b)(4) and (b)(6), and neither the Coal Act nor the Metal Act requires the Secretary to disclose or allow public inspection of information protected under 5 U.S.C. 552 (b)(4) and (b)(6). Information gathered may be also protected under 5 U.S.C. 552(b)(7), relating to law enforcement data, in certain cases. Section 50.41 has been slightly reworded but its effect has not been altered.

7. EFFECT OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977, PUB. L. 91-173, AS AMENDED BY PUB. L. 95-164; EFFECTIVE DATE OF PART 50

Some parties felt that Part 50 will be inconsistent with new legislation affecting the mining industry. MESA has carefully reviewed these comments and the new legislation and has determined that the regulation is not inconsistent with the reporting and recordkeeping requirements of the new legislation, although certain minor changes may be necessary after March 9, 1978. Section 301 of Pub. L. 95-164 states that rules issued prior to March 9, 1978, are effective subsequent to that date. Violations of Part 50 may be considered violations of the new statutory requirements.

The urgent need for implementation of an improved health and safety data reporting system, and for the information it may provide which may assist in activities under new legislation, make it necessary that Part 50 be effective on January 1, 1978.

COMMENTS ON FILE, IMPACT STATEMENTS

Copies of the public comments respecting proposed Part 50 are on file at the Administrator's office. The economic, environmental, and quality of life impacts of Part 50 have been found to be insignificant and MESA has prepared memoranda and assessments supporting these findings.

Copies of this final rule are being sent to each operator of a mine and each representative of miners at each mine.

REVOCATION

As a result of the promulgation of this final rule, 30 CFR Part 58, Subchapter N, and 30 CFR Part 80, Subchapter O are revoked and replaced by a new Part 50, in a new Subchapter M of Chapter I, Title 30, Code of Federal Regulations, as set forth below.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Arthur P. Nelson, Assistant Administrator, Metal and Nonmetal Mine Health and Safety, Roy L. Bernard, Acting Chief, Safety Division, Metal and Nonmetal Mine Health and Safety, Dr. Aurel Goodwin, Chief, Health Division, Metal and Nonmetal Mine Health and Safety, Joseph O. Cook, Assistant Administrator, Coal Mine Health and Safety, Herschel H. Potter, Chief, Safety Division, Coal Mine Health and Safety, Joseph Lamonica, Chief, Division of Health, Coal Mine Health and Safety, Donald P. Schlick, Assistant Administrator, Technical Support, Donald K. Walker, Chief, Health and Safety Analysis Center, Donald R. Tindal, Assistant Solicitor, Metal and Nonmetallic Mine Health and Safety, Robert H. McPhillamey, Assistant Solicitor, Coal Mine Health and Safety, Division of Mine Health and Safety, Office of the Solicitor.

IMPACT STATEMENT

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: December 28, 1977.

CHARLES P. EDDY,
Acting Assistant
Secretary of the Interior.

Subchapter M—, Accidents, Injuries, Illnesses, Employment, and Production in mines, of 30 CFR Chapter I is amended as follows:

1. The following new Part 50 is added:

PART 50—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS, INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Subpart A—General

Sec.

50.1 Purpose and Scope.
50.2 Definitions.

Subpart B—Notification, Investigation, Preservation of Evidence

50.10 Immediate Notification.
50.11 Investigation.
50.12 Preservation of Evidence.

Subpart C—Reporting of Accidents, Injuries and Illnesses

50.20 Preparation and submission of MESA Report Form 7000-1—Mine Accident, Injury, and Illness Report.
50.20-1 General Instructions for Completing MESA Form 7000-1.
50.20-2 Criteria—Transfer to another job.
50.20-3 Criteria—Differences between medical treatment and first aid.
50.20-4 Criteria—MESA Form 7000-1, Section A.

Sec.
50.20-5 Criteria—MESA Form 7000-1, Section B.
50.20-6 Criteria—MESA Form 7000-1, Section C.
50.20-7 Criteria—MESA Form 7000-1, Section D.

Subpart D—Quarterly Employment and Coal Production Report

Sec.
50.30 Preparation and Submission of MESA Form 7000-2—Quarterly Employment and Coal Production Report.
50.30-1 General Instructions for Completing MESA Form 7000-2.

Subpart E—Maintenance of Records; Verification of Information

Sec.
50.40 Maintenance of Records.
50.41 Verification of Reports.

AUTHORITY: This Part 50 is issued under sections 103(e), 111, and 508 of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. §§813(e), 821, and 957; and sections 4 and 13 of the Federal Metal and Nonmetallic Mine Safety Act, 30 U.S.C. §§ 723, 732.

Subpart A—General

§ 50.1 Purpose and Scope.

This Part 50 implements §§ 103(e) and 111 of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 801 et seq., and §§ 4 and 13 of the Federal Metal and Nonmetallic Mine Safety Act, 30 U.S.C. 721 et seq., and applies to operators of coal, metal and nonmetallic mines. It requires operators to immediately notify the Mining Enforcement and Safety Administration (MESA) of accidents requires operators to investigate accidents, and restricts disturbance of accident related areas. This Part also requires operators to file reports pertaining to accidents, occupational injuries and occupational illnesses, as well as employment and coal production data, with MESA, and requires operators to maintain copies of reports at relevant mine offices. The purpose of this Part is to implement MESA's authority to investigate, and to obtain and utilize information pertaining to, accidents, injuries, and illnesses occurring or originating in mines. In utilizing information received under Part 50, MESA will develop rates or injury occurrence (incident rates or IR), on the basis of 200,000 hours of employee exposure (equivalent to 100 employees working 2,000 hours per year). The incidence rate for a particular injury category will be based on the formula:

$$IR = \frac{\text{no. of cases} \times 200{,}000}{\text{hours of employee exposure}}$$

MESA will develop data respecting injury severity using days away from work or days of restricted work activity and the 200,000 hour base as criteria. The severity measure (SM) for a particular injury category will be based on the formula:

$$SM = \frac{\text{sum of days} \times 200{,}000}{\text{hours of employee exposure}}$$

§ 50.2 Definitions.

As used in this Part:

(a) The term "mine" means

(1) An area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or methods, and the work of preparing the coal so extracted, and includes custom coal preparation facilities; or

(2) An area of land from which minerals other than coal or lignite are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (2) private ways and road appurtenant to such area, and (3) land, excavations, underground passageways, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface or underground, used in the work of extracting such minerals other than coal or lignite from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to protection against radiation hazards such term shall not include property used in the milling of source material as defined in the Atomic Energy Act of 1954, as amended.

(b) "Work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, sorting, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine.

(c) "Operator" means

(1) Any owner, lessee, or other person who operates, controls, or supervises a coal mine; or,

(2) The person, partnership, association, or corporation, or subsidiary of a corporation operating a metal or nonmetal mine, and owning the right to do so, and includes any agent thereof charged with responsibility for the operation of such mine.

(d) "Mine" means any individual working in a mine.

(e) "Occupational injury" means any injury to a miner which occurs at a mine for which medical treatment is administered, or which results in death or loss of consciousness, inability to perform all job duties on any day after an injury, temporary assignment to other duties, or transfer to another job.

(f) "Occupational illness" means an illness or disease of a miner which may have resulted from work at a mine or for which an award of compensation is made.

(g) "First aid" means one-time treatment, and any follow-up visit for observational purposes, of a minor injury.

(h) "Accident" means,

(1) A death of an individual at a mine;

(2) An injury to an individual at a mine which has a reasonable potential to cause death;

(3) An entrapment of an individual for more than thirty minutes;

(4) An unplanned inundation of a mine by a liquid or gas;

(5) An unplanned ignition or explosion of gas or dust;

(6) An unplanned mine fire not extinguished within 30 minutes of discovery;

(7) An unplanned ignition or explosion of a blasting agent or an explosive;

(8) An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use; or, an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour;

(10) An unstable condition at an impoundment, refuse pile, or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, refuse pile, or culm bank;

(11) Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes;

(12) An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

Subpart B—Notification, Investigation, Preservation of Evidence

§ 50.10 Immediate Notification.

If an accident occurs, an operator shall immediately contact the MESA District or Subdistrict Office having jurisdiction over its mine. If an operator cannot contact the appropriate MESA District or Subdistrict Office, it shall immediately contact the MESA Headquarters Office in Washington, D.C., by telephone, toll free, at 800-737-2000.

§ 50.11 Investigation.

(a) After notification of an accident by an operator, the MESA District or Subdistrict Manager will promptly decide whether to conduct an accident investigation and will promptly inform the operator of his decision. If MESA decides to investigate an accident, it will initiate the investigation within 24 hours of notification.

(b) Each operator of a mine shall investigate each accident and each occupational injury at the mine. Each operator of a mine shall develop a report of each investigation. No operator may use Form 7000-1 as a report, except that an operator of a mine at which fewer than twenty miners are employed may, with

respect to that mine, use Form 7000–1 as an investigation report respecting an occupational injury not related to an accident. No operator may use an investigation or an investigation report conducted or prepared by MESA to comply with this paragraph. An operator shall submit a copy of any investigation report to MESA at its request. Each report prepared by the operator shall include,

(1) The date and hour of occurrence;

(2) The date the investigation began;

(3) The names of individuals participating in the investigation;

(4) A description of the site;

(5) An explanation of the accident or injury, including a description of any equipment involved and relevant events before and after the occurrence, and any explanation of the cause of any injury, the cause of any accident or the cause of any other event which caused an injury;

(6) The name, occupation, and experience of any miner involved;

(7) A sketch, where pertinent, including dimensions depicting the occurrence;

(8) A description of steps taken to prevent a similar occurrence in the future; and

(9) Identification of any report submitted under § 50.20 of this Part.

§ 50.12 Preservation of Evidence.

Unless granted permission by a MESA District Manager or Subdistrict Manager, no operator may alter an accident site or an accident related area until completion of all investigations pertaining to the accident except to the extent necessary to rescue or recover an individual, prevnet or eliminate an imminent danger, or prevent destruction of mining equpment.

Subpart C—Reporting of Accidents, Injuries and Illnesses

§ 50.20 Preparation and submission of MESA Report Form 7000–1—Mine Accident, Injury, and Illness Report.

(a) Each operator shall maintain at the mine office a supply of MESA Mine Accident, Injury and Illiness Report Form 7000–1. These may be obtained from MESA Metal and Nonmetallic Mine Health and Safety Subdistrict Offices and from MESA Coal Mine Health and Safety Subdistrict Offices. Each operator shall report each accident, occupational injury, or occupational illness at the mine. The principal officer in charge of health and safety at the mine or the supervisor of the mine area in which an accident or occupational injury occurs, or an occupational illness may have originated, shall complete or review the form in accordance with the instructions and criteria in § 50.20–1 through § 50.–20–7. If an occupational illness is diagnosed as being one of those listed in § 50.20–6(b)(7), the operator must report it under this Part. The operator shall mail completed forms to MESA within ten working days after an accident or occupational injury occurs or an occupational illness is diagnosed. When an accident specified in § 50.10 occurs, which does not involve an occupational injury, Sections A, B and the Accident Information part of Section C of Form 7000–1 shall be completed and mailed to MESA in accordance with the instructions in § 50.20–1 and criteria contained in §§ 50.20–4 through 50.20–6.

(b) Each operator shall report each occupational injury or occupational illness on one set of forms. If more than one miner is injured in the same accident or is affected simultaneously with the same occupational illness, an operator shall complete a separate set of forms for each miner affected. To the extent that the form is not self-explanatory, an operator shall complete the form in accordance with the instructions in § 50.–20–1 and criteria contained in §§ 50.20–2 through 50.20–7.

§ 50.20–1 General Instructions for Competing MESA Form 7000–1.

Each Form 7000–1 consists of four sheets, an original and three copies. The original form shall be mailed to: MESA—Health and Safety Analysis Center, P.O. Box 25367, Denver Federal Center, Denver, Colo. 80225, within ten working days after an accident, occupational injury or occupational illness. At the same time, the first copy shall be mailed to the appropriate local MESA Mine Health and Safety District or Subdistrict office. If the first copy does not contain a completed Section D—Return to Duty Information—the second copy shall be retained by the operator until the miner returns to work or a final disposition is made respecting the miner. When the miner returns to work or a final disposition is made, the operator shall, within five days, complete Section D and mail the second copy to MESA—Health and Safety Analysis Center (HSAC). A third copy, containing all the information in the first and second copies shall be retained at the mine office closest to the mine for a period of five years.

§ 50.20–2 Criteria—"Transfer to another job."

"Transfer to another job" means transfers, either temporary, or permanent, which are occasioned by a work-related injury or illness. Permanent or temporary transfers to remove miners from further exposure to health hazards are considered preventative in nature and are not required to be reported. Controlling the amount of exposure to radiation during some period of time is one example. Transfer of a coal miner to a less dusty area of a mine when the miner elects to exercise rights under Section 203(b) of the Federal Coal Mine Health and Safety of 1969 is another example.

§ 50.20–3 Criteria—Differences between medical treatment and first aid.

(a) Medical treatment includes, but is not limited to, the suturing of any wound, treatment of fractures, application of a cast or other professional means of immobilizing an injured part of the body, treatment of infection arising out of an injury, treatment of bruise by the drainage of blood, surgical removal of dead or damaged skin (debridement), amputation or permanent loss of use of any part of the body, treatment of second and third degree burns. Procedures which are diagnostic in nature are not considered by themselves to constitute medical treatment. Visits to a physician, physical examinations, X-ray examinations, and hospitalization for observations, where no evidence of injury or illness is found and no medical treatment given, do not in themselves constitute medical treatment. Procedures which are preventative in nature also are not considered by themselves to constitute medical treatment. Tetanus and flu shots are considered preventative in nature. First aid includes any one-time treatment, and follow-up visit for the purpose of observation, of minor injuries such as, cuts, first degree scratches, burns, splinters. Ointments, salves, antiseptics, and dressings to minor injuries are considered to be first aid.

(1) *Abrasion.* (i) First aid treatment is limited to cleaning a wound, soaking, applying antiseptic and nonprescription medication and bandages on the first visit and follow-up visits limited to observation including changing dressing and bandages. Additional cleaning and application of antiseptic constitutes first aid where it is required by work duties that soil the bandage.

(ii) Medical treatment includes examination for removal of imbedded foreign material, multiple soakings, whirlpool treatment, treatment of infection, or other professional treatments and any treatment involving more than a minor spot-type injury. Treatment of abrasions occurring to greater than full skin depth is considered medical treatment.

(2) *Bruises.* (i) First aid treatment is limited to a single soaking or application of cold compresses, and follow-up visits if they are limited only to observation.

(ii) Medical treatment includes multiple soakings, draining of collected blood, or other treatment beyond observation.

(3) *Burns, Thermal and Chemical* (resulting in destruction of tissue by direct contact). (i) First aid treatment is limited to cleaning or flushing the surface, soaking, applying cold compresses, antiseptics or nonprescription medications, and bandaging on the first visit, and follow-up visits restricted to observation, changing bandages, or additional cleaning. Most first degree burns are amenable to first aid treatment.

(ii) Medical treatment includes a series of treatments including soaks, whirlpool, skin grafts, and surgical debridement (cutting away dead skin). Most second and third degree burns require medical treatment.

(4) *Cuts and Lacerations.* (i) First aid treatment is the same as for abrasions except the application of butterfly closures for cosmetic purposes only can be considered first aid.

(ii) Medical treatment includes the application of butterfly closures for non-

cosmetic purposes, sutures, (stitches), surgical debridement, treatment of infection, or other professional treatment.

(5) *Eye Injuries.* (i) First aid treatment is limited to irrigation, removal of foreign material not imbedded in eye, and application of nonprescription medications. A precautionary visit (special examination) to a physician is considered as first aid if treatment is limited to above items, and follow-up visits if they are limited to observation only.

(ii) Medical treatment cases involve removal of imbedded foreign objects, use of prescription medications, or other professional treatment.

(6) *Inhalation of Toxic or Corrosive Gases.* (i) First aid treatment is limited to removal of the miner to fresh air or the one-time administration of oxygen for several minutes.

(ii) Medical treatment consists of any professional treatment beyond that mentioned under first aid and all cases involving loss of consciousness.

(7) *Foreign Objects.* (i) First aid treatment is limited to cleaning the wound, removal of any foreign object by tweezers or other simple techniques, application of antiseptics and nonprescription medications, and bandaging on the first visit. Follow-up visits are limited to observation including changing of bandages. Additional cleaning and applications of antiseptic constitute first aid where it is required by work duties that soil the bandage.

(ii) Medical treatment consists of removal of any foreign object by physician due to depth of imbedment, size or shape of object, or location of wound. Treatment for infection, treatment of a reaction to tetanus booster, or other professional treatment, is considered medical treatment.

(8) *Sprains and Strains.* (i) First aid treatment is limited to soaking, application of cold compresses, and use of elastic bandages on the first visit. Follow-up visits for observation, including reapplying bandage, are first aid.

(ii) Medical treatment includes a series of hot and cold soaks, use of whirlpools, diathermy treatment, or other professional treatment.

§ 50.20–4 Criteria—MESA Form 7000–1, Section A.

(a) *MESA I.D. number.* Enter the seven digit number assigned to the mine operation by MESA. If the number is unknown, the nearest MESA Health and Safety District or Subdistrict office should be contacted.

(b) *Mine name.* Enter the exact name of the operation to which the MESA I.D. number was assigned.

(c) *Company name.* Enter the name of the mining company submitting this report or, if not a company, the operator's name.

§ 50.20–5 Criteria—MESA Form 7000–1, Section B.

(a) This section shall be completed for all accidents immediately reported to MESA as defined in § 50.10. Circle the code from the following list which best defines the accident:

Code 01—A death of an individual at a mine;
Code 02—An injury to an individual at a mine which has a reasonable potential to cause death;
Code 03—An entrapment of an individual for more than 30 minutes;
Code 04—An unplanned mine inundation by a liquid or gas;
Code 05—An unplanned ignition or explosion of dust or gas;
Code 06—An unplanned mine fire not extinguished within 30 minutes of discovery;
Code 07—An unplanned ignition of a blasting agent or an explosive;
Code 08—An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use; or a roof or rib fall on active workings that impairs ventilation or impedes passage;
Code 09—A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour;
Code 10—An unstable condition at an impoundment, refuse pile, or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area; or, failure of an impoundment, refuse pile, or culm bank;
Code 11—Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes;
Code 12—An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

§ 50.20–6 Criteria—MESA Form 7000–1, Section C.

This section shall be completed for each accident, occupational injury, or occupational illness.

(a) *Accident Information.* (1) Item 5. Location and mining method. Circle the appropriate location code that was nearest to the location of the accident. If the accident occurred at the surface, circle only the surface location code in column (a). If the accident occurred underground, circle only the underground location code in column (b). Where applicable, circle the underground mining method code in column (c). Applicable codes for columns (a), (b), and (c) are as follows:

(i) Column (a)—Surface location codes. If the accident occurred at the surface of a mine, circle one of the following codes which best describes where the accident occurred and ignore columns (b) and (c):

Code 02—Surface shop, yard, etc., at an underground mine;
Code 30—Mill operation, preparation plant, or breaker, including associated shops and yards;
Code 03—Surface strip or open pit mine, including shop and yard;
Code 04—Surface auger coal operation on a coal mine, including shop and yard;
Code 05—Surface culm bank or refuse pile at a coal mine, including shop and yard;
Code 06—Dredge mining, including shop and yard;
Code 12—Other surface mining;
Code 17—Independent shops;
Code 99—Office facilities.

(ii) Column (b)—Underground location codes. If the accident occurred underground, circle the one code which best describes where the accident occurred:

Code 01—Vertical shaft;
Code 02—Slope/Inclined shaft;
Code 03—Face;
Code 04—Intersection;
Code 05—Underground Shop/Office;
Code 06—Other.

(ii) Column (c)—Underground mining method. If the underground accident occurred on a working section or working place, enter the code for the mining method at that working section or working place:

Code 01—Longwall;
Code 02—Shortwall;
Code 03—Conventional/stoping;
Code 05—Continuous Miners;
Code 06—Hand Loading;
Code 07—Caving;
Code 08—Other.

(2) Item 6. Date of accident. Enter the date the accident occurred.

(3) Item 9. Describe fully the conditions contributing to the accident and quantify the damage or impairment. Describe what happened and the reasons therefor, identify the factors which led or contributed to the accident, and identify any damage or impairment to the mining operation. The narrative shall clearly specify the actual cause or causes of the accident, and shall include the following:

(i) Whether the accident involved any aspect of compliance with rules and regulations;

(ii) Whether the accident involved mine equipment or the mining system;

(iii) Whether the accident involved job skills and miner proficiency, training and attitude; and

(iv) Whether the accident involved protective items relating to clothing, or protective devices on equipment.

(4) Item 10. If equipment was involved in the accident, specify type (loader, shuttle car, dozer, etc.), name of manufacturer, and equipment model number.

(5) Item 11. Name of witness to accident. If any miner witnessed the accident, enter the name.

(b) *Injury and illness information.* Complete this part for each occupational injury, or occupational illness.

(1) Item 13. Name of injured/ill miner. Enter the miner's name (first, middle initial, and last).

(2) Item 17. Regular job title. Enter the miner's regular job title. For example: "shuttle care operator".

(3) Item 19. Check if this injury/illness resulted in permanent total or partial disability.

(i) "Permanent total disability." The classification for any injury or illness other than death which permanently and totally incapacitates an employee from following any gainful occupation or which results in the loss, or the complete loss of use, of any of the following in one accident:

(A) Both eyes;

(B) One eye and one hand, or arm, or leg, or foot;

(C) Any two of the following not on the same limb: hand, arm, foot, or leg.

(ii) "Permanent partial disability." The classification for any injury or illness other than death or permanent total disability which results in the loss, or complete loss of use, of any member or part of a member of the body, or any permanent impairment of functions of the body or part thereof, regardless of any preexisting disability of the affected member or impaired body function.

(4) Item 20. What directly inflicted injury or illness. Name the object or substance which directly affected the miner. For example: the machine or thing struck against or which struck the miner; the vapor or poison inhaled or swallowed; the chemical or non-ionizing radiation which irritated the skin; or in cases of strains or hernias, the thing lifted or pulled.

(5) Item 21. Nature of injury or illness. For injuries, use commonly used medical terms to answer this question such as puncture wound, third degree burn, fracture, dislocation, amputation. For multiple injuries, enter the injury which was the most serious. For illness, name the illness, such as pneumoconiosis, silicosis. Avoid general terms such as "hurt", "sore", "sick".

(6) Item 22. Part of body injured or affected. Name the part of the body with the most serious injury. For example, if an injured employee has a bruised finger and a broken ankle, write "ankle". If amputation, enter part of body lost.

(7) tIem 23. Occupational Illness. Circle the code from the list below which most accurately describes the illness. These are typical examples and are not to be considered the complete listing of the types of illnesses and disorders that should be included under each category. In cases where the time of onset of illness is in doubt, the day of diagnosis of illness will be considered as the first day of illness.

(i) Code 21—*Occupational Skin Diseases or Disorders.* Examples: Contact dermatitis, eczema, or rash caused by primary irritants and sensitizers or poisonous plants; oil acne; chrome ulcers; chemical burns or inflammations.

(ii) Code 22—*Dust Disease of the Lungs (Pneumoconioses).* Examples: Silicosis, asbestosis, coal worker's pneumoconiosis, and other pneumoconioses.

(iii) Code 23—*Respiratory Conditions due to Toxic Agents.* Examples: Pneumonitis, pharyngitis, rhinitis, or acute congestion due to chemicals, dusts, gases, or fumes.

(iv) Code 24—*Poisoning (Systemic Effects of Toxic Materials).* Examples: Poisoning by lead, mercury, cadmium, arsenic, or other metals, poisoning by carbon monoxide, hydrogen sulfide or other gases; poisoning by benzol, carbon tetrachloride, or other organic solvents; poisoning by insecticide sprays such as parathion, lead arsenate; poisoning by other chemicals such as formaldehyde, plastics and resins.

(v) Code 25—*Disorders Due to Physical Agents (Other than Toxic Materials).* Examples: Heatstroke, sunstroke, heat exhaustion and other effects of environmental heat; freezing, frostbite and effects of exposure to low temperatures; caisson disease; effects of ionizing radiation (radon daughters, non-medical, non-therapeutic X-rays, radium); effects of nonionizing radiation (welding flash, ultra-violet rays, micro-waves, sunburn).

(vi) Code 26—*Disorders Associated with Repeated Trauma.* Examples: Noise-induced hearing loss; synovitis, tenosynovitis, and bursitis; Raynaud's phenomena; and other conditions due to repeated motion, vibration or pressure.

(vii) Code 29—*All Other Occupational Illnesses.* Examples: Infectious hepatitis, malignant and benign tumors, any form of cancer, kidney diseases, food poisoning, histoplasmosis.

(8) Item 24. Miner's work activity when injury or illness occurred. Describe exactly the activity of the injured miner when the occupational injury or occupational illness occurred. For example: "Setting temporary support prior to drilling holes for roof bolts."

§ 50.20–7 Criteria—MESA Form 7000–1, Section D.

This section requires information concerning the miner's return to duty.

(a) Item 28. Permanently transferred or terminated. Check this block if the miner's employment was terminated or if the miner was permanently transferred to another regular job as a direct result of the occupational injury or occupational illness.

(b) Item 29. Show the date that the injured person returned to his regular job at full capacity (not to restricted work activity) or was transferred or terminated.

(c) Item 30. Number of days away from work. Enter the number of workdays, consecutive or not, on which the miner would have worked but could not because of occupational injury or occupational illness. The number of days away from work shall not include the day of injury or onset of illness or any days on which the miner would not have worked even though able to work. If an employee loses a day from work solely because of the unavailability of professional medical personnel for initial observation or treatment and not as a direct consequence of the injury or illness, the day should not be counted as a day away from work.

(d) Item 31. Number of days of restricted work activity. Enter the number of workdays, consecutive or not, on which because of occupational injury or occupational illness:

(1) The miner was assigned to another job on a temporary basis;

(2) The miner worked at a permanent job less than full time; or

(3) The miner worked at a permanently assigned job but could not perform all duties normally connected with it. The number of days of restricted work activity shall not include the day of injury or onset of illness, or any days the miner did not work even though able to work.

If an injured or ill employee receives scheduled follow-up medical treatment or observation which results in the loss of a full workday solely because of the unavailability of professional medical personnel, it will not be counted as a day of restricted work activity. Days of restricted work activity end as the result of any of the following:

(i) The miner returns to his regularly scheduled job and performs all of its duties for a full day or shift;

(ii) The miner is permanently transferred to another permanent job (which shall be reported under Item 28, Permanently Transferred or Terminated). If this happens, even though the miner could not perform this original job any longer, the Days of Restricted Work Activity will stop; or

(iii) The miner is terminated or leaves the mine. (Terminations shall also be reported under Item 28, Permanently Transferred or Terminated).

Subpart D—Quarterly Employment and Coal Production Report

§ 50.30 Preparation and submission of MESA Form 7000–2 Quarterly Employment and Coal Production Report.

(a) Each operator of a mine in which an individual worked during any day of a calendar quarter shall complete a MESA Form 7000–2 in accordance with the instructions and criteria in § 50.30–1 and submit the original to the MESA Health and Safety Analysis Center, P.O. Box 25367, Denver Federal Center, Denver, Colo. 80225, within 15 days after the end of each calendar quarter. These forms may be obtained from MESA Metal and Nonmetallic Mine Health and Safety Subdistrict Offices and from MESA Coal Mine Health and Safety Subdistrict Offices. Each operator shall retain an operator's copy at the mine office nearest the mine for 5 years after the submission date.

(b) Each operator of a coal mine in which an individual worked during any day of a calendar quarter shall report coal production on Form 7000–2.

§ 50.30–1 General Instructions for Completing MESA Form 7000–2.

(a) *MESA I.D. Number* is the 7-digit number assigned to the mine operation by MESA. Any questions regarding the appropriate I.D. number to use should be directed to your local MESA Health and Safety District or Subdistrict Office.

(b) *Calendar Quarter:* First quarter is January, February, and March. Second quarter is April, May, and June. Third quarter is July, August, and September. Fourth quarter is October, November, and December.

(c) *County* is the name of the county, borough, or independent city in which the operation is located.

(d) *Operation Name* is the specific name of the mine or plant to which the MESA I.D. number was assigned and for which the quarterly employment report is being submitted.

(e) *Company Name* is the name of the operating company that this report pertains to.

(f) *Mailing Address* is the address of the mine office where the quarterly employment report is to be retained. This should be as near the operation as possible.

(g) *Employment, Employee Hours, and Coal Production.*

(1) *Operation Sub-Unit:*

(i) Underground Mine: Report data for your underground workers on the first line. If you have personnel working at the surface of your underground mine, report data for those persons on the second line;

(ii) Surface Mine (Including Shops and Yards): Report on the appropriate line, employment and coal production for the mining operation. For surface mining sub-units 03, 04, 05 and 06, include all work associated with shops and yards;

(iii) Mill Operations, Preparation Plants, Breakers: Report data on all persons employed at your milling (crushing, sizing, grinding, concentrating, etc.) operation, preparation plant, or breaker, including those working in associated shops and yards. (Do not include personnel reported in shops and yards associated with other sub-units.);

(iv) Office: Include in this category employees who work principally at the mine or preparation facility office.

(2) *Average number of persons working during quarter:* Show the average number of employees on the payroll during all active periods in the quarter. Include all classes of employees (supervisory, professional, technical proprietors, owners, operators, partners, and service personnel) on your payroll, full or part-time, Report Each Employee Under One Activity Only. For example: If one or more persons work both in the mine and the mill, report these employees under the activity where they spend most of their time. If necessary, estimate for the major activity. The average number may be computed by adding together the number of employees working during each pay period and then dividing by the number of pay periods. Do not include pay periods where no one worked. For example, during the quarter you had 5 pay periods where employees worked. The number of employees in each pay period was 10, 12, 13, 14 and 15 respectively. To compute the average, add the number of employees working each pay period (10 +12+13+14+15=64). Then divide by the number of pay periods (64 divided by 5=12.8). Rounding this to the nearest whole number, we get 13 as the average number of persons working.

(3) *Total employee-hours worked during the quarter:* Show the total hours worked by all employees during the quarter covered. Include all time where the employee was actually on duty, but exclude vacation, holiday, sick leave, and all other off-duty time, even though paid for. Make certain that each overtime hour is reported as one hour, and not as the overtime pay multiple for an hour of work. The hours reported should be obtained from payroll or other time records. If actual hours are not available, they may be estimated on the basis of scheduled hours. Make certain not to include hours paid but not worked.

(4) *Production of clean coal (short tons):* This section is to be compiled only by operators of underground or surface mines, but not by operators of central or independent coal preparation plants or operators of metal or nonmetal mines. Enter the total production of clean coal from the mine. This must include coal shipped from the mine and coal used for fuel at the mine, but exclude refuse and coal produced at another mine and purchased for use at the mine.

(h) *Other Reportable Data.* Indicate the number of reportable injuries or illnesses occurring at your operation during the quarter covered by this report. Show the name, title, and telephone number of the person to be contacted regarding this report, and show the date that this report was completed.

Subpart E—Maintenance of Records; Verification of Information

§ 50.40 Maintenance of Records.

(a) Each operator of a mine shall maintain a copy of each investigation report required to be prepared under § 50.11 at the mine office closest to the mine for five years after the occurrence.

(b) Each operator shall maintain a copy of each report submitted under §§ 50.20 or 50.30 at the mine office closest to the mine for five years after submission. Upon request by the Mining Enforcement and Safety Administration, an operator shall make a copy of any report submitted under §§ 50.20 or 50.30 available to MESA for inspection or copying.

§ 50.41 Verification of Reports.

Upon request by MESA, an operator shall allow MESA to inspect and copy information related to an accident, injury or illnesses which MESA considers relevant and necessary to verify a report of investigation required by § 50.11 of this Part or relevant and necessary to a determination of compliance with the reporting requirements of this Part.

PART 58—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS, INJURIES, AND OCCUPATIONAL ILLNESSES IN METAL AND NONMETAL MINES

2. Part 58 is revoked.

PART 80—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS

3. Part 80 is revoked.

[FR Doc.77-37334 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977

PART VIII

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

■

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Proposed Rulemaking

[6570-06]

CIVIL SERVICE COMMISSION

[5 CFR Part 300]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1607]

DEPARTMENT OF JUSTICE

[28 CFR Part 50]

DEPARTMENT OF LABOR

[41 CFR Part 60-3]

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Notice of Proposed Rulemaking

AGENCIES: Civil Service Commission, Equal Employment Opportunity Commission, Department of Justice, Department of Labor.

ACTION: Proposed rulemaking.

SUMMARY: The four agencies are proposing to adopt uniform guidelines on employee selection procedures. This action is being taken because at present two different sets of federal guidelines exist on this subject. After public hearing and consideration of all public comments submitted, the agencies intend to issue uniform guidelines to replace the present two existing sets: the Guidelines on Employee Selection Procedures of the Equal Employment Opportunity Commission, 29 CFR Part 1607, and the Federal Executive Agency Guidelines on Employee Selection Procedures, 41 Fed. Reg. 51734, which were adopted by the other three agencies.

DATES: Written comments should be received by March 7, 1978. A public hearing on the proposed guidelines will be held in February, 1978. A forthcoming FEDERAL REGISTER Notice will provide the date, time, location and requirements for participation.

ADDRESSES: Written comments may be addressed to: Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506. "Uniform Guidelines on Employee Selection Procedure" should appear at the lower left corner of the envelope. All public comments may be reviewed from 9:30 a.m. to 4:30 p.m., Monday through Friday, at: Library (Room 2303), Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Dr. William A. Gorham, Director, Personnel Research, Development Center, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5440.

A. Diane Graham, Associate Director of Programs, Policy and Planning, Department of Labor, Third Street and Constitution Ave. NW., Washington, D.C. 20210, 202-523-9426.

Peter C. Robertson, Acting Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-7060.

David L. Rose, Chief, Employment Section, Civil Rights Division, Department of Justice, Tenth Street and Pennsylvania Ave. NW., Washington, D.C. 20530, 202-739-3831.

H. Patrick Swygert, General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4632.

SUPPLEMENTARY INFORMATION: Federal equal employment opportunity law prohibiting discrimination in employment practices on grounds of race, sex, religion and national origin has since 1972 applied not only to private employers, government contractors and subcontractors, employment agencies and labor organizations, but also to State and local governments and to the employment practices of the Federal government. These provisions of law are administered by different Federal agencies and different regulations and guidelines have been applicable to the lawfulness of the use of tests and other selection procedures. Since November, 1976, two different, and in some particulars possibly conflicting, sets of guidelines have been applicable, in many instances to the same employers. The Guidelines on Employee Selection Procedures of the Equal Employment Opportunity Commission (29 CFR Part 1607) were originally published in 1970, and were republished in November, 1976. The three other agencies jointly adopted the Federal Executive Agency Guidelines in November, 1976 (41 FR 51734 et seq.; 28 CFR Part 50, 41 CFR 60-3, Federal Personnel Manual, Part 900, Subpart F).

The undersigned found the existence of different, and possibly conflicting, interpretations of Federal law on this important subject to be intolerable. They strongly believe that the Federal government should speak with one voice on this important subject; and that the Federal government ought to impose upon itself obligations for equal employment opportunity which are at least as high as those it seeks to impose on others. Accordingly, beginning in June, 1977, they gave urgency to the objective established in November, 1972 of adopting a uniform Federal position on these guidelines.

The draft guidelines are intended to assert a uniform Federal position on this subject, and to protect the rights created by Title VII, Executive Order 11246 and other provisions of Federal law. The guidelines are also intended to represent "professionally acceptable methods" of the psychological profession for demonstrating whether a selection procedure validly predicts or measures performance for a particular job. *Albemarle Paper Co.* v. *Moody*, 442 U.S. 405, 425. They are also intended to be consistent with the decisions of the Supreme Court and authoritative decisions of other appellate courts.

An earlier draft of these guidelines was circulated informally for comment on October 28, 1977, pursuant to OMB Circular A-85. Many comments have been received from representatives of State and local governments, psychologists, private employers, and civil rights groups. The comments have been helpful, and have been taken into account in preparing this draft. Because of the importance of the matter, and the broad applicability of the proposed guidelines, a sixty (60) day comment period has been set.

Pursuant to the authority vested in it by sections 713 and 709 of Title VII of the Civil Rights Act of 1964 (78 Stat. 265), as amended by the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261), (42 U.S.C. 2000e-12 and 2000e-8), notice is hereby given that the Equal Employment Opportunity Commission proposes to rescind the present 29 CFR Part 1607, and substitute a new Part 1607 as set forth below.

Pursuant to the authority of sections 201, 202, 203(a), 205, 206(a), 301, 303(a), 303(b), and 403(b) of Executive Order 11246, as amended, 30 Fed. Reg. 12319, 32 Fed. Reg. 14303, § 60-1.2 of Part 60-1 of 41 CFR Chapter 60, and section 715 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-14), notice is hereby given that the Department of Labor proposes to rescind the present 41 CFR Part 60-3 and substitute a new Part 60-3, as set forth below.

Pursuant to the authority of sections 3301, 3302 and 7301 of Title 5 U.S.C., and section 4763(b) of Title 42 U.S.C., and Executive Order 10577, 3 CFR 1954-1958 Comp., p. 218, and Executive Order 11748, 3 CFR 1969, Comp., p. 133, and Sec. 717 of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-16), notice is hereby given that the Civil Service Commission proposes to issue Federal Personnel Manual supplement appendices, as set forth below, to provide guidance and furtherance of the principles of Supplements 271-1 (development of qualification standards), 271-2 (test and other applicant appraisal procedures), 335-1 (evaluation of employees for promotion and internal placement), and 900-1 (Book 3), Part 900 Subpart F (administration of standards for a merit system of personnel administration (test standards are located at Part 70 Title 5 of the Code of Federal Regulations)) of the Federal Personnel Manual, insuring that examining, testing standards and employment practices are not affected by discrimination on the basis of race, color, religion, sex or national origin.

Because the proposed guidelines also impose record keeping obligations, and because of their importance, the four agencies invite interested persons to participate in a public hearing to be held in February, 1978 with respect to the guidelines. A forthcoming Federal Register

Notice will provide all necessary information about the hearing.

ELEANOR HOLMES NORTON, Chair, for the Equal Employment Opportunity Commission.

F. RAY MARSHALL, Secretary of Labor, for the Department of Labor.

DREW S. DAYS III, Assistant Attorney General, for the Department of Justice.

JULE M. SUGARMAN, Vice Chairman, for the U.S. Civil Service Commission.

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

1. GENERAL PRINCIPLES

§ 1 Statement of purpose.

A. The Federal government's need for a uniform set of principles on the question of the use of tests and other selection procedures has long been recognized. The Equal Employment Opportunity Commission, the Civil Service Commission, the Department of Labor, the Department of Justice, and the Department of the Treasury jointly have adopted these uniform guidelines to meet that need, and to apply the same principles to the Federal government as are applied to other employers.

B. These guidelines incorporate a single set of principles which are designed to assist employers, labor organizations, employment agencies, and licensing and certification boards to comply with requirements of Federal law prohibiting employment practices which discriminate on grounds of race, color, religion, sex, and national origin. They are designed to provide a framework for determining the proper use of tests and other selection procedures. These guidelines do not require a user to conduct validity studies of selection procedures where no adverse impact results. However, all users are encouraged to use selection procedures which are valid, especially users operating under merit principles.

C. These guidelines are based upon, combine, and supersede all previously issued guidelines on employee selection procedures. These guidelines have been built upon court decisions, the previously issued guidelines of the agencies, and the practical experience of the agencies, as well as the standards of the psychological profession. These guidelines are intended to be consistent with existing law.

§ 2 Scope.

A. These guidelines will be applied by the Equal Employment Opportunity Commission in the enforcement of Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (hereinafter "Title VII"); by the Department of Labor and the contract compliance agencies in the administration and enforcement of Executive Order 11246, as amended by Executive Order 11375 (hereinafter "Executive Order 11246"); by the Civil Service Commission and other Federal agencies subject to Sec. 717 of Title VII; by the Civil Service Commission in exercising its responsibilities toward state and local governments under Section 208 (b)(1) of the Intergovernmental Personnel Act; by the Department of Justice in exercising its responsibilities under Federal law; by the Office of Revenue Sharing of the Department of the Treasury under the State and Local Fiscal Assistance Act of 1972, as amended; and by any other Federal agency which adopts them.

B. These guidelines apply to tests and other selection procedures which are used as a basis for any employment decision. Employment decisions include but are not limited to hiring, promotion, demotion, membership (for example, in a labor organization), referral, retention, licensing, and certification, to the extent that licensing and certification may be covered by Federal equal employment opportunity law. Other selection decisions, such as selection for training or transfer, may also be considered employment decisions if they lead to any of the decisions listed above.

C. These guidelines apply only to selection procedures which are used as a basis for making employment decisions. For example, the use of recruiting procedures designed to attract racial, ethnic, or sex groups, which were previously denied employment opportunities or which are currently underutilized, may be necessary to bring an employer into compliance with Federal law, and is frequently an essential element of any effective affirmative action program; but the subject of recruitment practices is not addressed by these guidelines because that subject concerns procedures other than selection procedures. Similarly, these guidelines do not pertain to the question of the lawfulness of a seniority system within the meaning of § 703(h) of Title VII, or the question of the lawfulness of a seniority system under Executive Order 11246 or other provisions of Federal law or regulation, except to the extent that such systems utilize selection procedures to determine qualifications or abilities to perform the job. Nothing in these guidelines is intended or should be interpreted as discouraging the use of a selection procedure for the purpose of determining qualifications or for the purpose of selection on the basis of relative qualifications, if the selection procedure has been validated in accord with these guidelines for each such purpose for which it is to be used.

D. These guidelines apply only to persons subject to Title VII, Executive Order 11246, or other equal employment opportunity requirements of Federal law. These guidelines do not apply to responsibilities under the Age Discrimination Act of 1975, not to discriminate on the basis of age, or under section 504 of the Rehabilitation Act of 1973, not to discriminate on the basis of handicap.

E. These guidelines do not restrict any obligation imposed or right granted by Federal law to users to extend a preference in employment to Indians living in or near an Indian reservation in connection with employmet opportunities on or near an Indian reservation.

§ 3 Discrimination defined: Relationship between use of selection procedures and discrimination.

A. The use of any selection procedure which has an adverse impact on the hiring, promotion, or other employment or membership opportunities of members of any racial, ethnic, or sex group will be considered to be discriminatory and inconsistent with these guidelines, unless the procedure has been validated in accordance with these guidelines, or the provisions of § 6 below are satisfied.

B. Where two or more selection procedures are available which are substantially equally valid for a given purpose, the user should use the procedure which has been demonstrated to have the lesser adverse impact. Accordingly, whenever a validity study is called for by these guidelines, the user should include an investigation of suitable alternative selection procedures and suitable alternative methods of using the selection procedure which have as little adverse impact as possible, to determine the appropriateness of using or validating them in accord with these guidelines. If a user has made a reasonable effort to become aware of such alternative procedures and validity has been demonstrated in accord with these guidelines, the use of the test or other selection procedure may continue until such time as it should reasonably be reviewed for currency. Whenever the user is shown an alternative selection procedure with evidence of less adverse impact and substantial evidence of validity for the same job in similar circumstances, the user should investigate it to determine the appropriateness of using or validating it in accord with these guidelines. This subsection is not intended to preclude the combination of procedures into a significantly more valid procedure, if the use of such a combination has been shown to be in compliance with the guidelines.

§ 4 Information on impact.

A. Each user should maintain and have available for inspection records or other information which will disclose the impact which its tests and other selection procedures have upon employment opportunities of persons by identifiable racial, ethnic, or sex groups as set forth in subparagraph B below in order to determine compliance with these guidelines. Where there are large numbers of applicants and procedures are administered frequently, such information may be retained on a sample basis, provided that the sample is appropriate in terms of the applicant population and adequate in size.

B. The records called for by this section are to be maintained by sex, and the following racial and ethnic groups: blacks (Negroes), American Indians (including Alaskan Natives), Asians (including Pacific Islanders), Hispanic (including persons of Mexican, Puerto Rican, Cuban, Central or South Ameri-

can, or other Spanish origin or culture, regardless of race), whites (Caucasians) other than Hispanic and totals. The classifications called for by this section are intended to be consistent with the Employer Information (EEO–1 et seq.) series of reports. The user should adopt safeguards to insure that the records required by this paragraph are used for appropriate purposes such as determining adverse impact, or (where required) for developing and monitoring affirmative action programs, and that such records are not used improperly. See § 4E and § 13B(4) below.

C. If the information called for by § 4 A and B above shows that the total selection process for a job has no adverse impact, the Federal enforcement agencies will not expect a user to evaluate the individual components for adverse impact, or to validate such individual components, and generally will not take enforcement action based upon adverse impact of any component of that process, including the separate parts of a multipart selection procedure or any separate procedure that is used as an alternative method of selection. If a total selection process does have an adverse impact, the individual components of the selection process should be evaluated for adverse impact.

D. A selection rate for any racial, ethnic or sex group which is less than four-fifts (4/5) (or eighty percent) of the rate for the group with the highest rate will generally be regarded by the Federal enforcement agencies as evidence of adverse impact, while a greater than four-fifths rate will generally not be regarded by Federal enforcement agencies as evidence of adverse impact. Smaller differences in selection rate may nevertheless constitute adverse impact, where they are significant in both statistical and practical terms or where a user's actions have discouraged applicants disproportionately on racial, sex, or ethnic grounds. Greater differences in selection rate may not constitute adverse impact where the differences are based on small numbers and are not statistically significant, or where special recruiting or other programs cause the pool of minority or female candidates to be atypical of the normal pool of applicants from that group. Where the user's evidence concening the impact of a selection procedure indicates adverse impact but is based upon numbers which are too small to be reliable, evidence concerning the impact of the procedure over a longer period of time and/or evidence concerning the impact which the selection procedure had when used in the same manner in similar circumstances elsewhere may be considered in determining adverse impact. Where the user has not maintained data on adverse impact as called for by these guidelines, the Federal enforcement agencies may draw an inference of adverse impact of the selection process from the failure of the user to maintain such data, if the user has an underutilization of a group in the job category, as compared to the group's representation in the relevant labor market or, in the case of jobs filled from within, the applicable workforce.

E. In carrying out their obligations, the Federal enforcement agencies will consider the general posture of the user with respect to equal employment opportunity for the job or group of jobs in question. Where a user has adopted an affirmative action program the Federal enforcement agencies will consider the provisions of that program, including the goals and timetables which the user has adopted and the progress which the user has made in carrying out that program and in meeting the goals and timetables. While such affirmative action programs may in design and execution be race, color, sex, or ethnic conscious, selection procedures under such programs should be based upon the ability or relative ability to do the work as shown by properly validated selection procedures.

§ 5 General standards for validity studies.

A. For the purposes of satisfying these guidelines, users may rely upon criterion related validity studies, content validity studies or construct validity studies, in accordance with the standards set forth in Part II of these guidelines, § 14 below.

B. Evidence of the validity of a test or other selection procedure by a criterion related validity study should consist of empirical data demonstrating that the selection procedure is predictive of or significantly correlated with important elements of job performance. See § 14B, below. Evidence of the validity of a test or other selection procedure by a content validity study should consist of data showing that the selection procedure is a representative sample of important work behaviors to be performed on the job for which the candidates are to be evaluated. See § 14C, below. Evidence of the validity of a test or other selection procedure through a construct validity study should consist of data showing that the procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important in successful performance in the job for which the candidates are to be evaluated. See § 14D below.

C. These guidelines are intended to be consistent with generally accepted professional standards for evaluating standardized tests and other selection procedures, such as those described in the Standards for Eucational and Psychological Tests prepared by a joint committee of the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education (American Psychological Association, Washington, D.C., 1974) (hereinafter "APA Standards"), and standard text books and journals in the field of personnel selection.

D. For any selection procedure which is part of a selection process which has an adverse impact and which selection procedure has an adverse impact, each user should maintain and have available such documentation as is described in Part III of these guidelines, § 15, below.

E. Selection procedures subject to validity studies under § 3A above should be administered and scored under standardized conditions.

F. In general, users should avoid making employment decisions on the basis of measures of knowledges, skills, or abilities which are normally learned in a brief orientation period, and which have an adverse impact.

G. Where cutoff scores are used, they should normally be set so as to be reasonable and consistent with normal expectations of acceptable proficiency within the work force. Where applicants are ranked on the basis of properly validated selection procedures and those applicants scoring below a higher cutoff score have little or no chance of being selected for employment, the higher cutoff score may be appropriate, but the degree of adverse impact should be considered.

H. If job progression structures are so established that employees will probably, within a reasonable period of time and in a majority of cases, progress to a higher level, it may be considered that the candidates are being evaluated for a job or jobs at the higher level. However, where job progression is not so nearly automatic, or the time span is such that higher level jobs or employees' potential may be expected to change in significant ways, it should be considered that employees are being evaluated for a job at or near the entry level. A "reasonable period of time" will vary for different jobs and employment situations but will seldom be more than five years. Evaluation for a higher level job would not be appropriate (1) if the majority of those remaining employed do not progress to the higher level job, or, in the case where the user's employment practices systematically screen out a disproportionate number of any racial, sex, or ethnic group, if the majority of those originally hired do not progress to the higher level job; (2) if there is a reason to doubt that the higher level job will continue to require essentially similar skills during the progression period; or (3) if knowledges, skills or abilities required for advancement would be expected to develop principally from the training or experience on the job.

I. Users may continue the use of a selection procedure which is not at the moment fully supported by the required evidence of validity, provided: (1) The user can cite substantial evidence of validity in accord with these guidelines and (2) the user has in progress, when technicaly feasible, studies which are designed to produce the additional data required within a reasonable time. If the additional studies do not demonstrate validity, this provision of these guidelines for interim use shall not constitute a defense in any action, nor shall it re-

lieve the user of any obligations arising under Federal law.

J. Whenever validity has been shown in accord with these guidelines for the use of a particular selection procedure for a job or group of jobs, additional studies need not be performed until such time as the validity study is subject to review as provided in § 3B above. There are no absolutes in the area of determining the currency of a validity study. All circumstances concerning the study, including the validation strategy used, and changes in the relevant labor market and the job should be considered in the determination of when a validity study is outdated.

§ 6 Alternative Selection Procedures and Modification of Selection Procedures.

A. A user may chose to utilize alternative selection procedures in order to eliminate adverse impact or as part of an affirmative action program. Such alternative procedures may include but are not limited to: (1) Those measures set forth in the affirmative action provisions of § 13B below; (2) measures of superior scholarship; culture, language or experience factors; selected use of established registers; selection from a pool of disadvantaged persons who have demonstrated their general competency; use of registers limited to qualified persons who are economically disadvantaged.

B. There are circumstances in which a user cannot or need not utilize the validation techniques contemplated by these guidelines. In such circumstances, the user should utilize selection procedures which are as job related as possible and which will minimize or eliminate adverse impact, as set forth below. (i) When an unstandardized, informal or unscored selection procedure which has an adverse impact is utilized, the user should eliminate the adverse impact, or modify the procedure to one which is a formal, scored or quantified measure or combination of measures and then validate the procedure in accord with these guidelines, or otherwise justify continued use of the procedure in accord with Federal law. (ii) When a standardized, formal or scored selection procedure is used which has an adverse impact, the validation techniques contemplated by these guidelines usually should be followed if technically feasible. Where the user cannot or need not do so, the user should either modify the procedure to eliminate adverse impact or otherwise justify continued use of the procedure in accord with Federal law.

§ 7 Use of Other Validity Studies.

A. Users may, under certain circumstances, support the use of selection procedures by validity studies conducted by other users or conducted by test publishers or distributors and described in test manuals. While publishers of selection procedures have a profesional obligation to provide evidence of validity which meets generally accepted professional standards (see, § 5C above), users are cautioned that they are responsible for compliance with these guidelines. Accordingly, users seeking to obtain selection procedures from publishers and distributors should be careful to determine that, in the event the user becomes subject to the validity requirements of these guidelines, the necessary information to support validity has been determined and will be made available to the user.

B. Criterion-related validity studies conducted by one test user, or described in test manuals and the professional literature, will be considered acceptable for use by another user when: (1) Evidence from the available studies meeting the standards of § 14B below clearly demonstrates that the selection procedure is valid; (2) the studies pertain to a job the incumbents of which perform substantially the same major work behaviors as shown by appropriate job analyses both on the job on which the validity study was performed and on the job on which the selection procedure is to be used; and (3) the studies include a study of test fairness for those racial, ethnic and sex subgroups which constitute significant factors in the borrowing user's relevant labor market for the job or jobs in question. If the studies under consideration satisfy (1) and (2) above but do not contain an investigation of test fairness, and it is not technically feasible for the borrowing user to conduct an internal study of test fairness, the borrowing user may utilize the study until studies conducted elsewhere show test unfairness, or until such time as it becomes technically feasible to conduct an internal study of test fairness and the results of that study can be acted upon. Users obtaining selection procedures from publishers should consider, as one factor in the decision to purchase a particular selection procedure, the availability of evidence concerning test fairness.

C. If validity evidence from a multiunit study satisfies the requirements of § 7B above, evidence of validity specific to each unit will not be required, unless there are variables which are likely to affect validity significantly.

D. If there are variables in the other studies which are likely to affect validity significantly, the user may not rely upon such studies, but will be expected either to conduct an internal validity study or to comply with § 6 above.

§ 8 Cooperative Studies.

A. The agencies issuing these guidelines encourage employers, labor organizations and employment agencies to cooperate in research, development, search for alternatives, and validity studies in order to achieve procedures which are consistent with these guidelines.

B. If validity evidence from a cooperative study satisfies the requirements of § 7 above, evidence of validity specific to each user will not be required unless there are variables in the user's situation which are likely to affect validity significantly.

§ 9 No Assumption of Validity.

A. Under no circumstances will the general reputation of a test or other selection procedure, its author or its publisher, or casual reports of its validity be accepted in lieu of evidence of validity. Specifically ruled out are: assumptions of validity based on a procedure's name or descriptive labels; all forms of promotional literature; data bearing on the frequency of a procedure's usage; testimonial statements and credentials of sellers, users, or consultants; and other non-empirical or anecdotal accounts of selection practices or selection outcomes.

B. Professional supervision of selection activities is encouraged but is not a substitute for documented evidence of validity. The enforcement agencies will take into account the fact that a thorough job analysis was conducted and that careful development and use of a selection procedure in accordance with professional standards enhance the probability that the selection procedure is valid for the job.

§ 10 Employment agencies and employment services.

A. An employment agency, including private employment agencies and State employment agencies, which agrees to a request by an employer or labor organization to devise and utilize a selection procedure should follow the standards in these guidelines for determining adverse impact. If adverse impact exists the agency should comply with these guidelines. An employment agency is not relieved of its obligation herein because the user did not request such validation or has requested the use of some lesser standard of validation than is provided in these guidelines. The use of an employment agency does not relieve an employer or labor organization or other user of its responsibilities under Federal law to provide equal employment opportunity or its obligations as a user under these guidelines.

B. Where an employment agency or service is requested to administer a selection program which has been devised elsewhere and to make referrals pursuant to the results, the employment agency or service should obtain evidence of the absence of adverse impact, or of compliance with these guidelines, before it administers the selection program and makes referrals pursuant to the results. The employment agency must furnish on request such evidence of validity. An employment agency or service which makes referrals based on the selection procedure where the employer or labor organization does not supply satisfactory evidence of validity or lack of adverse impact is not in compliance with these guidelines.

§ 11 Disparate treatment.

The principle of disparate or unequal treatment must be distinguished from the concepts of validation. A selection procedure—even though validated

against job performance in accordance with the guidelines in this part—cannot be imposed upon members of a racial, sex or ethnic group where other employees, applicants, or members have not been subjected to that standard. Disparate treatment occurs where members of a racial, sex, or ethnic group have been denied the same employment, promotion, membership or other employment opportunities as have been made available to other employees or applicants. Those employees or applicants who have been denied equal treatment, because of prior discriminatory practices or policies, must at least be afforded the same opportunities as had existed for other employees or applicants during the period of discrimination. Thus, the persons who were in the class of persons discriminated against during the period the user followed the discriminatory practices should be allowed the opportunity to qualify under the less stringent selection procedures previously followed, unless the user demonstrates that the increased standards are required by business necessity. This section does not prohibit a user who has not previously followed merit standards from adopting merit standards which are in compliance with these guidelines; nor does it preclude a user who has previously used invalid or unvalidated selection procedures from developing and using procedures which are in accord with these guidelines.

§ 12 Retesting.

Users should provide a reasonable opportunity for retesting and reconsideration. The user may however take reasonable steps to preserve the security of its procedures. Where examinations are administered periodically with public notice, such reasonable opportunity exists, unless persons who have previously been tested are precluded from retesting.

§ 13 Affirmative Action.

A. The use of selection procedures which have been validated pursuant to these guidelines does not relieve users of any obligations they may have to undertake affirmative action to assure equal employment opportunity. Nothing in these guidelines is intended to preclude the use of selection procedures which assist in remedying the effects of prior discriminatory practices, or the achievement of affirmative action objectives.

B. These guidelines are also intended to encourage the adoption and implementation of voluntary affirmative action programs by users who have no obligation under Federal law to adopt them; but are not intended to impose any new obligations in that regard. The agencies issuing and endorsing these guidelines endorse and reaffirm, both for private employers and governmental employers, the Equal Employment Opportunity Coordinating Council's "Policy Statement on Affirmative Action Programs for State and Local Government Agencies," (41 FR 38814, Sept. 13, 1976). That statement did not attempt to set either the minimum or maximum voluntary steps that employers may take nor did it attempt to deal with remedies imposed after a finding of discrimination. That statement also was not designed to supersede or replace existing or later developed affirmative action requirements imposed under E.O. 11246 or other provisions of Federal law.

The major sections of the Policy Statement include the following:

* * * * *

(2) Voluntary affirmative action to assure equal employment opportunity is appropriate at any tage of the employment process. The first step in the construction of any affirmative action plan should be an analysis of the employer's work force to determine whether percentages of sex, race or ethnic groups in individual job classifications are substantially similar to the percentages of those groups available in the relevant job market who possess the basic job related qualifications.

When substantial disparities are found through such analyses, each element of the overall selection process should be examined to determine which elements operate to exclude persons on the basis of sex, race, or ethnic group. Such elements include, but are not limited to, recruitment, testing, ranking certification, interview, recommendations for selection, hiring, promotion, etc. The examination of each element of the selection process should at a minimum include a determination of its validity in predicting job performance.

(3) When an employer has reason to believe that its selection procedures have the exclusionary effect described * * * of that statement above, it should initiate affirmative steps to remedy the situation. Such steps, which in design and execution may be race, color, sex or ethnic "conscious," include, but are not limited to, the following:

(a) The establishment of a long term goal, and short range, interim goals and timetables for the specific job classifications, all of which shoud take into account the availability of basically qualified persons in the relevant job market;

(b) A recruitment program designed to attract qualified members of the group in question;

(c) A systematic effort to organize work and re-design jobs in ways that provide opportunities for persons lacking "journeyman" level knowledge or skills to enter and, with appropriate training, to progress in a career field;

(d) Revamping selection instruments or procedures which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications;

(e) The initiation of measures designed to assure that members of the affected group who are qualified to perform the job are included within the pool of persons from which the selecting official makes the selection;

(f) A systematic effort to provide career advancement training, both classroom and on-the-job, to employees looked into dead end jobs; and

(g) The establishment of a system for regularly monitoring the effectiveness of the particular affirmative action program, and procedures for making timely adjustments in this program where effectiveness is not demonstrated.

(4) The goal of any affirmative action plan should be achievement of genuine equal employment opportunity for all qualified persons. Selection under such plans should be based upon the ability of the applicant(s) to do the work. Such plans should not require the selection of the unqualified, or the unneeded, nor should they require the selection of persons on the basis of race, color, sex, religion or national origin.

PART II—TECHNICAL STANDARDS

§ 14 Technical Standards for Validity Studies.

The following minimum standards, as applicable, should be met in conducting a validity study. Nothing in these guidelines is intended to preclude the development and use of other professionally acceptable techniques with respect to validation of selection procedures. Where it is not technically feasible for a user to conduct a validity study, the user has the obligation otherwise to comply with these guidelines. See §§ 6 and 7 above.

A. *Job Information.* (1) Any validity study should be based upon a review of information about the job for which the selection procedure is to be used. The review should include a job analysis except as provided in § 14B(3) below with respect to criterion related validity. Any method of job analysis may be used if it provides the information required for the specific validation strategy used.

B. *Criterion-Related Validity.* (1) Users choosing to validate a selection procedure by a criterion-related validity strategy should determine whether it is technically feasible (as defined in Part IV) to conduct such a study in the particular employment context. The determination of the number of persons necessary to permit the conduct of a meaningful criterion-related study should be made by the user on the basis of all relevant information concerning the selection procedure, the potential sample and the employment situation. Where appropriate, jobs with substantially the same major work behaviors may be grouped together for validity studies, in order to obtain an adequate sample. These guidelines do not require a user to hire or promote persons for the purpose of making it possible to conduct a criterion-related study.

(2) There should be a review of job information to determine measures of work behaviors or performance that are relevant to the job in question. These measures or criteria are relevant to the extent that they represent critical or important job duties, work behaviors or work outcomes as developed from the review of job information. The possibility of bias should be considered both in selection of the criterion measures and their application. In view of the possibility of bias in subjective evaluations, supervisory rating techniques and instructions to raters should be carefully developed; and the ratings should be examined for evidence of racial, ethnic or sex bias. All criteria need to be examined for freedom from factors which would unfairly alter scores of members of

any group. The relevance of criteria and their freedom from bias are of particular concern when there are significant differences in measures of job performance for different groups.

(3) Proper safeguards should be taken to insure that scores on selection procedures do not enter into any judgments of employee adequacy that are to be used as criterion measures. Whatever criteria are used should represent important or critical work behaviors or work outcomes. Criteria also may consist of measures other than work proficiency including, but not limited to production rate, error rate, tardiness, absenteeism and length of service, which may be used without a full job analysis if the user can show the importance of the criteria to the particular employment context. A standardized rating of overall work performance may be used where a study of the job shows that it is an appropriate criterion. Where performance in training is used as a criterion, success in training should be properly measured and the relevance of the training should be shown either through a comparison of the content of the training program with the critical or important work behaviors of the job(s), or through a demonstration of the relationship between measures of performance in training and measures of job performance. Measures of relative success in training include but are not limited to instructor evaluations, performance samples, or tests. Measures of training success based upon paper and pencil tests will be closely reviewed for job relevance.

(4) Whether the study is predictive or concurrent, the sample subjects should insofar as feasible be representative of the candidates normally available in the relevant labor market for the job or jobs in question, and should insofar as feasible include the racial, ethnic and sex groups normally available in the relevant job market. Where samples are combined or compared, attention should be given to see that such samples are comparable in terms of the actual job they perform, the length of time on the job where time on the job is likely to affect performance and other relevant factors likely to affect validity differences; or that these factors are included in the design of the study and their effects identified.

(5) The degree of relationship between selection procedure scores and criterion measures should be examined and computed, using professionally acceptable statistical procedures. Generally, a selection procedure is considered related to the criterion, for the purposes of these guidelines, when the relationship between performance on the procedure and performance on the criterion measure is statistically significant at the .05 level of significance, which means that it is sufficiently high as to have a probability of no more than one (1) in twenty (20) to have occurred by chance. Absence of a statistically significant relationship between a selection procedure and job performance should not necessarily discourage other investigations of the validity of that selection procedure.

(6) Users should evaluate each selection procedure to assure that it is appropriate for operational use, including establishment of cut off scores or rank ordering. Generally, if other factors remain the same, the greater the magnitude of the relationship (e.g., correlation coefficient) between performance on a selection procedure and one or more criteria of performance on the job, and the greater the importance and number of aspects of job performance covered by the criteria, the more likely it is that the procedure will be appropriate for use. Reliance upon a selection procedure which is significantly related to a criterion measure, but which is based upon a study involving a large number of subjects and has a low correlation coefficient will be subject to close review if it has a large adverse impact. Sole reliance upon a single selection instrument which is related to only one of many job duties or aspects of job performance will also be subject to close review. The appropriateness of a selection procedure is best evaluated in each particular situation and there are no minimum correlation coefficients applicable to all employment situations. In determining whether a selection procedure is appropriate for operational use the following considerations should also be taken into account: The degree of adverse impact of the procedure, the availability of other selection procedures of greater or substantially equal validity.

(7) Users should avoid reliance upon techniques which tend to overestimate validity findings as a result of capitalization on chance unless an appropriate safeguard is taken. Reliance upon a few selection procedures or criteria of successful job performance, when many selection procedures or criteria of performance have been studied, or the use of optimal statistical weights for selection procedures computed in one sample, are techniques which tend to inflate validity estimates as a result of chance. Use of a large sample is one safeguard; cross-validation is another.

(8) *Fairness of the Selection Procedure.* This section generally calls for studies of unfairness where technically feasible. The concept of fairness or unfairness of selection procedures is a developing concept, however. In addition, fairness studies generally require substantial numbers of employees in the job or group of jobs being studied. For these reasons, the Federal enforcement agencies recognize that the obligation to conduct studies of unfairness imposed by the guidelines generally will be upon users or groups of users with a large number of persons in a job class, or test developers; and that small users utilizing their own selection procedures will generally not be obligated to conduct such studies because it will be technically infeasible for them to do so.

(a) When members of one racial, ethnic, or sex group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in differences in measures of job performance, use of the selection procedure may unfairly deny opportunities to members of the group that obtains the lower scores.

(b) Where a selection procedure results in an adverse impact on a racial, ethnic or sex group identified in accordance with the classifications set forth in § 4 above and that group is a significant factor in the relevant labor market, the user generally should investigate the possible existence of unfairness for that group if it is technically feasible to do so. The greater the severity of the adverse impact on a group, the greater the need to investigate the possible existence of unfairness. Where the weight of evidence from other studies shows that the selection procedure is a fair predictor for the group in question and for the same or similar jobs, such evidence may be relied on in connection with the selection procedure at issue and may be combined with data from the present study; however, where the severity of adverse impact on a group is significantly greater than in the other studies referred to, a user may not rely on such other studies.

(c) Users conducting a study of fairness should review the APA Standards regarding investigation of possible bias in testing. An investigation of fairness of a selection procedure depends on both evidence of validity and the manner in which the selection procedure is to be used in a particular employment context. Fairness of a selection procedure cannot necessarily be specified in advance without investigating these factors. Investigation of fairness of a selection procedure in samples where the range of scores on selection procedures or criterion measures is severely restricted for any subgroup sample (as compared to other subgroup samples) may produce misleading evidence of unfairness. That factor should accordingly be taken into account in conducting such studies and before reliance is placed on the results.

(d) If unfairness is demonstrated through a showing that members of a particular group perform better or poorer on the job than their scores on the selection procedure would indicate through comparison with how members of other groups perform, the user may either revise or replace the selection instrument in accordance with these guidelines, or may continue to use the selection instrument operationally with appropriate revisions in its use to assure compatibility between the probability of successful job performance and the probability of being selected.

(e) In addition to the general conditions needed for technical feasibility for the conduct of a criterion-related study (see § 16(J), below) an investigation of fairness requires the following:

(i) A sufficient number of persons in each group for findings of statistical significance. These guidelines do not require a user to hire or promote persons

on the basis of group classifications for the purpose of making it possible to conduct a study of fairness; but the user has the obligation otherwise to comply with these guidelines.

(ii) The samples for each group should be comparable in terms of the actual job they perform, length of time on the job where time on the job is likely to affect performance, and other relevant factors likely to affect validity differences; or such factors should be included in the design of the study and their effects identified.

(f) If a study of fairness should otherwise be performed, but is not technically feasible, a selection procedure may be used which has otherwise met the validity standards of these guidelines, unless the technical infeasibility resulted from discriminatory employment practices which are demonstrated by facts other than past failure to conform with requirements for validation of selection procedures. However, when it becomes technically feasible for the user to perform a study of fairness and such a study is otherwise called for, the user should conduct the study of fairness.

C. CONTENT VALIDITY. (1) Users choosing to validate a selection procedure by a content validity strategy should determine whether it is appropriate to conduct such a study in the particular employment context. A selection procedure can be supported by content validity strategy only to the extent that it is a representative sample of the content of the job. Accordingly, a content validity strategy is only appropriate where it is feasible to devise a selection procedure which is a representative sample of one or more work behaviors of the job, or a representative work sample. A selection procedure which purports to measure a knowledge, skill or ability may only be used to the extent that the knowledge, skill or ability is used in a job behavior and the selection procedure replicates the level of complexity and difficulty of the knowledge, skill or ability as used in the job behavior. A selection procedure based upon inferences about mental processes cannot be supported solely or primarily on the basis of content validity. Thus, a content strategy is not appropriate for demonstrating the validity of selection procedures which purport to measure traits or constructs, such as intelligence, aptitude, personality, common sense, judgment, leadership, dexterity and spatial ability. Content validity is also not an appropriate strategy when the selection procedure involves knowledges, skills or abilities which an employee will be expected to learn on the job.

(2) There should be a job analysis which includes an analysis of the work behaviors required for successful performance and their relative importance (as defined in § 15C (3) below), and to the extent appropriate, an analysis of the work products. Any job analysis should focus on the work behaviors and the associated tasks of the job. If work behaviors are not observable, the job analysis should identify and analyze those aspects of the behaviors that can be observed and the observed work products. The work behaviors selected for measurement should be critical work behaviors and/or important work behaviors constituting most of the job.

(3) A selection procedure designed to measure the work behavior may be developed specifically from the job and job analysis in question, or may have been previously developed by the user, or by other users or by a test publisher.

(4) A selection procedure which is a representative sample of work product(s) or a representative sample of work behavior(s) is a content valid procedure for that work behavior if it is necessary for that work product or work behavior. The closer the content and the context of the selection procedure is to actual work samples or work behaviors, the stronger is the basis for showing content validity. As the content of the selection procedure less resembles a work behavior, or the setting and manner of the administration of the selection procedure less resemble the work situations or the result less resembles a work product, the less likely the selection procedure is to be content valid, and the greater the need for other evidence of validity.

(5) The reliability of selection procedures justified on the basis of content validity should be a matter of concern to the user. Whenever it is feasible, appropriate statistical estimates should be made of the reliability of the selection procedure.

(6) A requirement for specific prior training or for work experience based on content validity, including a specification of level or amount of training or experience, should be justified on the basis of the relationship between the content of the training or experience and the content of the job for which the training or experience is to be required.

(7) Where a training program is used as a selection procedure and the content of a training program is justified on the basis of content validity, it should be justified on the relationship between the content of the training program and the content of the job.

(8) A selection procedure which is supported on the basis of content validity may be used for a job if it represents a critical work behavior (i.e., a behavior which is necessary for performance of the job) or job behaviors which constitute most of the important parts of the job.

(9) If a user can show, by a job analysis or otherwise, that a higher score on a content valid selection procedure is likely to result in better job performance, the results may be used to rank persons who score above minimum levels. Where a selection procedure supported solely or primarily by content validity is used to rank job candidates, the selection procedure should measure those aspects of performance which differentiate among levels of job performance.

D. *Construct Validity.* (1) Construct validity is a more complex strategy than either criterion-related or content validity. Construct validation is a relatively new procedure in the employment field, and there is a lack of a substantial literature extending the concept to employment practices. The user should be aware that the effort to obtain sufficient empirical support for construct validity is both an extensive and arduous effort involving a series of research studies, including criterion related and/or content validity studies and a rigor of proof of at least the same level as in criterion related validation studies. Users choosing to justify use of a selection procedure by this strategy should therefore take particular care to assure that the validity study meets the standards set forth below.

a. There should be a job analysis. This job analysis should show the work behaviors required for successful performance of the job, or the groups of jobs being studied, the critical or important work behaviors in the job or group of jobs being studied, and an identification of the construct(s) believed to underlie successful performance of these critical or important work behaviors in the job or jobs in question. The construct should be named and defined, so as to distinguish it from other constructs. If a group of jobs is being studied the jobs should have in common one or more critical or important work behaviors at a comparable level of complexity.

b. A selection procedure should then be identified or developed which measures the construct identified in accord with subpargraph (a) above. The user should show by empirical evidence that the selection procedure is validly related to the construct and that the construct is validly related to the performance of critical or important job behaviors. The relationship between the construct measured by the selection procedure and the related work behavior(s) should be supported by empirical evidence from one or more criterion-related studies involving the job or jobs in question which satisfy the provisions of § 14B above.

(2) a. In view of the lack of a substantial literature extending the concept of construct validity to employment practices, the Federal agencies will evaluate any claim of construct validity generalization on a case-by-case basis. Until such time as the professional literature provides more guidance on the generalizability of construct validity, the Federal agencies will only accept a claim of construct validity generalization if it meets the standards for transportability of criterion related validity studies as set forth above in 7. However, if a study pertains to a group of jobs having common critical or important work behaviors at a comparable level of complexity, and the evidence satisfies subparagraphs § 14 D (1) a and b above for that group of jobs, the selection procedure may be used for the jobs in the groups studied. If the construct validity is to be generalized to other jobs or groups of jobs, the Ped-

eral enforcement agencies will expect at a minimum additional empirical research evidence meeting the standards of subparagraphs § 14 D(1) a and b above for the additional jobs or groups of jobs.

b. In determining whether two or more jobs have one or more work behaviors in common, the user should compare the observed work behaviors in each of the jobs and should compare the observed work products in each of the jobs. If neither the observed work behaviors in each of the jobs, nor the observed work products in each of the jobs are the same, the Federal enforcement agencies will presume that the work behaviors in each job are different. If the work behaviors are not observable, then evidence of similarity of work products and any other relevant research evidence will be considered in determining whether the work behavior in the two jobs is the same.

PART III—DOCUMENTATION OF VALIDITY EVIDENCE

§ 15A. Where a total selection process has an adverse impact (see § 4 above) the user should maintain and have available for each selection procedure in that process the data on which the adverse impact determination was made and, for each selection procedure in that process having an adverse impact (see § 4 above), one of the following types of documentation evidence:

(1) Documentation evidence showing criterion related validity of the selection procedure (see § 15B, below).

(2) Documentation evidence showing content validity of the selection procedure (see § 15C, below).

(3) Documentation evidence showing construct validity of the selection procedure (see § 15D, below).

(4) Documentation evidence from other studies showing validity of the selection procedure in the user's facility (see § 15E, below).

(5) Documentation evidence showing why a validity study cannot or need not be performed and why continued use of the procedure is consistent with Federal law.

This evidence should be compiled in a reasonably complete and organized manner to permit direct evaluation of the validity of the selection procedure. Previously written employer or consultant reports of validity are acceptable if they are complete in regard to the following documentation requirements, or if they satisfied requirements of guidelines which were in effect when the study was completed. If they are not complete, the required additional documentation should be appended. If necessary information is not available the report of the validity study may still be used as documentation, but its adequacy will be evaluated in terms of compliance with the requirements of these guidelines.

In the event that evidence of validity is reviewed by an enforcement agency, the reports completed after the effective date of these guidelines are expected to use one of the formats set forth below. Evidence denoted by use of the word "(Essential)" is considered critical and reports not containing such information will be considered incomplete. Evidence not so denoted is desirable, but its absence will not be a basis for considering a report incomplete.

B. *Criterion-related validity.* Reports of criterion-related validity of selection procedures are to contain the following information:

(1) *User(s), and Location(s) and Date(s) of Study.* Dates and location of administration of selection procedures and collection of criterion of data and, where appropriate, the time between collection of data on selection procedures and criterion measures should be shown (Essential). If the study was conducted at several locations, the address of each location, including city and state, should be shown.

(2) *Problem and Setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cut-off scores, if any, should be provided.

(3) *Job Analysis or Review of Job Information.* A description of the procedure used to analyze the job, or to review the job information should be provided (Essential). Where a review of job information results in criteria which are measures other than work proficiency (see § 14B(3)), the basis for the selection of these criteria should be reported (Essential). Where a job analysis is required a complete description of the work behaviors or work outcomes, and measures of their criticality or importance should be provided (Essential). The report should describe the basis on which the behaviors or outcomes were determined to be critical or important, such as the proportion of time spent on the respective behaviors, their level of difficulty, their frequency of performance, the consequences of error, or other appropriate factors (Essential). Published descriptions from industry sources or Volume I of the Dictionary of Occupational Titles Third Edition, United States Government Printing Office, 1965, are satisfactory if they adequately and completely describe the job. If appropriate, a brief supplement to the published description should be provided. Where two or more jobs are grouped for a validity study, the information called for above should be provided for each of the jobs, and the justification for the grouping (see § 14B (1)) should be provided (Essential).

(4) *Job Titles and Codes.* It is desirable to provide the user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) from United States Employment Service Dictionary of Occupational Titles Volumes I and II. Where standard titles and codes do not exist, a notation to that effect should be made.

(5) *Criteria.* A full description of all criteria on which data were collected, including a rationale for selection of the final criteria, and means by which they were observed, recorded, evaluated and quantified, should be provided (Essential). If rating techniques are used as criterion measures, the appraisal form(s) and instructions to the rater(s) should be included as part of the validation evidence (Essential). Any methods used to minimize the possibility of bias should be described.

(6) *Sample.* A description of how the research sample was selected should be included (Essential). The racial, ethnic and sex composition of the sample should be described, including the size of each subgroup (Essential). Racial and ethnic classifications should include those set forth in § 4A above. A description of how the research sample compares with the racial, ethnic and sex composition of the relevant labor market or work force is also desirable. Where data are available, the racial, ethnic and sex composition of current applicants should also be described. Descriptions of educational levels, length of service, and age are also desirable.

(7) *Selection Procedure.* Any measure, combination of measures, or procedure used as a basis for employment decisions should be completely and explicitly described or attached (Essential). If commercially available selection procedures are used, they should be described by title, form, and publisher (Essential). Reports of reliability estimates and how they were established are desirable. The various selection procedures investigated and their impacts should be described, and the rationale for choosing the selection procedure for operational use should be included (Essential).

(8) *Techniques an Results.* Methods used in analyzing data should be described (Essential). Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations and ranges) for all selection procedures and all criteria should be reported for all relevant racial, ethnic and sex subgroups (Essential). Statistical results should be organized and presented in tabular or graphical form, by racial, ethnic and/or sex subgroups (Essential). All selection procedure-criterion relationships investigated should be reported, including their magnitudes and directions (Essential). Statements regarding the statistical significance of results should be made (Essential). Any statistical adjustments, such as for less than perfect reliability or for restriction of score range in the selection procedure or criterion, or both, should be described; and uncorrected correlation coefficients should also be shown (Essential). Where the statistical technique used categories continuous data, such as biserial correlation and the phi coefficient, the categories and the bases on which they were determined should be described (Essential). Studies of test fairness should be included where called for by the requirements of § 14B(8) (Essential). These studies should include the rationale by

which a selection procedure was determined to be fair to the group(s) in question. Where test fairness has been demonstrated on the basis of other studies, a bibliography of the relevant studies should be included (Essential). If the bibliography includes unpublished studies, copies of these studies, or adequate abstracts or summaries, should be attached (Essential). Where revisions have been made in a selection procedure to assure compatibility between successful job performance and the probability of being selected, the studies underlying such revisions should be included (Essential).

(9) *Uses and Applications.* A description of the suitable alternative methods of using each selection procedure (e.g., as a screening device with a cutoff score or combined with other procedures in a battery) and the impacts thereof, and the rationale for choosing the method for operational use, and the intended application of the procedure (e.g., selection, transfer, promotion) should be provided (Essential). If weights are assigned to different parts of the selection procedure, these weights and the validity of the weighted composite should be reported (Essential).

(10) *Cut-off Scores.* Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined should be described (Essential).

(11) *Source Data.* Each user should maintain records showing all pertinent information about individual sample members in studies involving the validation of selection procedures. These records (exclusive of names and social security number) should be made available upon request of a compliance agency. These data should include selection procedure scores, criterion scores, age, sex, minority group status, and experience on the specific job on which the validation study was conducted and may also include such things as education, training, and prior job experience. If the user chooses to include, along with a report on validation, a worksheet showing the pertinent information about the individual sample members, specific identifying information such as name and social security number should not be shown. Inclusion of the worksheet with the validity report is encouraged in order to avoid delays.

(12) *Contact Person.* It is desirable for the user to set forth the name, mailing address, and telephone number of the persons (a) who may be contacted for further information about the validity study, (b) who directed the job analysis or the review of job information, and (c) who directed the validity study.

c. *Content Validity.* Reports of content validity of selection procedures are to contain the following information:

(1) *User(s), and Location(s) and Date(s) of Study.* Dates and location(s) of the job analysis should be shown.

(2) *Problem and Setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cut-off scores, if any, should be provided.

(3) *Job Analysis.* A description of the method used to analyze the job should be provided (Essential). The work behaviors, the associated tasks, and the work products should be completely described (Essential). Measures of criticality and/or importance of the work behavior and the method of determining these measures should be provided (Essential). Where the job analysis also identified the knowledges, skills, and abilities used in work behaviors, an operational definition for each knowledge, skill or ability and the relationship between each knowledge, skill, or ability and each work behavior, as well as the method used to determine this relationship, should be provided (Essential). The work situation should be described including the setting in which work behaviors are performed, and where appropriate, the manner in which knowledge, skills and abilities are used, and the complexity and difficulty of knowledge, skill or ability as used in the job behavior.

(4) *Job Title and Code.* It is desirable to provide the user's job title(s) and the corresponding job title(s) and code(s) from the United States Employment Service Dictionary of Occupational Titles Volumes I and II. Where standard titles and codes do not exist, a notation to that effect should be made.

(5) *Selection Procedures.* Selection procedures including those constructed by or for the user, specific training requirements, composites of selection procedures, and any other procedure for which content validity is asserted should be completely and explicitly described or attached (Essential). If commercially available selection procedures are used, they should be described by title, form, and publisher (Essential). Where the selection procedure purports to measure terms of knowledges, skills, or abilities, evidence that the selection procedure measures those knowledges, skills or abilities should be provided (Essential).

(6) *Techniques and Results.* The evidence demonstrating that the selection procedure is a representative work sample, a representative sample of the work behavior, or a representative sample of a knowledge, skill or ability as used as a part of a work behavior and necessary for that behavior should be provided (Essential). If any steps were taken to reduce adverse racial, ethnic, or sex impact in the content of the procedure or in its administration, these steps should be described. Establishment of time limits, if any, and how these limits are related to the speed with which duties must be performed on the job, should be explained. Measures of central tendency (e.g., means) and measures of dispersion (e.g., standard deviations) and estimates of reliability should be reported for all selection procedures as appropriate. Such reports should be made for all relevant racial, ethnic, and sex subgroups, at least on a statistically reliable sample basis.

(7) *Uses and Applications.* A description of the suitable alternative methods of using each selection procedure (e.g., as a screening device with a cutoff score or combined with other procedures in a battery) and the impacts thereof, and the evidence and rationale for choosing the method for operational use, and the intended application of the procedure (e.g., selection, transfer, promotion) should be provided (Essential).

(8) *Cut-Off Scores.* Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined should be described (Essential).

(9) *Contact Person.* It is desirable for the user to set forth the name, mailing address, and telephone number of the persons (a) who may be contacted for further information about the validity study, (b) who directed the job analysis or the review of job information, and (c) who directed the validity study.

D. *Construct Validity.* Reports of construct validity of selection procedures are to contain the following information:

(1) *Problem and Setting.* An explicit definition of the purpose(s) of the study and the circumstances in which the study was conducted should be provided. A description of existing selection procedures and cut-off scores, if any, should be provided.

(2) *Construct Definition.* A clear definition of the construct should be provided, explained empirically in terms of observable behavior, including levels of construct performance relevant to the job(s) for which the selection procedure is to be used (Essential). There should be a summary of the position of the construct in the psychological literature, or in the absence of such a position, a description of the way in which the definition and measurement of the construct was developed and the psychological theory underlying it.

(3) *Job Analysis.* A description of the method used to analyze the job should be provided (Essential). A complete description of the work behaviors, and to the extent appropriate, work outcomes and measures of their criticality and/or importance should be provided (Essential). The report should also describe the basis on which the behaviors or outcomes were determined to be important, such as their level of difficulty, their frequency of performance, the consequences of error or other appropriate factors (Essential). Published descriptions from industry sources or Volume I of the Dictionary of Occupational Titles, Third Edition, United States Government Printing Office, 1965, are adequate if they completely and accurately describe the job. If appropriate, a brief supplement to the published description should be provided. Where two or more jobs are grouped together for a validity study, the information called for above

for each job and the justification for the grouping (see § 14D a above) should be provided (Essential).

(4) *Job Titles and Codes.* It is desirable to provide the selection procedure user's job title(s) for the job(s) in question and the corresponding job title(s) and code(s) fom the United States Employment Service Dictionary of Occupational Titles, Volumes I and II. Where standard titles and codes do not exist, a notation to that effect should be made.

(5) *Selection Procedure.* The selection procedure used as a measure of the construct should be completely and explicitly described or attached (Essential). If commercially available selection procedures are used, they should be identified by title, form and publisher (Essential). The research evidence of the relationship between the selection procedure and the construct should be included (Essential). Reports of reliability estimates and how they were established are desirable.

(6) *Anchoring.* The criterion related study(ies) and other empirical evidence of the relationship between the construct measured by the selection procedure and the related work behavior(s) for the job or jobs in question should be provided (Essential). Documentation of the criterion related study(ies) should satisfy the provisions of § 15B above, except for studies conducted prior to the effective date of these guidelines (Essential).

(7) *Uses and Applications.* A description of the suitable alternative methods of using each selection procedure (e.g., as a screening device with a cutoff score or combined with other procedures in a battery) and the impacts thereof, and the rationale for choosing the method for operational use, and the intended application of the procedure (e.g., selection, transfer, promotion) should be provided (Essential). If weights are assigned to different parts of the selection procedure, these weights and the validity of the weighted composite should be reported (Essential).

(8) *Cut-off Scores.* Where cut-off scores are to be used, both the cut-off scores and the way in which they were determined should be described (Essential).

(9) *Source Data.* Each user should maintain records showing all pertinent information about individual sample members in studies involving the validation of selection procedures. These records (exclusive of names and social security number) should be made available upon request of a compliance agency. These data should include selection procedure scores, criterion scores, age, sex, minority group status, and experience on the specific job on which the validation study was conducted and may also include such things as education, training, and prior job experience. If the user chooses to include, along with a report on validation, a worksheet showing the pertinent information about the individual sample members, specific identifying information such as name and social security number should not be shown. Inclusion of the worksheet with the validity report is encouraged in order to avoid delays.

(10) *Contact Person.* It is desirable for the users to set forth the name, mailing address, and telephone number of the individual who may be contacted for further information about the validity study.

E. *Evidence of Validity from other Studies.* When validity of a selection procedure is supported by studies not done by the user, the evidence from the original study or studies should be compiled in a manner similar to that required in the appropriate section of this § 15 above. In addition, the following evidence should be supplied:

(1) *Evidence from Criterion-related Validity Studies.* a. *Job Information.* A description of the important job behaviors of the user's job and the basis on which the behaviors were determined to be important should be provided (Essential). A full description of the basis for determining that these important work behaviors are the same as those of the job in the original study (or studies) should be provided (Essential).

b. *Relevance of Criteria.* A full description of the basis on which the criteria used in the original studies are determined to be relevant for the user should be provided (Essential).

c. *Other Variables.* The similarity of important applicant pool/sample characteristics reported in the original studies to those of the user should be described (Essential). A description of the comparison between the race, sex and ethnic composition of the user's relevant labor market and the sample in the original validity studies should be provided (Essential).

d. *Use of the Selection Procedure.* A full description should be provided showing that the use to be made of the selection procedure is consistent with the findings of the original validity studies (Essential).

e. *Bibliography.* A bibliography of reports of validity of the selection procedure for the job or jobs in question should be provided (Essential). Where any of the studies included an investigation of test fairness, the results of this investigation should be provided (Essential). Copies of reports published in journals that are not commonly available should be described in detail or attached (Essential). Where a user is relying upon unpublished studies, a reasonable effort should be made to obtain these studies. If these unpublished studies are the sole source of validity evidence they should be described in detail or attached (Essential). If these studies are not available, the name and address of the source, an adequate abstract or summary of the validity study and data, and a contact person in the source organization should be provided (Essential).

(2) *Evidence from Content Validity Studies.* See § 14C(3) and § 15C above.

(3) *Evidence from Construct Validity Studies.*

a. Documentation satisfying the provision of § 15E(1) should be provided (Essential).

b. Where a study pertains to a group of jobs, and validity is asserted on the basis of the study to a job in the group, the observed work behaviors and the observed work products for each of the jobs should be described (Essential). Any other evidence used in determining whether the work behavior in each of the jobs is the same should be fully described (Essential).

PART IV—DEFINITIONS

§ 16 The following definitions shall apply throughout these guidelines:

A. *Ability:* The present observable competence to perform a function.

B. *Adverse Impact:* See § 4 of these guidelines.

C. *Compliance with these Guidelines:* Use of a selection procedure is in compliance with these guidelines if such use has been validated in accord with these guidelines (as defined in § 16P below), or if such use does not result in adverse impact on any racial, sex or ethnic group (see § 4, above), or, in unusual circumstances, if use of the procedure is otherwise justified in accord with Federal law (see § 6B, above).

D. *Conetnt validity:* Demonstrated by data showing that a selection procedure is a representative sample of important work behaviors to be performed on the job. See § 5B and § 14C.

E. *Construct validity:* Demonstrated by data showing that the selection procedure measures the degree to which candidates have identifiable characteristics which have been determined to be important for successful job performance. See § 5B and § 14D.

F. *Criterion-related validity:* Demonstrated by empirical data showing that the selection procedure is predictive of or significantly correlated with important elements of work behavior. See § 5B and § 14B.

G. *Employer:* Any employer subject to the provisions of the Civil Rights Act of 1964, as amended, including state or local governments and any Federal agency subject to the provisions of Sec. 717 of the Civil Rights Act of 1964, as amended, and any Federal contractor or subcontractor or federally assisted construction contractor or subcontractor covered by Executive Order 11246, as amended.

H. *Employment agency:* Any employment agency subject to the provisions of the Civil Rights Act of 1964, as amended.

I. *Enforcement action:* A proceeding by a federal enforcement agency such as a lawsuit, or a formal administrative proceeding leading to debarment from or termination of government contracts, or the suspension or withholding of Federal funds; but not a finding of reasonable cause or a conciliation process by the Equal Employment Opportunity Commission or the issuance of right to sue letters under Title VII.

J. *Enforcement agency:* Any agency of the executive branch of the Federal Government which adopts these guidelines for purposes of the enforcement of the equal employment opportunity laws or which has responsibility for securing compliance with them.

K. *Labor organization:* Any labor organization subject to the provisions of the Civil Rights Act of 1964, as amended, and any committee subject thereto controlling apprenticeship or other training.

L. *Racial, sex or ethnic group:* Any group of persons identifiable on the grounds of race, color, religion, sex or national origin.

M. *Selection procedure:* Any measure, combination of measures, or procedure used as a basis for any employment decision. Selection procedures include the full range of assessment techniques from traditional paper and pencil tests, performance tests, training programs or probationary periods and physical, educational and work experience requirements through informal or casual interviews and unscored application forms.

N. *Selection Rate:* The proportion of applicants or candidates who are hired, promoted or otherwise selected.

O. *Technical feasibility:* The existence of conditions permitting the conduct of meaningful criterion related validity studies. These conditions include: (a) An adequate sample of persons available for the study to achieve findings of statistical significance; (b) having or being able to obtain a sufficient range of scores on the selection procedure and job performance measures to produce validity results which can be expected to be representative of the results if the ranges normally expected were utilized; and (c) having or being able to devise unbiased, reliable and relevant measures of job performance or other criteria of employee adequacy. See § 14B(2). With respect to investigation of possible unfairness, the same considerations are applicable to each group for which the study is made. See § 14B(8).

P. *Unfairness of Selection Procedure (differential prediction):* A condition in which members of one racial, ethnic, or sex group characteristically obtain lower scores on a selection procedure than members of another group, and the differences are not reflected in difference in measures of job performance. See § 14B(7).

Q. *Users:* Any employer, labor organization, employment agency, or licensing or certification board, to the extent it may be covered by Federal equal employment opportunity law which uses a selection procedure as a basis for any employment decision. Whenever an employer, labor organization, or employment agency is required by law to restrict recruitment for any occupation to those applicants who have met licensing or certification requirements, the licensing or certifying authority to the extent it may be covered by Federal equal employment opportunity law will be considered the user with respect to those licensing or certification requirements. Whenever a state employment agency or service does no more than administer or monitor a procedure as permitted by Department of Labor regulations, and does so without making referrals or taking any other action on the basis of the results, the state employment agency will not be deemed to be a user.

R. *Validated in accord with these Guidelines* or *properly validated:* One or more validity study(ies) meeting the standards of these guidelines has been conducted, including investigation and, where appropriate, use of suitable alternative selection procedures as contemplated by § 3B, and has produced evidence of validity sufficient to warrant use of the procedure for the intended purpose under the standards of these guidelines.

S. *Work behavior:* A goal directed mental or physical activity applied in performance of a job.

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federal register

FRIDAY, DECEMBER 30, 1977
PART IX

SECURITIES AND EXCHANGE COMMISSION

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INDUSTRY SEGMENT REPORTING

Adoption of Disclosure Regulation and Amendments of Disclosure Forms and Rules

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5893, 34-14306, 35-20338, IC-10070, AS-236]

INDUSTRY SEGMENT REPORTING

Adoption of Disclosure Regulation and Amendments of Disclosure Forms and Rules

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a new, integrated disclosure regulation, Regulation S-K, and amending certain disclosure forms and rules to integrate the information presented in certain registration statements, annual reports and proxy and information statements under its description of business requirement with the industry segment data included by registrants in their financial statements pursuant to generally accepted accounting principles.* The amendments require registrants to describe their business by focusing on their industry segments and to present for a five year historical period revenue, profit and asset information relating to their industry segments and geographic areas. Generally, the information is required only for fiscal years beginning after December 15, 1976; line of business information is required for the balance of the five year period. These amendments should assist investors in analyzing and understanding a registrant's business and assure greater uniformity in the disclosure requirements of the Commission's various registration and reporting forms.

DATE: Effective for fiscal years ending after March 15, 1978, except as provided in the text under "Effective Date."

FOR FURTHER INFORMATION CONTACT:

Linda L. Griggs, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, 202-755-1750 or Edward R. Cheramy, Office of the Chief Accountant, 202-376-8020, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On May 10, 1977, the Commission published for comment proposed amendments to certain disclosure forms and rules promulgated under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)).[1] One of the reasons the amendments were proposed was that the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 14 "Financial Reporting for Segments of a Business Enterprise" ("SFAS No. 14") in December 1976. SFAS No. 14 requires corporations to disclose certain financial information by industry segment and geographic area as defined in the statement. The Commission determined to propose amendments to certain of its disclosure requirements in order to integrate the information to be furnished pursuant to SFAS No. 14 with the textual and financial disclosures required by the Commission forms.

This release includes a general discussion of the principal comments received on the proposed amendments and a synopsis of the adopted amendments. Attention is directed to the text of the amendments for a more complete understanding.

I. COMMENTS

Comments were received from 180 interested parties and changes have been made to reflect a number of suggestions made by the commentators.

A. REGULATION S-K

Most of the commentators expressed support for the creation of an integrated disclosure form although some persons argued that the form was not really a form at all and should be called, rather, "Regulation S-K, Instructions Regarding Disclosure." The Commission has accordingly changed the name from Form S-K to Regulation S-K (17 CFR 229). One advantage to this nomenclature is that the new, integrated disclosure regulation will be included in the Code of Federal Regulations ("CFR"). As a result, the regulation will be revised when CFR is updated to reflect any amendments adopted during the year and registrants will be able to obtain a current copy of the disclosure provisions more easily.

B. NARRATIVE DESCRIPTION OF THE BUSINESS

In general, the commentators were opposed to the proposal to require registrants to describe in the business description included in registration statements and other documents the various industry segments in which their business is classified pursuant to the provisions of SFAS No. 14. In their view, compliance with the proposed requirement would have necessitated lengthy, complex and often repetitive descriptions in the filings. Further, they argued that the lower materiality threshold which would have resulted from the proposed requirement that registrants discuss information material to an industry segment would be inconsistent with the approach to materiality articulated by the Supreme Court in *"TSC Industries, Inc.* v. *Northway, Inc."*[2] These commentators recommended that the proposal be revised to require registrants to describe only those matters relating to the performance of the individual industry segments which are material to or would materially affect the registrant's overall business because investors are primarily interested in the performance of an enterprise as a whole.

The Commission believes that disclosure of information about the business and the principal properties of a company's reportable industry segments in registration statements, reports and other documents is material to an overall understanding of a company's business. The amendments adopted today, however, do not change the materiality threshold but reflect the same considerations that registrants should take into account in preparing financial statements that include industry segment information pursuant to SFAS No. 14. The amendments require registrants to consider both quantitative and qualitative factors in determining what information is material and should be disclosed about their segments. Included among the factors which should be considered are the following: The significance of a matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its future profitability), the pervasiveness of a matter (for example, whether it affects or may affect numerous items in the segment information) and the impact of a matter (for example, whether it distorts the trends reflected in the segment information). As a result of the focus upon segments, situations may arise when information should be disclosed about a segment, although the information in quantitative terms may not appear significant to an understanding of the registrant's business taken as a whole.

C. SEGMENT REPORTING

One of the most frequently raised objections to the proposed amendments announced in the May release was that they would require additional disclosure not required by SFAS No. 14. The commentators argued that SFAS No. 14 was issued after extensive research and evaluation by the FASB and the Commission should at least monitor the quality and extent of the disclosure made pursuant to the accounting pronouncement prior to expanding its requirements. In their view, the FASB considered the additional requirements which the Commission proposed and concluded that they should not be required for generally accepted accounting principles which are applicable to both publicly and privately held companies.

1. *Intersegment and intraenterprise transfers.* The commentators argued against the proposals to require certain additional data about intersegment and intraenterprise sales or transfers. The proposal to require additional information about the intersegment and intraenterprise transfers was criticized primarily because commentators believed that the proposal was not justifiable from

* See Statement of Financial Accounting Standards No. 14, "Financial Reporting for Segments of a Business Enterprise."

[1] Securities Act Release No. 5826 (May 10, 1977) (42 FR 26010).

[2] 426 U.S. 438 (1976).

a cost-benefit standpoint. Compliance with the proposed requirements would have entailed considerable expense to companies whose existing accounting systems are not now designed to generate this type of information. Further, they argued that the confidential and proprietary information would not have been useful to either the company or investors because it might have been potentially confusing and might have obfuscated more important data.

The Commission continues to believe that under certain circumstances disclosure about intersegment and intraenterprise sales, transfers or purchases should be included in a document which contains detailed segment financial information.[3] The disclosure provisions adopted today require additional information about such transfers when the intersegment or intraenterprise transfers are made at prices substantially higher or lower than prevailing market prices for similar products or services or at prices substantially higher or lower than those charged to unaffiliated parties for similar products or services and the effect of this pricing practice on the revenue and/or profit or loss of a segment or geographic area is quantitatively or qualitatively material to an understanding of the registrant's business taken as a whole. The analysis of the effect of the pricing practice on the performance of the segments or geographic areas should entail the consideration of those factors mentioned above with respect to the materiality of narrative information about segments. In lieu of the proposed detailed financial information about these transfers, the Commission believes that a narrative discussion of the basis of accounting for such transfers and of the effect of the transfers on the revenue and/or profit or loss of the segment or geographic area will be adequate disclosure. This information should enable investors to better understand the dependence of one industry segment upon another and to evaluate the risks and consequences of the company's foreign business; moreover, this approach is consistent with the disclosure which was required by the line of business provisions. An instruction[4] to the line of business provisions required registrants to describe the methods of pricing intracompany transfers of products or services or the methods of allocation of common or corporate costs, any material changes between periods in such methods and the effect thereof if the pricing methods materially affected the reported contribution to income of a line of business.

2. *Dominant segments.* The commentators also expressed opposition to the proposed disclosure requirements relating to a dominant industry segment. The proposal was criticized as vague; the commentators observed that this information would be unnecessary because the consolidated financial statements would be, for all intents and purposes, the financial information about the dominant segment itself.

The proposed amendment to require segment information about a dominant segment under certain circumstances was intended to elicit information when the performance of the segment during a particular period of time might not be indicative of current or future operations of the segment.[5] For example, detailed information about the dominant segment's operations would be useful to investors if its operation, while continuing to contribute to consolidated revenue of the registrant an amount which exceeds 90% of the consolidated revenue, begin to show a decline or an increase which is expected to continue as a result of any factors known to the registrant. The amendments adopted today do not include a requirement relating to financial information about a dominant segment because the Commission believes that existing provisions require appropriate disclosure. Guides 22 and 1[6] (Securities Act Release No. 5520, Securities Exchange Act Release No. 10961, Accounting Series Release No. 159 (August 14, 1974), (39 FR 31894)) of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 (17 CFR Part 231) and of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934 (17 CFR Part 241) state that the management's discussion and analysis of the summary of operations:

> [s]hould include a discussion of material facts, whether favorable or unfavorable, * * * which, in the opinion of management, may make historical operations or earnings as reported in the summary of earnings not indicative of current or future operations or earnings.[7]

3. *Interim period segment reporting.* Some of the commentators also took issue with the Commission's proposal to require segment information for interim periods. They argued that the information would have been costly and difficult to generate and might not have been very useful because of the broad allocations necessary for interim segmentation.

Recently, the FASB amended SFAS No. 14 in Statement of Financial Accounting Standards No. 18, "Financial Reporting for Segments of a Business Enterprise—Interim Financial Statements, an amendment of FASB Statement No. 14" (November 1977) ("SFAS No. 18"). The FASB announced in SFAS No. 18 that it had reconsidered the question of whether segment information should be included in interim financial statements and determined to eliminate the requirement from SFAS No. 14. Further, the Board stated that the subject of interim financial reporting is on its technical agenda and the issues addressed in that project include the type of financial information that should be reported for interim periods.[8]

The amendments relating to the disclosure of information for interim periods were proposed because the Commission believed that such disclosures were required by SFAS No. 14 and that segment financial information for an interim period might be material to a full understanding of the interim period financial statements. Upon reconsideration of the proposed amendments, the Commission believes that information about the interim performance of the segments should be required only under certain circumstances. Therefore, and because the FASB deleted their requirement from SFAS No. 14, the amendments adopted today only require registrants to discuss those facts relating to the performance of any of the segments during the period which, in the opinion of management, indicate that the five year segment financial data may not be indicative of current or future operations of the segment.

The Commission's earlier release also requested comments on the recommendation of the Advisory Committee on Corporate Disclosure[9] ("Advisory Committee") that segment financial data be required in quarterly reports on Form 10–Q (17 CFR 249.308) under the Exchange Act. Approximately 80 percent of the commentators argued that this information should not be required. Their primary objection to this proposal was that

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[3] Paragraphs 23 and 35(a) of SFAS No. 14 require companies to disclose the "basis of accounting for intersegment (and intraenterprise) sales or transfers."

[4] Instruction 4 of Item 9(b)(1), Form S–1 (17 CFR 239.11) and Instruction 4, Items 1(c)(1), Form 10 (17 CFR 249.210) and Form 10–K (17 CFR 249.310).

[5] Paragraph 20 of SFAS No. 14 states that a company which operates in a single industry or whose operations are predominantly in a dominant segment need not set forth the required financial information for the single or dominant segment. A dominant segment is defined in this paragraph as a segment whose revenue, operating profit or loss and identifiable assets each constitute more than 90 percent of related combined totals for all industry segments and no other industry segment is reportable.

[6] Guides 22 and 1 require disclosure to clarify and explain the financial information called for by the Summary of Earnings and Statement of Income items of certain forms under the Securities Act and similar summaries required by certain forms under the Exchange Act. The management discussion and analysis of the Summary of Earnings or the Summary of Operations is intended to explain material periodic changes in the amounts of the items of revenue and expenses and changes in accounting principles or practices or in the method of their application that have a material effect on net income as reported.

[7] Paragraph (b) of Guides 22 and 1, last sentence.

[8] Paragraph 3, SFAS No. 18.

[9] It was the Advisory Committee's view that quarterly segment information would assist users in evaluating earnings statements and forecasts. See Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission D–18—D–20, D–38, 380–390 (1977) [hereinafter cited as Advisory Committee Report].

many companies would be unable to compile the information in a timely fashion because they do not routinely generate the data on a quarterly basis or because of the amount of information which would be required to be presented.

The Commission believes that it would be inappropriate to propose amendments to require segment information for quarterly periods at this time. A more reasoned decision on this issue will be assured by consideration of the FASB's conclusions on interim period financial information[10] and by an analysis of the experiences of registrants and investors alike with the additional segment information.

Until such time, however, the Commission believes that the management's analysis of the quarterly income statements, required by Instruction 5 to Part 1 of Form 10–Q, should include a discussion of any segment information which is important to the explanation of material changes in the amounts of revenue and expense items discussed in this analysis.[11]

4. *Duplication of SFAS No. 14.* Securities Act Release No. 5826 was also criticized because the inclusion of excerpts of SFAS No. 14 in the proposed disclosure requirements would have delayed the application of future improvements in the accounting standard to the Commission's disclosure provisions. Further, registrants would have been required to more carefully scrutinize the differences between SFAS No. 14 and the Commission's requirements to evaluate their respective disclosure provisions because SFAS No. 14 was duplicated only in part in the proposed amendments.

The Commission does not intend to require disclosure about industry segments or geographic areas which are different from the segments or geographic areas included in the financial statements. Excerpts of SFAS No. 14 were included in the proposed amendments in order to more fully set forth the disclosure requirements. Since this approach served to confuse rather than edify and assist, generally, the amendments adopted today require disclosure of the information which is or was included in the financial statements.[12] This action should serve to reinforce the Commission's intention to coordinate the Commission's line of business information with the segment disclosure requirements of SFAS No. 14 and its policy of looking first to the private sector for the promulgation of generally accepted accounting principles.[13]

5. *Management's Discussion and Analysis.* In Securities Act Release No. 5826, the Commission urged registrants to include within the Management's Discussion and Analysis of the Summary of Operations pursuant to Guides 22 and 1 analyses of the performance of the industry segments. Amendments along these lines were not proposed at that time because the Commission understood that the Advisory Committee intended to recommend various other revisions to these guides. Although a few commentators concurred that this type of information should be required in the management's discussion, most commentators suggested that the Commission take a flexible approach to the inclusion of segment data in this discussion. While they argued for materiality guidelines, they objected to the adoption of arbitrary percentages.

In its report to the Commission, the Advisory Committee recommended various amendments to Guides 22 and 1 including amendments which would require an analysis of the financial statements by segment.[14] The Commission expects that it may consider the publication for comment of proposed amendments to Guides 22 and 1 and to the instructions relating to management's analysis of quarterly income statements.[15] The concerns expressed by commentators would be considered in connection with the proposal of any amendments to the Guides and to Form 10–Q. Registrants are encouraged, in the meantime, however, to include analyses of the performance of the industry segments within the management's discussion of the summary of operations and in their analysis of the income statement included in a quarterly report.

It is expected that future amendments to Guides 22 and 1 might include two of the disclosure requirements which are being adopted today. These are: (1) The discussion relating to intersegment and intraenterprise sales or transfers; and (2) the discussion of interim period segment financial information. The two requirements likely would be rescinded from Regulation S–K if the contemplated amendments to Guides 22 and 1 are adopted because it appears that this information might more logically be included together with the narrative explanation of the summary of operations.

B. FOREIGN PRIVATE ISSUERS

The Commission specifically requested comments on whether foreign private issuers which file registration statements under the Securities Act should be required to include segment data. A majority of the commentators argued that foreign private issuers should be required to comply with all of the adopted amendments because they compete for the same investment markets as domestic issuers and must comply with SFAS No. 14 and because adequate protection of investors depends upon the applicability of uniform standards of accounting, disclosure and review to all issuers selling securities in the United States. The minority of the commentators opposed the imposition of segment reporting requirements on foreign private issuers, at least for the present, because of the disparity between United States and foreign disclosure requirements and the possibility that foreign private issuers would as a result be deterred from entering the United States market.

The Commission believes that foreign private issuers should be required to furnish the same segment financial information as that which is required to be presented by domestic issuers because similar information about issuers is essential to a full analysis of various investment alternatives.[16] Therefore, the amendments adopted today do not exempt foreign private issuers from their reporting requirements.[17]

II. SPECIFIC AMENDMENTS

A. ADOPTION OF TWO ITEMS OF REGULATION S–K

The Commission believes that compliance with the securities acts will be facilitated by the development of a uniform disclosure regulation. While the action taken today adopts only two items of the regulation, the Commission intends to adopt other items as disclosure

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[10] See SFAS No. 18 and text accompanying footnote 8.

[11] In the opinion of the Commission, a discussion which focuses on the segment information would be consistent with Instruction 5 of Part I of the Form 10–Q, which states that "(e)xplanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels such as unit sales volume, prices charged and paid, production levels, production cost variances, labor costs and discretionary spending programs." See also text accompanying footnote 15.

[12] See the discussion included in the synopsis of the amendments at II(A)(2) and II(A)(4).

[13] See Accounting Series Release No. 150 (Dec. 20, 1973) (39 FR 1260).

[14] See Advisory Committee Report, supra footnote 9, at D–17—D–18, D–47—D–48, 365–374.

[15] Instruction 5 to Part I of Form 10–Q, "Management Analysis of Quarterly Income Statements." See also footnote 11 and accompanying text.

[16] This approach coincides with the Commission's rationale for proposing for comment the new Form 20–F (17 CFR 249.220–f), applicable to the registration of securities of foreign private issuers pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934 and for annual reports of foreign private issuers filed pursuant to sections 13 or 15(d) of that Act. In Securities Exchange Act Release No. 14128 (Nov. 2, 1977) (42 FR 58876), the Commission proposed amendments which would require foreign private issuers to provide the same segment financial disclosure as was proposed for comment in Securities Act Release No. 5826. The Commission stated, however, that it recognized that the new requirements might present some initial difficulties for such companies and stated that the information would not be required in the financial statements or in the business description with respect to fiscal years beginning prior to January 1, 1979.

[17] But cf. Rule 409 (17 CFR 230.409) under the Securities Act and Item 1(e), Regulations S–K.

provisions involving more than one of the various forms for the registration of securities or for the reporting to or solicitation of security holders are amended. The adoption of the business description and properties items today, Items 1 and 2 respectively, results in the elimination of immaterial differences between these two items included in the various disclosure forms and provides new reporting provisions intended to improve the description of the business of registrants for the benefit of investors.

It should be noted that Regulation S-K contains specific disclosure requirements to be used by registrants in the preparation of certain registration statements, reports and proxy or information statements. Concomitant with the adoption of the two items of Regulation S-K, the Commission has adopted amendments to Forms S-1, 10 and 10-K which provide that the registration statement or report should include descriptions of the business and properties of the registrant prepared in accordance with the provisions of Items 1 and 2 of Regulation S-K. In addition, amendments to Form S-7 (17 CFR 239.26), Form S-8 (17 CFR 239.16b), Schedule 14A of Regulation 14A (17 CFR 240.14a-101) and Rules 14a-3 (17 CFR 240.14a-3) and 14c-3 (17 CFR 240.14c-3) provide that the five year financial information about industry segments, classes of similar products or services, geographic areas and export sales of the registrant must be presented in accordance with the appropriate provisions of the business item of the newly adopted Regulation S-K.[18] Form S-7 is also amended to require description of material oil and gas reserves of a registrant to be disclosed pursuant to paragraph (b) of Item 2 of Regulation S-K. The disclosure system[19] should be simplified and duplication of efforts[20] minimized as a result of the development of Regulation S-K.

B. ITEM 1— DESCRIPTION OF BUSINESS

Item I of Regulation S-K has been reorganized substantially from proposed Item I of Form S-K in order to set forth the provisions in an order which the Commission believes may be appropriate for the presentation of the description of the business. Various substantive changes have also been made as explained below.

1. *Item 1(a)—General development of business.* Item 1(a) of Regulation S-K requires registrants to describe the general development of their business during the prior five years or such shorter period as the registrant may have been engaged in business. This requirement is not new to either Form S-1 or Form 10. Since the purpose of the annual report on Form 10-K is to provide information about the operations of the company during its most recent fiscal year, a registrant is required to discuss in this annual report only the general development of its business during the fiscal year for which the anuual report is filed.

Paragraph (2) of Item 1(a) of Regulation S-K requires certain registrants filing on Form S-1 under the Securities Act or Form 10 under the Exchange Act to discuss their plans of operation in the future. This requirement was formerly included in Instruction 9 to Item 9(a) of Form S-1 and Instruction 9 to Item 1(b) of Form 10.

2. *Item 1(b)—Financial information about industry segments.* Item 1(b) of Regulation S-K requires a registrant to state for five fiscal years or for each fiscal year the registrant has been engaged in business, whichever period is shorter, the amounts of revenue (with sales to unaffiliated customers and sales or transfers shown separately) ,operating profit or loss and identifiable assets attributable to each of the registrant's industry segments. The revenue, profit and asset information relating to each of the registrant's industry segments for which such information is presented in the financial statements should be furnished. For those fiscal years for which financial statements are not included in the particular disclosure document, the amendments require the presentation of the revenue, profit and asset information which the company included in its financial statements for those fiscal years pursuant to SFAS No. 14 or which a company filing under the securities acts for the first time would have included in its financial statement if SFAS No. 14 had been effective for those years. As a result, the information which is required to be presented will be the same as that which has been reported by registrants in their financial statements, unless they are restated as discussed below.

Under certain circumstances, the segment financial information for the preceding fiscal years must be restated pursuant to criteria which are the same as those which appear in SFAS No. 14.[21] When the financial statements of the registrant as a whole have been retroactively restated or when there has been a change in the way the registrant's products or services are grouped into industry segments and this change affects the segment being reported, paragraphs (b)(1)(i) and (d)(1) of Item 1 of Regulation S-K provide that the historical segment information should be retroactively restated unless not material.

The proposed amendments would have required registrants to disclose within their descriptions of business the following information about their industry segments for a five-year period: revenue; operating profit (loss); assets; depreciation, depletion and amortization expenses; capital expenditures; and equity in the net income from and investment in the net assets of unconsolidated subsidiaries. The amendments adopted today narrow this requirement by stating that the five-year information required to be presented in the description of business need include revenue, operating profit (loss) and asset data only. The other items of information about the industry segments must be included in the financial statements pursuant to SFAS No. 14 and the Commission believes that it is unnecessary to require the presentation of all of such information for the full five-year period. The requirement to do so might have discourage registrants from furnishing other statistical data about their business operations.

Registrants which have never filed under the securities acts before are required by the amendments to present industry segment data for a five year period. Since line of business information generally is not avaliable to such companies, this requirement is no more burdensome than was the requirement that they file line of business data for five years.

[18] Forms S-1 and S-7 are forms for the registration of securities under the Securities Act. Form S-8 is the form for the registration of securities under the Securities Act to be offered to employees pursuant to certain plans. Form 10 is the general form for the registration of securities under the Exchange Act. Form 10-K is the form for annual reports filed pursuant to section 13 or 15(d) of the Exchange Act and Schedule 14A specifies the information required to be set forth in proxy and information statements filed pursuant to section 14 of the Exchange Act. Schedule 14A under the Exchange Act is also applicable to the solicitation of proxies under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)) and the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). Rules 14a-3 and 14c-3 relate to annual reports to shareholders.

[19] The business description items of Forms S-1 and 10 have differed slightly from the business item in Form 10-K. Regulation S-K eliminates the differences, making it possible for registrants to use the same business descriptions on the various forms.

[20] In July, the Commission adopted Guide 4 of the Guides for the Preparation and Filing of Registration Statements and Reports under the Securities Exchange Act of 1934 in Securities Exchange Act Release No. 13639 (June 17, 1977) (42 FR 31780). This guide permits registrants to integrate to the extent appropriate their annual and quarterly reports to shareholders with their annual and quarterly reports on Forms 10-K and 10-Q respectively. The amendments adopted today should encourage further this integration because, as a result, the financial information about a company's industry segments and geographic areas in the annual report to shareholders will be the same as that required in the annual report on Form 10-K.

[21] Paragraph 40, SFAS No. 14.

With the exception of those filing under the securities acts for the first time, the amendments adopted today apply prospectively only. Paragraph (2) of Item 1(b) provides that all other registrants may furnish line of business information in lieu of the industry segment data for fiscal years beginning before December 16, 1976, although the Commission encourages registrants to provide five year comparative industry segment information. Any lack of comparability of the historical line of business information with the industry segment information should be explained and registrants should state, to the extent possible, which segments are equivalent or substantially similar to each of the lines of business, the approximate percentage of the line of business included in each industry segment and the basis for the new classification.[25] Any other information useful to an understanding of the relationship between the industry segments and the lines of business should be discussed also.

The absence of five year comparative segment information during the first several years following the adoption of today's amendments may have a temporary, adverse effect on the analysis of the performance of the various segments of a company's business. However, the Commission believes that this approach is preferable to requiring now that all segment information be presented for a five year period because that action might have discouraged companies from reevaluating their business operations for purposes of complying with the new segment reporting requirements.

For reasons discussed above in the general discussion of comments received on the proposed amendments, paragraphs (ii) and (iii) of Item 1(b)(1) of Regulation S-K require registrants to discuss certain intersegment transfers and the performance of the industry segments during an interim period. If Guides 22 and 1 relating to the management's discussion and analysis of the summary of operations are amended to require such discussion to focus upon segments, the Commission may delete these paragraphs from Regulation S-K. Until then, however, registrants may discuss material intersegment transfers and the performance of industry segments during an interim period in either the Management's Discussion of the Summary of Operations or in the description of their business. The information need not accompany the tabular presentation of revenue, profit and asset information unless the registrant believes that its presentation there will improve an understanding of his information.

3. *Item 1(c)—Narrative description of business.* Item 1(c) of Regulation S-K requires registrants to describe their busines operations. The business description should focus on the registrant's dominant segment or each of the reportable industry segments about which financial information is presented in the financial statements. This requirement integrates the textual disclosures required by the Commision forms with the segmental financial statement disclosures required by SFAS No. 14; the additional information about the business operations of these segments should provide investors with more meaningful information about the segments and should improve their understanding of the financial information required by SFAS No. 14.

Information about the following matters is required to be presented for each industry segment to the extent material to an understanding of the registrant's business taken as whole: the principal products and services produced or rendered by the segment; any new products or services about which the registrant has directly or indirectly made information public; the sources and availability of raw materials; the importance to the industry segment and the duration and effect of all patents, trade marks, licenses, franchises and concessions held; the extent to which the business of the industry segment is or may be seasonal; practices of the registrant or the industry relating to working capital items; principal customers; backlog; government business; and competition in the industry. The determination whether the aforementioned matters are material and should be discussed in the description of each segment should depend upon an analysis of both quantitative and qualitative factors; examples of factors relevant to this analysis are set forth in Item 1(c)(1) and have been discussed above in Section I(B) of this release.

In connection with the description of a particular industry segment's principal products or services, Item (1)(c)(1)(i) requires companies to state the amount or percentage of consolidated revenue contributed by any class or similar products or services which accounted for ten percent or more of consolidated revenue in either of the registrant's last two fiscal years or 15 percent or more of consolidated revenue if consolidated revenue did not exceed $50,000,000 during either of such fiscal years. Some commentators argued that an industry segment will include only one class of related products or services and therefore the proposed requirement to present revenue information for each class of similar products or services would be duplicative of the industry segment information and therefore unnecessary. The Commission has retained this disclosure requirement because some companies may have industry segments which include more than one class of similar products or services, and the required disclosure of revenue contributed by each class should promote a better understanding of these operations.

The disclosure requirement relating to descriptions of products or services has also been amended to delete the requirement that changes in the kinds of products produced or services rendered or in the markets or methods of distribution during the past three fiscal years be discussed. Any material changes would be required to be described pursuant to paragraph (a) of the item.

The instruction to Item 1(c)(1)(ii) requires registrants to furnish to the staff upon request certain supplemental information if the registrant has recently introduced a new product or a new industry segment or has made public its intention to introduce a new product or segment and the development of the product or segment requires the investment of a material amount of the assets of the registrant or is otherwise material. The staff may request registrants to furnish studies prepared for the registrant by outside persons or certain internal studies, documents, reports or memoranda if the registrant based its decision to develop the product or to do business in the new segment on the conclusions, recommendations or findings in the documents. The Commission believes studies may contain trade secrets and commercial or financial information the disclosure of which might have an adverse effect on a registrant's competitive position. Therefore, upon completion of its review of the contents of such studies, the staff will return them to the registarant at its request where consistent with the protection of investors and the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. The Commission believes that to the extent that these studies contain trade secrets or confidential commercial or financial information submitted in confidence they should not be subject to release upon request by someone under the FOIA because of the exemption for such confidential information.[26] Nevertheless, the Commission believes that the procedure for the return of the information to registrants will further assure the confidentiality of the information and will avoid the retention by the Commission of information which is not necessary for the protection of investors. If the Commission receives a request filed under the FOIA for material relating to a company as to which such supplemental information has been received, the company will be notified and the supplemental information withheld where consistent with the FOIA. When appropriate, however, the material will not be returned to the company during consideration of the request. This supplemental information is intended to assist

[25] For example, this explanation might read as follows: The operations of the registrant's electric appliance line of business are now reflected in its refrigerator and small kitchen appliance industry segments. Approximately 60 percent of the revenue and 45 percent of the profit of the electric appliance line of business is included in the financial data about the refrigerator industry segment. The electric appliance line of business has been reclassified into two industry segments because refrigerators and small kitchen appliances are manufactured in different plants, have different uses, and are subject to different growth and profitability factors despite the similarity of marketing methods for each.

[26] 5 U.S.C. 552(b)(4).

the staff in considering whether investors should be provided with more information in the document about the new product or industry segment. The staff will request the information only when it believes that the supplemental information will be useful to its review of a filing.

Another proposed disclosure provision relating to industry segments which elicited some criticism was the requirement to discuss competitive conditions in the industry. Some commentators argued that the disclosure of the identity of principal competitors in an industry segment would have adversely affected their ability to compete. Registrants are required by provisions in effect today to discuss in registration statements and reports competitive conditions, giving separate consideration to principal products or services or classes of products or services. In addition, they are required to identify dominant competitors where one or a small number are dominant. The requirement that registrants name the principal competitors of their various industry segments should not present compliance difficulties because the disclosure is required only when registrants know that one or a small number of companies or entities are dominant in the industry and this information is material to investors.

Various commentators argued that the requirement to identify principal customers of the industry segments would have adversely affected a company's ability to compete and that the identity of such customers might not have been material to an understanding of the registrant and its subsidiaries as a whole. Therefore, paragraph (vii) of Item 1(c)(1) requires registrants to discuss the dependence of an industry segment on a single customer or a few customers the loss of any one or more of whom would have an adverse effect on the segment if this information is material to an understanding of the company's business taken as a whole. The name of each such customer and its relationship to the registrant are required to be disclosed only when the sales to the customer are made by a segment in an amount which is equal to 10 percent or more of the registrant's consolidated revenue. As proposed, the identity of the principal customers of each segment would have been required disclosure regardless of the materiality of the customer to the registrant's business taken as a whole. Although some commentators argued that the Commission should not go beyond the customer disclosure requirements of SFAS No. 14,[34] disclosure of the names of certain customers has been required for a number of years and the Commission believes this information is material to investors and, accordingly, should continue to be reported.

Item 1(c)(2)(ii) requires registrants to disclose the identities of all customers to which sales are made in amounts which equal ten percent or more of the registrant's consolidated revenue, unless such customers have already been identified in the description of the company's industry segments. This requirement is necessary because an individual customer may not purchase a substantial amount from any one industry segment although ten percent or more of the registrant's consolidated revenue may be derived from sales to that customer. For purposes of both this requirement and the requirement that registrants identify a segment's customers where material, a group of customers under common control and, if material, customers which are affiliates of each other, should be regarded as a single customer.

As proposed, registrants would have been required to disclose the amount of the registrant's expenses for material research and development activities by segment. Various commentators noted that companies generally do not engage in research and development activities on an industry segment basis and that the allocation of portions of such research to the various segments may or may not be possible depending upon the type of research undertaken by the company. Therefore, the amendments adopted today require registrants to disclose research and development expenses as to the company in general and to identify the industry segments which have engaged in research and development activities to the extent material.

Item 1(c)(2)(i) states that the amount of company-sponsored research and development expenses should be determined in accordance with generally accepted accounting principles. This provision is adopted because the use of the definition of company-sponsored research and development costs adopted by the FASB[35] will simplify and promote consistency in the presentation of such expenses.

The requirement that registrants state the number of employees engaged in research and development activities has been deleted. In most cases, the number of employees may not be material disclosure.

With regard to the narrative description of a company's business, the Advisory Committee recommended revisions to Form 10-K in an attempt to reduce the boilerplate language included in the description of a company's business.[36] The Commission concurs with this approach and urges registrants and their counsel to eliminate phrases such as "competition is keen but we are competitive" or "there is an energy shortage but the company is attempting to minimize its effects" in an effort to improve the readability and usefulness of the business description.

4. *Item 1(d)—Financial information about foreign and domestic operations and export sales.* Paragraph (d) of Item 1 of Regulation S-K requires registrants to state for five years, or for each fiscal year beginning after December 15, 1976, or for each fiscal year the registrant has been engaged in business, whichever period is shortest, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other geographic areas of the registrant shown separately), profitability, and identifiable assets attributable to each of the registrant's geographic areas and the amount of its export sales, in the aggregate or by appropriate geographic area to which the sales were made. For those fiscal years for which financial statements are included in the particular document, the revenue, profitability, asset and export sales information included in the financial statements should be presented. For those fiscal years for which financial statements are not included in the document, the financial information for foreign and domestic operations and for export sales which was disclosed in the financial statements for those fiscal years should be presented, restated as appropriate pursuant to criteria similar to those discussed above as to the industry segment information.

Instruction 1 to Item 1(d) requires a registrant to evaluate interperiod comparability in determining whether information about foreign and domestic operations and export sales should be presented. Although SFAS No. 14 does not specifically require this analysis,[37] the Commission believes that the instruction is consistent with the goal of assisting investors in analyzing and understanding a registrant's business.

Instruction 2 to Item 1(d) provides that in lieu of furnishing information pursuant to Item 1(d), bank holding companies may furnish information about their foreign operations pursuant to Guide 61 under the Guides for the Preparation and Filing of Registration

[34] Paragraph 39 of SFAS No. 14 only requires disclosure of the fact that an enterprise receives more than 10 percent of its revenues from sales to a single customer.

[35] Statement of Financial Accounting Standards No. 2, "Accounting for Research and Development Costs" (October 1974).

[36] See Advisory Committee Report, supra footnote 9, at 487.

[37] SFAS No. 14 requires disclosure relating to foreign operations only when the amount of revenue from foreign operations exceeds 10 percent or more of consolidated revenue as reported in the registrant's income statement or its assets are 10 percent or more of consolidated assets as reported in the balance sheet. Similarly, the financial information for domestic operations need not be given if revenue of domestic operations from sales to unaffiliated customers and domestic operations' identifiable assets are less than ten percent of related consolidated amounts; the amount of export sales must be reported only when they exceed ten percent of total revenue from sales to unaffiliated customers. In contrast with the instructions relating to the determination of reportable industry segments, SFAS No. 14 does not specifically direct the company to report foreign and domestic operations or export sales if they were significant in the past and are expected to be significant in the future although they are significant in the particular fiscal year.

Statements under the Securities Act of 1933 (17 CFR Part 231) or Guide 3 of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934 (17 CFR Part 241). This instruction is adopted because of the disparate definitions of foreign operations in SFAS No. 14 and these guides. In addition, the Commission recently authorized for publication for comment proposed amendments to Artice 9 of Regulation S–X (17 CFR Part 210.9) containing requirements as to form and content of financial statements of bank holding companies and banks.[28] Included within the proposed amendments are definitions of foreign activities and significant geographic areas which are different from the definitions of foreign operations and geographic areas in SFAS No. 14 because the former reflect the particular nature of the banking industry. If these amendments to Article 9 are adopted, the Commission expects to amend Instruction 2 to Item 1(d) to provide that bank holding companies should define their foreign operations and significant geographic areas in accordance with the provisions of Article 9 for purposes of presenting the financial information about their foreign operations.

Paragraphs 3 and 4 of Item 1(d) require the same type of information about intraenterprise transfers and interim period financial information as required by paragraphs (ii) and (iii) of Item 1(b)(1). Paragraph 2 of Item 1(d) requires registrants to discuss any risks attendant to the foreign operations and describe any dependence of one or more of its industry segments upon the foreign operations.

5. *Disclosure tables.* Sample disclosure tables are set forth as appendices of Item 1 of Regulation S–K to provide an illustration of the tabular format that might be used for the presentation of the segment financial information required for industry segments, classes of similar products or services, geographic areas and export sales. The inclusion of the tables is not intended to suggest that the Commision feels that their format is the preferable format for the presentation of this information. Rather, these tables are only set forth to illustrate one alternative disclosure format.

It should be noted that the illustrative table includes a caption for the amount of revenue contributed by classes of products or services within a particular industry segment, where appropriate. Registrants may present this information in any manner which they feel is appropriate. The amount of revenue contributed by significant classes of products or services within industry segments may be presented together with the industry segment financial information, or in a separate table; alternatively, this revenue information for classes of products or services may be discussed in connection with the descriptions of the industry or dominant segments. Further, Instruction 2 to Item 1(b)(1) provides that the registrant may include in its financial statements a cross reference to the industry segment and geographic area information in the business description in lieu of presenting duplicative information in the financial statements to the extent that the financial information included pursuant to the description of business item complies with generally accepted accounting principles.

C. ITEM 2—DESCRIPTION OF PROPERTY

The proposal to require registrants to describe the physical properties which are material to each of the registrant's reportable industry segments has not been adopted. In lieu thereof, Item 2(a) of Regulation S–K requires registrants to describe the physical properties which are material to the registrant and its subsidiaries. In addition, this provision requires registrants to identify the segment(s) which use the properties described. In determining what properties should be described, Instruction 2 to Item 2(a) requires registrants to consider both quantitative and qualitative factors. The requirement to identify the segments which use the properties should improve an investor's understanding of a particular segment's future operations. Further, it integrates the properties item with the requirement in SFAS No. 14 and Item 1 of Regulation S–K that registrants state the amount of each industry segment's identifiable assets and should enable investors to better assess these assets.

Paragraph (b) of Item 2 of Regulation S–K sets forth disclosure requirements relating to oil and gas reserves. The disclosure provisions relating to oil and gas reserves are substantially the same as the comparable paragraphs of the properties items formerly included in Forms S–1, S–7, 10 and 10–K. Minor changes have been made to conform the definitions included therein with those established by the Department of Energy in conjunction with representatives of the various United States Government agencies. For example, Instruction 2 to Item 2(b) of Regulation S–K includes an expanded definition of proved reserves. The Commission is adopting the provisions without submitting them for comment. The revisions are consistent with prior interpretations given by the staff of the Division of Corporation Finance of the former provisions relating to oil and gas reserves, or otherwise are minor in nature, and the Commission believes that the change in the definition of proved reserves should not result in any changes to the quantities which would have been estimated using the previous definition.

D. MATERIAL CONTRACTS

In Securities Act Release No. 5826, the Commission proposed amendments which would have required registrants to file as exhibits to registration statements on Forms S–1 and 10 and annual reports on Form 10–K copies of all contracts not made in the ordinary course of business which are material to any of the registrant's industry segments. The commentators were critical of this proposal because compliance with the requirement would have been burdensome and costly and the contracts would not have been useful to investors. In addition, they argued against the requirement because it would have resulted in disclosure of competitively sensitive information.

The amendments adopted today, which relate only to those contracts not entered into by a company in the ordinary course of business, require registrants to file copies of those contracts which are material to an understanding of the registrant's overall business or which are specifically referred to in the registrant's discussion of its reportable industry segments if the contract is to be performed in whole or in part at or after the filing of the registration statements or was entered into not more than two years before such filing. This requirement should improve an investor's understanding of the operations of each of a company's industry segments. No amendments were proposed nor are any amendments adopted with respect to the instruction concerning the filing as exhibits of contracts made in the ordinary course of business.

III. EFFECTIVE DATE

The Commission is aware of the concerns expressed by registrants when new reporting provisions are adopted shortly before the end of their fiscal years. Therefore, these amendments are effective for documents filed with or furnished to the Commission when the most recent annual financial statements included in the documents are for fiscal years ending after March 15, 1978. The effective date is delayed for the purpose of avoiding the imposition of hardships on registrants.

Notwithstanding the effective date of these amendments, registrants should include in the description of their business the revenue and profit data presented in the financial statements for fiscal years beginning after December 15, 1976 with respect to the company's reportable industry segments. These data should be included in lieu of the revenue and profit information required as to the company's lines of business for this fiscal year to avoid inconsistency with the financial statements. Registrants should also explain any differences between their lines of business in prior years and the industry segments.

Registrants should be aware that next year they will be required to present industry segment and geographic area information pursuant to these amendments for their fiscal years beginning after December 15, 1976. Registration statements, reports and proxy and information statements which contain financial statements for registrants' fiscal years ending

[28] Securities Act Release No. 5886 (December 8, 1977) [42 FR 63578].

after December 15, 1978 will be required to include the industry segment and geographic area information for the preceding fiscal year despite the effective date of these amendments.

The Commission strongly encourages early compliance with these amendments and believes that when practicable registrants should implement fully the requirements prior to the effective date because of the usefulness of segment and geographic area information to investors. To the extent that registrants furnish the information required by Items 1 and 2 of Regulation S-K compliance with the existing provisions of the business and properties items of the various disclosure documents is not required.

SCHEDULE OF AMENDMENTS.—*Regulation or form to which amended disclosure provisions apply*

	Regulation S-K	Form— S-1	S-7	S-8	10	10-K	Annual report to shareholders	Certain proxy and information statements
1. Amendments to disclosure items, disclosure of:								
(a) Five year historical financial information relating to industry segments to be applied prospectively except as to companies filing for the first time.	X	X	X	X	X	X	X	X
(b) Five year historical financial information relating to foreign and domestic operations to be applied prospectively.	X	X	X	X	X	X	X	X
(c) Amount of export sales for each of the last 5 years to be applied prospectively.	X	X	X	X	X	X	X	X
(d) Information about the business focusing on industry segments.	X	X	.....		X	X		
(e) Identification of industry segments using material properties.	X	X	.....		X	X		
2. Form amendments to exhibits—filing as exhibits contracts material to registrant or which are specifically referred to in the business description.	X	X	.....		X	X		

IV. AMENDMENTS

The text of the amendments is set forth below:

1. 17 CFR Chapter II is amended by adding a new Part 229 and §§ 229.1 and 229.20 thereunder as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934

APPLICATION OF REGULATION S-K (17 CFR PART 229)

Sec.
229.1 Application of Regulation S-K.
229.20 Information required in document.

§ 229.1 Application of Regulation S-K.

This part (together with the General Rules and Regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 (Parts 230 and 240 of this chapter) and the Interpretative Releases under these acts (Parts 231 and 241 of this chapter) and the forms under these acts (Parts 239 and 249 of this chapter)) states the requirements applicable to the content of the non-financial statement portions of:

(a) Registration statements under the Securities Act of 1933 (Part 239 of this chapter) to the extent provided in the forms to be used for registration under this Act; and

(b) Registration statements under section 12 (Subpart C of Part 249 of this chapter), annual or other reports under sections 13 and 15(d) (Subparts D and E of Part 249 of this chapter), and proxy and information statements under section 14 of the Securities Exchange Act of 1934 to the extent provided in the forms and rules which are to be used for registration and reporting under these sections of this Act.

INFORMATION REQUIRED IN DOCUMENT

§ 229.20 Information required in document.

Item 1. Description of business.—(a) *General development of business.* Describe the general development of the business of the registrant, its subsidiaries and any predecessor(s) during the past five years, or such shorter period as the registrant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business.

(1) In describing developments, information shall be given as to matters such as the following: the year in which the registrant was organized and its form of organization; the nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other material reclassification, merger or consolidation of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; and any material changes in the mode of conducting the business.

NOTE.—The following requirement in paragraph (2) applies only to registrants filing a registration statement on Form S-1 (17 CFR 239.11) under the Securities Act of 1933 or on Form 10 (17 CFR 249.210) under the Securities Exchange Act of 1934 for the first time who (including predecessors) have not received revenue from operations during each of the three fiscal years immediately prior to the filing of the registration statement. No response is required if similar information has previously been filed for prior periods in a registration statement on Form 10 effective under the Securities Exchange Act of 1934 or in a registration statement effective under the Securities Act of 1933.

(2) Describe, if formulated, the registrant's plan of operation for the remainder of the fiscal year, if the registration statement is filed prior to the end of the registrant's second fiscal quarter. Describe, if formulated, the registrant's plan of operation for the remainder of the fiscal year and for the first six months of the next fiscal year if the registration statement is filed subsequent to the end of the second fiscal quarter. If such information is not available, the reasons for its not being available shall be stated. Disclosure relating to any plan should include such matters as:

(i) If a registration statement on Form S-1 (17 CFR 239.11), a statement in narrative form indicating the registrant's opinion as to the period of time that the proceeds from the offering will satisfy cash requirements and whether in the next 6 months it will be necessary to raise additional funds to meet the expenditures required for operating the business of the registrant. The specific reasons for such opinion shall be set forth and categories of expenditures and sources of cash resources shall be identified; however, amounts of expenditures and cash resources need not be provided. In addition, if the narrative statement is based on a cash budget, such budget should be furnished to the Commission as supplemental information, but not as a part of the registration statement.

(ii) An explanation of material product research and development to be performed during the period covered in the plan.

(iii) Any anticipated material acquisition of plant and equipment and the capacity thereof.

(iv) Any anticipated material changes in number of employees in the various departments such as research and development, production, sales or administration

(v) Other material areas which may be peculiar to the registrant's business.

(b) *Financial information about industry segments.*—(1) *Industry segments.* State for each of the registrant's last five fiscal years or for each fiscal year

the registrant has been engaged in business, whichever period is shorter, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other industry segments of the registrant shown separately), operating profit or loss and identifiable assets attributable to each of the registrant's industry segments. (See Appendix A for a suggested tabular format for presentation of this information.) Include for those fiscal years for which financial statements are presented in the document the revenue, profit and asset information relating to those industry segments for which such information is included in the financial statements. For fiscal years for which financial statements are not presented in the document, set forth the revenue, profit and asset information included in the financial statements for those years or which would have been included if segment financial information had been required.

(i) The prior period information shall be retroactively restated in the following circumstances, unless not material, with appropriate disclosure of the nature and effect of the restatement:

(A) When the financial statements of the registrant as a whole have been retroactively restated.

(B) When there has been a change in the way the registrant's products or services are grouped into industry segments and such change affects the segment information being reported. Restatement is not required when a registrant's reportable segments change solely as a result of a change in the nature of its operations or as a result of a segment losing or gaining in significance.

(ii) If intersegment sales/transfers or purchases were made at prices substantially higher or lower than prevailing market prices or at prices substantially higher or lower than those charged to or received from unaffiliated parties for similar products or services and the effect of this pricing practice on the reported revenue and/or operating profit or loss of a segment is material to an understanding of the segment information, disclose the basis of accounting for such transfers. In addition, discuss the effect of the transfers on revenue and/or operating profit or loss of the segments. (See Instruction 3 to Item 1(b)(1).) If practicable, the discussion should indicate the estimated or approximate amounts of revenue and operating profit or loss which the particular segment would have had or the percentage of increase or decrease in the amounts of reported revenue and operating profit or loss if the intersegment sales/transfers or purchases had been made at the prevailing market place or at the price charged to or received from unaffiliated parties.

(iii) If the registrant includes in the document interim period financial information, discuss any facts relating to the performance of any of the segments during the period which, in the opinion of management, indicate that the five year segment financial data may not be indicative of current or future operations of the segment. Comparative financial information shall be included to the extent necessary to the discussion.

Instructions to Item 1(b)(1). 1. See Item 1(b)(2) with respect to information for fiscal years beginning before December 16, 1976.

2. To the extent that the financial information included pursuant to this item complies with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative information about its segments in the financial statements.

3. In determining what information about the industry segments is material to an understanding of the registrant's business taken as a whole and therefore should be disclosed, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its future profitability), the pervasiveness of the matter (for example, whether it affects or may affect numerous items in the segment information) and the impact of the matter (for example, whether it distorts the trends reflected in the segment information). Situations may arise when information should be disclosed about a segment, although the information in quantitative terms may not appear significant to the registrant's business taken as a whole.

(2) *Information as to lines of business.* For fiscal years beginning before December 16, 1976, the revenue, income and any necessary explanatory information relating to lines of business included by the registrant in a document filed with the Commission prior to December 16, 1977 pursuant to the disclosure rules promulgated under the federal securities acts may be furnished in lieu of the industry segment information required by paragraph (b)(1) for such years. The lack of comparability of the historical line of business information with the industry segment information shall be explained.

(c) *Narrative description of business.* (1) Describe the business done and intended to be done by the registrant and its subsidiaries focusing upon the registrant's dominant industry segment or each reportable industry segment about which financial information is presented in the financial statements. The description of each such segment shall include the information specified in paragraphs (i) through (x) below to the extent material to an understanding of the registrant's business taken as a whole. In determining what information about a company's industry segments is material and should be disclosed, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its future profitability), the pervasiveness of the matter (for example, whether it affects or may affect numerous items in the segment information) and the impact of the matter (for example, whether it distorts the trends reflected in the segment information). Situations may arise when information should be disclosed about a segment although the information in quantitative terms may not appear material to the registrant's business taken as a whole. The descriptions of the segments may vary in scope and detail as a result of the importance of the segments to a registrant's business and the materiality of the class of information discussed as to each.

(i) The principal products produced and services rendered by the registrant in the industry segment and the principal markets for, and methods of distribution of, the segment's principal products and services. In addition, state for each of the last five fiscal years the amount or percentage of total revenue contributed by any class of similar products or services which accounted for 10 percent or more of consolidated revenue in either of the last two fiscal years or 15 percent or more of consolidated revenue if total revenue did not exceed $50,000,000 during either of such fiscal years.

(ii) A description of the status of a product or segment (e.g., whether in the planning stage, whether prototypes exist, the degree to which product design has progressed or whether further engineering is necessary), if there has been a public announcement of, or if the registrant otherwise has made public information about, a new product or industry segment which would require the investment of a material amount of the assets of the registrant or which otherwise is material. This paragraph is not intended to require disclosure of otherwise nonpublic corporate information the disclosure of which would adversely affect the registrant's competitive position.

Instruction. If the registrant has recently introduced a new product or begun to do business in a new industry segment or has made public its intentions to introduce a new product or to do business in a new industry segment and this action requires the investment of a material amount of the assets of the registrant or otherwise is material, the staff may request registrants to provide certain supplemental information. Where appropriate, registrants may be requested to furnish to the staff supplemental copies of any studies prepared for the registrant by outside persons or any internal studies, documents, reports or memoranda the contents of which were material to the decision to develop the product or do business in the new segment including, but not limited to, documents relating to financing requirements and engineering, competitive, environmental and other considerations but excluding technical documents. Upon request and where consistent with the protection of investors and with the Freedom of Information Act, 5 U.S.C. 552, the supplemental information will be returned to the registrant.

(iii) The sources and availability of raw materials.

(iv) The importance to the industry segment and the duration and effect of all patents, trade marks, licenses, franchises and concessions held.

(v) The extent to which the business of the industry segment is or may be seasonal.

(vi) The practices of the registrant and the industry relating to working capital items (e.g., where the registrant is required to carry significant amounts of inventory to meet rapid delivery requirements of customers or to assure itself of a continuous allotment of goods from suppliers; where the registrant provides rights to return merchandise; or where the registrant has provided extended payment terms to customers).

(vii) The dependence of the segment upon a single customer or a few customers the loss of any one or more of whom would have an adverse effect on the segment. The name and relationship, if any, of each such customer to the registrant shall be disclosed if sales to the customer are made by the segment in an amount which is equal to 10 percent or more of the registrant's consolidated revenue. For this purpose, a group of customers under common control and, if material, customers which are affiliates of each other shall be regarded as a single customer.

(viii) The dollar amount of backlog orders believed to be firm, as of a recent date and as of a comparable date in the preceding fiscal year, together with an indication of the portion thereof not reasonably expected to be filled within the current fiscal year, and seasonal or other material aspects of the backlog.

(ix) A description of any material portion of the business which may be subject to renegotiation of profits or termination of contracts or subcontracts at the election of the Government.

(x) Competitive conditions in the business involved including, where material, the identity of the particular markets in which the registrant competes, an estimate of the number of competitors and the registrant's competitive position, if known or reasonably available to the registrant. Separate consideration shall be given to the principal products or services or classes of products or services of the segment, if any. Generally, the names of competitors need not be disclosed. The registrant may include such names, unless in the particular case the effect of including the names would be misleading. Where the registrant knows or has reason to know that one or a small number of competitors are dominant in the industry, however, they should be identified. The principal methods of competition (e.g., price, service, warranty or product performance) should be identified and positive and negative factors pertaining to the competitive position of the registrant, to the extent that they exist, should be explained if known or reasonably available to the registrant.

(2) The matters specified in paragraphs (i) through (iv) below shall be discussed with respect to the registrant's business in general. Where material, identify the industry segments to which these matters are significant.

(i) If material, the estimated amount spent during each of the last two fiscal years on company-sponsored research and development activities determined in accordance with generally accepted accounting principles. In addition, state the estimated dollar amount spent during each of such years on material customer-sponsored research activities relating to the development of new products, services or techniques or the improvement of existing products, services or techniques.

(ii) The identity of any customer(s) to which sales are made in an amount which equals 10 percent or more of the registrant's consolidated revenue and the relationship, if any, of each such customer to the registrant. For this purpose, a group of customers under common control and, if material, customers which are affiliates of each other shall be regarded as a single customer.

(iii) Appropriate disclosure shall also be made as to the material effects that compliance with Federal, State and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries. The registrant shall disclose any material estimated capital expenditures for environmental control facilities for the remainder of its current fiscal year and its succeeding fiscal year and for such further periods as the registrant may deem material.

(iv) The number of persons employed by the registrant.

(d) *Financial information about foreign and domestic operations and export sales.* State for each of the registrant's last five fiscal years, or for each fiscal year beginning after December 15, 1976, or for each fiscal year the registrant has been engaged in business, whichever period is shortest, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other geographic areas shown separately), profitabilily, and identifiable assets attributable to each of the registrant's geographic areas and the amount of export sales in the aggregate or by appropriate geographic area to which the sales are made. (See Appendix B for a suggested tabular format for presentation of this information.) Include for those fiscal years for which financial statements are presented in the document the revenue, profitability, asset and export sales information included in such financial statements. For fiscal years for which financial statements are not presented in the document, set forth the revenue, profitability, asset and export sales information included in the financial statements for those fiscal years.

(1) The prior period information shall be retroactively restated in the following circumstances, unless not material, with appropriate disclosure of the nature and effect of the restatement:

(i) When the financial statements of the registrant as a whole have been retroactively restated.

(ii) When there has been a change in the way a registrant's foreign operations are grouped into geographic areas and such change affects the geographic area information being reported. Restatement is not required when a registrant's geographic areas change as a result of a change in the nature of operations or as a result of an area losing or gaining in significance.

(2) Any risks attendant to the foreign operations and any dependence of one or more of the registrant's industry segments upon such foreign operations shall be described unless it would be more appropriate for this matter to be discussed in connection with the description of one or more of the registrant's industry segments pursuant to paragraph (c)(1) above.

(3) If intraenterprise sales/transfers or purchases were made at prices substantially higher or lower than prevailing market prices or at prices substantially higher or lower than those charged to or received from unaffiliated parties for similar products or services and the effect of this pricing practice on the reported revenue and/or profitability or loss of a geographic area is material to an understanding of the geographic area information, disclose the basis of accounting for such transfers. In addition, discuss the effect of the transfers on revenue and/or profitability of the geographic areas. (See Instruction 4 to Item 1(d).) If practicable, the discussion should indicate the estimated or approximate amounts of revenue and profitability which the particular geographic area would have had or the percentage of increase or decrease in the amounts of reported revenue and profitability if the intraenterprise sales/transfers or purchases had been made at the prevailing market price or at the price charged to or received from unaffiliated parties.

(4) If the registrant includes in the document interim period financial information, discuss any facts relating to the information furnished pursuant to this paragraph (d) which, in the opinion of management, indicate that the five year financial data for foreign and domestic operations or export sales may not be indicative of current or future operations. Comparative information shall be included to the extent necessary to the discussion.

Instructions to Item 1(d). 1. The determination whether information about foreign and domestic operations and export sales is required in the document for a particular year shall be based upon an evaluation of interperiod comparability. For instance, interperiod comparability would most likely require that foreign and domestic operations and export sales that have been significant in the past and are expected to be significant in the future be regarded as reportable even though they are not significant in the current fiscal year.

2. Information about the foreign operations of bank holding companies may be furnished pursuant to Guide 61 under the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 (17 CFR Part 231) or Guide 3 of the

Guides for the Preparation and Filing of Reports and Proxy and Registration Statements under the Securities Exchange Act of 1934 (17 CFR Part 241) in lieu of this paragraph.

3. See Instruction 2 to Item 1(b)(1).

4. In determining what information about the geographic areas and export sales is material to an understanding of the registrant's business taken as a whole and therefore should be disclosed, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its future profitability), the pervasiveness of the matter (for example, whether it affects or may affect numerous items of the information) and the impact of the matter (for example, whether it distorts the trends reflected in the geographic area or export sales information). Situations may arise when information should be disclosed about the geographic areas or export sales, although the information in quantitative terms may not appear significant to the registrant's business taken as a whole.

(e) The Commission may, upon written request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution thereof of appropriate information of comparable character. In addition to the information expressly required to be included in the registration statement, report, or proxy or information statement, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

APPENDIX A—INDUSTRY SEGMENTS

The table set forth below is illustrative of the format that might be used for presenting the segment information required by paragraphs (b) and (c)(1)(i) of Item 1 of Regulation S–K regarding industry segments and classes of similar products or services.

Financial information relating to industry segments and classes of products or services

	Year—				
	1	2	3	4	5
Sales to unaffiliated customers:					
Industry segment A:					
Class of product 1					
Class of product 2					
Industry segment B:					
Class of product 1					
Class of product 2					
Industry segment C; other industries					
Intersegment sales or transfers:					
Industry segment A					
Industry segment B					
Industry segment C					
Other industries					
Operating profit or loss:					
Industry segment A					
Industry segment B					
Industry segment C					
Other industries					
Identifiable assets:					
Industry segment A					
Industry segment B					
Industry segment C					
Other industries					

APPENDIX B—FOREIGN AND DOMESTIC OPERATIONS AND EXPORT SALES

The table set forth below is illustrative of the format that might be used for presenting the segment information required by paragraph (d) of Item 1 of Regulation S–K regarding foreign and domestic operations and export sales.

Financial information relating to foreign and domestic operations and export sales

	Year—				
	1	2	3	4	5
Sales to unaffiliated customers:					
United States:[1]					
Geographic area A					
Geographic area B					
Sales or transfers between geographic areas:					
United States:					
Geographic area A					
Geographic area B					
Operating profit or loss:[2]					
United States:					
Geographic area A					
Geographic area B					
Identifiable assets:					
United States:					
Geographic area A					
Geographic area B					
Export sales; United States[3]					

[1] Or appropriate area of domestic operations.
[2] Or some other reasonable measure of profitability as used in the financial statements.
[3] Identify the geographic areas to which the sales are made, if appropriate.

Item 2. Description of property.

(a) State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. In addition, identify the industry segment(s) which use the properties described. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

Instructions. 1. What is required is such information as will reasonably inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used by the registrant. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

2. In determining whether properties should be described, the registrant should take into account both quantitative and qualitative factors. See Item 1(c)(1).

3. In the case of an extractive enterprise, material information should be given as to production, reserves, locations, developments and the nature of the registrant's interest. Where individual properties are of major significance to an industry segment (i) more detailed information concerning these matters should be furnished, including the results of development in the area and significant geological structures and formations, where appropriate, and (ii) appropriate maps should be used to disclose location data of significant properties except where numerous maps would be required. Where the report of an engineer or other expert is referred to in the prospectus, a copy of the full report normally should be furnished as supplemental information but not as a part of the registration statement.

(b) Where oil and gas operations are material to the registrant's business operations or financial position, disclose the following under appropriate captions:

NOTE.—This paragraph (b) shall not apply to filings by limited partnerships, or joint ventures that conduct, operate, manage, or report upon oil and gas drilling or income programs which acquire properties either for drilling and production, or for production of oil, gas or geothermal steam or water.

(1) Estimates as of a reasonably current date of proved developed and proved undeveloped future net recoverable oil and gas by appropriate geographic area(s), such as by continent or by country, except that United States reserves shall be shown separately. (See Instruction 3 with respect to estimates of foreign reserves.)

(2) Net oil and gas production for oil in barrels and gas in MCF for each of the last five years, by areas no larger than the geographic areas used for estimated reserves in paragraph (b)(1) above. (See Instruction 4.)

(3) As of a reasonably current date or as of the end of the year being reported on, the total gross and net productive wells, expressed separately for oil and for gas, and the total gross and net producing acres. For purposes of this requirement, one or more completions in the same bore hole shall be counted as one well. A footnote shall disclose the number of wells with multiple completions. (See Instruction 5.)

(4) The availability of oil and gas from the present reserve or contract supply for at least one year from the "as of" date of the reserve estimate provided in paragraph (b)(1) above. (See Instruction 6.)

(5) Any proved oil or gas reserve estimates filed with or included in reports to any other federal or foreign governmental authority or agency within the last year (or a statement that there were none), together with the name of the authority or agency and an explanation of the reasons for differences, if any, between such estimates and the estimates included in the registration statement. (See Instruction 7 with respect to filings with foreign authorities or agencies.)

(6) As of a reasonably current date or as of the end of the year being reported on, the amounts of undeveloped acreage, both leases and concessions, if any, expressed in both gross and net acres by State, county, or other appropriate geographic area, together with an indication of acreage concentrations, and, where material, the minimum remaining terms of leases and concessions. (See Instruction 8.)

(7) Present activities, such as the number of wells in process of drilling, waterfloods in process of installation, pressure maintenance operations, and any other related operations of material importance. (See Instruction 9.)

Instructions. 1. The required information should be furnished in tabular form whenever practicable.

2. Estimates of future recoverable oil and gas shall be limited to proved developed and proved undeveloped future net recoverable reserves. For purposes of this instruction, "proved reserves" are defined to be those estimated quantities of crude oil, natural gas and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs based upon prices and costs existing at the time the estimate is made.

Reservoirs are considered proved if economic producibility is supported by either

actual production or conclusive formation tests.

For classification purposes, results from drill-stem and/or wire-line tests may be considered as conclusive formation tests, but results based solely on core analyses, and/or electric or other log interpretations are not considered to be conclusive formation tests.

The area of an oil or gas reservoir considered proved includes: (1) That portion delineated by drilling and defined by gas-oil or oil-water contacts, if any; and (2) the immediately adjoining portions not yet drilled, but which can be reasonably judged as economically productive on the basis of available geological and engineering data. In the absence of information on fluid contacts, the lowest known structural occurrence of hydrocarbons controls the lower proved limit of the reservoir. It is not necessary that production, gathering or transportation facilities be in place or operative. However, it should be reasonably certain that such facilities will be installed in the future.

Depending upon their status of development, proved reserves shall be subdivided into the following classifications:

(a) *Proved Developed Reserves.* These are proved reserves which can be expected to be recovered through existing wells with existing equipment and operating methods. This classification shall include:

(i) *Proved Developed Producing Reserves.* These are proved developed reserves which are expected to be produced from existing completion interval(s) now open for production inexisting wells; and

(ii) *Proved Developed Non-Producing Reserves.* These are proved developed reserves which exist behind the casing of existing wells, or at minor depths below the present bottom of such wells, which are expected to be produced through these wells in the predictable future, where the cost of making such oil and gas available for production should be relatively small compared to the cost of a new well.

Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery should be included as "Proved Developed Reserves" only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

(b) *Proved Undeveloped Reserves.* These are proved reserves which are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units offsetting productive units, which are reasonably certain of production when drilled. Proved reserves for other undrilled units can be claimed only where it can be demonstrated with certainty that there is continuity of production from the existing productive formation.

Under no circumstances should estimates for proved undeveloped reserves be attributable to any acreage for which an application of fluid injection or other improved recovery technique is contemplated, unless such techniques have been proved effective by actual tests in the area and in the same reservoir. If warranted, however, a narrative discussion can be provided to point out those areas where future drilling or other operations may develop oil and gas production which at the time of filing is considered too uncertain to be expressed as numerical estimates for proved reserves.

3. (a) Consideration should be given to the effect on ownership of reserves of any takeover or nationalization by foreign governments of properties owned by the registrant, including any possible change of a property interest into a long-term supply, purchase, or similar agreement.

(b) The amounts of oil and gas subject to purchase under long-term supply, purchase, or similar agreements with foreign governments or authorities should be disclosed separately under paragraph (b)(1) when such agreements cover all or part of the registrant's reserves under a previous equity interest, or when the registrant has invested monies in foreign prospects, or has some special arrangement.

(c) When any foreign government restricts the disclosure of estimated reserves for properties under their governmental authority, or amounts under long-term supply, purchase, or similiar agreements to be disclosed pursuant to Instruction 3(b), the registrant need not disclose such estimates or amounts but should identify the country and indicate that the reported reserves estimates or amounts do not include figures for the named country.

4. (a) Generally, "net" production should include only that production which is owned by the registrant and produced to that party's interest. Such "net" production shall refer to production that is "net after royalty." However, in special situations (e.g., foreign production) "net before royalty" production figures may be provided if more practical and/or useful. If "net before royalty" production figures are furnished, the change from the common usage of "net production" should be noted.

(b) Production of oil, gas, condensate, and natural gas liquids should be reported separately. In additon, any part of the natural gas liquids production obtained through or from processing plant ownership, rather than through leasehold ownership should be reported separately, where material.

(c) The amounts of oil and gas purchased under long-term supply, purchase, or similar agreements with foreign governments or authorities should be disclosed separately under paragraph (b)(2) when such purchases represent the registrant's production, or partial production, under a previous equity interest, or when the registant has invested monies in foreign prospects or has some special arrangement.

(d) Any gas used to enhance production shall not be disclosed as produced until such time as it is sold.

5. Definition of gross and net for wells and acres.

(a) *A gross well* is a well in which an interest is owned. The number of gross wells is the total number of wells in which an interest is owned.

(b) *A net well* is deemed to exist when the sum of fractional ownership interests in gross wells equals one. The number of net wells is the sum of the fractional interests owned in gross wells expressed as whole numbers and fractions thereof.

(c) *A gross acre* is an acre in which an interest is owned. The number of gross acres is the total number of acres in which an interest is owned.

(d) *A net acre* is deemed to exist when the sum of the fractional ownership interests in gross acres equals one. The number of net acres is the sum of the fractional interests owned in gross acres, expressed as whole numbers and fractions thereof.

NOTE.—For those unusual situations where gross and net data cannot be supplied, any alternative disclosure furnished should set forth adequately the registrant's position with respect to productive wells and producing acres.

6. The term "availability" is defined to be an estimate of that quantity of oil and gas which can be produced from current proved developed reserves using presently installed equipment under presently existing economic and operating conditions in a given future time period, such as a day, a month, or a year. Such estimate shall be based on past performance, and shall represent an estimate of the amount of oil and gas that can be produced for a future time period from existing proved developed reserves under normal operations with prices and costs existing at the time the estimate is made. Such estimates of available oil and gas should be stated for a minimum of one year but for no more than five years.

NOTE.—See paragraph (b) of Guide 28 under the Securities Act of 1933 or Guide 2 under the Securities Exchange Act of 1934 for the definition of "availability" which is to be used with respect to gas supplies of companies engaged in the gathering, transmission, or distribtuion of natural gas.

7. The requirements in paragraph (b)(5) relating to estimates filed with a foreign governmental authority or agency shall not apply if:

(a) The total foreign reserve estimate included in the Commission filing does not exceed 5 percent of the total reserve estimate; or

(b) The difference between the foreign reserve estimate included in the Commission filing and the reserve estimate filed with the governmental authority or agency does not exceed five percent.

NOTE 1.—A statement that the foreign reserve estimate or the difference, whichever is applicable, does not exceed five percent shall also be included.

2. See Instruction 3 when foreign governments restrict disclosure of estimated reserves.

8. For purposes of paragraph (b)(6), the term "undeveloped acreage" is considered to be those lease acres not now held by production. The term should not be confused with that acreage for which proved undeveloped reserves can be estimated.

9. (a) Present activities required to be disclosed pursuant to paragraph (b)(7) should be provided for an "as of" date as close to the date of filing a registration statement as reasonably possible or as of the end of the year being reported on.

(b) The disclosure for wells in the process of being drilled should include only those wells actually being drilled at the "as of" date explained in Instruction 9(a), and should be expressed in terms of both gross and net wells.

(c) The disclosure should not include wells planned but not commenced, unless there are factors involved which make such information material.

2. Parts 239 and 249 of 17 CFR Chapter II are amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

a. Item 9 of Form S–1 is amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 9. Description of Business.

The description of the business shall include the information required by Item 1 of Regulation S–K, 17 CFR 229.20.

b. Paragraphs (b), (d), and (f) of Item 5 of Form S–7 are amended to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 5. Business.

* * * * *

(b) The financial information relating to industry segments and classes of similar products or services shall be furnished in accordance with the provisions of paragraphs (b) and (c)(1)(i) of Item 1 of Regulation S–K, 17 CFR 229.20.

* * * * *

(d) The financial information relating to foreign and domestic operations and export sales shall be furnished in accordance with the provisions of paragraph (d) of Item 1 of Regulation S–K, 17 CFR 229.20.

* * * * *

(f) Information about oil and gas reserves shall be furnished in accordance with the provisions of paragraph (b) of Item 2 of Regulation S–K, 17 CFR 229.20.

* * * * *

c. Paragraph (a) of Item 18 of Form S–8 is amended to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * *

(a) Include a description of the business done by the issuer and its subsidiaries during the fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the issuer and its subsidiaries. The financial information relating to the issuer's industry segments, classes of similar products or services, foreign and domestic operations and export sales shall be furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S–K, 17 CFR 229.20.

* * * * *

d. Item 1 of Form 10 is amended to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 1. Business.

The description of the business shall include the information required by Item 1 of Regulation S–K, 17 CFR 229.20.

e. Item 1 of Form 10–K is amended to read as follows:

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Item 1. Business.

The description of the business shall include the information required by Item 1 of Regulation S–K, 17 CFR 229.20, except that the discussion of the development of the registrant's business need only include developments since the beginning of the fiscal year.

f. Item 10 of Form S–1, Item 3 of Form 10 and Item 3 of Form 10–K are amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

§ 249.310 Form 10–K, annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

Properties.

Information relating to properties shall be furnished in accordance with the provisions of Item 2 of Regulation S–K, 17 CFR 229.20.

g. Paragraph (a) of Instruction 13 of the Instructions as to Exhibits of Form S–1 and Paragraph (a) of Instruction 9 of the Instructions as to Exhibits of Form 10 are amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

§ 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * *

(a) Copies of every contract not made in the ordinary course of business which is material to the registrant or is specifically refered to in the registrant's discussion of its reportable industry segments and to be performed in whole or in part at or after the filing of the registration statement or was entered into not more than two years before such filing, except contracts called for, or the omission of which is expressly authorized by the foregoing instructions. Only contracts need be filed as to which the registrant or subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

3. Part 240 of 17 CFR Chapter II is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

a. Item 14 of Securities Exchange Act Schedule 14A is amended to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statements.

* * * * *

Item 14. * * *

(b) * * *

(8) The financial information relating to the issuer's industry segments, classes of similar products or services, foreign and domestic operations and export sales shall be furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S–K, 17 CFR 229.20.

* * * * *

b. Paragraph (b)(6) of Rule 14a–3 and paragraph (a)(6) of Rule 14c–3 are amended to read as follows:

§ 240.14a–3 Information to be furnished security holders.

§ 240.14c–3 Annual report to be furnished security holders.

* * * * *

(6) The report shall contain information relating to the issuer's industry segments, classes of similar products or services, foreign and domestic operations and export sales furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S–K, 17 CFR 229.20.

* * * * *

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 685, 686; secs. 3, 4, 5, 6, 78 Stat. 565–568, 569, 570–574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 121, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78l(d), 78w(a).)

STATUTORY AUTHORITY FOR AMENDMENTS

The foregoing amendments to Forms S–1, S–7 and S–8 are adopted pursuant to section 6, 7, 8, 10 and 19(a) of the Securities Act and the revisions submitted as to Forms 10 and 10–K and to Regulation 14A are adopted pursuant to sections 12, 13, 14, 15(d) and 23(a) of the Exchange Act, sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and sections 20(a) and 38(a) of the Investment Company Act of 1940.

Pursuant to section 23(a)(2) of the Exchange Act, the Commission has considered the impact that these amendments might have on competition and has concluded that, to the extent the amendments impose burdens on competition, such burdens are necessary and appropriate in furtherance of the purposes of the securities laws.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

DECEMBER 23, 1977.

[FR Doc.77–37332 Filed 12–29–77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977

PART X

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

SECURITIES AND EXCHANGE COMMISSION

■

REGISTRATION OF TRANSFER AGENTS

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0136; Reg. H and Reg. Y]

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

PART 225—BANK HOLDING COMPANIES

Transfer Agents for Certain Registered Securities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted a revised Schedule B to Form TA-1 ("revised Schedule B"), the Form used for the registration of transfer agents. The Board has also amended instructions to Form TA-1, and adopted a temporary exemptive rule extending the filing deadline for the schedule from January 30, 1978, to April 3, 1978. Since the revisions do not add to or vary the information required by Schedule B, revised Schedule B and the amended instructions have been adopted without comment. Revised Schedule B should be used by transfer agents registered with the Board to report changes which occurred during calendar year 1977. Information that was filed on Schedule B in a previous year and which is still accurate need not be resubmitted on revised Schedule B.

EFFECTIVE DATE: December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Wallgren, Chief, Trust Activities Program, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2717.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Board of Governors of the Federal Reserve System (the "Board") pursuant to Sections 2, 17, 17A and 23(a) of the Securities Exchange Act of 1934, as amended, (the "Act") [15 U.S.C. 78b, 78q, 78q-1 and 78w(a)], has amended Title 12, Chapter II, Parts 208 and 225 of the Code of Federal Regulations to adopt §§ 208.8(f)(4) and 225.5(c)(4) and revise Schedule B to Form TA-1 and instructions thereto.

Background Information

On October 17, 1975 and November 24, 1975, the Board announced respectively the adoption of § 208.8(f) and § 225.5(c)[1] and related Form TA-1 (with attached Schedules A and B), which provide that applications by state member banks and bank holding companies (and certain of their nonbank subsidiaries) respectively for registration as a transfer agent with the Board and amendments to such registration shall be filed on Form TA-1.

Applicants are required to list on Schedule B all securities registered under Section 12 of the Act or that would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) ("qualifying securities"),[2] for which they act in the capacity of transfer agent, co-transfer agent, registrar or co-registrar.[3] Schedule B must be updated within thirty calendar days following the close of each calendar year during which the information has become inaccurate, misleading or incomplete.

Necessity for Revision of Schedule B

Experience gained in processing Schedule B's during the past two years reveals that applicants and registrants encounter difficulty in correctly completing the Schedule. The frequency and extent of errors in completion of the Schedule make the processing of Schedule B administratively difficult and suggest that a revision of Schedule B would be advantageous to both the transfer agent community and the regulatory agencies. More specifically, numerous Schedule B's contained one or more of the following deficiencies:

(1) Schedule B requires, for each issue listed thereon, the issue's CUSIP number if one has been assigned to it.[4] Nevertheless, schedules have often been filed with an incorrect CUSIP number, with a CUSIP number containing less than nine digits, or without any CUSIP number although one has been assigned to the issue.

(2) Many schedules listed issues serviced in a capacity, such as paying agent, that is not required by the schedule.

(3) Many schedules filed as an amendment do not indicate whether the issues listed are an addition to or a deletion from issues previously listed or in what capacity the issues are being serviced.

Additionally, in order to amend Schedule B to reflect a change in capacity or a change in an issuer's name, Schedule B required a registrant to make two entries: one, to delete the old information; and another, to report the new information.

Revised Schedule B

Schedule B has been revised to eliminate these errors, or at least to reduce their frequency, thereby simplifying the registrant's reporting obligations and lessening the regulatory agencies' processing expense.

Revised Schedule B provides a partitioned CUSIP number box to insure that the complete nine digit CUSIP number is used for issues that have a CUSIP number, and a box to be checked if the issue does not have a CUSIP number. Henceforth, Schedule B's submitted with an incomplete CUSIP number, or incorrectly indicating that no CUSIP number has been assigned to the issue, will be rejected and returned to the registrant to be completed correctly.

Instruction 21 to Form TA-1 has been revised to define for purposes of Schedule B the terms "transfer agent," "co-transfer agent," "registrar" and "co-registrar" [5] and to state explicitly that only issues serviced in those reportable capacities may be listed on Schedule B.

Revised Schedule B is divided into three sections according to whether the issue being listed is an addition, a deletion, or a change in capacity or name. As a result, the need for placing a check to indicate whether a change is an addition to or deletion from previously reported information, and the necessity for making one entry to delete and another to add information when showing a change in capacity or issuer name have been eliminated.

Thus, "Section for initial registration and for amendments adding issues serviced" shall be used both to list issues that will be serviced at the time of initial registration and to list issues for which a registrant subsequently began performing transfer agent functions during the preceding calendar year. "Section for amendments deleting issues no longer serviced" shall be used to list issues for which a registrant has ceased performing all transfer agent functions during the preceding calendar year. "Section for amendments changing the capacity in which issues are serviced or

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[1] A substantially similar rule and an identical registration form was adopted concurrently by the Securities and Exchange Commission ("Commission"), the Office of the Comptroller of the Currency ("Comptroller"), and the Federal Deposit Insurance Corporation ("FDIC") (collectively, "other Federal Bank regulators") for transfer agents required to register with them.

[2] At its option, the registrant may also list on Schedule B non-qualifying securities for which it performs transfer agent functions.

[3] Section 3(a)(25) of the Act defines "transfer agent" to include persons performing functions more traditionally referred to as those of a transfer agent, registrar, recordkeeper, exchange or conversion agent, or transfer agent depository. Instruction 21(a) to Form TA-1, therefore, has been revised to clarify the scope of the terms used in Schedule B. [See, infra, footnote 5].

[4] CUSIP (Committee on Uniform Securities Industry Procedures) is the trademark for a numeric system that identifies the issuer of a security and the specific security. The CUSIP number consists of nine characters: a base number of six digits known as the "issuer number" and a two-character suffix (either numeric or alphabetic or both) known as the "issue number". The ninth character is a check digit. All nine digits are required to be set forth in Schedule B.

[5] Revised Instruction 21(a) provides that, for purposes of Schedule B, the terms "transfer agent" and "co-transfer agent" shall include the person countersigning securities upon issuance, registering the transfer of securities, exchanging or converting securities, or transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The terms also shall include the person performing similar functions with respect to debt securities. The terms "registrar" and "co-registrar" shall include the person monitoring the issuance of securities with a view to preventing unauthorized issuance and the persons performing similar functions with respect to debt securities.

the name of the issuer" shall be used to list all of the reportable capacities in which a registrant acted for an issue as of December 31 of the preceding calendar year where the registrant changed during that year the capacity(ies) in which it serviced an issue listed on a previously filed Schedule B. Also, when during the preceding calendar year, the name of the issuer listed on a previously filed Schedule B changed, each of that issuer's issues serviced by the transfer agent must be amended by listing them under the new name in the "changes in capacity or name" section.

Revised Instruction 20 to Form TA-1 provides that when a registrant requires more space than is provided in any one section, there are two ways the additional issues can be listed. First, a registrant may use additional copies of Schedule B. Second, a registrant may begin a list in one section of Schedule B and continue the list on separate sheets, such as a computer printout. Each sheet must identify the section being continued, must use the format called for by Schedule B, and must contain only those issues belonging in a single section.

TEMPORARY EXEMPTIVE RULES (§§ 208.8 (f)(4) AND 225.5(c)(4))

Section 208.8(f)(2) and section 225.5 (c)(2) require transfer agents registered with the Board to file a Schedule B within thirty days of each calendar year in which the information contained therein becomes inaccurate, misleading or incomplete. A one-time extension of the filing date to April 3, 1978, is being granted to provide such registrants sufficient time to accommodate their data processing systems to the new format. Section 208.8(f)(4) and 225.5(c)(4) will provide for this extension.

COORDINATION WITH THE COMMISSION AND OTHER FEDERAL BANK REGULATORS

The Board has conferred with the Commission and the other Federal bank regulators, who are adopting concurrently a similar rule and identical form.

STATUTORY BASIS, COMPETITIVE CONSIDERATIONS AND EFFECTIVE DATE

This revision to Schedule B of Form TA-1, the instructions thereto, and sections 208.8(f)(4) and 225.5(c)(4) are adopted pursuant to the Securities Exchange Act of 1934, particularly, Sections 2, 17, 17A and 23(a) thereof, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). The Board finds that the adopted revision to Schedule B of Form TA-1 with related instructions thereto (i) is a change of format only and does not require that additional information be furnished, (ii) will simplify the filing of amendments by registrants reporting changes in capacities serviced or issuer name and (iii) will avoid delays in processing and rejections of Schedule B's by the Board necessitated by errors commonly made on old Schedule B. The temporary exemptive rule merely exempts until April 3, 1978 transfer agents registered with the Board from the filing deadline for Schedule B's relating to calendar year 1977. Accordingly, the Board finds that notice and public procedure under the Administrative Procedure Act [5 U.S.C. § 553(b)(B)] in this matter is impracticable, unnecessary, and contrary to the public interest, and that good cause exists for making the revisions effective December 31, 1977, which is less than thirty days after the date of publication, in accordance with the Administrative Procedure Act [5 U.S.C. § 553(d)].

The Board also finds that any burden on competition which these revisions impose is necessary and appropriate in the public interest, for the protection of investors and to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities.

Effective December 31, 1977, Parts 208 and 225, Form TA-1 and Schedule B thereto are amended as set forth below:

1. Section 208.8(f) is amended by adding a new paragraph (4) to read as follows:

§ 208.8 Banking practices.

* * * * *

(f) State member banks as transfer agents.

* * * * *

(4) Every State member bank or any of its subsidiaries that is registered with the Board as a transfer agent is exempted until April 3, 1978, from that part of the provision of Section 208.8(f)(2) that states that "[w]ithin thirty calendar days following the close of any calendar year ____ during which the information required by Item 7 of Form TA-1 becomes inaccurate, misleading, or incomplete, the bank or its subsidiary shall file an amendment to Form TA-1 correcting the inaccurate, misleading or incomplete information."

2. Section 225.5(c) is amended by adding a new paragraph (4) to read as follows:

§ 225.5 Administration.

* * * * *

(c) Registration of certain bank holding companies and their nonbank subsidiaries as transfer agents.

* * * * *

(4) Every bank holding company and nonbank subsidiary of a bank holding company that is registered with the Board as a transfer agent is exempted until April 3, 1978, from that part of the provision of Section 225.5(c)(2) that states that "[w]ithin thirty calendar days following the close of any calendar year * * * during which the information required by Item 7 of Form TA-1 becomes inaccurate, misleading or incomplete, the bank holding company or its nonbank subsidiary shall file an amendment to Form TA-1 correcting the inaccurate, misleading or incomplete information".

3. Schedule B to Form TA-1 is amended in its entirety, the text of revised schedule B is appended.

4. Instructions 20 and 21 to Form TA-1 are amended in their entirety to read as follows:

INSTRUCTION 20

Schedule B shall be amended by filing six copies, each attached to a properly completed and manually signed execution page, showing all corrections to the previously filed Schedule B. In the event that a registrant requires more space than is provided in any one section of the Schedule, registrant may either use additional copies of Schedule B or begin a list in one section of Schedule B and continues the list on separate sheets. Each additional sheet must identify the particular section being continued, must use the format called for by Schedule B, and must contain only those issues belonging in that section. Six copies of a facsimile of a computer printout providing the information required by Schedule B may be filed in place of Schedule B, provided the facsimile is in the format of Schedule B, the type size is legible and the facsimile is reduced to 8½" x 1" in size.

INSTRUCTION 21(a)

For purposes of Schedule B, the terms "transfer agent" and "co-transfer agent" shall include the person countersigning securities upon issuance, registering the transfer of securities, exchanging or converting securities, or transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The terms also shall include the persons performing similar functions with respect to debt securities. The terms "registrar" and "co-registrar" shall include the person monitoring the issuance of securities with a view to preventing unauthorized issuance and the person performing similar functions with respect to debt securities. If a registrant does NOT act in one of these capacities for an issue, the issue must NOT be listed on Schedule B. The distinction between "transfer agent" and "co-transfer agent" or "registrar" and "co-registrar" shall be in accordance with the generally accepted meaning in the industry. See Item 7(a) of Form TA-1.

INSTRUCTION 21(b)

"Section for initial registration and for amendments adding issues serviced" shall be used both at the time of registration to list issues for which transfer agent functions will be performed and also to amend Schedule B to list issues which, subsequent to registration, are required to be reported on Schedule B. "Section for amendments deleting issues no longer serviced" shall be used to amend Schedule B to list issues previously reported on Schedule B for which registrant has ceased performing all transfer agent functions. "Section for amendments changing the capacity in which issues are serviced or the name of the issuer" shall be used to amend Schedule B to list all of the capacities in which registrant acted for an issue as of December 31 where during a calendar year registrant changed the capacity(ies) in which it acted for an issue listed on a previously filed Schedule B. This section shall also be used to list issuers, listed on a previously filed Schedule B, for which there has been a change of name during a calendar year. When the name of the issuer has changed, all issues of that issuer which are serviced by the transfer agent must be listed in this section.

* * * * *

COPIES OF SCHEDULE B

Copies of Schedule B of Form TA-1 with the revised instructions may be obtained from the Trust Activities Program, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and at each of the Federal Reserve Banks. Copies of Schedule B with revised instructions will be available on or about the week of January 23, 1978.

By order of the Board of Governors, effective December 19, 1977.

THEODORE E. ALLISON,
Secretary.

SCHEDULE B OF FORM TA-1

See Instructions 19, 20 and 21 before completing this Schedule.

This Form is: A Registration ☐ An Amendment ☐

Full name of Registrant exactly as stated in item 2(a) of Form TA-1:

CUSIP Number

If issue has no assigned CUSIP Number, check column A; if it has one assigned, provide complete 9 digit number in column B.

CHECK THE APPROPRIATE COLUMN(S) to Indicate ALL Capacities in which Registrant acts for issue

Name of Issuer	Issue (Type of security and class or series)	Column A	Column B	Transfer Agent	Co-transfer Agent	Registrar	Co-Registrar
Section for initial registration and for amendments adding issues serviced:							
Section for amendments deleting issues no longer serviced:							
Section for amendments changing the capacity in which issues are serviced or the name of the Issuer:							

Not Applicable

SEC 1528 (12-77)

[FR Doc.77-36992 Filed 12-28-77;8:45 am]

[6714-01]

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

PART 341—REGISTRATION OF TRANSFER AGENTS

Amendment of Schedule B to Form TA-1

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Amendment of Form and Temporary Extension of Filing Deadline.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") has adopted a revised Schedule B to Form TA-1 ("revised Schedule B"), amended instructions thereto, and temporarily extended the filing deadline for the schedule from January 30, 1978, to April 3, 1978. Since the revisions do not add to or vary the information required by Schedule B, revised Schedule B and the amended instructions have been adopted without comment. Revised Schedule B should be used by transfer agents registered with the FDIC to report changes which occurred during calendar year 1977. Information that was filed on Schedule B in a previous year and which is still accurate need not be resubmitted on revised Schedule B.

EFFECTIVE DATE: December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

George R. Scott, Review Section Chief, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429, 202-389-4350.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FDIC pursuant to Sections 2, 17, 17A and 23(a) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") (15 U.S.C. 78b, 78q, 78q-1 and 78w(a)), has amended Part 341 (12 CFR Part 341) of its rules and regulations by revising the Instructions for use of Form TA-1 and Schedule B of Form TA-1,[1] 12 CFR 341.10.

BACKGROUND INFORMATION

On October 22, 1975, the FDIC announced the adoption of Part 341 (12 CFR Part 341) and related Form TA-1 (with attached Schedules A and B) (12 CFR 341.10),[2] which provide that applications for registration as a transfer agent with the FDIC and amendments to such registration shall be filed on Form TA-1.

Applicants are required to list on Schedule B all securities registered under Section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) ("qualifying securities"),[3] for which they act in the capacity of transfer agent, co-transfer agent, registrar or co-registrar.[4] Schedule B must be updated within thirty calendar days following the close of each calendar year during which the information has become inaccurate, misleading or incomplete.

NECESSITY FOR REVISION OF SCHEDULE B

Experience gained in processing Schedule B's during the past two years reveals that applicants and registrants make many errors in completing the Schedule. The frequency and extent of these errors have made the processing of Schedule B administratively difficult and suggest that a revision of Schedule B would be advantageous to both the transfer agent community and the regulatory agencies. More specifically, numerous Schedule B's contained one or more of the following deficiencies:

(1) Schedule B requires, for each issue listed thereon, the issuer's CUSIP number if one has been assigned to it.[5] Nevertheless, schedules have often been filed with an incorrect CUSIP number, with a CUSIP number containing less than nine digits, or without any CUSIP number, although one has been assigned to the issue.

(2) Many Schedule B's listed issues serviced in a capacity, such as paying agent, that is not required by the Schedule.

(3) Many schedules filed as an amendment do not indicate whether the issues listed are an addition to or a deletion from issues previously listed or in what capacity the issues are being serviced.

Additionally, in order to amend Schedule B to reflect a change in capacity or a change in an issuer's name, Schedule B required a registrant to make two entries: one, to delete the old information; and another, to report the new information.

REVISED SCHEDULE B

Schedule B has been revised to reduce the frequency of these errors, thereby simplifying the registrant's reporting obligation and the regulatory agencies' processing expense.

Revised Schedule B provides a partitioned CUSIP number box to insure that the complete nine digit CUSIP number is used for issues that have a CUSIP number, and a box to be checked if the issue does not have a CUSIP number. Henceforth, Schedule B's submitted with an incomplete CUSIP number, or incorrectly indicating that no CUSIP number has been assigned to the issue, may be rejected and returned to the registrant to be completed properly.

Instruction 21 to Form TA-1 has been revised to define for purposes of Schedule B the terms "transfer agent," "co-transfer agent," "registrar" and "co-registrar"[6] and to state explicitly that only issues serviced in those reportable capacities may be listed on Schedule B.

Revised Schedule B is divided into three sections according to whether the issue being listed is an addition, a deletion, or a change in capacity or name. As a result, the need for placing a check to indicate whether a change is an addition to or deletion from previously reported information, and the necessity for making one entry to delete and another to add information when showing a change in capacity or issuer name have been eliminated.

Thus, the "Section for initial registration and for amendments adding issues serviced" shall be used both to list issues which will be serviced at the time of initial registration and to list issues for which a registrant subsequently began performing transfer agent functions during the preceding calendar year. The "Section for amendments deleting issues no longer serviced" shall be used to list issues for which a registrant has ceased performing all transfer agent functions during the preceding

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[1] See Form TA-1 publish in this part with FR Doc. 77-36992.

[2] A substantially similar rule and an identical registration form was adopted concurrently by the Office of the Comptroller of the Currency ("Comptroller"), the Board of Governors of the Federal Reserve System ("Board") and the Securities and Exchange Commision ("SEC") (collectively, the "Regulatory Agencies") for transfer agents required to register with them.

[3] At its option, the registrant may also list on Schedule B non-qualifying securities for which it performs transfer agent functions.

[4] Section 3(a)(25) of the Exchange Act defines "transfer agent" to include persons performing functions more traditionally referred to as those of a transfer agent, registrar, recordkeeper, exchange or conversion agent, or transfer agent depository. Instruction 21(a) to Form TA-1, therefore, has been revised to clarify the scope of the terms used in Schedule B. (See, infra, foot 5.)

[5] CUSIP (Committee on Uniform Securities Industry Procedures) is the trademark for a numeric system that identifies the issuer of a security and the specific security The CUSIP number consists of nine characters: a base number of six digits known as the "issuer number" and a two-character suer of a security and the specific security, known as the "issue number". The ninth character is a check digit All nine digits are required to be set forth in Schedule B.

[6] Revised Instruction 21(a) provides that, for purposes of Schedule B, the terms "transfer agent" and "co-transfer agent" shall include the person countersigning securities upon issuance, registering the transfer of securities, exchanging or converting securities, or transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The terms also shall include the person performing similar functions with respect to debt securities. The terms "registrar" and "co-registrar" shall include the person monitoring the issuance of securities with a view to preventing unauthorized issuance and the persons performing similar functions with respect to debt securities.

calendar year. The "Section for amendments changing the capacity in which issues are serviced or the name of the issuer" shall be used to list all of the reportable capacities in which registrant acted for an issue as of Decmeber 31 of the preceding calendar year where registrant changed during that year the capacity(ies) in which it serviced an issue listed on a previously filed Schedule B. Also, when during the preceding calendar year the name of the issuer of a security listed on a previously filed Schedule B changed, each of that issuer's issues serviced by the transfer agent must be amended by listing them under the new name in the changes in capacity or name section.

Revised Instruction 20 to Form TA–1 provides that when a registrant requires more space than is provided in any one section, ther eare two ways the additional issues can be listed. First, registrant may use additional copies of Schedule B. Second, registrant may begin a list in one section of Schedule B and continue the list on separate sheets, such as a computer printout. Each sheet must identify the section being continued, must use the format called for by Schedule B, and must contain only those issues belonging in a single section.

EXTENSION OF TIME TO FILE REVISED SCHEDULE B

Section 341.2(c) requires transfer agents registered with the FDIC to file a Schedule B within thirty days of each calendar year in which the information required by Item 7 of Form TA–1 becomes inaccurate, misleading or incomplete. A one-time extension of the filing date to April 3, 1978, is being granted hereby to provide registrants sufficient time to comply with the new format.

NOTICE AND EFFECTIVE DATE

The FDIC finds that the revision to Schedule B of Form TA–1 and related instructions thereto (i) is a change of format only and does not require any additional information to be furnished, (ii) will simplify the filing of amendments by registrants reporting changes in capacity(ies) serviced or issuer name and (iii) will avoid delays in processing and rejections of Schedule B's by the FDIC necessitated by errors commonly made on old Schedule B. Accordingly, the rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)) and the rules and regulations of the FDIC (12 C.F.R. 302.1, 302.2, and 302.5) with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment because the FDIC finds that notice and public procedure under the Administrative Procedure Act as a prerequisite to the adoption of the revisions is impracticable, unnecessary, and contrary to the public interest, and that good cause exists for making the revisions effective on December 31, 1977, which is less than thirty days after the date of publication.

* * * * *

Schedule B to Form TA–1, 12 CFR 341.10, is hereby amended in its entirety; the text of revised Schedule B is attached hereto.

* * * * *

Instructions 20 and 21 to Form TA–1, 12 CFR 341.10 are hereby amended in their entirety to read as follows:

INSTRUCTION 20

Schedule B shall be amended by filing six copies, each attached to a properly completed and manually signed execution page, showing all corrections to the previously filed Schedule B. In the event that a registrant requires more space than is provided in any one section of the Schedule, registrant may either use additional copies of Schedule B or begin a list in one setcion of Schedule B and continue the list on seperate sheets. Each additional sheet must identify the particular section being continued, must use the format called for by Schedule B, and must contain only those issues belonging in that section. Six copies of a facsimile of a computer printout providing the information required by Schedule B may be filed in lieu of Schedule B, provided the facsimile is in the format of Schedule B, the type size is legible and the fascimile is reduced to 8½" x 11" in size.

INSTRUCTION 21(a)

For purposes of Schedule B, the terms "transfer agent" and "co-transfer agent" shall include the person countersigning securities upon issuance, registering the transfer of securities, exchanging or converting securities, or transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The terms also shall include the person performing similiar funtcions with respect to debt securities. The terms "registrar" and "co-registrar shall include the person monitoring the issuance of securities with a view to preventing unauthorized issuance and the person performing similar functions with respect to debt securities. If a registrant does NOT act in one of these capacities for an issue, the issue must NOT be listed on Schedule B. The distinction between "transfer agent" and "co-transfer agent" or "registrar" and "co-registrar" shall be in accordance w'th the generally accepted meaning in the industry. See Item 7(a) of Form TA–1.

INSTRUCTION 21(b)

"Section for initial registration and for amendments adding issues serviced" shall be used at the time of registration to list issues for which transfer agent functions will be performed and also to amend Schedule B to list issues which, subsequent to registration, are required to be reported on Form TA–1. "Section for amendments deleting issues no longer serviced" shall be used to amend Schedule B to list issues previously reported on Schedule B, for which registrant has ceased performing all transfer agent functions. "Section for amendments changing the capacity in which issues are serviced or the name of the issuer" shall be used to amend Schedule B to list all of the capacities in which registrant acted for an issue as of December 31 where during a calendar year registrant changed the capacity(ies) in which it acted for an issue listed on a previously filed Schedule B. This section shall also be used to list issuers, listed on a previously filed Schedule B, for which there has been a change of name during a calendar year. When the name of the issuer has changed, all issues of that issuer which are serviced by the transfer agent must be listed in this section.

* * * * *

COPIES OF SCHEDULE B

Copies of Revised Schedule B of Form TA–1 with the revised instructions will be mailed to registrants on or about the week of January 23, 1978. Additional copies of Schedule B of Form TA–1 with the revised instructions may be obtained from Review Section VI (Trusts), Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429 and at each of the FDIC's regional offices.

By order of the Board of Directors, December 16, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc.77-36451 Filed 12-29-77;8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14301]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

Regulation of Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Amendment of form and temporary exemption.

SUMMARY: As a result of experience gained in processing the form for registration and amendment to registration as a transfer agent with the Commission, Schedule B of the form is revised, the instructions thereto are amended, and a temporary exemptive rule is adopted extending the deadline for the filing of amendments to Item 7 (which includes Schedule B) of the form for calendar year 1977 from January 30, 1978 to April 3, 1978. Revised Schedule B should be used by transfer agents registered with the Commission to report changes which occurred during calendar year 1977. Information that was filed on Schedule B in a previous year and which is still accurate need not be resubmitted on revised Schedule B.

EFFECTIVE DATE: December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Jules Moskowitz, Special Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202–755–8833.

SUPPLEMENTARY INFORMATION: On October 22, 1975, the Commission announced the adoption of § 240.17Ac2-1 under the Securities Exchange Act of 1934 (the "Act") (17 CFR 240.17Ac2-1) and related Form TA-1 (with attached Schedules A and B) (17 CFR 249b.100),[1] which provides that applications for registration as a transfer agent with the Commission and amendments to such registration shall be filed on Form TA-1.[2]

Applicants are required to list on Schedule B all securities registered under Section 12 of the Act or which would be required to be registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of that section ("qualifying securities"),[3] for which they act in the capacity of transfer agent, as that term is defined in Section 3(a)(25) of the Act.[4] Schedule B must be updated within thirty calendar days following the close of each calendar year during which information previously reported on Schedule B has become inaccurate, misleading or incomplete.

NECESSITY FOR REVISION OF SCHEDULE B

Experience gained in processing Schedule B's during the past two years reveals that applicants and registrants make many errors in completing the schedule. The frequency and extent of these errors make the processing of Schedule B administratively difficult and suggest that a revision of Schedule B would be advantageous to both the transfer agent community and the Commission. More specifically, numerous Schedule B's contained one or more of the following deficiencies:

(1) Schedule B requires, for each issue listed thereon, the issue's CUSIP number if one has been assigned to it.[5] Nevertheless, schedules have often been filed with an incorrect CUSIP number, with a CUSIP number containing less than nine digits, or without any CUSIP number although one has been assigned to the issue.

(2) Many Schedule B's listed issues serviced in a capacity, such as paying agent, that should not be listed on the schedule.

(3) Many schedules filed as an amendment do not indicate whether the issues listed are an addition to or a deletion from issues previously listed or in what capacity the issues are being serviced.

Additionally, in order to amend Schedule B to reflect a change in capacity or a change in an issuer's name, Schedule B required a registrant to make two entries: one, to delete the old information; and another, to report the new information.

REVISED SCHEDULE B

Schedule B has been revised to eliminate these errors, or at least to reduce their frequency, thereby simplifying the registrant's reporting obligation and reducing the Commission's processing expense.

Revised Schedule B provides a partitioned CUSIP number box to insure that the complete nine digit CUSIP number is used for issues that have a CUSIP number, and a box to be checked if the issue does not have a CUSIP number. Henceforth, Schedule B's submitted with an incomplete CUSIP number, or incorrectly indicating that no CUSIP number has been assigned to the issue, will be rejected and returned to the registrant to be completed correctly.

Revised Schedule B is divided into three sections according to whether the issue being listed is an addition, a deletion, or a change in capacity or issuer name. As a result, the need for placing a check to indicate whether a change is an addition to or deletion from previously reported information, and the necessity for making one entry to delete information and another entry to add information when showing a change in capacity or issuer name have been eliminated.

In order to clarify the requirements of revised Schedule B, instructions 20 and 21 of Form TA-1 have been amended.

TEMPORARY EXEMPTIVE RULE (§ 240.17Ac2-1(T))

Section 240.17Ac2-1(c) requires transfer agents registered with the Commission to file an amendment to Item 7 (which includes Schedule B) of Form TA-1 within thirty days of each calendar year in which the information contained therein becomes inaccurate, misleading or incomplete. In order to provide registrants sufficient time to make any data processing system changes necessary to accommodate the new format of Schedule B, Temporary Exemptive § 240.17Ac2-1(T) grants, for calendar year 1977 only, a one-time extension of the filing date from January 30, 1978 to April 3, 1978.

COORDINATION WITH THE FEDERAL BANK REGULATORS

The Commission has conferred with the Federal bank regulators, who are adopting concurrently a similar rule and identical schedule to be used by transfer agents registered with them.

STATUTORY BASIS, COMPETITIVE CONSIDERATIONS AND EFFECTIVE DATE

This revision to Schedule B of Form TA-1[6a] and the instructions thereto and § 240.17Ac2-1(T) are adopted pursuant to the Securities Exchange Act of 1934, particularly Sections 2, 17, 17A and 23(a) thereof, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). The Commission finds that the adopted revision to Schedule B of Form TA-1 with related instruction thereto is a change of format only and will reduce the filing and processing burden on, respectively, the registrants and the Commission. The temporary exemptive rule relieves a requirement by extending until April 3, 1978, the filing deadline for amendments relating to Item 7 (which includes Schedule B) of Form TA-1 for calendar year 1977. Accordingly, the Commission finds that notice and public procedure under the Administrative Procedure Act (5 U.S.C. 553(b)(B)) are impracticable, unnecessary, and contrary to the public interest, and that good cause exists for making the revisions and temporary exemptive rule effective December 31, 1977, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)).

The Commission also finds that any burden on competition which these revisions impose is necessary and appropriate in the public interest, for the protection of investors and to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities. Accordingly, Title 17 Code of Federal Regulations, Chapter II, is amended as follows:

1. By adopting § 240.17Ac2-1(T) to read as follows:

§ 240.17Ac2-1(T) Temporary exemptive rule for filing Schedule B.

Every registered transfer agent for which the Commission is the appropriate regulatory agency is exempted until April 3, 1978, from that part of the provision of Section 240.17Ac2-1(c) which states that "(w)ithin thirty calendar days following the close of any calendar year * * * during which the information required by Item 7 of Form TA-1 becomes inaccurate, misleading, or incomplete, the registrant shall file an amendment on Form TA-1 correcting the inaccurate, misleading or incomplete information."

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[1] A substantially similar rule and an identical registration form were adopted concurrently by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (collectively, "Federal bank regulators") for transfer agents required to register with them.

[2] Securities Exchange Act Release No. 34-11759 (October 22, 1975); 8 SEC Docket 203 (Nov. 5, 1975); 40 FR 51181 (Nov. 4, 1975).

[3] At its option, the registrant may also list on Schedule B non-qualifying securities for which it performs transfer agent functions in the capacities designated on the schedule.

[4] Section 3(a)(25) of the Act defines "transfer agent" to include persons performing functions more traditionally referred to as those of a transfer agent, registrar, recordkeeper, exchange or conversion agent, or transfer agent depository. Instruction 21(a) to Form TA-1 has been revised to clarify the scope of the terms used in Schedule B.

[5] CUSIP (Committee on Uniform Securities Industry Procedures) is the trademark for a numeric system that identifies the issuer of a security and the specific security. The CUSIP number consists of nine characters: a base number of six digits known as the "issuer number" and a two-character suffix (either numeric or alphabetic or both) known as the "issue number." The ninth character is a check digit. All nine digits are required to be set forth in Schedule B.

[6a] See Form TA-1 published in this part with FR Doc. 77-36992.

2. By revising Instructions 20 and 21 and Schedule B of § 249b.100 as follows:

§ 249b.100 Form TA-1, uniform form for registration as a transfer agent pursuant to Section 17A of the Securities Exchange Act of 1934.

* * * * *

INSTRUCTIONS RELATING TO SCHEDULE B OF FORM TA-1

20. Schedule B shall be amended by filing six copies, each attached to a properly completed and manually signed execution page, showing all corrections to the previously filed Schedule B. In the event that a registrant requires more space than is provided in any one section of the Schedule, registrant may either use additional copies of Schedule B or begin a list in one section of Schedule B and continue the list on separate sheets. Each additional sheet must identify the particular section being continued, must use the format called for by Schedule B, and must contain only those issues belonging in that section. Six copies of a facsimile of a computer printout providing the information required by Schedule B may be filed in place of Schedule B, provided the facsimile is in the format of Schedule B, the type size is legible and the facsimile is reduced to 8½" x 11" in size.

21(a) For purposes of Schedule B, the terms "transfer agent" and "co-transfer agent" shall include the person countersigning securities upon issuance, registering the transfer of securities, exchanging or converting securities, or transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The terms also shall include the person performing similar functions with respect to debt securities. The terms "registrar" and "co-registrar" shall include the person monitoring the issuance of securities with a view to preventing unauthorized issuance and the person performing similar functions with respect to debt securities. If a registrant does NOT act in one of these capacities for an issue, the issue must NOT be listed on Schedule B. The distinction between "transfer agent" and "co-transfer agent" or "registrar" and "co-registrar" shall be in accordance with the generally accepted meaning in the industry. See Items 7(a) of Form TA-1.

21(b) "Section for initial registration and for amendments adding issues serviced" shall be used at the time of registration to list issues for which transfer agent functions will be performed and also to amend Schedule B to list issues which, subsequent to registration, are required to be reported on Schedule B. "Section for amendments deleting issues no longer serviced" shall be used to amend Schedule B to list issues previously reported on Schedule B, for which registrant has ceased performing all transfer agent functions. "Section for amendments changing the capacity in which issues are serviced or the name of the issuer" shall be used to amend Schedule B to list all of the capacities in which registrant acted for an issue as of December 31 where during a calendar year registrant changed the capacity(ies) in which it acted for an issue listed on a previously filed Schedule B. This section shall also be used to list issuers, lited on a previously filed Schedule B, for which there has been a change of name during a calendar year. When the name of the issuer has changed, all issues of that issuer which are serviced by the transfer agent must be listed in this section.

* * * * *

The revised text of Schedule B is attached hereto.

COPIES OF SCHEDULE B

Copies of revised Schedule B of Form TA-1 with the revised instructions will be mailed to registrants on or about the week of January 23, 1978; however, a registrant who does not receive a copy at that time, but who is required to amend Schedule B, must obtain one from the Publications Section, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, or at one of the Commission's regional offices.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

DECEMBER 21, 1977.

[FR Doc.77-37077 Filed 12-29-77;8:45 am]

federal register

FRIDAY, DECEMBER 30, 1977

PART XI

DEPARTMENT OF ENERGY

Energy Regulatory Administration

■

COOKING APPLIANCES

Energy Conservation Program

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking and Public Hearing Regarding Test Procedures for Conventional Ranges, Conventional Cooking Tops, Conventional Ovens, Microwave Ovens and Microwave/Conventional Ranges and Determination of Further Delay in the Publication of Proposed Test Procedures for Any Other Class of Kitchen Ranges and Ovens

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) hereby proposes to amend its regulations in order to prescribe test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges under the Energy Policy and Conservation Act (Act), and withdraws the Federal Energy Administration's (FEA) earlier proposed rulemaking concerning test procedures for conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens. Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges are classes included within the broader type of appliances, kitchen ranges and ovens, covered by the Act. The Act requires that standard methods for testing covered appliance types be prescribed as part of the energy conservation program for appliances. The Act further authorizes DOE to prescribe test procedures for classes within a given type of covered product and permits DOE to delay the publication of proposed test procedures for some class or classes within a given type. DOE has determined to delay the publication of proposed test procedures for any class of the type of covered product designated by the Act as "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. The intended effect of this proposal is to implement the Act's requirements for the solicitation of public comments before test procedures are prescribed and to give notice of DOE's determination to delay the publication of certain proposed test procedures.

DATES: Comments by February 14, 1978; requests to speak by February 8, 1978; statements by February 13, 1978; hearing to be held on February 16, 1978 at 9:30 a.m.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Department of Energy, Box QK, Washington, D.C. 20461; statements to Regulations Management, Room 2214, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Hearing held at: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, (Office of Conservation and Solar Applications), Old Post Office Building, Room 307, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Robert C. Gillette, (Hearing Procedures), 2000 M Street NW., Room 222A, Washington, D.C. 20461, 202-254-5201.

Jim Merna, (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Michael T. Skinker, (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 7148, Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION:

A. Background

On October 1, 1977, the Department of Energy (DOE) assumed the Federal Energy Administration's (FEA's) authority under the Energy Policy and Conservation Act (Act) (Pub. L. 94-163), with regard to the energy conservation program for appliances, pursuant to section 301 of the Department of Energy Organization Act (DOE Act) (Pub. L. 95-91).

Test procedures for conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens were previously proposed by FEA by notice issued June 9, 1977 (42 FR 30627, June 16, 1977), which solicited oral and written comments from interested persons. A public hearing on those proposed test procedures was held on August 11, 1977. A notice correcting a number of provisions contained in those test procedures was issued July 1, 1977 (42 FR 35170, July 8, 1977). After considering the comments received on FEA's proposed regulation of June 9, 1977 and further evaluation of those proposed test procedures, DOE has decided that certain changes are required. In particular, DOE has concluded that the method of determining the different useful measures of energy consumption provided in those proposed test procedures should be modified and that test procedures should be provided for the "microwave/conventional range" class of "kitchen ranges and ovens." Because the changes are so significant as to warrant reproposal, DOE today withdraws all aspects of the rulemaking concerning test procedures for conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens previously proposed by FEA.

By this notice, DOE proposes to amend Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges pursuant to section 323, 42 U.S.C. 6293, of the Act. The Act requires that DOE prescribe standard methods for testing covered appliances and further authorizes DOE to prescribe test procedures for classes within a given type of covered product. Conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges are classes included within the type designated by the Act as "kitchen ranges and ovens."

The adoption of test procedures, however, does not mean that actual testing must be completed. The procedures merely establish standard methods for testing when testing is otherwise required by the Act itself or by regulations implementing other parts of the program. For example, the Federal Trade Commission (FTC) may prescribe rules, pursuant to its labeling authority under the appliance program, which require that the test procedures be applied. It is contemplated by the Act that the test procedures will provide different measures of energy consumption which will be useful to consumers in making purchasing decisions when the measures are required by the FTC to be placed on the labels for the different appliances.

The Act also requires DOE to direct the National Bureau of Standards (NBS) to develop, for specifically named types of covered products, test procedures for the determination of the estimated annual operating cost and at least one other useful measure of energy consumption which DOE determines is likely to assist consumers in making purchasing decisions. Pursuant to the Act, DOE directed NBS to develop test procedures for DOE's use in prescribing test procedures under the Act. As part of this undertaking, NBS evaluated existing test procedures for measuring energy consumption of kitchen ranges and ovens.

NBS transmitted to DOE a test procedure review document which recommended test procedures for determining measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens which are classes of the broader appliance type designated by the Act as "kitchen ranges and ovens." In developing these test procedures, NBS consulted with the technical committees of the Association of Home Appliance Manufacturers (AHAM), the American Gas Association Laboratories (AGA Labs), and the Gas Appliance Manufacturers Association (GAMA). NBS also recommended that proposed test procedures for any other class of the type "kitchen ranges and ovens" be delayed until sufficient data are available. Copies of this review document will be made available for inspection by interested persons as provided for later in this notice.

The test procedures proposed by DOE today are based in large part on discussions with, recommendations of, and laboratory data derived by, NBS. They incorporate the field survey data and the general approach of the proposed AHAM Standard Test Method for Measuring Energy Consumption of Electric and Gas Ovens and Surface Units and Microwave

Ovens (ER-5-EC) dated August 2, 1976 and of the proposed AHAM Standard Performance Evaluation Procedure for Microwave Cooking Appliances (ER-4-MWO). They also incorporate the general approach contained in the American National Standards Institute (ANSI) standard ANS-C71.1-1972 for household electric ranges. Some provisions for conventional ranges, conventional cooking tops and conventional ovens contained in the ANSI standard ANS-Z21.1b-1976 for household cooking gas appliances and the Underwriters Laboratories Incorporated (UL) standard UL-858 for household electric ranges were also incorporated. Copies of this material will be made available for inspection by interested persons as provided for later in this notice.

Pursuant to section 301 of the DOE Act, DOE became responsible for complying with section 32 of the Federal Energy Administration Act of 1974 (FEA Act) (15 U.S.C. 761 et seq.), as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70).

Sections 32 (a) and (b) of the FEA Act provide that:

(a) If any proposed rule by the Administrator contains any commercial standards, or specifically authorizes or requires the use of any such standards, then any general notice of the proposed rulemaking shall:

(1) Identify, by name, the organization which promulgated such standards; and

(2) State whether or not, in the judgment of the Administrator, such organization complied with the requirements of subsection (b) in the promulgation of such standards.

(b) An organization complies with the requirements of this subsection in promulgating any commercial standards if:

(1) It gives interested persons adequate notice of the proposed promulgation of the standards and an opportunity to participate in the promulgation process through the presentation of their views in hearings or meetings which are open to the public;

(2) The membership of the organization at the time of the promulgation of the standards is sufficiently balanced so as to allow for the effective representation of all interested persons;

(3) Before promulgating such standards, it makes available to the public any records of proceedings of the organization, and any documents, letters, memorandums, and materials, relating to such standards and

(4) It has procedures allowing interested persons to:

(A) Obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards, and

(B) Obtain a review of the standards (including a review of the basis or adequacy of such standards).

The findings required of DOE by section 32 of the FEA Act serve to alert the public and DOE to the use and background of commercial standards in a proposed rulemaking and, through the comment and hearing process, allow interested persons to make known their views regarding the appropriateness of the use of those particular commercial standards in that proposed rulemaking. Any negative finding does not reflect a determination by DOE of any illegality, culpability, or liability on the part of the non-governmental organizations named.

As noted above, the rulemaking proposed today contains elements of three commercial standards promulgated by two non-governmental organizations, ANSI and UL. Both ANSI and UL were accorded an opportunity to submit relevant information to facilitate the required findings process.

DOE has made the following determinations regarding UL with respect to standard UL-858:

1. With regard to subsection 32(b)(1), DOE has determined UL did not provide interested persons adequate notice of the proposed promulgation. It did give interested persons an opportunity to participate in the promulgation process through the presentation of their views in meetings open to the public.

2. With regard to subsection 32(b)(2), DOE has determined UL did not have a membership sufficiently balanced so as to allow effective representation of all interested persons since it excluded from membership manufacturers of the products for which it set safety standards.

3. With regard to subsection 32(b)(3), DOE has determined UL did make available to the public any records of proceedings of the organization and material relating to its standards prior to the promulgation of its standards.

4. With regard to subsection 32(b)(4) DOE has determined that UL did have procedures allowing interested persons to obtain a reconsideration of any action by the organization pertaining to the promulgation of commercial standards, and to obtain a review of the standards, including a review of their basis and adequacy.

DOE has made the following determinations regarding ANSI with respect to standards ANS-Z21.1b-1976 and ANS-C.71.1-1972:

1. With regard to subsection 32(b)(1), DOE has determined that ANSI did provide interested persons adequate notice of the proposed promulgation of commercial standards and an opportunity to participate, in the committee promulgation process, through the presentation of their views at meetings open to the public.

2. With regard to subsection 32(b)(2), DOE has found that for the specific subsections of ANS-Z.21.1b-1976 and ANS-C.71.1-1972 employed in this proposed rulemaking, the membership of ANSI was sufficiently balanced so as to allow for the effective representation of all persons interested in those subsections. (DOE does not hereby make a determination regarding the balance of ANSI's membership with respect to the subsections of these standards which are not relevant to this proposed rule. For purposes of this proposed rule, DOE considers the requirements of section 32(b)(2) met where the balance of the membership of the organization is reviewed with respect to the particular sections of a standard actually employed in the proposed rule.)

3. With regard to subsection 32(b)(3), DOE has determined that ANSI does, prior to the promulgation of commercial standards make available to the public any records and materials relating to such standards.

4. With regard to subsection 32(b)(4), DOE has determined that ANSI does have procedures allowing interested persons to obtain a reconsideration of any action taken by the organization relating to the promulgation of such standards and a review of the standards, including a review of the basis or adequacy of such standards.

Information regarding the basis for the determinations made above is available for inspection by interested persons as provided for later in this notice. DOE notes that portions of the above mentioned standards were employed in this proposed rulemaking following the recommendation of NBS that these standards provided a sound method of accomplishing the purposes for which they were used.

In addition to the organizations noted earlier, this proposed rulemaking incorporates elements of two draft AHAM standards. DOE notes that these draft standards have not yet been promulgated. DOE has, therefore, not made section 32(b) findings with respect to these draft standards because that section requires such findings only in the case of promulgated standards.

In this proposed rulemaking, DOE is providing interested persons an opportunity to comment on the appropriateness of the elements of these standards which are proposed for use in the test procedures. Comments are specifically requested on any specific changes the commenter believes are necessary to make the standards appropriate for the purposes of testing conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ovens.

DOE is today withdrawing the previously proposed definitions in section 430.2 of "surface unit," "electric range," and "non-electric range." DOE is today proposing the amendment of Section 430.2 by inserting a definition of "surface unit" and by adding new definitions of "kitchen ranges and ovens" and of each of the different classes of the type "kitchen ranges and ovens." DOE is also proposing to amend section 430.2 by adding a definition of the term "basic model" for kitchen ranges and ovens by adding a subparagraph (9) of that section. Definitions of the terms "DOE" and "Secretary" have also been proposed for addition to Subpart A for the purpose of clarification. Comments on these definitions are timely as provided below.

B. Outline of Part 430

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners, dishwashers, clothes dryers, water heaters, television sets, electric-refrigerators, electric refrigerator-freezers, clothes washers, humidifiers, dehumidifiers, and central air conditioners have been prescribed in Subpart B. Other test procedures have been proposed for inclusion in Subpart B. By this rulemaking, DOE is proposing test procedures for conventional ranges, conventional cooking tops, conventional ovens, and microwave/conventional ranges, and is including a determination to delay the publi-

cation of test procedures for any other class of the type "kitchen ranges and ovens." FEA also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Subparts A and B of Part 430 which have so far been established is as follows:

SUBPART A—GENERAL PROVISIONS

Sec.
430.1 Purpose and Scope.
430.2 Definitions.

SUBPART B—TEST PROCEDURES

430.21 Purpose and Scope.
430.22 Test Procedures for Measures of Energy Consumption:
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes Washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.
430.23 Units to be Tested [Reserved].
430.24 Representations Regarding Measures of Energy Consumption:
(a) Refrigerators and refrigerator-freezers.
(b) Freezers.
(c) Dishwashers.
(d) Clothes dryers.
(e) Water heaters.
(f) Room air conditioners.
* * * * *
(h) Television sets.
* * * * *
(j) Clothes washers.
(k) Humidifiers.
(l) Dehumidifiers.
(m) Central air conditioners.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.
* * * * *
Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters.
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.
* * * * *
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.
* * * * *
Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers.
Appendix K1—Uniform Test Method for Measuring the Energy Consumption of Central System Humidifiers.
Appendix K2—Uniform Test Method for Measuring the Energy Consumption of Room Humidifiers.
Appendix L—Uniform Test Method for Measuring the Energy Consumption of Dehumidifiers.
Appendix M—Uniform Test Method for Measuring the Energy Consumption of Central Air Conditioners.

C. MEASURES OF ENERGY CONSUMPTION

The Act requires DOE to prescribe test procedures for the determination of estimated annual operating costs and at least one other useful measure of energy consumption which the Secretary determines is likely to assist consumers in making purchasing decisions.

DOE is proposing to establish estimated annual operating costs for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges (sections 430.22(j)(1)–(8)). In each case, the estimated annual operating cost will be the product of the total energy consumption for the representative average-use cycle of one year (annual energy consumption) times the cost of the energy (representative average unit costs as provided pursuant to section 323(b)(2) of the Act). For each appliance which uses both gas and electrical energy, the estimated annual operating cost for that appliance is determined by separately calculating the estimated annual operating cost for each source of energy and then adding the costs together.

The total annual energy consumption for a conventional range is the sum of the annual energy consumption of the conventional cooking top plus the annual energy consumption of any conventional ovens.

The total annual energy consumption of a conventional cooking top is the sum of the annual energy consumption of any continuously burning gas pilot lights (4.2.2.2 of Appendix I) plus the annual cooking energy consumption of the conventional cooking top. The annual cooking energy consumption is determined from the quotient of the annual useful cooking energy output of the conventional cooking top, as determined from the AHAM field and laboratory study, divided by the cooking efficiency of the conventional cooking top (4.2.1 of Appendix I).

The total annual energy consumption of a conventional oven is the sum of the annual energy consumption of the self-cleaning operation of the conventional oven, plus the annual energy consumption of any clocks, plus the annual energy consumption of any continuously burning pilot lights, plus the annual cooking energy consumption of the conventional oven. The annual cooking energy consumption of the conventional oven is determined from the annual useful cooking energy output for the conventional oven and the conventional oven test data (4.1.2.1 of Appendix I). If the oven can be operated in more than one baking mode, such as with or without forced convection, the determination of the annual cooking energy consumption of the oven utilizes the average test energy consumption of the oven (4.1.1.3 of Appendix I), as tested in all modes of operation. Also, if the basic model tested has more than one conventional oven, the annual cooking energy consumption of the ovens of that basic model is the average of the sum of the cooking energy consumptions for each of the ovens. The annual energy consumption of the self-cleaning operation of a conventional oven is the product of the energy consumption of the self-cleaning operation (3.2.1.1 of Appendix I) times 11 for electric ovens and 7 for gas ovens. These figures represent the average number of times the self-cleaning operation of the different types of conventional ovens is used per year. The representative average number of times the self-cleaning operation of a conventional oven is used per year is based on NBS' recommendation to DOE.

The annual energy consumption of any continuously burning pilot lights of a conventional gas oven is the energy consumed hourly by the pilot lights times 8,460 hours per year. The continuously burning pilot lights are consuming energy each hour of the year (there are 8,760 hours in a year). NBS has determined that 300 hours of the energy consumed by any of the oven's pilot lights contributes to the energy consumed by the conventional gas oven when the oven is being used for heating food. Therefore, the energy consumed by the continuously burning lights per hour is multiplied by 8,460 rather than 8,760 hours to arrive at the annual energy consumption for the pilot lights.

The annual energy consumption of a microwave oven is the sum of the annual energy consumption of any features of the oven which use energy when the microwave oven is turned off plus the quotient of the annual useful cooking energy output divided by the oven's cooking efficiency (4.4.4. of Appendix I).

The annual energy consumption of a microwave/conventional range is the sum of the annual energy consumption of the conventional oven, the microwave oven, and the conventional cooking top that comprise the basic model of the microwave/conventional range. The total annual energy consumption of each of these components is determined as previously described in this preamble; except with respect to the determination of the annual cooking energy consumptions of the conventional oven and the conventional cooking top discussed below.

There is little actual field data on the usage of a conventional cooking top and a conventional oven in combination with a microwave oven. The AHAM field survey, however, indicated that a microwave oven was used more to replace usage of a cooking top than of a conven-

tional oven. Therefore, for the purpose of estimating the annual energy consumption of microwave/conventional ranges, DOE has assumed that 75 percent of the microwave oven usage has been to replace the cooking top usage and the remaining 25 percent has been to replace the conventional oven usage. It has also been assumed that the annual useful cooking energy output of the microwave oven portion of the microwave/conventional range is the same as that of a counter-top microwave oven, 34.2 kwh per year; and that the total useful cooking energy output of the microwave/conventional range is the same as that of a conventional range, 324.8 kwh per year. The industry and other interested persons are encouraged to provide any reliable data to DOE as it becomes available concerning the actual usage by consumers of microwave/conventional ranges.

The annual useful cooking energy outputs of conventional ranges, conventional cooking tops, conventional ovens, and microwave ovens, and microwave/conventional ranges were determined from field survey data obtained by NBS from AHAM. In the AHAM survey, these appliances were monitored during actual home use to determine the total energy consumed. The annual useful cooking energy output figures for these appliances represent the energy actually absorbed by the food for cooking and were computed by multiplying the appliance's cooking efficiency times its annual cooking energy consumption. The annual cooking energy consumption of a conventional oven was determined by subtracting the estimated annual energy consumption of the self-cleaning operation and the electric clock from the field data for the total annual energy consumption of the conventional oven. Also, all modes of cooking on each accounted (e.g., broiler of an oven, griddle of a cooking top) were potentially accounted for by the energy consumption data from the AHAM survey. The appliances were then tested by laboratory methodology very similar to that proposed today to determine their cooking efficiency. While the annual energy consumption figures generated by the survey potentially included all modes of cooking, the laboratory methodology used to determine the cooking efficiency of the appliance measures only the energy consumed when the appliance is operated as it would primarily be used by consumers (e.g., baking in an oven). NBS has determined that the uniform test method for measuring the energy consumption of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges provides data that are representative of actual consumer use in the home.

The annual useful cooking energy output figures proposed in these test procedures are: 324.8 kilowatt-hours per year (1,109,000 Btu's per year) for conventional ranges and for microwave/conventional ranges, 277.7 kilowatt-hours per year (948,000 Btu's per year) for conventional cooking tops; 47.09 kilowatt-hours per year (160,700 Btu's per year) for conventional ovens; and 34.2 kilowatt-hours per year for microwave ovens. Copies of the AHAM field survey data may be obtained for review by interested persons as provided for later in this notice.

Two additional proposed measures (section 430.22(i) (9) and (10)) that are likely to assist consumers in making purchasing decisions are the cooking efficiency and the energy factor.

For all conventional ovens the cooking efficiency is the quotient of the annual useful cooking energy output divided by the annual cooking energy consumption (4.1.3 of Appendix I).

For all conventional cooking tops the cooking efficiency is the arithmetic average of the cooking efficiencies of its individual heating elements. The cooking efficiency of a heating element is the quotient of the energy absorbed by the test block divided by the energy input to the heating element during the test (4.2.1 of Appendix I).

The cooking efficiency for conventional ranges and microwave/conventional ranges (4.3.2 and 4.5.2 respectively of Appendix I) is defined as the quotient of the annual useful cooking energy output divided by the annual cooking energy consumption for the range under test.

For microwave ovens, the cooking efficiency is defined as the average of the sum of the microwave oven's cooking efficiencies for the four-test loads (4.4.3 of Appendix I). The microwave oven's cooking efficiency for a specific test load is defined as the quotient of the product of the average microwave power output, expressed in watts, times the elapsed test time in seconds, divided by the product of the energy consumed during the test in watt-hours times 3,600 seconds per hour (4.4.2 of Appendix I).

For conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges the energy factor is defined as the ratio of the annual useful cooking energy output of the appliance to its total annual energy consumption.

DOE recognizes that there may be additional useful measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges other than the measures described above. Accordingly, today's proposal, in proposed subparagraph 430.22(i)(11), provides for other useful measures which the Secretary determines are likely to assist consumers in making purchasing decisions. These measures, however, must be derived from the application of the uniform test method proposed today as Appendix I to Subpart B. Manufacturers would, if required, only have to perform various computations while still applying the same test method contained in Appendix I. For example, if the Secretary determined that a per-day energy cost would aid consumers in making purchasing decisions, this cost could be derived by applying the uniform test procedures to calculate the estimated annual operating cost and then dividing by 365 days per year to achieve a per-day cost figure.

D. Laboratory Methodology

Proposed Appendix I to Subpart B provides for a controlled laboratory environment for measuring energy consumption for the various conventional ranges, conventional cooking tops, conventional ovens, microwave ovens and microwave/conventional ranges which are available to the consumer. The proposed test procedures apply to appliances which may contain energy consuming cooking features and devices which are not accounted for in the laboratory test measurements. Such cooking features may include broilers, griddles, grills or deep-well cookers. Such devices may include automatic temperature controlled surface units, keep-warm timers or other energy consuming devices. The effect these cooking features or devices may have on the annual energy consumption of the appliance in actual use by the consumer cannot be quantified due to the lack of data on the separate energy consumption, energy efficiency, and consumer usage of these cooking features or devices. NBS, however, has determined that the proposed test procedures produce results in the laboratory which are representative of the energy that would be consumed annually by that appliance in the home. DOE specifically requests comments and data from manufacturers and other interested persons regarding the energy consumption, cooking efficiency, energy factor and consumer usage patterns on any such cooking features or devices.

A conventional oven cooks food by heating a compartment into which the food has been placed. The food is cooked by absorbing the heat in the compartment. In the proposed test procedures for conventional ovens, an anodized aluminum alloy block is used as the standard test load. A metal block is used because it provides a standard, uniform, and repeatable means of testing the oven and reduces the variability that might occur if other loads were used. The proposed test procedures require that the temperature of the test block be raised 234° above its initial temperature. The proposed temperature rise and block specifications are based on tests and studies done by the industry and NBS which indicate that these conditions simulate, in a controlled laboratory environment, the actual average use of the conventional oven in the home. Copies of these data may be obtained for review by interested persons, as provided for later in this notice.

For conventional cooking tops a metal block is again used as the standard test load. For electric heating elements two different sized test blocks are used depending on the size of the heating element. The larger of these test blocks is used to test all gas heating elements. The difference in the size and the weight of the test blocks are proposed because they are the standard measures used in the

proposed AHAM standard ER-5EC and provide repeatable and accurate test results.

The proposed test procedures for conventional cooking tops provide that the standard test block be raised 144°F above its initial temperature (3.1.2 of Appendix I), the energy input to the gas or electric heating element is then decreased by reducing the energy input rate from its maximum value to 25 percent of its maximum value for 15 minutes in order to represent actual use conditions in the home. The proposed specified loads and temperature control procedures are based on NBS' recommendation which, in turn, is based on industry studies. Copies of these documents will be made available for inspection by interested persons, as provided for later in this notice.

A microwave oven heats by the transmission of electromagnetic waves (microwave energy) to the food rather than by conduction. The energy is absorbed by the food and converted to heat. The proposed microwave oven test procedure uses glass beakers filled with different quantities of distilled water containing one percent sodium chloride (NaCl) as the standard test loads. Glass beakers filled with the salt water solution are used because the glass transmits the microwave energy and the saline solution absorbs the microwave energy in the same manner as food does. Metal blocks would not be appropriate for the test load since metal reflects microwave energy. Specified quantities of the saline solution are proposed as the test loads, rather than food, in order to provide repeatable, accurate and uniform test results. Test loads of 275, 500, 1,000, and 2,000 milliliter water loads raised 45 ± 9° F above their initial temperature are proposed in order to determine the microwave oven's average power output. Based on discussions with the industry, NBS has determined that the proposed microwave oven test loads and temperature rise provide a representative simulation in the laboratory of the actual use of microwave ovens in the home.

Section 323(a)(3) of the Act requires that proposed test procedures for kitchen ranges and ovens be published not later than September 30, 1976. Section 323(a)(6) of the Act, however, provides that the publication of proposed test procedures for a type of covered product (or class thereof) may be delayed beyond the required dates of publication if it is determined that publication of the proposed test procedures cannot be made within the applicable time period and notice of such determination is published in the FEDERAL REGISTER. On October 21, 1976, FEA issued a notice including its determination of the necessity to delay the publication of proposed test procedures for kitchen ranges and ovens (41 FR 47286, October 28, 1976).

In addition to proposing test procedures for most classes of "kitchen ranges and ovens" today, DOE hereby gives notice of its determination to delay further the publication of proposed test procedures for any class of the type "kitchen ranges and ovens" other than conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. In particular, DOE intends to delay further the publication of proposed test procedures for the following two consumer products which are relatively new products and, therefore, presently represent only a small percentage of the market: (1) cooking tops which utilize induction surface heating elements; (2) single compartment ovens which are capable of heating food by means of electric resistance heaters and microwave energy in the same compartment. NBS has determined that there is not sufficient data on the consumer usage of these products to develop adequate test procedures to measure their energy consumption, cooking efficiency, or energy factor. DOE will publish proposed test procedures for such products, as soon as practicable, unless it determines that test procedures cannot be developed which meet the requirements of section 323(b) of the Act and publishes such determination in the FEDERAL REGISTER, together with the reasons therefor.

E. Representative Average-Use Cycle

Section 323(b)(2) (42 U.S.C. 6293(b)(2)) of the Act provides that test procedures for determining estimated annual operating costs of any covered product shall be calculated from measurements of energy use in a representative average-use cycle (provided pursuant to section 323(b)(1) of the Act) and from representative average unit costs (provided pursuant to section 323(b)(2) of the Act) needed to operate such product during such cycle. DOE has determined that the representative average-use cycle for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges is one year. This determination is based upon NBS' recommendation to DOE which, in turn, is based upon the premise that a cycle representing a year's usage will encompass variations such as seasonal patterns, and the effects of vacations and holidays. NBS' recommendation is available for inspection, as provided for later in this notice.

F. Unit Costs of Energy

Under section 323(b)(2) of the Act, FEA was to provide manufacturers with information on representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

Number of Units To Be Tested

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, for monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. Those aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions on how a test procedure should be applied (e.g., sampling of production units), may differ. DOE, NBS, and FTC are continuing to evaluate the appropriate method or methods for applying the test procedures in order to comply with the statute and satisfy all of the different elements of the appliance program. Thus, proposal of a generalized test methodology for applying test procedures is inappropriate at this time.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

> Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer, or private labeler may make any representation—
>
> (1) In writing (including a representation on a label), or
>
> (2) In any broadcast advertisement, respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to implement this statutory requirement, the sampling requirements proposed today have been organized into section 430.24(i) and apply only where a representation is made with respect to the energy consumption of kitchen ranges and ovens.

Proposed section 430.24(i) would provide a method by which the minimum size of a sample of kitchen ranges and ovens would be determined. Representations regarding the energy consumption of kitchen ranges and ovens would be based upon the testing of that sample. Under the proposed regulations, the sample would have to be of sufficient size to assure that, for each representation regarding a measure of energy consumption described in section 430.22(i), there is a 95-percent confidence that the true mean of such measures of the basic model to which the representation applies is within 5 percent of the mean of such measures of the sample.

Strict sampling of conventional and microwave/conventional ranges could, in many cases, result in duplicative testing. This is because it is likely that the conventional cooking tops, conventional ovens, and microwave ovens which comprise these products would be marketed as distinct products and would, therefore, have already been tested. In order to avoid re-testing the components of conventional and microwave/conventional ranges, section 430.24(i) would permit data obtained from the testing of cooking tops, conventional ovens, and microwave ovens which comprise conventional ranges and microwave/conventional ranges to be used in making representations concerning those ranges.

Manufacturers and other interested persons are encouraged to comment on the sampling approach. Manufacturers are especially encouraged to submit any data which relates to the size of the

samples which the provision would require to be tested. Comments alleging that the sampling provision is burdensome or otherwise inappropriate should include a full discussion of the facts upon which such allegation is based and, preferably, an alternate proposal.

H. REQUEST FOR PARTICULAR COMMENTS

While DOE is soliciting comments on all aspects of the proposed test procedures, DOE is particularly interested in receiving comments on any other useful measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges in addition to those proposed today. DOE is also requesting that it be provided with any available data on typical consumer usage of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges.

In addition, DOE is interested in receiving comments on any definitions already promulgated or proposed in section 430.2, as discussed above, as these provisions might affect the testing of conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges. Comments with respect to these definitions are timely until the close of the written record, as specified below.

I. COMMENT PROCEDURE

1. GENERAL

Any persons who previously submitted written or oral comments with respect to the kitchen ranges and ovens proposed test procedures issued by FEA on June 9, 1977 (42 FR 30627, June 16, 1977) should review those comments in order to determine if they would be applicable to today's proposal. Those persons are encouraged to resubmit all applicable comments, since the final rulemaking regarding these test procedures will be based solely upon today's proposal and any oral or written comments received in response thereto.

Any oral or written comments to the proposed test procedures should include all available data which supports the view proffered by the commenter. Where the comment is critical of the proposed test procedures, alternatives should be provided, wherever possible.

2. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed test procedures for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges set forth in this notice to Executive Communications, Room 3317, Department of Energy, Box QK, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Kitchen Ranges and Ovens—Proposed Test Procedures." Fifteen copies should be submitted. All copies received by February 14, 1978, before 4:30 p.m., e.d.t., and all other relevant information, will be considered by DOE before final action is taken on the proposed regulations.

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

3. PUBLIC HEARINGS

a. *Request procedures.* The time and place of the public hearing are indicated at the beginning of this preamble. The hearing will be continued, if necessary, on February 17, 1978.

DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated at the beginning of this preamble and must be received before 4:30 p.m., e.d.t., on February 8, 1978. Such a request may be hand delivered to such address, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "Kitchen Ranges and Ovens—Proposed Test Procedures."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through February 16, 1978.

DOE will notify, before 4:30 p.m., e.d.t., February 10, 1978, each person selected to appear at a hearing. Each person selected to be heard must submit 50 copies of her or his statement to the address and by the date given in the beginning of this preamble. In the event any person wishing to testify cannot meet the 50-copy requirement, alternative arrangements can be made with the Economic Regulatory Administration (ERA) in advance of the hearing by so indicating in the letter requesting an oral presentation or by calling the ERA at 202–254–3345.

b. *Conduct of hearings.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

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

Any interested person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, DOE, before 4:30 p.m., e.d.t., February 14, 1978. DOE will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, 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. Any person may purchase a copy of the transcript from the reporter. A copy of NBS' recommendations concerning these test procedures, along with the ANSI standards ANS–Z21.1b–1976 and ANS–C71.1, the UL standard UL–858, the proposed AHAM Standard Performance Evaluation Procedure for Microwave Cooking Appliances (ER–4–MWO), and the proposed AHAM Standard Test Method for Measuring Energy Consumption of Electric and Gas Ovens and Surface Units and Microwave Ovens (ER–5–EC) dated August 2, 1976, will be made available for inspection at the DOE Freedom of Information Office. Information regarding the basis for DOE's determinations in this proposed rulemaking with respect to the private commercial standard-setting organizations will also be available at the DOE Freedom of Information Office.

J. ENVIRONMENTAL AND INFLATIONARY REVIEW

As required by section 7(c)(2) of the FEA Act, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning impact of this proposal on the quality of the environment. The Administrator has no comments.

The National Environmental Policy Act of 1969 requires DOE to assess the environmental impacts of any proposal issued by the Department for "major Federal actions significantly affecting

the quality of the human environment." Since test procedures under the energy conservation program for appliances will be used only to standardize the measurement of energy usage and will not affect the quality or distribution of energy usage, DOE has determined that the action of prescribing test procedures, by itself, will not result in any environmental impacts. On this basis, DOE has determined that, with respect to prescribing test procedures under the energy conservation program for appliances, no environmental impact statement is required.

NOTE.—The proposed rule has been reviewed in accordance with Executive Order 11821 as amended by Executive Order 11949, and OMB Circular No. A-107 and has been determined not to be a major proposal requiring evaluation of its economic impact as provided for therein.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91; EO 11790, 39 FR 23185.)

In consideration of the foregoing, proposed amendments to Part 430 of chapter II of Title 10, Code of Federal Regulations, published in 42 FR 30627, June 16, 1977, are hereby withdrawn and it is proposed to amend Part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., December 21, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

1. Section 430.2 is amended by adding paragraph (9) as part of the definition of "basic model," and by adding in the appropriate alphabetical order definitions of "conventional cooking top," "conventional oven," "conventional range," "DOE," "kitchen ranges and ovens," "microwave oven," "microwave/conventional range," "other kitchen ranges and ovens," "Secretary," and "surface unit" to read as follows:

§ 430.2 Definitions.

* * * * *

"Basic model" means all units of a given type of covered product (or class thereof) manufactured by one manufacturer and:

* * * * *

(9) With respect to kitchen ranges and ovens, which have the same primary energy source, which have electrical characteristics that are essentially identical, and which do not have any differing physical or functional characteristics that affect energy consumption.

* * * * *

"Conventional cooking top" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a horizontal surface containing a surface unit or surface units which are heated by means of either gas burners or electric resistance heaters.

* * * * *

"Conventional oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment or compartments intended for the cooking or heating of food by means of either gas burners or electric resistance heaters. It does not include portable or countertop ovens which use electric resistance heaters for the cooking or heating of food and are designed for an electrical supply or approximately 120 volts.

* * * * *

"Conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a conventional cooking top and one or more conventional ovens, in which either the cooking top or the oven (or ovens) utilize either gas burners or electric resistance heaters as the source of heat.

* * * * *

"DOE" means the Department of Energy.

* * * * *

"Kitchen ranges and ovens" means consumer products that are used as the major household cooking appliances. They are designed to cook or heat different types of food by one or more of the following sources of heat: gas, electricity, or microwave energy. Each product may consist of a horizontal cooking top containing a surface unit or surface units and/or one or more heating compartments. They must be one of the following classes: conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, microwave/conventional ranges, and other kitchen ranges and ovens.

* * * * *

"Microwave oven" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a compartment designed to cook or heat food by means of microwave energy.

* * * * *

"Microwave/conventional range" means a class of kitchen ranges and ovens which is a household cooking appliance consisting of a microwave oven, a conventional oven, and a conventional cooking top.

* * * * *

"Other kitchen ranges and ovens" means any class of kitchen ranges and ovens other than the conventional range, conventional cooking top, conventional oven, microwave oven, and microwave/conventional range classes.

* * * * *

"Secretary" means the Secretary of Energy.

* * * * *

"Surface unit" means either a unit mounted in a cooking top or a heated area of a cooking top on which vessels are placed for the cooking or heating of food.

* * * * *

2. Section 430.22 is amended by adding a paragraph (i), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

* * * * *

(i) *Kitchen ranges and ovens.* (1) The estimated annual operating cost for conventional cooking tops shall be the product of the following two factors—(i) the total conventional cooking top annual energy consumption in kilowatt-hours (kWh's) per year for conventional electrical cooking tops and in British thermal units (Btu's) per year for conventional gas cooking tops, determined according to 4.2.2 of Appendix I to this subpart, and (ii) the representative average unit cost in dollars per kWh or Btu as provided pursuant to section 323(B)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(2) The estimated annual operating cost for conventional ovens which use only electrical energy or only gas energy shall be the product of the following two factors—(i) the total conventional oven annual energy consumption in kWh's per year for electrical energy and Btu's per year for gas energy, determined according to 4.1.2.5 or 4.1.2.6 of Appendix I to this subpart, and (ii) the representative average unit cost in dollars per kWh or Btu as provided pursuant to section 323(B)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(3) For conventional ovens which use both gas and electrical energy the estimated annual operating cost shall be the sum of the estimated annual operating cost for each source of energy, as determined in paragraph (i)(2) of this section, and the resulting sum then being rounded off to the nearest dollar per year.

(4) The estimated annual operating cost for conventional ranges which use only electrical energy or only gas energy shall be the product of the following two factors—(i) the total conventional range annual energy consumption, in kWh's per year for electrical energy and Btu's per year for gas energy, determined according to 4.3.1 of Appendix I to this subpart, and (ii) the representative average unit cost in dollars per kWh or Btu as provided pursuant to section 323(B)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(5) For ranges which use both gas and electrical energy the estimated annual operating cost shall be the sum of the estimated annual operating cost for each source of energy, as determined in paragraph (i)(4) of this section, and the resulting sum then rounded off to the nearest dollar per year.

(6) The estimated annual operating cost for microwave ovens shall be the product of the following two factors—(i) the total microwave oven annual energy consumption in kWh's per year, determined according to 4.4.4 of Appendix I to this subpart, and (ii) the representative average unit cost in dollars per kWh as provided pursuant to section 323(B)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(7) The estimated annual operating cost for microwave/conventional ranges which use only electrical energy shall be the product of the following two factors—(i) the total annual energy consumption of the range in kWh's determined according to 4.5.1 of Appendix I to this subpart and (ii) the representative average unit cost in dollars per kWh as provided pursuant to section 323(B)(2) of the Act, the resulting product then being rounded off to the nearest dollar per year.

(8) For microwave/conventional ranges which use both gas and electrical energy the estimated annual operating cost shall be the sum of the estimated annual operating cost for each source of energy, as determined in paragraph (i)(7) of this section, and the resulting sum then rounded off to the nearest dollar per year.

(9) The cooking efficiency for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the ratio of annual useful cooking energy output to the annual cooking energy input required for cooking as determined according to 4.3.2, 4.2.1, 4.1.3, 4.4.3, and 4.5.2, respectively, of Appendix I to this subpart.

(10) The energy factor for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be the ratio of annual useful cooking energy output to the total annual energy input as determined according to 4.3.3, 4.2.3, 4.1.4, 4.4.5, and 4.5.3 respectively of Appendix I to this subpart.

(11) Other useful measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges shall be those measures of energy consumption which the Secretary of Energy determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix I to this subpart.

* * * * *

3. Section 430.24 is amended by adding a paragraph (i) to read as follows:

§ 430.24 Representations regarding measures of energy Consumption.

* * * * *

(i) *Kitchen ranges and ovens.* (1) Except as provided in paragraphs (i)(3) and (4) of this section, no manufacturer, distributor, retailer, or private labeler of kitchen ranges and ovens may make any representation with respect to, or based upon, a measure or measures of energy consumption for conventional ranges, conventional cooking tops, conventional ovens, microwave ovens, and microwave/conventional ranges described in section 430.22(i) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart, such that, for each such measure of energy consumption, there is at least 95 percent confidence that the true mean of such measures of the basic model lies within ±5 percent of the mean of such measures of the sample.

(2) Any sample selected under this paragraph shall be comprised of units which are production units, or are representative of production units, of the basic model being tested.

(3) With respect to each basic model of conventional ranges and microwave/conventional ranges, representations made with respect to, or based upon, measures of energy consumption described in section 430.22(i) may be derived from test results obtained from application of the test method of Appendix I to this subpart to basic models of the conventional cooking tops and such conventional and microwave ovens as comprise the basic model of the conventional range or microwave/conventional range to which such representations apply.

(4) Whenever a rule applicable to kitchen ranges and ovens is prescribed under section 324 of the Act, section 430.24(i) shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such labeling rule shall be identical to the measure of energy consumption specified on the label.

* * * * *

4. Subpart B of Part 430 is amended to add an Appendix I, to read as follows:

APPENDIX I—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF CONVENTIONAL RANGES, CONVENTIONAL COOKING TOPS, CONVENTIONAL OVENS, MICROWAVE OVENS AND MICROWAVE/CONVENTIONAL RANGES

1. *Definitions.*

1.1 "Built-in" means the product is supported by surrounding cabinetry, walls, or other similar structures.

1.2 "Drop-in" means the product is supported by horizontal surface cabinetry.

1.3 "Electric heating element" means a surface unit on which cooking vessels are placed and then heated by electric resistance heaters.

1.4 "Forced convection" means a mode of baking that uses a fan to circulate the heated air within the oven compartment during cooking.

1.5 "Freestanding" means the product is not supported by surrounding cabinetry, walls, or other similar structures.

1.6 "Gas heating element" means a surface unit on which cooking vessels are placed and then heated by gas burners.

1.7 "Standard cubic foot of gas" means that quantity of gas that occupies one cubic foot when saturated with water vapor at a temperature of 60°F and a pressure of 30 inches of mercury (density of mercury equals 13.595 grams per cubic centimeter).

1.8 "Thermocouple" means a device consisting of two dissimilar metals which are joined together and, with their associated wires, are used to measure temperature by means of electromotive force.

2. *Test conditions.*

2.1 *Installation.*

2.1.1 *Conventional electric ranges, ovens and cooking tops and microwave/conventional ranges.* Free-standing conventional electric ranges, ovens, and cooking tops, and microwave/conventional ranges are to be set up with the back against, or as near as possible, a vertical wall and with the sides exposed to the ambient air. Built-in or wall-mounted conventional electric ranges, ovens, and cooking tops, and microwave/conventional ranges are to be installed in accordance with the manufacturer's instructions. Conventional electric ranges, ovens, and cooking tops, and microwave/conventional ranges are to be completely assembled for all tests, with all handles, knobs, guards and the like mounted in place. All electric resistance heaters, baking racks, and baffles shall be in place in accordance with manufacturer's instructions. Disconnect all electrical devices which use energy continuously. Do not disconnect or modify the circuit to any other electrical components. Conventional electric ranges, and cooking tops, ovens and microwave/conventional ranges shall be connected to an electrical supply circuit with voltage as specified in 2.2.1 with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1.

2.1.2 *Conventional gas ranges, ovens, and cooking tops and microwave/conventional ranges.* Install free-standing conventional gas ranges, ovens and cooking tops and microwave/conventional ranges with a vertical back wall, extending at least one foot above and one foot on either side of the appliance, and with no side walls. Install built-in conventional gas ranges, ovens and cooking tops and microwave/conventional ranges in accordance with the manufacturer's installation instructions. All gas burners, baking racks, and baffles shall be in place, in accordance with manufacturer's instructions. Conventional gas ranges, ovens, and cooking tops and microwave/conventional ranges shall be connected to a gas supply line with a gas meter installed between the supply line and the range, oven, or cooking top being tested, according to manufacturer's specifications. The gas meter shall be as described in 2.9.2. Conventional gas ranges, ovens and cooking tops and microwave/conventional ranges with electrical ignition devices or other electrical components shall be connected to an electrical supply circuit of nameplate voltage with a watt-hour meter installed in the circuit. The watt-hour meter shall be as described in 2.9.1. Disconnect all electrical devices which use energy continuously. Do not disconnect or modify the circuit to any other electrical components.

2.1.3. *Microwave ovens.* Install the microwave oven in accordance with the manufacturer's instructions and connect to an electrical supply circuit with voltage as specified in section 2.2.1. A watt-hour meter shall be installed in the circuit and shall be as described in 2.9.1.

2.2 *Energy supply.*

2.2.1 *Electrical supply.* Maintain the electrical supply to the conventional range, conventional cooking top, conventional oven, and microwave/conventional range at 240/120 volts except that basic models rated only at 208/120 volts shall be tested at that rating. Maintain the electrical supply to a microwave oven at 120 volts and at 60 cycles per second. In every case, maintain the voltage within one percent of the voltage at which the appliance is tested.

2.2.2 *Gas supply.*

2.2.2.1 *Gas burner adjustments.* Gas ranges, ovens, and cooking tops and microwave/conventional ranges shall be tested with all of the gas burners adjusted in accordance with the installation or operation instructions provided by the manufacturer.

2.2.2.2 *Natural gas.* For tests using natural gas maintain the gas supply to the unit under test at the normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. The natural gas supplied should have a heating value of approximately 1,025 Btu's per standard cubic foot. The actual hearing value, H_a, in Btu's per standard cubic

foot, for the natural gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4, or by the purchase of bottled natural gas whose Btu rating is certified to be at least as accurate a rating as could be obtined from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.2.2.3 *Propane gas.* For tests using propane gas maintain the gas supply to the unit under test at the normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. The regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. The propane gas supplied should have a heating value of approximately 2,500 Btu's per standard cubic foot. The actual heating value, H_s, in Btu's per standard cubic foot, for the propane gas to be used in the test shall be obtained either from measurements made by the manufacturer conducting the test using a standard continuous flow calorimeter as described in 2.9.4 or by the purchase of bottled propane gas whose Btu rating is certified to be at least as accurate a rating as could be obtained from measurements taken with a standard continuous flow calorimeter as described in 2.9.4.

2.3 *Air circulation.* Maintain air circulation in the room sufficient to secure reasonably uniform temperature distribution, but do not cause a direct draft on the unit under test.

2.4 *Setting the conventional oven thermostat.*

2.4.1 *Conventional electric oven.* Install a thermocouple approximately in the center of the usable baking space. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. Adjust or determine the conventional electric oven thermostat setting which will provide an average internal temperature of 325±5° F above room temperature. Determine the average internal temperature from the maximum and minimum temperatures measured in three consecutive "cut-off/cut-on" actions of the electric resistance heaters, excluding the initial "cut-off/cut-on" action, by the thermostat after the specified temperature rise has been attained by the conventional electric oven. Remove the thermocouple after the thermostat has been set.

2.4.2 *Conventional gas oven.* Install five parallel-connected weighted thermocouples, one located at the center of the conventional gas oven's usable baking space and the other four equally spaced between the center and the corners of the conventional gas oven on the diagonals of a horizontal plane through the center of the conventional gas oven. Each weighted thermocouple shall be constructed of a copper disc that is 1-inch in diameter and ⅛-inch thick. The two thermocouple wires shall be located in two holes in the disc spaced ½-inch apart, with each hole being located ¼-inch from the center of the disc. Both thermocouple wires shall be silver-soldered to the copper disc. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2. Adjust or determine the conventional gas oven thermostat setting which will provide an average internal temperature of 325±5°F above room temperature obtained from the maximum and minimum temperatures measured in three consecutive "cut-off/cut-on" actions of the gas burners, excluding the initial "cut-off/cut-on" action, by the thermostat after the specified temperature rise has been attained by the conventional gas oven. Remove the thermocouples after the thermostat has been set.

2.5 *Ambient room air temperature.* Maintain the ambient room air temperature, T_r, at 77±9°F as measured at least 5 feet and not more than 8 feet from the nearest surface of the unit under test and approximately 3 feet above the floor. The temperature shall be measured with a thermometer with an accuracy as indicated in 2.9.3.1.

2.6 *Normal nonoperating temperature.*

2.6.1 *Conventional electric oven.* The normal nonoperating temperature for a conventional electric oven is the temperature within two degrees Fahrenheit of the ambient room air temperature as determined in 2.5. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2.

2.6.2 *Conventional electric cooking top.* The normal nonoperating temperature for a conventional electric cooking top is within five degrees Fahrenheit of the ambient room air temperature as determined in 2.5.

2.6.3 *Conventional gas oven.* The normal nonoperating temperature for a conventional gas oven is the temperature within two degrees Fahrenheit of the temperature of a conventional gas oven of the same basic model which has been exposed to air at the ambient room air temperature, as described in 2.5, for at least 24 hours while not operating, with the oven door closed and with all pilot lights on and adjusted in accordance with the manufacturer's instructions. Provide a temperature indicator system for measuring the temperature of the oven with an accuracy as indicated in 2.9.3.2.

2.6.4 *Conventional gas cooking top.* The normal non-operating temperature for a conventional gas cooking top is the temperature within five degrees Fahrenheit of the temperature of a conventional gas cooking top of the same basic model which has been exposed to air at the ambient room air temperature, as determined in 2.5 for at least 24 hours while not operating, with all pilot lights on and adjusted in accordance with the manufacturer's instructions.

2.6.5 *Microwave oven.* Normal nonoperating temperature for a microwave oven is within two degrees Fahrenheit of the ambient room air temperature as determined in 2.5. The equipment for measuring the oven's temperature shall be as described in 2.9.3.4.

2.7. *Test blocks.*

2.7.1 *Test block size.*

2.7.1.1. *Conventional oven.* The test block, W_1, shall be made of aluminum alloy No. 6061, with a specific heat of 0.23 Btu's/lb-° F and with any temper that will give a coefficient of thermal conductivity of 0.37 to 0.41 cal/cm-° C-sec. The block shall be 6.25±.05 inches in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs. The block shall have a hole at its top in the center. The hole shall be .08 inch in diameter and be 0.80 inch deep. The bottom of the block shall be flat to within ± .002 inch. The block shall be finished with an anodic black coating with a minimum thickness of 0.001 inch incorporating an inorganic black dye.

2.7.1.2 *Conventional cooking top.*

2.7.1.2.1 *Small surface unit.* The test block, W_1, shall be made of aluminum alloy No. 6061, with a specific heat of 0.23 Btu's/lb-° F and with any temper that will give a coefficient of thermal conductivity of 0.37 to 0.41 cal/cm-° C-sec. The block shall be 6.25±.05 inches in diameter, approximately 2.8 inches high and shall weigh 8.5±0.1 lbs. The block shall have a hole at its top in the center. The hole shall be .08 inch in diameter and 0.80 inch deep. The bottom of the block shall be flat to within ±.002 inch.

2.7.1.2.2 *Large surface unit.* The test block, W_1, shall be made of aluminum alloy No. 6061, with a specific heat 0.23 Btu's/lb-°F and with any temper that will give a coefficient of thermal conductivity of 0.37 to 0.41 cal/cm-° C-sec. The block shall be 9.0±.05 inches in diameter and approximately 3.0 inches high and shall weigh 19.0±0.1 lbs. The block shall have a hole at its top in the center. The hole shall be .08 inch in diameter and 0.80 inch deep. The bottom of the block shall be flat to within ±.002 inch.

2.7.2 *Thermocouple installation.* Install the thermocouple such that the thermocouple junction (where the thermocouple contacts the test block) is at the bottom of the hole provided in the test block and that the thermocouple junction makes good thermal contact with the aluminum block. If the test blocks are to be water cooled between tests the thermocouple hole should be sealed, or other steps taken, to insure that the thermocouple hole is completely dry at the start of the next test. Provide a temperature indicator system for measuring the oven's temperature with an accuracy as indicated in 2.9.3.2.

2.7.3 *Test block temperature.* Maintain the initial temperature of the test blocks, T_1, within ± ° F of the ambient room air temperature as specified in 2.5.

2.8 *Test beakers.*

2.8.1 *Test beaker size.* The five test beakers shall be made of thin walled glass. Two of the test beakers shall have an inside diameter of approximately 85 millimeters (mm). Three of the test beakers shall have an inside diameter of approximately 110 mm.

2.8.2 *Test beaker load.* Fill one of the 85 mm diameter test beakers with 275 milliliters (ml) ±2.75 ml of distilled water containing 1 percent by weight sodium chloride (NaCl). Fill one of the 85 mm diameter test beakers with 500 ml ±5.0 ml of distilled water containing 1 percent by weight NaCl. Fill the 110 mm diameter test beakers with 1,000 ml ±10.0 ml of distilled water containing 1 percent by weight NaCl.

2.8.2.1 *Test beaker water load temperature.* Maintain the initial temperature of the test beaker water load within ±4° F of ambient room air temperature. The temperature shall be measured with a thermometer or other equipment with an accuracy as indicated in 2.9.3.4.

2.9 *Instrumentation.* Perform all test measurements using the following instruments, as appropriate:

2.9.1. *Watt-hour meter.* The watt-hour meter shall have a resolution of 1.0 watt-hour and a maximum error no greater than 1.5 percent of the measured value for any demand greater than 100 watts.

2.9.2 *Gas meter.* The gas meter to be used for measuring the gas consumed by the gas burners of the over or cooking top shall have a resolution of 0.01 cubic feet and a maximum error no greater than 1.0 percent of the measured value for any demand greater than 2.2 cubic feet per hour. The gas meter to be used for measuring the gas consumed by the pilot lights shall have a resolution of 0.001 cubic feet and have a maximum error no greater than 2.0 percent of the measured value.

2.9.3 *Temperature measurement equipment.*

2.9.3.1 *Thermometer.* The room thermometer shall have an error no greater than ±1° F over the range 65° F to 90 °F.

2.9.3.2 *Temperature indicator system for measuring oven temperature.* The equipment for measuring conventional oven temperature shall have an error no greater than ±4° F over the range of 65° to 400° F.

2.9.3.3 *Temperature indicator system for measuring test block temperature.* The system shall have an error no greater than 2° F when measuring specific temperatures over the range of 65° F to 330° F. It shall also have an error no greater than 2° F when

measuring any temperature difference up to 240° F within the above range.

2.9.3.4 *Microwave oven test load temperatures.* The thermometer or other equipment used to measure the microwave oven temperature and its test load temperature shall have an error no greater than 1° F over the range of 65° F to 140° F.

2.9.4 *Standard continuous flow calorimeter.* The calorimeter shall have an operating range of 750 to 3,500 Btu's per cubic foot. The maximum error of the basic calorimeter shall be no greater than 0.2 percent of the actual heating value of the gas used in the test. The indicator readout shall have a maximum error no greater than 0.5 percent of the measured value within the above operating range and a resolution of 0.2 percent of the full scale reading of the indicator instrument.

2.9.5 *Wattmeter.* The wattmeter shall have a resolution of 0.2 watt and a maximum error no greater than 5 percent of the measured value over the range of 0 to 10 watts.

3. *Test methods and measurements.*

3.1 *Test methods.*

3.1.1. *Conventional oven.* Perform a test by establishing the testing conditions set forth in 2 of this Appendix, and adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. Set the conventional oven test block approximately in the center of the usable baking space. The temperature of the conventional oven shall be its normal nonoperating temperature as described in 2.6.1 or 2.6.3. Turn the oven thermostat to the setting which provides an average internal temperature of 325° ± 5° F above ambient temperature. If there is a special control or mode of operation on the oven, set for normal baking. If an oven permits baking by either forced convection using a fan, or without forced convection the oven is to be tested in each baking mode. The oven shall remain on for at least one complete thermostat "cut-off/cut-on" of the electrical resistance heaters or gas burners after the test block temperature has increased 234° F above its initial temperature.

3.1.1.1. *Self-cleaning operation of a conventional oven.* Perform a test by establishing the testing conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. The temperature of the conventional oven shall be its normal nonoperating temperature as described in 2.6.1 or 2.6.3. Then, set the conventional oven self-cleaning process in accordance with the manufacturer's instructions. If the self-cleaning process is adjustable, use the average time recommended by the manufacturer for a moderately soiled oven.

3.1.1.2. *Continuously burning pilot lights of a conventional gas oven.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas oven in accordance with the manufacturer's instructions and turn off the gas flow to the conventional cooking top. Meter the gas consumption of the pilot lights under test for a period, L_t, of at least 24 hours.

3.1.2 *Conventional cooking top.* Perform a test by establishing the testing conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven. The temperature of the conventional cooking top shall be its normal nonoperating temperature as described in 2.6.2 or 2.6.4. Then, set the test block in the center of the heating element under test. The small test block, W_s, shall be used on electric heating elements of 7 inches or less in diameter. The large test block, W_l, shall be used on electric heating elements over 7 inches in diameter and on all gas heating elements. Energize the heating element at its maximum energy input rate (100 percent). When the test block reaches 144° F above its initial test block temperature, immediately reduce the energy input rate to 25±5 percent of the maximum energy input rate. After 15±0.1 minutes at the reduced energy setting, turn off the gas or electric heating element under test.

3.1.2.1 *Continuously burning pilot lights of a conventional gas cooking top.* Perform a test by establishing the test conditions set forth in 2 of this Appendix. Adjust any pilot lights of a conventional gas cooking top in accordance with the manufacturer's instructions and turn off the gas flow to the conventional oven. Meter the gas consumption of the pilot lights under test for a time, L_t, of at least 24 hours.

3.1.3 *Microwave oven.* Perform the tests by establishing the testing conditions set forth in 2 of this Appendix. Four tests are to be conducted with the water test loads in the following sequence: 2,000 ml, 1,000 ml, 500 ml, and 275 ml. For the 2,000 ml test, set two of the 110 mm diameter test beakers, each containing 1,000 ml of the specified water load, side by side, in the approximate center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45°±9° F. Allow one minute for changing the test load beakers between each of the tests. For the 1,000 ml test, set one of the 110 mm diameter test beakers containing 1,000 ml of the specified water load in approximately the center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45°±9° F. For the 500 ml test, set one of the 85 mm diameter test beakers containing 500 ml of the specified water load in approximately the center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45°±9° F. For the 275 ml test, set the 85 mm diameter test beaker containing 275 ml of the specified water load in approximately the center of the load carrying surface of the oven, and operate the microwave oven at its maximum microwave power setting until the temperature of the water load has been raised 45°±9° F.

3.2 *Test measurements.*

3.2.1 *Conventional oven test energy consumption.* Measure the block temperature, T_A, and the energy consumed, E_A, at the end of the last "ON" period of the conventional oven before the block reaches T_D (T_D is 234° F above the initial block temperature, T_I). Measure the block temperature, T_B, and the energy consumed E_B, at the beginning of the next "ON" period. Measure the block temperature, T_C, and the energy consumed, E_C, at the end of that "ON" period. Measure the block temperature, T_D, and the energy consumed E_D, at the beginning of the following "ON" period. Energy measurements for E_A, E_B, E_C and E_D should be expressed in watt-hours for conventional electric ovens or standard cubic feet of gas for conventional gas ovens. For a gas oven measure in watt-hours any electrical energy, E_{AE}, consumed by an ignition device or other electrical components required for the operation of a conventional gas oven while heating the test block to T_D.

3.2.1.1 *Energy consumption of self-cleaning operation.* Measure the self-cleaning conventional electric or gas oven energy consumption, E_S, specified as the number of watt-hours of electrical energy or standard cubic feet of gas, respectively, consumed during the self-cleaning test set forth in 3.1.1.1. For a gas oven also measure in watt-hours any electrical energy, E_{AS}, consumed by an ignition device or other electrical components required during the self-cleaning test.

3.2.1.2 *Gas consumption of continuously burning pilot lights.* Measure the gas consumption of the pilot lights, P_t, in standard cubic feet of gas and the test duration, L_t, in hours for the test set forth in 3.1.1.2.

3.2.1.3 *Clock power.* If the conventional oven, conventional range, or microwave conventional range includes an electric clock which is on continuously, and the power rating in watts, of this feature is not known, measure the clock power drain, P_K, in watts.

3.2.2 *Conventional surface unit test energy consumption.* For the gas or electric heating element under test, measure the energy consumption, E_{CT}, in standard cubic feet of gas or watt-hours of electricity, respectively, and the test block temperature, T_{CT}, at the end of the 15 minute (reduced input setting) test interval for the test specified in 3.1.2 and the total time, T_T, in hours, that the element is under test. Measure any electrical energy, E_{AC}, consumed by an ignition device of a gas heating element in watt-hours.

3.2.2.1 *Gas consumption of continuously burning pilot lights.* If the conventional gas cooking top under test has one or more continuously burning pilot lights, measure the gas consumed during the test by the pilot lights, P_t, in standard cubic feet of gas, and the test duration, L_t, in hours as specified in 3.1.2.1.

3.2.3 *Microwave oven test energy consumption.* Measure the initial, T_{Ii}, and final, T_{Fi}, temperatures, in degrees Fahrenheit (°F), of the water test load for the 2,000 ml, 1,000 ml, 500 ml and 275 ml tests. The final temperature, T_{Fi}, shall be measured after the test load has been stirred to insure uniform temperature distribution. Measure the elapsed time, t_i, in seconds, until the temperature rise to the water load is 45±9° F.

Measure for each test specified in 3.1.3 the electrical input energy, E_i, in watt-hours consumed by the microwave oven during the elapsed time, t_i.

3.3 *Recorded values.*

3.3.1 Record the test room temperature, T_R, for each test.

3.3.2 Record measured test block weights W_1, W_2, W_3 in pounds.

3.3.3 Record the initial temperature, T_I, of the test block under test.

3.3.4 Record the conventional oven test measurements T_A, E_A, T_B, E_B, T_C, E_C, T_D, E_D, and E_{AE}.

3.3.5 Record the measured energy consumption, E_S, and for a gas oven, any electrical energy, E_{AS}, for the test of the self-cleaning operation of a conventional oven.

3.3.6 Record the gas consumption, P_t, and the elapsed time, L_t, that any continuously burning pilot lights of a conventional oven are under test.

3.3.7 Record the clock power measurement of rating, P_K, in watts.

3.3.8 For the heating element under test, record the energy consumption, E_{CT}, the final test block temperature, T_{CT}, the total test time, T_T, and any electrical energy consumption, E_{AC}.

3.3.9 Record the gas consumption, P_t, and the elapsed time, L_t, that any continuously burning pilot lights of a conventional cooking top are under test.

3.3.10 Record the heating value, H_n, as determined in 2.2.2.2 for the natural gas supply.

3.3.11 Record the heating value, H_p, as determined in 2.2.2.3 for the propane gas supply.

3.3.12 Record the electrical input energy, E_i, the elapsed time, t_i, and initial, T_{Ii}, and final, T_{Fi}, temperature of the water load for each microwave oven test.

4. *Calculation of derived results from test measurements.*

4.1 *Conventional oven.*

4.1.1 *Conventional oven test energy consumption.*

4.1.1.1 *Conventional electric oven test energy consumption.* For a conventional electric oven, calculate the test energy consumption, E_O, with the aid of the figure in 5 of this Appendix, expressed in watt-hours, and corresponding to T_O and defined a s:

$$E_O = E_{AB} + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times (E_{CD} - E_{AB})\right]$$

where,

$$T_{AB} = \frac{T_A + T_B}{2}$$

$$T_{CD} = \frac{T_C + T_D}{2}$$

$$E_{AB} = \frac{E_A + E_B}{2}$$

$$E_{CD} = \frac{E_C + E_D}{2},$$

where

T_O = 234° F above the initial block temperature.

T_A = Block temperature at the end of the last "ON" period of the conventional oven before the test block reaches T_O.

E_A = Energy consumed in watt-hours at the end of the last "ON" period before the test block reaches T_O.

T_B = Block temperature at the beginning of the "ON" period following the measurement of T_A.

E_B = Energy consumed in watt-hours at the beginning of the "ON" period following the measurement of T_A.
T_C = Block temperature at the end of the "ON" period which starts with T_B.
E_C = Energy consumed in watt-hours at the end of the "ON" period which starts with T_B.
T_D = Block temperature at the beginning of the "ON" period which follows the measurement of T_C.
E_D = Energy consumed in watt-hours at the beginning of the "ON" period which follows the measurement of T_C.

4.1.1.2 *Conventional gas oven test energy consumption.* For a conventional gas oven, calculate the gas test energy consumption, E_O, with the aid of the figure in 5 of this Appendix, expressed in Btu's and corresponding to T_O and defined as:

$$E_O = (E_{AB} \times H) + \left[\left(\frac{T_O - T_{AB}}{T_{CD} - T_{AB}}\right) \times (E_{CD} - E_{AB}) \times H\right],$$

where

H = Either H_n or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot.

$$T_{AB} = \frac{T_A + T_B}{2}$$

$$T_{CD} = \frac{T_C + T_D}{2}$$

$$E_{AB} = \frac{E_A + E_B}{2}$$

$$E_{CD} = E_C + E_D,$$

where

T_O = 234° F above the intial block temperature.
T_A = Block temperature at the end of the last "ON" period of the conventional oven before the test block reaches T_O.
E_A = Volume of gas consumed in standard cubic feet at the end of the last "ON" period before the test block reaches T_O.
T_B = Block temperature at the beginning of the "ON" period following the measurement of T_A.
E_B = Volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period following the measurement T_A.
T_C = Block temperature at the end of the "ON" period which starts with T_B.
E_C = Volume of gas consumed in standard cubic feet of gas at the end of the "ON" period which starts with T_B.
T_D = Block temperature at the beginning of the "ON" period which follows the measurement of T_C.
E_D = Volume of gas consumed in standard cubic feet of gas at the beginning of the "ON" period which follows the measurement of T_C.

4.1.1.3 *Average test energy consumption.* If the conventional oven can be operated in more than one baking mode, such as with and without forced convection, determine the average test energy consumption, E_O and E_{IO}, using the following equations:

$$E_O = \frac{1}{n} \sum_{i=1}^{n} (E_O)_i$$

$$E_{IO} = \frac{1}{n} \sum_{i=1}^{n} (E_{IO})_i,$$

where

n = Number of modes in which the oven was tested.
E_O = Test energy consumption in each baking mode as determined in 4.1.1.
E_{IO} = Electrical energy consumption of a gas oven in each baking mode as measured in 3.2.1.

4.1.2 *Conventional oven annual energy consumption.*
4.1.2.1. *Annual cooking energy.*
4.1.2.1.1. *Annual primary cooking energy.* Calculate the annual primary energy consumption for cooking, E_{CO}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$$E_{CO} = \frac{E_O \times H_E \times O_a}{W_1 \times C_p \times T}$$

E_O = Test energy consumption as calculated in 4.1.1.1 or 4.1.1.3.
H_E = 3.412, conversion factor for watt-hours to Btu's.
O_a = 47.09 kWh's, annual useful cooking energy output of conventional electric oven.
W_1 = Measured weight of test block in pounds.
C_p = 0.23 Btu/lb-° F, specific heat of test block.
T = 234° F, temperature rise of test block.

or,

$$E_{CO} = \frac{E_O \times O_a}{W_1 \times C_p \times T}$$

for gas ovens, where

E_{GO} = Test energy consumption as calculated in 4.1.1.2 or 4.1.1.3.
O_a = 160,700 Btu's, annual useful cooking energy output of conventional gas oven.
W_1, C_p, and T are the same as defined above.

4.1.2.1.2 *Annual secondary cooking energy for gas ovens.* Calculate the annual secondary energy consumption for cooking, E_{SO}, expressed in kilowatt-hours and defined as:

$$E_{SO} = \frac{E_{IO} \times O_a}{W_1 \times C_p \times T},$$

where

E_{IO} = Electrical test energy consumption according to 3.2.1 or as calculated in 4.1.1.3.
O_a = 47.09 kWh's, annual useful cooking energy output.
W_1, C_p, and T are as defined in 4.1.2.1.1.

4.1.2.2 *Annual energy consumption of any continuously burning pilot lights.* Calculate the annual energy consumption of any continuously burning pilot lights, E_{PO}, expressed in Btu's and defined as:

$$E_{PO} = \frac{P_o \times H}{L_o} (A - B),$$

where

P_o = Cubic feet of gas consumed by any continuously burning pilot lights as determined in 3.2.1.2.
$H = H_n$ or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.
L_o = Elapsed test time in hours for any continuously burning pilot lights tested.
A = 8,760, number of hours in a year.
B = 300, number of hours any continuously burning pilot lights contribute to the heating of an oven for cooking food.

4.1.2.3 *Annual conventional oven self-cleaning energy.*

4.1.2.3.1 *Primary energy.* Calculate the annual primary energy consumption for conventional oven self-cleaning operations, E_{SC}, expressed in kilowatt-hours for electric ovens and in Btu's for gas ovens, and defined as:

$E_{SC} = E_S \times S_s \times C$, for electric ovens,

where

E_S = Energy consumption in watt-hours as measured in 3.2.1.1.
S_s = 11, average number of times a self-cleaning operation of a conventional electric oven is used per year.
C = .001 W/kW conversion factor of watts to kilowatts.

or

$E_{SC} = E_S \times H \times S_s$, for gas ovens,

where

E_S = Energy consumption in cubic feet of gas per oven tested according to 3.2.1.1.
$H = H_n$ or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3 in Btu's per standard cubic foot.
S_s = 7, average number of times a self-cleaning operation of a conventional gas oven is used per year.

4.1.2.3.2 *Secondary self-cleaning energy for gas ovens.* Calculate the annual secondary energy consumption for self-cleaning operations of a gas oven, E_{SS}, expressed in kilowatt-hours and defined as:

$$E_{SS} = E_{IS} \times S_s \times C,$$

where

E_{IS} = Electrical energy consumed during the self-cleaning operation of a conventional gas oven, as measured in 3.2.1.1.
S_s and C are the same as defined in 4.1.2.5.1.

4.1.2.4 *Annual clock energy consumption.* Calculate the annual energy consumption of any constantly operating electric clock, E_{CL}, expressed in kilowatt-hours and defined as:

$$E_{CL} = PR \times KH,$$

where

PR = Power rating, in watts, of clock which is on continuously.
KH = 8.76, thousands of hours in a year.

4.1.2.5 *Total annual energy consumption of a single conventional oven.*

4.1.2.5.1 *Conventional electric oven.* Calculate the total annual energy consumption of a conventional electric oven, E_{AO}, expressed in kilowatt-hours and defined as:

$$E_{AO} = E_{CO} + E_{SC} + E_{CL},$$

where

E_{CO} = Annual cooking energy consumption as determined in 4.1.2.1.1.
E_{SC} = Annual self-cleaning energy consumption as determined in 4.1.2.3.1.
E_{CL} = Annual clock energy consumption as determined in 4.1.2.4.

4.1.2.5.2 *Conventional gas oven.* Calculate the total annual gas energy consumption of a conventional gas oven, E_{AOG}, expressed in Btu's and defined as:

$$E_{AOG} = E_{CO} + E_{PO} + E_{SC},$$

where

E_{CO} = Annual primary cooking energy consumption as determined in 4.1.2.1.1.
E_{PO} = Annual pilot energy consumption as determined in 4.1.2.2.
E_{SC} = Annual primary self-cleaning energy consumption as determined in 4.1.2.3.1.

If the conventional gas oven uses electrical energy, calculate the total annual electrical energy consumption, E_{AOE}, expressed in kilowatt-hours, and defined as:

$$E_{AOE} = E_{SO} + E_{SS} + E_{CL},$$

where

E_{SO} = Annual secondary cooking energy consumption as determined in 4.1.2.1.2.
E_{SS} = Annual secondary self-cleaning energy consumption as determined in 4.1.2.3.2.
E_{CL} = Annual clock energy consumption as determined in 4.1.2.4.

The total annual energy consumption of a conventional gas oven, E_{AO}, is comprised of E_{AOG}, expressed in Btu's, and E_{AOE}, expressed in kilowatt-hours, as computed above.

4.1.2.6 *Total annual energy consumption of multiple conventional ovens.* If the basic model of the conventional range, microwave/conventional range, or conventional oven includes more than one conventional oven, calculate the total annual energy consumption for all of the conventional ovens in the basic model, E_{TO}, expressed in kilowatt-hours per year for electrical energy and in Btu's per year for gas energy, with the following equation:

$$E_{TO} = E_{ACO} + E_{ASO} + E_{TPO} + E_{SC} + E_{SS} + E_{CL},$$

where gas and electrical energy are summed separately and where,

$$E_{ACO} = \frac{1}{n} \sum_{i=1}^{n} (E_{CO})_i,$$

average annual primary energy consumption for cooking, where

n = Number of conventional ovens in the basic model.
E_{CO} = Annual primary energy consumption for cooking as determined in 4.1.2.1.1.

$$E_{ASO} = \frac{1}{n} \sum_{i=1}^{n} (E_{SO})_i,$$

average annual secondary energy consumption for cooking, where

n = Number of conventional ovens in the basic model.
E_{SO} = Annual secondary energy consumption for cooking as determined in 4.1.2.1.2.

$$E_{TPO} = \sum_{i=1}^{n}$$

total annual energy consumption, of any pilot lights, where

E_{PO} = Annual energy consumption of any continuously burning pilot lights determined according to 4.1.2.2.

E_{SC}, E_{SS}, and E_{CL} are defined in 4.1.2.3.1, 4.1.2.3.2, and 4.1.2.4 respectively.

4.1.3 *Conventional oven cooking efficiency.*
4.1.3.1 *Cooking efficiency of a single conventional oven.* Calculate the conventional oven cooking efficiency, Eff_{AO}, using the following equations:
For electric ovens;

$$Eff_{AO} = \frac{O_a}{E_{CO}},$$

where

O_a = 47.09 kWh, annual useful cooking energy output.
E_{CO} = Annual cooking energy consumption as determined in 4.1.2.1.1.

For gas ovens;

$$Eff_{AO} = \frac{O_a}{I_a},$$

where

O_a = 160,700 Btu, annual useful cooking energy output.
I_a = Annual energy consumption for cooking = $E_{CO} + (E_{SO} \times H_E)$, where
E_{CO} = Annual primary energy consumption for cooking as determined in 4.1.2.1.1.
E_{SO} = Annual secondary energy consumption for cooking as determined in 4.1.2.1.2.
H_E = 3.412 Btu/kWh, conversion factor for kilowatt-hours to Btu's.

4.1.3.2 *Cooking efficiency of multiple conventional ovens.* If the basic model of the conventional range, micro-wave/conventional range, or conventional oven includes more than one conventional oven, calculate the cooking efficiency for all of the ovens Eff_{TO}, using the following equations:

$$Eff_{TO}=\frac{O_s}{E_{ACO}},$$

for electric ovens, where

O_s=47.09 kWh's per year, annual useful cooking energy output.

$$E_{ACO}=\frac{1}{n}\sum_{i=1}^{n}(E_{CO})_i,$$

the average annual cooking energy consumption, where

n=Number of conventional ovens in the basic model.

E_{CO}=Annual energy required for cooking for each oven as determined according to 4.1.2.1.1.

or,

$$Eff_{TO}=\frac{O_s}{I_{TO}}$$

for gas ovens, where

O_s=160,700 Btu's per year, annual useful cooking energy output.

$$I_{TO}=\frac{1}{n}\sum_{i=1}^{n}(I_o)_i,$$

the average annual energy consumption for cooking, where

n=Number of gas ovens in the basic model.

I_o=Annual energy consumption for cooking of each oven as determined according to 4.1.3.1.

4.1.4 *Energy factor for conventional ovens.*

4.1.4.1 *Energy factor of a single conventional oven.* Calculate the energy factor, or the ratio of useful cooking energy output to the total energy input, R_O, using the following equations:

For electric ovens,

$$R_O=\frac{O_s}{E_{AO}},$$

where

O_s=47.09 kWh's per year, annual useful cooking energy output.

E_{AO}=Total annual energy consumption as determined in 4.1.2.5.1.

For gas ovens,

$$R_O=\frac{O_s}{E_{AOG}+(E_{AOR}\times H_s)},$$

where

O_s=160,700 Btu's per year, annual useful cooking energy output.

E_{AOG}=Total annual gas energy consumption as determined in 4.1.2.5.2.

E_{AOR}=Total annual electrical energy consumption as determined in 4.1.2.5.2.

H_s=3,412 Btu per kWh, conversion factor for kilowatt-hours to Btu's.

4.1.4.2 *Energy factor for multiple conventional ovens.* If the basic model of the conventional range, microwave/conventional range, or conventional oven includes more than one conventional oven, calculate the energy factor for all of the ovens, R_{TO}, using the following equations:

For electric ovens,

$$R_{TO}=\frac{O_s}{E_{TO}},$$

where

O_s=47.09 kWh's per year, annual useful cooking energy output.

E_{TO}=Total energy consumption as determined according to 4.1.2.6.

For gas ovens,

$$R_{TO}=\frac{O_s}{E_{ACO}+E_{TFO}+E_{SC}+(E_{ASO}+E_{SS}+E_{CL})\times H_s},$$

where

O_s=160,700 Btu's per year, annual useful cooking energy output.

H_s=3,412 Btu/kWh, conversion factor for kilowatt-hours to Btu's.

E_{ACO}, E_{TFO}, and E_{ASO} as defined in 4.1.2.6.

E_{SC}, E_{SS}, and E_{CL} as defined in 4.1.2.3, 4.1.2.3.2, and 4.1.2.4 respectively.

4.2 *Conventional cooking top.*

4.2.1 *Conventional cooking top cooking efficiency.*

4.2.1.1 *Electric heating element cooking efficiency.* Calculate the cooking efficiency, Eff_{ES}, of the electric heating element under test, and defined as:

$$Eff_{ES}=W\times C_p\times\frac{T_{rs}}{H_R\times E_{CT}},$$

where

W=Measured weight of test block, W_2 or W_3, expressed in pounds.

C_p=Specific heat of aluminum: 0.23 Btu's/lb-°F.

T_{rs}=Temperature rise of the test block: final test block temperature, T_{CT}, as determined in 3.2.2, minus the initilatest block temperature, T_I, expressed in °F.

H_R=3.412 Btu's/wh, conversion factor of watt-hours to Btu's.

E_{CT}=Measured energy consumption, as determined according to 3.2.2, expressed in watt-hours.

4.2.1.1.1 *Conventional electric cooking top cooking efficiency.* Calculate the conventional electric cooking top cooking efficiency, Eff_{EC}, using the following equation:

$$Eff_{EC}=\frac{1}{n}\sum_{i=1}^{n}(Eff_{ES})_i,$$

where

n=Number of electric heating elements contained in the cooking top.

Eff_{ES}=The efficiency of each of the electric heating elements, as determined according to 4.2.1.1.

4.2.1.2 *Gas heating element cooking efficiency.* Calculate the cooking efficiency, Eff_{GS}, of the gas heating element under test, and defined as:

$$Eff_{GS}=\frac{W_3\times C_p\times T_{rs}}{E},$$

where

W_3=Measured weight of test block according to 3.3.2, expressed in pounds.

C_p=Specific heat of aluminum, 0.23 Btu's/lb=°F.

T_{rs}=Temperature rise of the test block: Final test temperature, T_{CT}, as determined in 3.2.2, minus the initial test block temperature, T_I, expressed in °F.

$$E=[(E_{CT}-E_{CP})\times H]+(E_{IC}\times H_E),$$

where

E_{CT}=Energy consumption for the gas heating element as defined in 3.2.2.

E_{IC}=Electrical energy consumed by an ignition device of a gas heating element.

H_E=Conversion factor of watt-hours to Btu's (3.412 Btu's/wh).

H=Either H_n or H_p, the value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.

$E_{CP}=P\times T_P$, (pilot consumption, in standard cubic feet, during unit test) where

$$P=\frac{P_c}{L_t},$$

(pilot flow in standard cubic feet per hour)

where

P_c=Any pilot lights gas consumption defined in 3.2.2.1.

L_t=Elapsed time of the cooking top pilot lights test as defined in 3.1.2.1.

T_P=The elapsed test time as defined in 3.2.2.

4.2.1.2.1 *Conventional gas cooking top cooking efficiency.* Calculate the cooking efficiency, Eff_{GC}, of a conventional gas cooking top using the following equation:

$$Eff_{GC}=\frac{1}{n}\sum_{i=1}^{n}(Eff_{GS})_i,$$

where

n=Number of gas heating elements contained in the cooking top.

Eff_{GS}=The efficiency of each gas heating element as determined according to 4.2.1.2.

4.2.2 *Conventional cooking top annual energy consumption.*

4.2.2.1 *Annual energy consumption of an electric cooking top.* Calculate the annual energy consumption of an electric cooking top, E_{CA}, in kilowatt-hours per year and defined as:

$$E_{CA}=\frac{O_{CT}}{Eff_{EC}},$$

where

O_{CT}=277.7 kWh per year, annual useful Cooking energy output.

Eff_{EC}=Conventional cooking top cooking efficiency as defined in 4.2.1.1.1.

4.2.2.2 *Annual energy consumption of a gas cooking top.*

4.2.2.2.1 *Annual energy consumption for cooking.* Calculate the annual energy consumption for cooking, E_{cc}, in Btu's per year for a gas cooking top and defined as:

$$E_{cc}=\frac{O_{CT}}{Eff_{GC}},$$

where

O_{CT}=948,000 Btu's, annual useful cooking energy output.

Eff_{GC}=The gas cooking top efficiency as defined in 4.2.1.2.1.

4.2.2.2.2 *Annual energy consumption of any continuously burning gas pilot lights.* Calculate the annual energy consumption of any continuously burning gas pilot lights of the cooking top, E_{pc}, in Btu's per year and defined as:

$$E_{pc}=P\times A\times H,$$

where

P=Pilot light flow rate as defined in 4.2.1.2.

A=The total number of hours in a year (8,760 hours).

H=Either H_n or H_p, the heating value of the gas used in the test as specified in 2.2.2.2 and 2.2.2.3, expressed in Btu's per standard cubic foot of gas.

4.2.2.2.3 *Total annual energy consumption of a conventional gas cooking top.* Calculate the total annual energy consumption of a conventional gas cooking top, E_{CA}, in Btu's per year and defined as:

$$E_{CA}=E_{cc}+E_{pc},$$

where

E_{cc}=Energy consumption for cooking as determined in 4.2.2.2.1.

E_{pc}=Annual energy consumption of the pilot lights as determined in 4.2.2.2.2.

4.2.3 *Conventional cooking top energy factor.* Calculate the energy factor, or ratio of useful cooking energy output for cooking to the total energy input, R_{CT}, as follows:

For an electric cooking top the energy factor is the same as the cooking efficiency as determined according to 4.2.1.1.1.

For gas cooking tops,

$$R_{CT}=\frac{O_{CT}}{E_{CA}},$$

where

O_{CT}=948,000 Btu's per year, annual useful cooking energy output of cooking top.

E_{CA}=Total annual energy consumption of cooking top determined according to 4.2.2.2.3.

4.3 *Conventional range.*

4.3.1 *Conventional range annual energy consumption.* Calculate the conventional range annual energy consumption, E_R, in kWh's per year for electrical energy and Btu's per year for gas energy, and defined as:

$$E_R=E_{AO}+E_{CA},$$

where gas and electrical energy are added separately, and where

E_{AO}=The conventional oven annual energy consumption in kWh's per year and or Btu's per year as determined in 4.1.2.5 or 4.1.2.6.

E_{CA}=The conventional cooking top annual energy consumption in kWh's per year or Btu's per year as defined in 4.2.2.

4.3.2 *Conventional range cooking efficiency.* Calculate the conventional range cooking efficiency, Eff_R and defined as the ratio of the annual useful energy output divided by the annual energy input required for cooking.

For an electric range,

$$Eff_R=\frac{O_R}{E_{CO}+E_{CA}},$$

where

O_R=324.8 kWh per year, annual useful cooking energy output.

E_{CO}=Annual oven energy consumption determined according to 4.1.2.1.1.

E_{CA}=Annual cooking top energy consumption determined according to 4.2.2.1.

For a gas range which does not use electric ignition,

$$Eff_R=\frac{O_R}{E_{CC}+E_{CO}},$$

where

O_R=1,109,000 Btu's per year, annual useful cooking energy output.

E_{CO}=As defined above.

E_{CC}=Annual energy consumption for cooking of gas cooking top as determined in 4.2.2.2.1.

For a conventional range which uses both gas and electrical energy:

$$Eff_R=\frac{O_R}{E_{CC}+E_{CO}+(E_{SO}\times H_s)},$$

where

O_R=1,109,000 Btu's per year, annual useful cooking energy output.

E_{CC}=Annual cooking top energy consumption for cooking determined according to 4.2.2.2.1.

E_{CO}=Annual oven primary energy consumption determined according to 4.1.2.1.1 and expressed in Btu's per year. For an electric oven multiply the consumption in kilowatt-hours per year by 3,412 (Btu's per kWh).

E_{SO}=Annual secondary energy consumption determined according to 4.1.2.1.2.
H_r=3,412 Btu's per kWh, conversion factor for kilowatt-hours to Btu's.

4.3.3 *Energy factor for conventional range.* Calculate the energy factor, or the ratio of the useful cooking energy output to the total energy input on a yearly basis for the complete range, R_R, and defined as:

$$R_R=\frac{O_R}{E_R},$$

where
O_R=1,109,000 Btu's, annual useful cooking energy output.
E_R=Total annual energy consumption as determined in 4.3.1 and with all values for electrical energy converted from kilowatt-hours to Btu's by multiplying by 3,412, Btu's per kWh.

4.4 *Microwave oven.*

4.4.1 *Microwave power output.* Calculate, for each test load, i, the microwave power output, MP_O, expressed in watts, and defined as:

$$(MP_O)_i=\frac{W_i\times F\times DT_i}{t_i},$$

where
W_i=Size of the test load, in milliliters (ml).
$DT_i=T_{Fi}-T_{Ii}$
where
T_{Fi}=The final temperature expressed in °F of the test load as defined in 3.2.3.
T_{Ii}=The initial temperature expressed in °F of the test load as defined in 3.2.3.
F=2.32 Watt-sec/Ml-°F (conversion factor used to convert milliliter-degrees Fahrenheit to watt-seconds).
t_i=The elasped test time, in seconds, as defined in 3.2.3.
i=Each test load.

4.4.2 *Specific microwave oven cooking efficiency for each test load.* Calculate the specific microwave oven cooking efficiency, e_i, for each test load (i), and defined as:

$$e_i=\frac{(MP_O)_i}{E_i}\times\frac{t_i}{S},$$

where
S=3,600 seconds (the number of seconds in one hour).
$(MP_O)_i$=The microwave power output in watts as defined in 4.4.1.
E_i=The energy consumption as defined in 3.2.3.
t_i=The elasped test time as defined in 3.2.3.
i=Each test load.

4.4.3 *Microwave oven cooking efficiency.* Calculate the microwave oven cooking efficiency, $e_{(ave)}$, and defined as:

$$e_{(ave)}=\frac{1}{m}\sum_{i=1}^{m}e_i$$

m=4 (the number of test loads).
e_i=The specific microwave cooking efficiency as defined in 4.4.2.

4.4.4 *Microwave oven annual energy consumption.* Calculate the microwave oven annual energy consumption, E_{MO}, in kWh's per year, and defined as:

$$E_{MO}=\frac{MO}{e_{(ave)}}+(PR\times KH),$$

where
MO=34.2 kWh's per year, the microwave oven annual useful cooking energy output.
$e_{(ave)}$=The microwave oven rated efficiency as defined in 4.4.3.
PR=The power rating of features (such as clocks), expressed in watts. The power rating is the power drawn from the electrical supply when the microwave oven is turned off.
KH=8.76, the number of thousand hours in a year.

4.4.5 *Energy factor for microwave oven.* Calculate the energy factor or the ratio of the useful cooking energy output to total energy input on a yearly basis, R_{MO}, and defined as:

$$R_{MO}=\frac{MO}{E_{MO}},$$

where
MO=34.2 kWh, annual useful cooking energy output.
E_{MO}=Annual total energy input as determined in 4.4.4.

4.5 *Microwave/conventional range.*

4.5.1 *Annual energy consumption.*

4.5.1.1 *Annual energy consumption of the conventional oven.*

4.5.1.1.1 *Annual primary energy consumption for cooking.* Calculate the annual primary energy consumption for cooking of a conventional oven in combination with a microwave oven, E_{COM}, expressed in Btu's for gas ovens and in kilowatt-hours for electric ovens, with the following equation:

$$E_{COM}=K\times E_{CO},$$

where
K=0.8196, estimated fraction of usage for a conventional oven due to microwave oven usage.
E_{CO}=Energy consumption as calculated in 4.1.2.1.1.

4.5.1.1.2 *Annual secondary energy consumption for gas ovens.* Calculate the annual secondary energy consumption for cooking of a gas oven in combination with a microwave oven, E_{SOM}, expressed in kilowatt-hours, with the following equation:

$$E_{SOM}=K\times E_{SO},$$

where
K=.8196, as defined in 4.5.1.1.1.
E_{SO}=Energy consumption as calculated in 4.1.2.1.2.

4.5.1.2 *Annual energy consumption of the cooking top.* Calculate the annual energy consumption of a cooking top in combination with a microwave oven, E_{CAM}, expressed in kilowatt-hours for an electric cooking top and in Btu's for a gas cooking top, with the following equations:
For electric cooking top:

$$E_{CAM}=L\times E_{CA},$$

where
L=0.9076, estimated fraction of usage for a conventional cooking top due to microwave oven usage.
E_{CA}=Energy consumption as calculated in 4.2.2.
For gas cooking tops:

$$E_{CAM}=\left(\frac{L\times O_{CT}}{Eff_{GC}}\right)+(A\times P\times H).$$

where O_{CT}, A, P, H, and Eff_{GC} as defined in 4.2.1.2.1.2.

4.5.1.3 *Total annual energy consumption.* Calculate the total annual energy consumption of a microwave/conventional range, E_{RM}, expressed in kilowatt-hours per year for electrical energy and in Btu's per year for gas energy, with the following equation:

$$E_{RM}=E_{COM}+E_{SOM}+E_{PO}+E_{SC}+E_{SS}+E_{CL}+E_{CAM}+E_{MO},$$

where gas and electrical energy are added separately and where
E_{COM}=Primary energy consumption for cooking as determined in 4.5.1.1.1.
E_{SOM}=Secondary energy consumption for cooking as determined in 4.5.1.1.2.
E_{PO}=Gas pilot energy consumption as determined in 4.1.2.2.
E_{SC}=Primary energy consumption for self-cleaning, as determined in 4.1.2.3.1.
E_{SS}=Secondary energy consumption for self-cleaning as determined in 4.1.2.3.2.
E_{CL}=Clock energy consumption as determined in 4.1.2.4.
E_{CAM}=Cooking top energy consumption as determined in 4.5.1.2.
E_{MO}=Microwave oven energy consumption as determined in 4.4.4.

4.5.2 *Cooking efficiency of microwave/conventional range.* Calculate the cooking efficiency of a microwave/conventional range, Eff_{RM}, and defined as:
For an all electric range;

$$Eff_{RM}=\frac{O_{RM}}{E_{COM}+E_{CAM}+E_{MO}-(PR\times KH)},$$

where
O_{RM}=324.8 kWh per year, annual useful cooking energy output.
PR and KH as defined in 4.4.4.
E_{COM}, E_{CAM}, and E_{MO} as defined in 4.5.1.3.
For a range which uses both gas and electrical energy,

$$Eff_{RM}=\frac{O_{RM}}{E_{COM}+E_{CAM}-E_{pc}+[(E_{SOM}+E_{MO})\times H_r]},$$

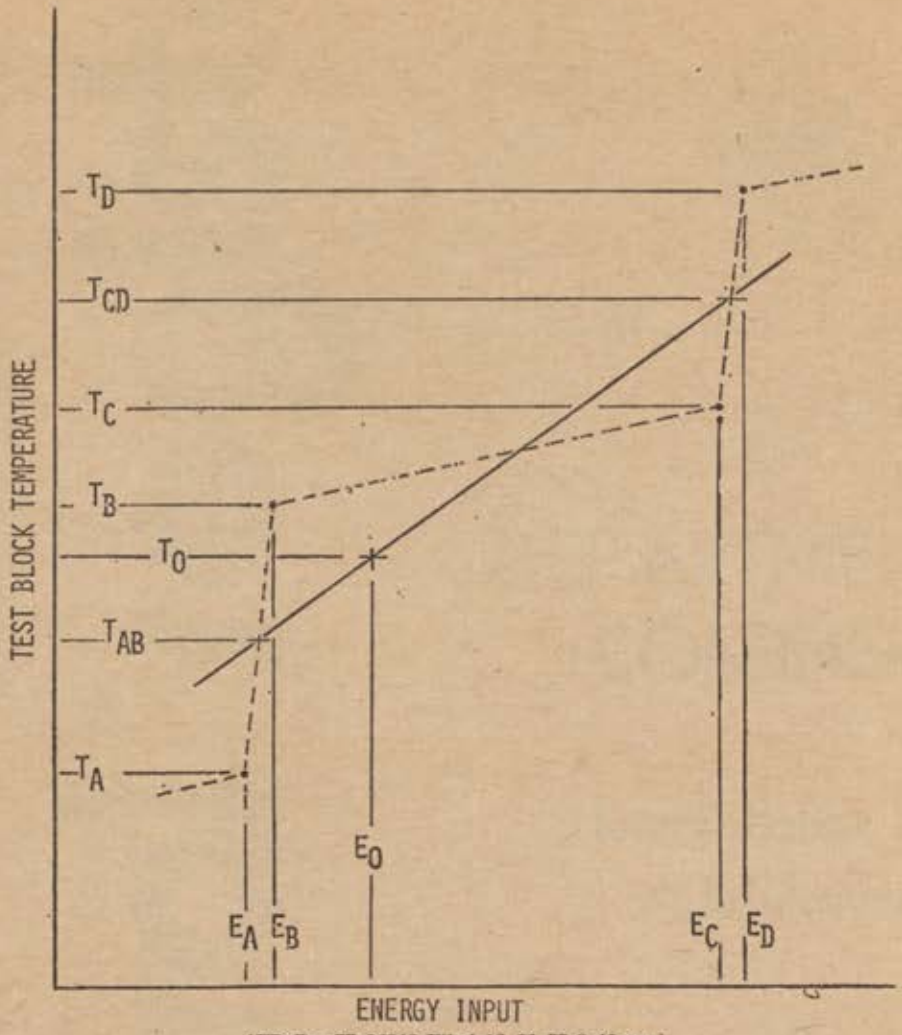
where
O_{RM}=1,109,000 Btu per year, annual useful cooking energy output.
E_{COM}=Primary energy consumption for cooking determined in 4.5.1.1.1 and expressed in Btu's/year.
E_{CAM}=Cooking top energy consumption determined in 4.5.1.2 and expressed in Btu's per year.
H_r=3412, conversion factor for kilowatt-hours to Btu's.
E_{pc}=Cooking top pilot energy consumption as determined in 4.2.2.2.2.
E_{SOM} and E_{MO}, as in 4.5.1.3.

4.5.3 *Energy factor of microwave/conventional range.* Calculate the energy factor of a microwave/conventional range, R_{RM}, and defined as:
where

$$R_{RM}=\frac{O_{RM}}{(E_{RME}\times H_r)+E_{RMG}},$$

O_{RM}=1,109,000 Btu, annual useful cooking energy output.
E_{RME}=Total annual electrical energy consumption determined from the terms given in 4.5.1.3.
E_{RMG}=Total annual gas energy consumption determined from the terms given in 4.5.1.3.
H_r=3412, conversion factor for kilowatt-hours to Btu's.

5. ILLUSTRATION OF OVEN TEST DATA



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federal register

FRIDAY, DECEMBER 30, 1977
PART XII

DEPARTMENT OF COMMERCE

International Trade Administration

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RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

Proposed Rulemaking

[3510-25]

DEPARTMENT OF COMMERCE

International Trade Administration

[15 CFR Part 369]

RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

Proposed Rulemaking

AGENCY: Industry and Trade Administration, Department of Commerce.

ACTION: Proposed rulemaking.

SUMMARY: The agency proposes to amend the Restrictive Trade Practices or Boycotts part of the Export Administration Regulations (Part 369, Title 15, Code of Federal Regulations). The proposed changes are being made to implement the reporting requirements of Title II of the Export Administration Amendments of 1977 (Pub. 95-52), signed into law on June 22, 1977. In addition, the proposed changes would institute a procedure whereby the Department would issue "interpretive letters" regarding Part 369.

DATES: Comments must be received by the Department before noon, January 30, 1978.

ADDRESSES: Written comments (six copies when possible) should be sent to: U.S. Department of Commerce, Post Office Box 320, Benjamin Franklin Station, Washington, D.C. 20044.

ORAL COMMUNICATIONS: Oral communications or requests for further information should be directed to:

Vincent J. Rocque, Bureau of Trade Regulation, 202-377-3775, or Kent N. Knowles, Deputy Assistant General Counsel for Industry and Trade, 202-377-5301.

SUPPLEMENTARY INFORMATION: The promulgation of these boycott regulations is exempt from Administrative Procedure Act rulemaking procedures. However, because of the importance and complexity of the issues, the Department continues to invite public participation in their development. All persons who desire to comment are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format. The Department is particularly interested in receiving the views of interested persons concerning the time for filing boycott reports and the feasibility of multiple transaction reporting.

The comment period for submission of comments on these proposed regulations will close at noon, January 30, 1978. Comments (whether written or oral) received by the Department after July 13, 1977, the publication date of the Department's original notice of proposed rulemaking in this matter (42 FR 36007), will be considered in the development of these regulations. However, no comments received after the close of the comment period will be accepted or considered by the Department.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations.

All public comments to be considered in the development of these boycott regulations will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments. In the interests of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

The public record concerning these boycott regulations will be maintained in the Industry and Trade Administration, Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202-377-3031.

On September 20, 1977, proposed regulations were issued to implement the substantive provisions of Title II of the Export Administration Amendments of 1977. Those regulations were published in the FEDERAL REGISTER on September 23, 1977 (42 FR 48555). The Department expects to issue final substantive regulations by January 18, 1978, after considering the comments received before the comment period closed on November 21, 1977. It is anticipated that these regulations will be published as Sections 369.1, 369.2, 369.3, 369.4 and 369.5 of Part 369 of Title 15 of the Code of Federal Regulations. Final regulations on reporting requirements and interpretive letters will be issued as soon as practicable after the comment period closes on January 30, 1978. Regulations dealing with the public availability of charging letters or other documents initiating administrative proceedings for the imposition of penalties, and regulations setting forth procedures for imposing administrative sanctions in accordance with the provisions of Section 6(c)(2)(B) of the Export Administration Act of 1969, as amended by Pub. L. 95-52, will be issued at a later date.

In consideration of the foregoing, section 369.4 of Title 15 of the Code of Federal Regulations is proposed to be revised as set forth below and designated section 369.6. A new section 369.7 is also proposed to be added.

The relevant provisions of the Export Administration Act of 1969, as amended by Pub. L. 95-52, are set forth below for the convenience of interested persons.

Issued in Washington, D.C. on December 22, 1977.

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

Provisions of the Export Administration Act of 1969, as Amended [1] Relating to Foreign Boycotts

AN ACT

To provide for continuation of authority for regulation of exports

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This act may be cited as the "Export Administration Act of 1969."

* * * * *

DECLARATION OF POLICY

SEC. 3. The Congress makes the following declarations:

* * * * *

(5) It is the policy of the United States (A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States *or against any United States person, (B) to encourage and, in specified cases, to require United States persons engaged in the export of articles, materials, supplies, or information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person,* (C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

* * * * *

[*Reporting*]

Sec. 4(A)(b)(2) *Such rules and regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that fact to the Secretary of Commerce, together with such other information concerning such request as the Secretary may require for such action as he may deem appropriate for carrying out the policies of that section. Such person shall also report to the Secretary of Commerce whether he intends to comply and whether he has complied with such request. Any report filed pursuant to this paragraph after the date of enactment of this section shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any articles, materials, and supplies, including technical data and other information, to*

[1] Portions of the Act appearing in italic letters indicate the amendments made by Pub. L. 95-52, "Export Administration Amendments of 1977."

which such report relates may be kept confidential if the Secretary determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Secretary of Commerce shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies set forth in section 3(5) of this act.

* * * * *

ENFORCEMENT

* * * * *

Sec. 7(d) In the administration of this act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. * * *

§ 369.0 Reporting Requirements.

(a) Scope of Reporting Requirements:

(1) A United States person who receives a request to take any action which has the effect of furthering or supporting a restrictive trade practice or boycott fostered or imposed by a foreign country against a country friendly to the United States or against any United States person must report such request to the Department of Commerce in accordance with the requirements of this Section. Such a request may be either written or oral and may include a request to furnish information or enter into or implement an agreement. Such a request shall be reported regardless of whether the action requested is prohibited or permissible under this Part.

(2) For purposes of this Part, a person receives a reportable request if:

(i) The request calls for action on his part in connection with contemplated business with or in a boycotting country, and

(ii) He knows or has reason to know that the purpose of the request is to enforce, implement or otherwise further or support a foreign boycott or restrictive trade practice.

(3) A person who takes action to comply with an anticipated boycott request must report such action, as if a request had actually been received. Such action includes answering questionnaires, furnishing certificates of origin, or furnishing certifications or statements as to any person's identity or qualification to do business, in circumstances where the person taking such action expects or can reasonably expect that a request for such action would otherwise be forthcoming.

(4) These reporting requirements apply whether the person receiving the request or taking the action is an exporter, bank or other financial institution, insurer, freight forwarder, manufacturer, or any other person subject to this Part. The requirements also apply to a foreign subsidiary, affiliate, or branch office which is controlled in fact by any domestic concern, as determined under this Part, when such foreign subsidiary, affiliate, or branch office receives a request, or takes an action in anticipation of such request, in connection with an activity in the interstate or foreign commerce of the United States. Such entities shall also report receipt of all information requests, such as boycott questionnaires, where the purpose of the request is to qualify the recipient to do business with or in a boycotting country since some of such business may be in United States commerce.

(5) A person who acquires information about a boycotting country's boycott requirements through the receipt of books, pamphlets, legal texts, exporters' guidebooks and other similar publications does not receive a reportable request for purposes of this Section unless he knows or has reason to know that such information is sent for purposes of securing action in connection with contemplated business with or in a boycotting country. Similarly, because of their common use for non-boycott purposes and because of Congressional mandates to provide clear and precise guidelines in areas of inherent uncertainty as well as to minimize paperwork and reduce the cost of reporting (Export Administration Act of 1969, as amended, Section 7(d); Conference Report No. 95-354, 95th Congress, 1st Session, p. 29; Senate Report No. 95-104, 95th Congress, 1st Session, p. 37), the following are not reportable.

(i) A request to refrain from shipping goods on a carrier of a particular country;

(ii) A request to ship goods via a prescribed route;

(iii) A request to supply an affirmative statement or certification regarding the country of origin of goods;

(iv) A request to supply an affirmative statement or certification regarding the name of the supplier of a shipment;

(v) A request to comply with the laws of another country except where the request expressly requires compliance with that country's boycott laws;

(vi) A request to an individual from or on behalf of a boycotting country to supply information for visa or immigration purposes.

(b) Manner of Reporting:

(1) Each reportable request must be reported. However, if more than one document (such as an invitation to bid, purchase order, or letter of credit) containing the same boycott request is received as part of the same transaction, only the first such request need be reported. Individual shipments against the same purchase order or letter of credit are to be treated as part of the same transaction. Each different boycott request associated with a given transaction must be reported, regardless of how or when the request is received.

(2) Each person actually receiving a reportable request must report that request. However, such person may designate someone else to report on his behalf. For example, a U.S. company, if authorized, may report on behalf of its controlled foreign subsidiary, affiliate, or branch office; a freight forwarder, if authorized, may report on behalf of the exporter; and a bank, if authorized, may report on behalf of the beneficiary of a letter of credit.

(3) Where a person is designated to report on behalf of another, the person receiving the request remains liable for any failure to report or for any representations made on his behalf. Further, anyone reporting on behalf of another is not relieved of his own responsibility for reporting any boycott request which he receives, even if it is an identical request in connection with the same transaction.

(4) Reports must be submitted to the Bureau of Trade Regulation, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, and each submission must be postmarked by the last day of the calendar month following the calendar month in which the request was received or the action taken. At the reporting person's option, reports may be submitted on either a single transaction form (Attachment A) or on a multiple transaction form (Attachment B). Use of the multiple transaction form permits the reporting person to provide on one form all required information relating to reportable requests received or actions taken within any single calendar month.

(5) Reports, whether submitted on the single transaction form or on the multiple transaction form, must contain entries for every item on the form, including whether the reporting person intends to take or has taken the action requested. If the reporting person has not decided what action he will take by the time the report is required to be filed, he must later report the action he decides to take within 10 business days after deciding. In addition, anyone filing a report on behalf of another must so indicate and identify that other person.

(6) Each report of a boycott request must be accompanied by two copies of the relevant page(s) of any document(s) in which the request appears. Reports may also be accompanied by any additional information relating to the request as the reporting person desires to submit, including any statement which the reporting person desires to make concerning his response to the request.

(7) Records containing information relating to a report of a boycott request, including a copy of any document(s) in which the request appears, must be maintained by the reporting person for a three-year period after filing the report. The Department may require that these materials be submitted to it or that it have access to them at any time within that period.

(c) Disclosure of Information:

(1) Public disclosure of reports of boycott requests received or actions taken on or after June 22, 1977, is required pursuant to Section 4A(b)(2) of the Export Administration Act of 1969, as amended. Public disclosure of reports of requests received between October 7, 1976 and June 21, 1977 is required by Presidential directive.

(2) Reports, as well as any accompanying documents filed with the reports, will be made available for public inspection and copying. However, if the

person making the report certifies that he or anyone to whom the report relates would be placed at a competitive disadvantage because of the disclosure of information regarding the quantity, description, and value of any articles, materials, and supplies, including related technical data and other information, to which the report relates, such information, whether contained in a report or in any accompanying document(s), will not be disclosed unless the Secretary of Commerce determines that disclosure would not place the person involved at a competitive disadvantage or that it would be contrary to the national interest to withhold the information.

(3) Because the copies of any document(s) accompanying the report will also be made available for public inspection and copying, one copy should be submitted intact, and the other should be edited by the reporting entity to delete such of the above business information which it may deem proprietary. The latter copy should be conspicuously marked with the legend "Business Proprietary Information Deleted."

(4) Reports and accompanying documents which are available to the public for inspection and copying are located in the ITA Freedom of Information Records Inspection Facility, Room 3012, Department of Commerce, Washington, D.C. 20230. Requests to inspect such documents should be addressed to that facility.

(5) The Secretary of Commerce will periodically transmit summaries of the information contained in the report to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary of Commerce, may deem appropriate for carrying out the policies in Section 3(5) of the Export Administration Act of 1969, as amended.

EXAMPLES

The following examples are intended to give guidance in determining reportability. They are illustrative, not comprehensive.

(1) A, a U.S. manufacturing company, receives an order for tractors from boycotting country Y. Y's order specifies that the tires on the tractors be made by B, another U.S. company. To A's knowledge, Y has specified B as the tire supplier because otherwise A would have used tires made by C, a blacklisted company, and Y will not take shipment of tractors containing tires made by blacklisted companies.

A must report Y's request for tires made by B, because A knows that B was chosen for boycott reasons.

(2) Same as (1), except A knows that Y's request has nothing to do with the boycott but simply reflects Y's preference for tires made by B.

Y's request is not reportable because it is unrelated to Y's boycott.

(3) Same as (1), except A neither knows or has reason to know why Y has chosen B. Y's request is not reportable, because A neither knows nor has reason to know that Y's request is based on the boycott.

(4) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting country Y. A is a general contractor. After A supplies him with a list of competent subcontractors, A's customer instructs A to use subcontractor C, a U.S. company, on the project. A knows that C was chosen because, among other things, the other listed subcontractors are blacklisted.

The instruction to A by his customer that C be used on the project is a request to comply with the boycott and is reportable.

(5) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country P. A receives an order for washing machines from boycotting country Y. Y instructs A that a negative certificate of origin must accompany the shipment. The washing machines are made wholly in P, without U.S. components.

Y's instruction to A regarding the negative certificate of origin is a request to comply with Y's boycott but is not reportable because the transaction to which it relates is not in U.S. commerce.

(6) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country P. Unrelated to any transaction, A receives a general boycott questionnaire from boycotting country Y.

The receipt of the questionnaire is reportable by A. Under this Section, a boycott request received by a controlled foreign subsidiary is reportable if the transaction to which it relates is in U.S. commerce. Since a general boycott questionnaire is intended to qualify the recipient to do business with or in Y, some of which may be in U.S. commerce, its receipt is reportable.

(7) A, a U.S. freight forwarder, purchases an exporters' guidebook pertaining to the import requirements of boycotting country Y. The guidebook contains descriptions of actions which U.S. exporters must take in order to make delivery of goods to Y.

A's acquisition of the guidebook does not constitute receipt of a reportable request, because it does not call for action on his part.

(8) Same as (7), except that in arranging for the shipment of a U.S. company's goods to Y, A examines the guidebook, determines that a negative certificate of origin must accompany the goods, and secures or makes the necessary certification.

Since failure to supply the negative certification would normally trigger a request for such certification from Y's custom authorities, A's action in securing or making the negative certification is action in compliance with an anticipated boycott request and is, therefore, reportable.

(9) A, a U.S. freight forwarder, is arranging for the shipment of U.S. goods to boycotting country Y. A assumes no responsibility to insure that the necessary documentation accompanies the shipment. He merely transmits the documentation supplied by the manufacturer. Among the documents supplied by the manufacturer is a negative certificate of origin.

A's action in merely transmitting documents received from the manufacturer is not reportable, since A has received no request to comply with the boycott.

(10) Same as (9), except that the manufacturer fails to supply the required certificate of origin and A is subsequently asked by the steamship company to see to it that the certificate is supplied.

The request to A is reportable, because he is asked to take action to comply with Y's boycott by securing the necessary negative certificate of origin.

(11) A, a controlled foreign subsidiary of U.S. company B, is a resident of boycotting country Y. A is engaged in oil exploration and drilling operations in Y. In placing orders for drilling equipment to be shipped from the United States, A, in compliance with Y's laws, selects only those suppliers who are not blacklisted.

A's action in choosing non-blacklisted suppliers is not reportable, since A has neither received nor anticipates receiving a request to comply with the boycott in making these selections.

(12) A, a controlled foreign subsidiary of U.S. company B, is seeking permission to do business in boycotting country Y. Before being granted such permission, A is asked to sign an agreement to comply with Y's boycott laws.

The request to A is reportable, because it is a request that expressly requires compliance with Y's boycott laws, and some or all of A's contemplated business in Y may be in U.S. commerce.

(13) A, a U.S. company, is contemplating doing business in boycotting country Y. It writes to Y's Ministry of Economic Development and inquires about Y's requirements for qualifying to do business therein. Y responds by enclosing a boycott questionnaire which it asks A to complete. A decides not to complete the questionnaire and discards it.

A's receipt of the boycott questionnaire is reportable, because it was received in connection with A's contemplated business in Y.

(14) A, a U.S. bank, opens a letter of credit in favor of B, a U.S. company. The letter of credit calls for a negative certificate of origin. Before making payment to B, A insists that B supply a certificate of origin.

B must report A's request to B, and A must report receipt of the letter of credit containing the boycott condition, since both are being asked to take action which has the effect of furthering Y's boycott.

§ 369.7 Interpretative Letters.

(a) General Information:

(1) In appropriate cases, the Department of Commerce will answer with "interpretive letters" inquiries about the application of the Export Administration Act of 1969, as amended by Title II of the Export Administration Amendments of 1977 (Pub. L. 95-52) ("the Act"), or its implementing regulations.

(2) Such a letter will be issued when, in the judgment of the Deputy Assistant Secretary for Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce, when the requesting person raises an important issue of general interest concerning the act or its regulations and when the other requirements of this section are met.

(3) Until amended or revoked, an interpretive letter is binding on the Department with respect to the interpretation given, although its application to a particular situation will depend on the facts and circumstances of the case. No advice or interpretation received from the Department in a form other than an interpretive letter is binding on the Department.

(b) Procedure:

(1) A request for an interpretive letter must be in writing and addressed as follows: Deputy Assistant Secretary for Trade Regulation, U.S. Department of Commerce, Room 3814, Washington, D.C. 20230, Attn: Interpretive Letter. Such requests must include:

(i) A detailed description of the act(s) or transaction(s) with respect to which an interpretive letter is requested. Where the request includes references to documents, copies of those documents should be submitted with the request;

(ii) Identification of all relevant parties; and

(iii) A discussion of the issue or issues presented by the act(s) or transaction(s) which should be addressed in the interpretive letter. A draft interpretive letter may also be submitted.

(2) A request for an interpretive letter must be signed by or on behalf of the requesting person. If the request is signed by a representative, the request must include a statement that the representative is authorized to represent the person making the request.

(3) The Department will generally process requests for interpretative letters in order of their receipt and as expeditiously as possible. Where feasible, the Department will respond with a single interpretive letter to multiple inquiries concerning the same issue.

(4) A request for an interpretive letter may be withdrawn at any time prior to issuance of the letter. If the request is withdrawn, the Department will, nevertheless, retain all correspondence.

(c) Public Availability:

(1) Interpretive letters will be made available for public inspection and copying. They will be in a form sufficient to protect from public disclosure the identity of the person making the request, all other persons identified in the request, and all business proprietary information included in the request. Business proprietary information furnished with the request will be withheld from public disclosure pursuant to applicable provisions of the Export Administration Act of 1969, as amended, and the Freedom of Information Act, as amended (5 U.S.C. § 552). Any information considered proprietary should be so identified at the time of the request for the letter. References to information appropriately specified as proprietary will be deleted from the interpretive letter prior to its public disclosure.

(2) Interpretive letters will be available to the public for inspection and copying at the ITA Freedom of Information Records Inspection Facility, Room 3012, Department of Commerce, Washington, D.C. 20230. Requests to inspect such letters should be addressed to that facility. They will also be published periodically in bulletins issued by the Bureau of Trade Regulation.

ATTACHMENT A

FORM APPROVED: OMB NO.

FORM

U.S. DEPARTMENT OF COMMERCE
INDUSTRY AND TRADE ADMINISTRATION
BUREAU OF TRADE REGULATION
WASHINGTON, D.C. 20230

THIS SPACE FOR BTR USE

MONTH & YEAR PROCESSED

REPORT OF REQUEST
FOR RESTRICTIVE TRADE PRACTICE OR BOYCOTT

(For reporting requests described in Part 369 of the Export Administration Regulations)

Pursuant to section 4A(h)(2) of the Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended, information in this report regarding the quantity, description, and value of any articles, materials and supplies, including technical data and other information, to which this report relates will be kept confidential when the reporting person certifies that disclosure would place the U.S. person involved at a competitive disadvantage and requests confidentiality, unless the Secretary of Commerce determines that disclosure thereof would not place such United States person at a competitive disadvantage or that it would be contrary to the national interest to withhold the information.

This report is required by law (50 U.S.C. App. §2403-1a(h); P.L. 95-52; E.O. 12002; 15 CFR Part 369). Failure to report can result in criminal penalties of fines or imprisonment, or both and/or administrative sanctions.

1. Identify person submitting this report:

Name:

Address:

City, State & Zip:

Country (if other than USA):

Telephone:

Firm Identification No:
(if known)

Type of reporting person (check one):

- ☐ Exporter
- ☐ Carrier
- ☐ Bank, reporting for itself only
- ☐ Insurer
- ☐ Bank, reporting for itself and other person
- ☐ Forwarder, reporting for itself only
- ☐ Forwarder, reporting for itself and other person
- ☐ Other (specify) _____

2. If you are reporting for a foreign subsidiary, identify the subsidiary:

Name:

Address:

City & Country:

Type of firm:

Firm Identification No.
(leave blank)

3. If you are not the exporter, identify the exporting firm involved:

Name:

Address:

City, State & Zip:

Country, (if other than USA):

Firm Identification No:
(leave blank)

4. (a) Name of foreign country from which request originated:

(b) Name of country directing inclusion of request, if different from (a) above:

5. Name of country(ies) against which request is directed:

6. Reporting person's reference No. (e.g., letter of credit, customer order, or invoice number):

7. Date request was received by reporting person (month day, year):

8. Specify type(s) of document conveying the request:

- ☐ Letter of credit
- ☐ Requisition/purchase order/accepted contract
- ☐ Bid invitation/tender/proposal/trade opportunity
- ☐ Questionnaire
- ☐ Other (specify) _____

Attach two copies of each document (or relevant page) in which the request appears.

- ☐ Published import regulation/consular request
- ☐ Request to carrier for carrier blacklist certificate
- ☐ Unwritten/oral/implied request

If a specific written request was not received, attach two copies of each document (or relevant page) that evidences the action taken.

9. Decision on request (check one):

- ☐ Unable to report a decision on the request at this time and will inform the Office of Export Administration of my/our decision within 10 business days of making a decision.
- ☐ Have refused or will refuse to take the action requested as first received.
- ☐ Have taken or will take the action requested as first received.
- ☐ Have taken or will take the action requested and claim it is subject to a grace period.
- ☐ Have refused to take the action first requested. Request has subsequently been amended and have taken or will take the action requested as now amended.

10. Unless indicated otherwise by a checkmark in the box below, I(we) certify that disclosure to the public of the information contained in Item 11 below would place the United States person involved at a competitive disadvantage, and I(we) request that it be kept confidential.

I(We) certify that all statements and information contained in this report are true and correct to the best of my(our) knowledge and belief.

Sign here in ink _____ Type or print _____ Date _____
(Signature of person completing report) (Name and title of person whose signature appears on line to left)

- ☐ I(We) authorize public release of all information contained in this report.

11. Describe the commodities or technical data involved, and specify quantity and value:

Description:

Quantity:

Value to the nearest whole dollar:

ATTACHMENT B

FORM APPROVED: OMB NO.

FORM_____

U.S. DEPARTMENT OF COMMERCE
BUREAU OF TRADE REGULATION
WASHINGTON, D.C. 20230

THIS SPACE FOR BTR USE

MONTH & YEAR PROCESSED

MULTIPLE TRANSACTION REPORT OF REQUESTS FOR RESTRICTIVE TRADE PRACTICE OR BOYCOTT

(For reporting requests described in Part 369 of the Export Administration Regulations)

Pursuant to section 4A(b)(2) of the Export Administration Act of 1969 (50 U.S.C. App. 2401 et seq.), as amended, information in this report regarding the quantity, description, and value of any articles, materials and supplies, including technical data and other information, to which this report relates will be kept confidential when the reporting person certifies that disclosure would place the U.S. person involved at a competitive disadvantage and requests confidentiality, unless the Secretary of Commerce determines that disclosure thereof would not place such United States person at a competitive disadvantage or that it would be contrary to the national interest to withhold the information.

This report is required by law (50 U.S.C. App. 2403-1a(b); P.L. 95-52; E.O. 12002; 15 CFR Part 369. Failure to report can result in criminal penalties of fines or imprisonment, or both and/or administrative sanctions.

Identify person submitting this report:

Name:

Address:

City, State & Zip:

Country (if other than USA):

Telephone:

Firm Identification No.: (if known)

Type of reporting person (check one):

- ☐ Exporter
- ☐ Carrier
- ☐ Bank, reporting for itself only
- ☐ Insurer
- ☐ Bank, reporting for itself and other persons
- ☐ Forwarder, reporting for itself only
- ☐ Forwarder, reporting for itself and other persons
- ☐ Other (specify)_____

If you are reporting for a foreign subsidiary, identify the subsidiary:

Name:

Address:

City & Country:

Complete one line for each transaction.

1 Reporting firm's reference number	2 Name, City, State of Exporter	3 Country from which request originated	4 Country(ies) against which request is directed	5 Type of document(s) received (See Table 1)	6 Decision on request(s) (See Table 2)	7 Specify Commodity, Quantity, Value

Unless indicated otherwise by a checkmark in the box below, I(we) certify that disclosure to the public of the information contained in column 7 above would place the United States person involved at a competitive disadvantage, and I(we) request that it be kept confidential.

I(We) certify that the boycott requests reported on this document, including continuation sheets, if necessary, constitute all boycott requests that I(we) received during the month of_____and that all statements and information contained in this report are true and correct to the best of my(our) knowledge and belief.

Sign here in ink _____ Type or print _____ Date_____
(Signature of person completing report) (Name and Title of person whose signature appears on line to left)

☐ I(We) authorize public release of all information contained in this report.

SUPPLEMENTARY INSTRUCTIONS FOR COMPLETING LINE ITEMS ON MULTIPLE TRANSACTION REPORT OF REQUESTS FOR RESTRICTIVE TRADE PRACTICE OR BOYCOTT

1. Insert your reference number, e.g., letter of credit, customer order or invoice number. Place the same number on documents conveying the request.

2. Complete this box if reporting firm is other than exporter.

3. Insert name of country from which request originated.

4. Insert name of country(ies) against which request is directed.

5. Insert document code(s) as listed in Table 1 to identify the document(s) in which you received the boycott request(s). Attach two copies of each document (or relevant page) in which request received. If a specific written request was not received, attach two copies of each document (or relevant page) that evidences the action taken. Edit one copy as indicated in § 369.6.

6. Insert the code or codes that corresponds to the action taken by you in response to the boycott request(s).

TABLE 1—CODES FOR REQUESTING DOCUMENTS TO BE INSERTED IN COLUMN 5 OF FORM

Code	*Type of Document*
B	Bid/Invitation / Tender / Proposal/Trade Opportunity.
C	Request to carrier for carrier blacklist certificate (May be written or oral).
L	Letter of credit.
P	Published import regulation/consular request.
Q	Questionnaire (see definition below).
R	Requisition/Purchase order/Accepted contract.
U	Unwriten/Oral/Implied request (Not covered by any other code).
9	Other (Includes written requests not covered by any other code, such as letters, cables, powers of attorney, patent and trademark registrations, visa applications, agency representations, etc.).

DEFINITION OF A QUESTIONNAIRE

Any document which fulfills all the following conditions: (1) Originates from a central boycott office or other government entity.

(2) Conveys a request for a Restrictive Trade Practice in the form of positive statements, declarations, or answers to one or more questions concerning the reporting firm's relations with the boycotted country, or with firms or persons residing in or doing business with the boycotted country.

(3) Is not associated with a specific dollar value or commodity transaction, but may serve as the basis for getting on or off a blacklist.

TABLE 2—CODE FOR DECISIONS TO BE INSERTED IN COLUMN 6 OF FORM

Code: (1) Unable to report a decision on the request at this time and will inform the Office of Export Administration of my/our decision within 10 business days of making a decision.

(2) Have refused or will refuse to take the action requested as first received.

(3) Have taken or will take the action requested as first received.

(4) Have taken or will take the action requested and claim it is subject to a grace period.

(5) Have refused to take action first requested. Request has subsequently been amended and have taken or will take action requested as amended.

[FR Doc.77-36913 Filed 12-22-77;3:38 pm]

federal register

FRIDAY, DECEMBER 30, 1977

PART XIII

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Florida:	
FL77-1144	Nov. 25, 1977.
Maryland:	
MD77-3077	June 3, 1977.
Michigan:	
MI77-2041	March 25, 1977.
Pennsylvania:	
PA77-3061	June 10, 1977.
PA77-3078	June 24, 1977.
PA77-3103; PA77-3104	July 22, 1977.
Tennessee:	
TN77-1137	Nov. 25, 1977.
Virginia:	
AP-805	May 4, 1973.
AQ-2021	Oct. 5, 1973.
AQ-2031; AQ-2032	Nov. 30, 1973.
VA75-3094; VA75-3095	Sept. 19, 1975.
VA76-3244; VA76-3245	Sept. 10, 1976.
VA77-3082	June 24, 1977.
MD77-3109	Sept. 16, 1977.
Washington, D.C.:	
DC77-3108	Sept. 16, 1977.

Signed at Washington, D.C., this 23rd day of December 1977.

Ray J. Dolan,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #FL77-1144, Mod. 1 (42 FR60554 - 11/25/77) Pinellas County, Fla.					
Change:					
Lathers (all work)	$9.49		.20		.01
Plasterers (all work)	8.65	.45	.50		.10
DECISION #MD77-3077 - Mod. #8 (42 FR 18760 - June 3, 1977) Counties of Anne Arundel (excluding the D. C. Training School), Baltimore, and Baltimore City, Maryland, and for Heavy Construction projects in Harford and Howard Counties, Maryland					
Omit: Howard County for Building Construction only					
DECISION #MI77-2041 - Mod. #1 (42 FR 16355 - March 25, 1977) Branch, Cass, Kalamazoo & St. Joseph Counties, Michigan					
CHANGE: Under Laborers: Landscape Laborers	$2.65				
DECISION #PA77-3061 - Mod. # 7 (42 FR 30133 June 10, 1977) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington, and Westmoreland Counties, Pennsylvania					
Change: Electricians Zone 2	$10.66	6%	5%	1.00	1½
DECISION #PA77-3078 - Mod. # 2 (42 FR 32478 - June 24, 1977) Lawrence & Mercer Counties, Pennsylvania					
Change: Electricians: Lawrence County	10.66	6%	5%	1.00	1½

MODIFICATIONS P. 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #PA77-3103 - Mod. # 3 (42 FR 37759 - July 22, 1977) Bradford, Tioga and Union Counties, Pennsylvania					
Change: Electricians Zone 3	10.45	.50	3%+.50	.50	.10

AREA COVERED BY ELECTRICIANS ZONES #3 to READ:
ZONE III Bradford County, town of Towanda, that portion of the County East of the Susquehanna River South of Towanda and East of U. S. Highway 309, North of Towanda

Elevators Constructors	10.55	.745	.56	a+b	.025
Elevator Constructors Helpers	7.385	.745	.56	a+b	.025
Elevator Constructors Helpers (Prob.)	5.275				

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

DECISION #PA77-3104 - Mod. # 6 (42 FR 37762 - July 22, 1977) Lancaster County, Pennsylvania					
Change: Electricians; published in 42 FR 57881, November 4, 1977, to read					
Remainder of County	$9.85	.45	3%		1/6%
Elevator Constructors	10.55	.745	.56	a+b	.02
Elevator Constructors Helpers	7.385	.745	.56	a+b	.02
Elevators Constructors Helpers (Prob.)	5.275				

FOOTNOTES:
a. Employer contributes 8% basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
b. Paid Holidays: A through F, plus the Friday after Thanksgiving Day.

Roofers:					
Composition, damp & waterproofing	10.80	.95		d	
Slate, tile & asbestos	11.25	.95		d	
Roofers, precast slab	11.60	.95		d	
Decision #TN77-1137, Mod. 1. (42 FR 60540 - November 25, 1977) Cheatham, Davidson, Robertson, Rutherford, Sumner, Williamson, and Wilson Counties, Tenn.					
Change: Bricklayers	$5.82				

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AP-805 - Mod. #6 (38 FR 11279 - May 4, 1973) The Counties of Accomack, Greensville, Isle of Wight, James City, Nansemond, Northampton, Southampton, Surry, Sussex and York. The independent Cities of Emporia, Franklin, Suffolk and Williamsburg, Virginia					
Change:					
Laborers:					
Asphalt Raker	$ 2.65				
Pipelayers	2.65				
Unskilled	2.65				
Power Equipment Operators:					
Subgrade Machine	2.65				
Tractor, utility	2.65				
Truck Drivers:					
Multi-Rear Axle	2.65				
Single-Rear Axle	2.65				
DECISION NO. AQ-2021 - Mod. #2 (38 FR 27744 - October 5, 1973) The Counties of Bedford, Botetourt Carroll, Craig, Floyd, Franklin, Giles Henry, Montgomery, Patrick, Pulaski and Roanoke. The Cities of Bedford, Galax, Martinsville, Radford, Roanoke and Salem, Virginia					
Change:					
Carpenters, Structural Helper	$ 2.65				
Guard Rail Erector	2.65				
Laborers, Unskilled	2.65				
Truck Drivers:					
Heavy duty 7 cu. yd. & under	2.65				
Single-Rear Axle	2.65				
Power Tool Operator	2.65				
Rollers	2.65				
Stone Spreader	2.65				
DECISION NO. AQ-2031 - Mod. #1 (38 FR 33258 - November 30, 1973) Caroline, Essex, Gloucester, King George, King & Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford and Westmoreland. The City of Fredericksburg, Virginia					
Change:					
Laborers	$ 2.65				
Truck Drivers	2.65				

MODIFICATIONS P. 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AQ-2032 - Mod. #1 (38 FR 33259 - November 30, 1973) The Counties of Pittsylvania, Amherst, Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Halifax, Nelson and Prince Edward. The Cities of Danville, Lynchburg and South Boston Virginia					
Change:					
Laborers	2.65				
Laborers, Asphalt Raker	2.65				
Truck Drivers	2.65				
Power Equipment Operators:					
Roller	2.65				
DECISION NO. VA75-3094 - Mod. #3 (40 FR 43415 - September 19, 1975) Albemarle County and The Independent City of Charlottesville, Virginia					
Change:					
Laborers, Unskilled	$ 2.65				
DECISION NO. VA75-3095 - Mod. #1 (40 FR 43416 - September 19, 1975) Campbell County, Virginia					
Change:					
Truck Drivers	2.65				
DECISION NO. VA76-3244 - Mod. #1 (41 FR 38748 - September 10, 1976) The Counties of Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William & Rappahannock, Virginia					
Change:					
Landscape Worker	$ 2.65				
DECISION NO. VA76-3245 - Mod. #3 (41 FR 38748 - September 10, 1976 The Counties of Alleghany, Augusta, Bath, Clarke, Frederick, Highland, Page, Rockbridge, Rockingham, Shenandoah & Warren Counties, Virginia*					
Change:					
Landscape Workers	2.65				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VA77-3082 - Mod. #2 (42 FR 32510 - June 24, 1977) The Independent Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth and Virginia Beach, Virginia					
Change:					
Landscape Workers	$ 2.65				
DECISION #MD77-3109 - Mod. # 5 (42 FR 46872 - September 16, 1977) Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia					
Change:					
BUILDING CONSTRUCTION: (INCLUDING WMATA - RAPID RAIL TRANSIT SYSTEM)					
POWER EQUIPMENT OPERATORS					
GROUP I	11.70	.60	.60		.12
GROUP II	11.45	.60	.60		.12
GROUP III	11.30	.60	.60		.12
GROUP IV	11.12	.60	.60		.12
GROUP V	11.07	.60	.60		.12
GROUP VI	11.05	.60	.60		.12
GROUP VII	11.04	.60	.60		.12
GROUP VIII	10.87	.60	.60		.12
GROUP IX	10.85	.60	.60		.12
GROUP X	10.65	.60	.60		.12
GROUP XI	10.17	.60	.60		.12
GROUP XII	9.99	.60	.60		.12
DECISION #DC77-3108 - Mod. # 5 (42 FR 46905 - Sept., 16, 1977) Washington, D. C.					
Change:					
BUILDING & HEAVY CONSTRUCTION: (INCLUDING WMATA - RAPID RAIL SYSTEM)					
POWER EQUIPMENT OPERATORS:					
GROUP I	$11.70	.60	.60		.12
GROUP II	11.45	.60	.60		.12
GROUP III	11.30	.60	.60		.12
GROUP IV	11.12	.60	.60		.12
GROUP V	11.07	.60	.60		.12
GROUP VI	10.05	.60	.60		.12
GROUP VII	10.04	.60	.60		.12
GROUP VIII	10.87	.60	.60		.12
GROUP IX	10.85	.60	.60		.12
GROUP X	10.65	.60	.60		.12
GROUP XI	10.17	.60	.60		.12
GROUP XII	9.99	.60	.60		.12

[FR Doc.77-36315 Filed 12-29-77;8:45 am]

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(Revised as of July 1, 1977)

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_____	Title 36—Parks, Forests, and Public Property	4.50	_____
_____	Title 40—Protection of Environment (Parts 50–59)	5.75	_____
_____	Title 41—Public Contracts and Property Management (Chapters 1 and 2)	5.25	_____
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[A Cumulative checklist of CFR issuances for 1977 appears in the first issue of the Federal Register each month under Title 1]

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