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PAGES
18397–18503

federal register

TUESDAY, MAY 4, 1976

highlights

PART I:

CONTINUED INSIDE

reminders

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

Rules Going Into Effect Today

Interior/NPS—Powerless flight, restrictions on launching and landing. 9553; 3–5–76

ICC—Transportation of household goods in interstate or foreign commerce; practices of motor common carriers of household goods; limitations of liability. 9551; 3–5–76

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.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

Comments on this trial program are invited and will be received through May 7, 1976. Comments should be submitted to the Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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contents

list of cfr parts affected in this issue

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

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

3 CFR

PROCLAMATIONS:

4436 18397

MEMORANDUMS:

April 30, 1976 (2 documents) ... 18401, 18403

5 CFR

213 18405

29 18425
210 18426
910 18428

7 CFR

PROPOSED RULES:

1701 18430

12 CFR

337 18405
501 18406

16 CFR

4 18407
13 (2 documents) 18407–18409

17 CFR

PROPOSED RULES:

240 18432

21 CFR

51 18411

24 CFR

PROPOSED RULES:

860 18494

25 CFR

221 18411

29 CFR

PROPOSED RULES:

1910 18430

38 CFR

3 18411

40 CFR

60 18498

PROPOSED RULES:

52 18431

47 CFR

68 18416
73 18419

PROPOSED RULES:

73 18431

49 CFR

173 18412
178 18412

50 CFR

33 (2 documents) 18416

CUMULATIVE LIST OF PARTS AFFECTED DURING MAY

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

FEDERAL REGISTER PAGES AND DATES—MAY

Pages	*Date*
78279–18396	May 3
18397–18503	4

presidential documents

Title 3—The President

Proclamation 4436 • **April 30, 1976**

Extension and Modification of Certain Increased Rates of Duty on Ceramic Tableware

By the President of the United States of America

A Proclamation

1. Pursuant to the authority vested in him by the Constitution and the statutes, including section 350(a)(1)(B) of the Tariff Act of 1930, as amended (19 U.S.C. 1351(a)(1)(B)); and sections 201(a)(2), 302(a)(2) and (3), and 351(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1821(a)(2), 19 U.S.C. 1902(a)(2) and 19 U.S.C. 1902(a)(3), and 19 U.S.C. 1981(a)); and in accordance with Article XIX of the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A58; 8 UST (pt. 2) 1786) (hereinafter referred to as "the GATT"), the President, by Proclamation No. 4125 of April 22, 1972 (86 Stat. 1624), proclaimed, effective on and after May 1, 1972, and until the close of business April 30, 1976, or until the President otherwise earlier proclaimed, increased duties on imports of certain types of ceramic tableware defined in items 923.01 through 923.15, inclusive, in Subpart A of Part 2 of the Appendix to the Tariff Schedules of the United States (hereinafter referred to as "the TSUS");

2. Having taken into account advice received from the International Trade Commission on March 31, 1976, pursuant to section 203(i) of the Trade Act of 1974 (19 U.S.C. 2253(i)) (hereinafter referred to as "the Trade Act"), and the considerations described in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I have determined, pursuant to section 203(h)(3) of the Trade Act (19 U.S.C. 2253(h)(3)), that it is in the national interest to extend and modify in stages, as hereinafter proclaimed, the increased rates of duty currently in effect on imports of some of the articles of ceramic tableware now provided for in items 923.01, 923.07, 923.13, and 923.15 of the TSUS.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes, including section 203(h)(3) of the Trade Act, and in accordance with Article XIX of the GATT, do proclaim that—

(1) The modified tariff concessions on ceramic tableware provided for in items 533.28, 533.38, 533.73, and 533.75 in Part I of Schedule XX to the GATT are further modified as set forth in the annex to this proclamation and in paragraph 3 hereof;

(2) In Subpart A of Part 2 of the Appendix to the TSUS, headnote 1 thereof and the provisions of items 923.01 through 923.15, inclusive, are modified as set forth in the annex to this proclamation and in paragraph 3 hereof;

(3) The rates of duty in column numbered 1 of the annex hereto for articles provided for in items 923.01, 923.07, 923.13 and 923.15 are modified to read as follows:

Item	Rate of duty effective on and after—		
	May 1, 1976	May 1, 1977	May 1, 1978
923.01	10¢ per dozen pieces + 21% ad val.	8.5¢ per dozen pieces + 17.5% ad val.	7¢ per dozen pieces + 14% ad val.
923.07	10¢ per dozen pieces + 21% ad val.	8.5¢ per dozen pieces + 17.5% ad val.	7¢ per dozen pieces + 14% ad val.
923.13	10¢ per dozen pieces + 48% ad val.	8.5¢ per dozen pieces + 39.5% ad val.	7¢ per dozen pieces + 31% ad val.
923.15	10¢ per dozen pieces + 55% ad val.	8.5¢ per dozen pieces + 47% ad val.	7¢ per dozen pieces + 38.5% ad val.

(4) The modifications of Part I of Schedule XX to the GATT and of the Appendix to the TSUS made by paragraphs (1), (2), (3) and the Appendix hereto, shall be effective as to articles entered, or withdrawn from warehouse, for consumption on and after May 1, 1976, and before the close of business April 30, 1979.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of April in the year of our Lord nineteen hundred and seventy-six, and of the Independence of the United States of America the two hundredth.

Gerald R. Ford

[FR Doc.76-13101 Filed 4-30-76;4:45 pm]

ANNEX

Item	Articles	Rates of duty 1	Rates of duty 2
	Subpart A headnote: 1. This subpart contains the temporary modifications of the provisions of the tariff schedules proclaimed by the President pursuant to the procedures prescribed in sections 301 and 351 or 352 of the Trade Expansion Act of 1962, and sections 201, 202, 203, and 406 of the Trade Act of 1974.		
	Articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients: Of fine-grained earthenware or of fine-grained stoneware: Available in specified sets:		
923.01	In any pattern for which the aggregate value of the articles listed in headnote 2(b) of subpart C, part 2 of schedule 5 is over $12 but not over $22 (provided for in item 533.28).	10¢ per doz. pcs. + 21% ad val.	No change
923.07	Cups valued over $1.70 but not over $3.10 per dozen; saucers valued over $0.95 but not over $1.75 per dozen; plates not over 9 inches in maximum diameter and valued over $1.55 but not over $2.85 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $2.65 but not over $4.85 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued over $3.40 but not over $6.20 per dozen (provided for in item 533.38).	10¢ per doz. pcs. + 21% ad val.	No change

ANNEX—Continued

Item	Articles	Rates of duty 1	Rates of duty 2
	Of nonbone chinaware or of subporcelain:		
	Household ware:		
923.13	Cups valued not over $1.35 per dozen; saucers valued not over $0.90 per dozen; plates not over 9 inches in maximum diameter and valued not over $1.30 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued not over $2.70 per dozen; and creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued not over $4.50 per dozen (provided for in item 533.73).	10¢ per doz. pcs. + 48% ad val.	No change.
923.15	Cups valued over $1.35 but not over $4 per dozen; saucers valued over $0.90 but not over $1.90 per dozen; plates not over 9 inches in maximum diameter and valued over $1.30 but not over $3.40 per dozen; plates over 9 but not over 11 inches in maximum diameter and valued over $2.70 but not over $6 per dozen; creamers, sugars, vegetable dishes or bowls, platters or chop dishes, butter dishes or trays, gravy boats or gravies and stands, any of the foregoing articles valued over $4.50 but not over $11.50 per dozen (provided for in item 533.75).	10¢ per doz. pcs. + 55% ad val.	No change.

Memorandum of April 30, 1976

U.S. Earthenware Industry

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, April 30, 1976.

Pursuant to Section 203(h)(3) of the Trade Act of 1974, (P.L. 93–618, 88 Stat. 1978), I have determined the actions I will take with respect to the report of the United States International Trade Commission (USITC), dated March 31, 1976, concerning the results of its investigation of a petition for continuation of import relief filed by the American Dinnerware Emergency Committee.

I have decided to extend the increased rates of duty currently in effect on imports of certain earthen dinnerware, and certain other ceramic tableware provided for in items 923.01, 923.07pt. (that part related to item 533.38), 923.13 and 923.15 of the TSUSA for one year. These temporary duty increases will subsequently be phased-down and will revert to trade agreement rates beginning May 1, 1979, unless terminated before that time. Escape action rates of duty on steins and mugs and certain other ceramic tableware, provided for in items 923.03, 923.11, 923.05 and 923.07pt. respectively of the TSUSA, will revert to the trade agreement rates at the close of business April 30, 1976. I have determined that these actions are in the national interest of the United States.

Since May 1, 1972, the U.S. earthenware industry has made substantial economic adjustments to import competition. Profit and productivity levels have increased. The labor force is more efficiently utilized and the industry is more automated. However this adjustment process is not yet complete. Additional capital improvements are needed to complete this process.

The major product of the U.S. industry is earthen dinnerware. Many earthen dinnerware producers are located in areas of economic depression and high unemployment. The immediate termination of all escape action duties on earthen dinnerware and certain other tableware that competes with earthen dinnerware would adversely affect the industry's efforts to adjust to import competition and would be detrimental to our national employment policies.

Since the purpose of escape action import relief is to provide temporary assistance to domestic producers to adjust to such competition, I am ending the tariff increases on those items that I determine to have adjusted to competition.

Since the Kennedy Round of trade negotiations, when the U.S. Tariff schedules of earthen and china table and kitchen articles were last negotiated, duty rate disparties have resulted in tariff loopholes, and currency changes and inflation have made many of the categories in this schedule obsolete. I am directing you, therefore, as the Special Representative for Trade Negotiations, to review the classification and rates of duty on dinnerware and related articles (Schedule 5, Part 2, Subpart C of the Tariff Schedules of the United States) to determine if changes are necessary to close tariff loopholes and change obsolete descriptions brought about by currency changes and inflation, and to enter into negotiations to make any changes you consider necessary.

This determination is to be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc.76–13102 Filed 4–30–76;4:46 pm]

Memorandum of April 30, 1976

Stainless Steel Flatware Industry

Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, April 30, 1976.

Pursuant to Section 202(b)(1) of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have determined the action I will take with respect to the report of the United States International Trade Commission (USITC) dated March 1, 1976, concerning the results of its investigation of a petition for import relief filed by the Stainless Steel Flatware Manufacturers Association.

I have determined that expedited adjustment assistance is the most effective remedy for the injury suffered by the domestic stainless steel flatware industry and its employees. I have determined that provision of import relief is not in the national economic interest of the United States.

The stainless steel flatware industry is currently receiving special import protection in the form of five-year tariff rate quota, which went into effect in 1971. Prior thereto, the industry received escape clause tariff protection from 1959 to 1967. The purpose of such special measures is to increase the amount of protection for a limited period during which the domestic industry is to make adjustments necessary to compete successfully with imports. The present tariff rate quota will remain in effect through September 30, 1976.

Under the existing level of special protection, some firms have made adjustments enabling them to meet foreign competition and one of the two largest producers opposes continuation of special protection. While certain others among the companies that requested greater tariff relief have shown low profits or losses, they account for a much smaller share of the industry's total output and employment. Additional import relief would thus give unnecessary protection to firms that account for a large part of domestic output. Adjustment assistance, on the other hand, will focus on the specific problems of individual firms and groups of workers that need help, without increasing the burden on restaurants, households, and other users.

New import restraints would also have exposed U.S. industry and agriculture to claims for compensatory import concessions or retaliation against U.S. exports to the detriment of American jobs and exports.

With regard to the effect of import restraints on the international economic interests of the United States, which I am required to consider under the Trade Act of 1974, I have concluded that such restraints would be contrary to the U.S. policy of promoting the development of an open, nondiscriminatory and fair world economic system which would, in turn, promote domestic growth and full employment.

I have directed the Secretaries of Commerce and Labor to give expeditious consideration to any petitions for adjustment assistance filed by firms producing stainless steel flatware articles on which the USITC found injury, by communities impacted by imports of such articles, and by their workers.

This determination is to be published in the FEDERAL REGISTER.

Gerald R. Ford

[FR Doc.76-13103 Filed 4-30-76;4:46 pm]

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Assistant Secretary for Labor-Management Relations is excepted under Schedule C.

Effective on May 4, 1976, § 213.3315(a)(46) is added as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* * * *

(46) One Special Assistant to the Assistant Secretary for Labor-Management Relations.

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

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

[FR Doc.76-12927 Filed 5-3-76;8:45 am]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

Approval and Record Keeping Requirements Pertaining to Insider Transactions

1. On February 25, 1976, the Board of Directors of the Federal Deposit Insurance Corporation (the "F.D.I.C.") adopted a new section 337.3 to be added to Part 337 of Title 12 of the Code of Federal Regulations entitled "Approval and Record Keeping Requirements Pertaining to Insider Transactions." On March 19, 1976, the F.D.I.C. published for comment a notice of proposed amendment of the new section 337.3 which would make the regulation applicable to insured State nonmember mutual savings banks, as well as to insured State nonmember commercial banks. The period for public comment ended April 15, 1976. After careful consideration, the Board of Directors determined that the amendments extending the regulation's coverage to insured mutual savings banks should be adopted. Accordingly, the amendments were adopted as proposed. The requirements of section 337.3 will become effective May 1, 1976.

In addition to extending coverage of the regulation to mutual savings banks, the Board of Directors has determined that subsection (d) of the regulation should be amended to make clear that the regulation does not require that banks maintain a separate filing system for insider transactions. Although use of the word "File" on the fifth line of subsection (d) has apparently created some confusion in this regard, it was not the intention of the Corporation that such a requirement be imposed. Rather, it is simply the Corporation's intention that pertinent information supporting insider transactions, as specified in the regulation, be maintained in a manner and form readily accessible to Corporation examiners. Accordingly, in order to avoid further confusion, subsection (d) was amended to delete the word "Files" and insert in its place the word "Information" as the first word in the second sentence of subsection (d), and to delete the word "contain" and insert in its place the word "include" between the words "shall" and "all" in the same sentence. Also, the title of subsection (d) which originally read "Bank Files Maintained for Insider Transactions" has been amended to read "Information Pertaining to Insider Transactions."

Since the amendments to the regulation do not necessitate changes in the regulation's substantive requirements, reference should be made to the preamble of the regulation for an explanation of the new section 337.3 [41 FR 8946–8947]. Subsection (a)(1) of the new section 337.3 was amended to delete the phrase "other than a mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f))", and the words "commercial or mutual savings" were inserted between the words "nonmember" and "bank". In addition, the words "or trustees", "or board of trustees", or "or trustee's" have been inserted immediately following the words "directors", "board of directors", or "director's" respectively wherever those words appear in the regulation.

2. As amended, § 337.3 reads as follows:

§ 337.3 Insider Transactions.

(a) *Definitions.*—(1) *Bank.* The term "bank" means an insured State nonmember commercial or mutual savings bank, and any majority-owned subsidiary of such bank.

(2) *Person.* The term "person" means a corporation, partnership, association, or other business entity; any trust; or any natural person.

(3) *Control.* The term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(4) *Insider.* The term "insider" means any officer or employee who participates or has authority to participate in major policy-making functions of a bank, any director or trustee of a bank, or any other person who has direct or indirect control over the voting rights of ten percent of the shares of any class of voting stock of a bank or otherwise controls the management or policies of a bank.

(5) *Person related to an insider.* The term "person related to an insider" means any person controlling, controlled by or under common control with an insider, and also, in the case of a natural person, means:

(i) An insider's spouse;

(ii) An insider's parent or stepparent, or child or stepchild; or

(iii) Any other relative who lives in an insider's home.

(6) *Insider transaction.* The term "insider transaction" means any business transaction or series of related business transactions[1] between a bank and:

(i) An insider of the bank;

(ii) A person related to an insider of the bank;

(iii) Any other person where the transaction is made in contemplation of such person becoming an insider of the bank; or

(iv) Any other person where the transaction inures to the tangible economic benefit of an insider or a person related to an insider.

(7) *Business transaction.* The term "business transaction" includes, but is not limited to, the following types of transactions:

(i) Loans or other extensions of credit;

(ii) Purchases of assets or services from the bank;

(iii) Sales of assets or services to the bank;

(iv) Use of the bank's facilities, its real or personal property, or its personnel;

(v) Leases of property to or from the bank;

(vi) Payment by the bank of commissions and fees, including brokerage commissions and management, consultant, architectural and legal fees; and

(vii) Payment by the bank of interest on time deposits which are in amounts of $100,000 or more.

For the purpose of this regulation, the term does not include deposit account

[1] The phrase "series of related business transactions" includes transactions which are in substance part of an integrated business arrangement or relationship such as borrowings on a line of credit, law firm billings, or recurring transactions of a similar nature within a holding company system.

activities other than those specified in paragraph (a)(7)(g) of this section, safekeeping transactions, credit card transactions, trust activities, and activities undertaken in the capacity of securities transfer agent or municipal securities dealer.

(b) *Approval and Disclosure of Insider Transactions.* An insider transaction, either alone or when aggregated in accordance with paragraph (c) of this section, involving assets or services having a fair market value amounting to more than:

(1) $20,000 if the bank has not more than $100,000,000 in total assets;

(2) $50,000 if the bank has more than $100,000,000 and not more than $500,000,000 in total assets; or

(3) $100,000 if the bank has more than $500,000,000 in total assets

shall be specifically reviewed and approved by the bank's board of directors or board of trustees, provided, however, that, when an insider transaction is part of a series of related business transactions involving the same insider, approval of each separate transaction is not required so long as the bank's board of directors or board of trustees has reviewed and approved the entire series of related transactions and the terms and conditions under which such transactions may take place.[3] The minutes of the meeting at which approval is given shall indicate the nature of the transaction or transactions, the parties to the transaction or transactions, that such review was undertaken and approval given, and the names of individual directors or trustees who voted to approve or disapprove the transaction or transactions. In the case of negative votes, a brief statement of each dissenting director's or trustee's reason for voting to disapprove the proposed insider transaction or transactions shall be included in the minutes if its inclusion is requested by the dissenting director or trustee.

(c) *Aggregation of Loans or Other Extensions of Credit Which Are Insider Transactions.* Any loan or extension of credit involving an insider shall be aggregated with the outstanding balances of all other loans or extensions of credit involving that insider. For purposes of this regulation, a loan or extension of credit involves a specific insider when the loan or extension of credit is made to that insider, to a person related to that insider, or to any other person where the loan or extension of credit inures to the tangible economic benefit of that insider or a person related to that insider.

(d) *Information Pertaining to Insider Transactions.* Each bank shall maintain a record of insider transactions requiring review and approval under paragraph (b) of this section in a manner and form that will enable examiner personnel to identify such insider transactions. Information pertaining to such insider transactions shall be readily accessible to examiners and shall include all documents and other material relied upon by the board in approving each transaction, including the name of the insider, the insider's position or relationship that causes such person to be considered an insider, the date on which the transaction was approved by the board, the type of insider transaction and the relevant terms of the transaction, any other pertinent facts which serve to explain or support the basis for the board's decision, and any statements submitted for the minutes or the file by directors or trustees who voted not to approve the transaction setting forth their reasons for such vote.

(e) *Discovery of Insider Relationship.* When a bank becomes aware of the existence of an insider relationship after entering into a transaction for which approval would have been required under paragraph (b) of this section, the bank shall promptly report such transaction in writing to the Regional Director of the Corporation in charge of the Region in which the bank is headquartered.

(f) *Knowledge of Proposed Insider Transaction.* Any insider, having knowledge of an insider transaction between the bank and:

(1) That insider;

(2) A person related to that insider; or

(3) Any other person where the transaction inures to the tangible economic benefit of that insider or person related to that insider

shall give timely notice of such transaction to the bank's board of directors or board of trustees.

(g) *Supervisory Action in Regard to Certain Insider Transactions.* Notwithstanding compliance with the review and approval requirements of paragraph (b) of this section, the Corporation will take appropriate supervisory action against the bank, its officers or its directors or trustees when the Corporation determines that an insider transaction, alone or when aggregated with other insider transactions, is indicative of unsafe or unsound practices. Such supervisory action may involve institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Among the factors which the Corporation will consider in determining the presence of unsafe or unsound banking practices involving insider transactions are:

(1) Whether, because of preferential terms and conditions, such insider transactions are likely to result in significant loan losses, excessive costs, or other significant economic detriment which would not occur in a comparable arm's length transaction with a person of comparable creditworthiness or otherwise similarly situated;

(2) Whether transactions with an insider and all persons related to that insider are excessive in amount, either in relation to the bank's capital and reserves or in relation to the total of all transactions of the same type; or

(3) Whether, from the nature and extent of the bank's insider transactions, it appears that certain insiders are abusing their positions with the bank.

3. This § 337.3 shall become effective on May 1, 1976.

By order of the Board of Directors, April 27, 1976.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
Executive Secretary.

[FR Doc.76-12867 Filed 5-3-76;8:45 am]

[3] Although not specifically required by the proposed regulation, prior review and approval is desirable and should occur except under circumstances in which such review and approval is clearly impractical. Where prior review and approval by the board of directors or board of trustees is clearly impractical, subsequent action should occur as soon as possible.

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 76-302]

PART 501—OPERATIONS

Amendment Relating to Officers of Federal Home Loan Banks as Agents

APRIL 28, 1976.

The following summary of the amendment adopted by this Resolution is included for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions in the regulations.

I. *Existing Regulations.* Officers and employees of a Federal Home Loan Bank, when designated by the Board under § 501.10, act as agents of the Board in carrying out certain specified duties.

II. *Amendment.* Specifies additional duties to be carried out by officers and employees of a Federal Home Loan Bank designated as agents of the Board under this section, which duties, prior to this amendment, could be carried out only by agents designated under § 501.11.

III. *Reason for the Amendment.* To provide a convenient means to differentiate agents of the Board carrying out duties specified in § 501.10 from those carrying out duties specified in § 501.11.

The Federal Home Loan Bank Board considers it desirable to amend § 501.10 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 501.10) for the purpose of providing a means to differentiate agents of the Board carrying out duties specified in that section from those carrying out duties specified in § 501.11.

The duties that are presently assigned to officers and employees of Federal Home Loan Banks designated as agents of the Board under § 501.10 are so limited that additional duties specified in § 501.11 must regularly be assigned to enable them to perform their required functions. Additional assignment under § 501.11 has resulted in uncertainty regarding the duties of agents designated primarily under § 501.10 as opposed to those of agents designated exclusively under § 501.11. The amendment adds to the duties assigned to agents designated under § 501.10 those additional duties specified in § 501.11 that are normally assigned to them, obviating the need to refer to § 501.11 in the designation of such agents, and thereby providing a

means to differentiate agents designated under § 501.10 from those designated under § 501.11.

Present 501.10 limits the duties of officers and employees designated by the Board as agents under that section to (1) giving consideration to applications pertaining to organization of Federal savings and loan associations, conversions, and insurance of accounts by the Federal Savings and Loan Insurance Corporation, and holding companies; (2) making comments and recommendations on such applications; (3) transmitting the applications, comments, and recommendations to the Board along with the report of any agent disagreeing with the recommendations; and (4) forwarding to applicants advices of actions taken by the Board and the Federal Savings and Loan Insurance Corporation and instructions and other communications from the Board and the Federal Savings and Loan Insurance Corporation.

The amendment assigns to an agent designated under this section additional duties (1) to see that all Federal savings and loan associations and other insured institutions in his Bank district submit to him for his consideration such matters as applications for Board approval of amendments to charters or bylaws, applications for Board permission to establish branch offices, applications for Board approval of the purchase of assets or of consolidations, dissolutions or mergers, and such other similar matters as are required to be approved by the Board or the Federal Savings and Loan Insurance Corporation by statute, rule, or regulation; and (2) after issuance by the Board of a charter for a Federal savings and loan association, to follow up the corporate actions taken by the association in completion of its organization and require the association to comply with the laws, rules, regulations, and such other requirements as may be applicable thereto.

The amendment deletes the requirement in the present regulation that comments and recommendations on applications be signed by the agents favoring them and that any agent disagreeing therewith make a separate report on the application. The Board has found that this provision is not useful.

The Board finds that notice and public procedure for this amendment are unnecessary under 12 CFR 508.11 and 5 U.S.C. § 553(b), since the amendment relates to rules of Board organization, and that publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to effective date is unnecessary for the same reason.

Accordingly, the Board hereby revises § 501.10 to read as set forth below effective May 5, 1976.

§ 501.10 Officers as agents.

For the following purposes, officers and employees of a Federal Home Loan Bank, when designated by the Board, shall be agents of the Board and the Federal Savings and Loan Insurance Corporation, and counsel of the Bank shall render to such agents such legal services as may be necessary to enable them properly to carry out their duties:

(a) Such agents shall see that all Federal savings and loan associations and other insured institutions in the agent's bank district submit for consideration such matters as applications for Board approval of amendments to charters or bylaws, applications for Board permission to establish branch offices, purchase of assets, or consolidations, dissolutions, or mergers, and such similar matters as are required to be approved by the Board or the Federal Savings and Loan Insurance Corporation by statute, rule, or regulation.

(b) Such agents shall give consideration to applications pertaining to organization of Federal savings and loan associations, conversions, insurance of accounts by the Federal Savings and Loan Insurance Corporation, and holding companies, together with such supplemental information as may be available to them. After issuance by the Board of a charter for a Federal savings and loan association, such agents shall follow up the corporate actions taken by the association in completion of its organization, and shall require the association to comply with the laws, rules, regulations, and such other requirements as may be applicable thereto.

(c) Such agents shall transmit such applications to the Board, together with their comments and recommendations thereon. An agent shall forward to applicants advices of actions taken by the Board and the Federal Savings and Loan Insurance Corporation upon applications, and instructions and other communications from the Board and the Federal Savings and Loan Insurance Corporation.

(Sec. 17, 47 Stat. 736 as amended (12 U.S.C. 1437); Secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN,
Secretary.

[FR Doc.76–12917 Filed 5–3–76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 4—MISCELLANEOUS RULES

Requirements as to Form, Filing and Service of Documents

The Commission's Rules of Practice do not include a provision explicitly requiring that all parties' documents be served upon all other parties nor are they clear whose obligation it is to accomplish service.

Although occasionally one party may file a document with the Secretary of the Commission which may be of interest to only one of several other parties, in virtually all instances all parties wish to receive copies of all documents filed by all other parties. Moreover, in a number of recent instances the question has been raised whether the obligation to accomplish service upon all parties of documents filed with the Secretary rests with the Secretary. In practice the Secretary has always served upon all parties the documents filed by Complaint Counsel, Administrative Law Judges and the Commission but has not, as a rule, undertaken to serve respondents' documents.

In light of the foregoing, the Commission announces the following amendment of § 4.2(a) of Part 4, Subchapter A of Chapter 1 of Title 16 of the Code of Federal Regulations to read as follows, to explicitly place upon all parties the obligation to serve copies of all documents filed by them on all other parties:

§ 4.2 Requirements as to form, filing and service of documents other than correspondence.

(a) *Filing.* Except as otherwise provided, all documents submitted to the Commission including those addressed to the Administrative Law Judge shall be filed with the Secretary of the Commission: provided, however, that in any instance informal applications or requests may be submitted directly to the official in charge of any office of the Commission or to the Director, Deputy Director, or Assistant Director of the appropriate bureau or office or to the Administrative Law Judge. Copies of all documents filed with the Secretary of the Commission by parties in adjudicative proceedings shall, at or before the time of filing, be served by the party filing the documents or person acting for that party on all other parties pursuant to § 4.4.

* * * * *

(Sec. 6(g), 38 Stat. 721; (15 U.S.C. 46) 80 Stat. 383, as amended, 81 Stat. 54, 88 Stat. 1561 (5 U.S.C. 552).)

The above amendment is effective on May 4, 1976.

By direction of the Commission dated April 23, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76–12896 Filed 5–3–76;8:45 am]

[Docket No. 9022]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Mutual Construction Company, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; 13.10–1 Availability of merchandise and/or facilities; § 13.30 Composition of goods; § 13.70 Fictitious or misleading guarantees; § 13.125 Limited offers or supply; § 13.155 Prices; 13.155–10 Bait; 13.155–33 Demonstration reductions; 13.155–95 Terms and conditions; 13.155–100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–30 Durability or permanence; § 13.175 Quality of product or service; § 13.205 Scientific or other relevant facts; § 13.225 Services; § 13.260 Terms and

conditions. Subpart—Disparaging products, merchandise, services, etc.: § 13.1042 Disparaging products, merchandise, services, etc. Subpart—Failing to maintain records: § 13.1051 Failing to maintain records; 13.1051–20 Adequate. Subpart—Misrepresenting oneself and goods—Goods: § 13.1572 Availability of advertised merchandise and/or facilities; § 13.1647 Guarantees; § 13.1710 Qualities or properties; §13.1715 Quality; § 13.1740 Scientific or other relevant facts; § 13.1747 Special or limited offers; § 13.1760 Terms and conditions.—Prices: § 13.1779 Bait; § 13.1800 Demonstration reductions; § 13.1823 Terms and conditions; § 13.1825 Usual as reduced or to be increased. —Promotional sales plans: § 13.1830 Promotional sales plans. —Services: § 13.1843 Terms and conditions. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1882 Prices; § 13.1885 Qualities or properties; § 13.1886 Quality, grade or type; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1980 Guarantee, in general; § 13.2000 Limited offers or supply; § 13.2013 Offers deceptively made and evaded; § 13.2063 Scientific or other relevant facts; § 13.2070 Special or trial offers, savings and discounts; § 13.2080 Terms and conditions. Subpart—Securing orders by deception: § 13.2170 Securing orders by deception. Subpart—Using deceptive techniques in advertising: § 13.2275 Using deceptive techniques in advertising.

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

In the matter of Mutual Construction Company, Inc., a corporation, and Joseph L. Cameron, individually and as an officer of said corporation

Order requiring a Birmingham, Ala., seller and installer of home improvement products, including residential siding, among other things to cease using bait and switch tactics; using deceptive or misleading sales plans to obtain leads or sales prospects; disparaging products; misrepresenting sales as bona fide; misrepresenting time limitations or restricted offers; misrepresenting prices as reduced or special; failing to maintain adequate records; misrepresenting guarantees or warranties; misrepresenting durability, quality and maintenance of its products; and misrepresenting that purchasers' homes will be used for advertising or for demonstration purposes.

The Final Order, including further order requiring report of compliance therewith, is as follows: [1]

Final order. This matter having been heard by the Commission upon the cross-appeals of complaint counsel and respondents' counsel from the initial decision, and the Commission, for the reasons stated in the accompanying Opinion, having modified the initial decision in certain respects:

It is ordered That pages 1–17 of the initial decision of the administrative law judge be, and they hereby are, adopted as the Findings of Fact and Conclusions of Law of the Commission, excluding the last paragraph which begins on page 15 and the first paragraph which begins on page 16.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further ordered That the following Order to cease and desist be, and it hereby is, entered:

Order. It is ordered That respondent Joseph L. Cameron, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution or installation of residential siding, other home improvement products, or any other products or services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Advertising or offering for sale any products for the purpose of obtaining leads or prospects for the sale of different products unless the advertised products are capable of adequately performing the function for which they are offered, and respondent maintains a readily available stock of said products.

2. Using, in any manner, a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of other products, installations, or services.

3. Discouraging the purchase of or disparaging any product, installation or service which is advertised or offered for sale by respondent.

4. Representing, directly or by implication, that any product, installation, or service is offered for sale or sale and installation by respondent when such offer is not a bona fide offer to sell such product, installation, or service.

5. Representing, directly or by implication, that any of respondent's offers to sell products, installations or services are limited as to time or restricted or limited in any other manner, unless such represented limitations or restrictions are actually enforced and in good faith adhered to.

6. Representing, directly or by implication, that any price for respondent's products, installations or services is a special or reduced price, unless such price constitutes a significant reduction from an established selling price at which such products, installations, or services have been sold in substantial quantities by respondent in the recent regular course of his business; or misrepresenting, in any manner, the prices or the savings available to purchasers.

7. Failing to maintain adequate records:

(a) For a period of three (3) years which disclose the factual basis for any representations or statements as to special or reduced prices, as to usual and customary retail prices, as to savings afforded to purchasers, and as to similar representations of the type described in Paragraph 6 of this order.

(b) For a period of three (3) years, with regard to each and every contract hereafter entered into between respondent and his customers, which disclose, in itemized form, what each customer was charged, exclusive of interest or finance charges, for materials and for labor, and for those contracts involving siding, or the installation of siding, or both, additional information as to the total amount of siding materials and other materials installed or delivered to the customer, the type and grade of said siding and other materials, a description of the installation performed, the total amount of money paid to salepeople, agents or representatives for the solicitation of the said contracts, and what each customer was charged exclusive of interest or finance charges per square foot for the performance of the said contract.

(c) For a period of three (3) years invoices, notices for payment and all similar documents which respondent receives, in the conduct of his business from suppliers, subcontractors and other persons.

(d) For a period of three (3) years copies of all contracts entered into between respondent and his customers.

8. Representing, directly or by implication, that respondent's products, installations or services are warranted or guaranteed unless the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder, are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondent promptly and fully performs all of his obligations and requirements, directly or impliedly represented under the terms of each such warranty or guarantee.

9. Falsely representing, directly or by implication, that his aluminum siding materials will not require painting or other type of restorative maintenance; or misrepresenting in any manner the durability, efficiency, composition or quality of respondent's products, installations, or services.

10. Falsely representing, directly or by implication, that the home of any of respondent's purchasers, or prospective purchasers of such products, will be used for any type of advertising or demonstration purpose or as a model home and that, as a result of such use, respondent's purchasers or prospective purchasers will receive a reduced price or will earn discounts or allowances of any type.

It is further ordered That respondent shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each notice of affiliation shall include the respondent's new business address and a statement of

[1] Copies of the Complaint, Opinion, and Final Order, filed with the original document.

the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered That respondent shall forthwith deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the offering for sale or sale of respondent's residential siding or other home improvement products or the installation thereof, and in the consummation of any extension of consumer credit, and that respondent secure a signed statement acknowledging the receipt of said order from each such person.

It is further ordered That respondent shall, within sixty (60) days after the effective date of the Order served upon him, file with the Commission a report, in writing, signed by respondent, setting forth in detail the manner and form of his compliance with the Order to cease and desist.

Chairman Collier not participating the Final Order was issued by the Commission Mar. 30, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-12830 Filed 5-3-76;8:45 am]

[Docket No. C-2812]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Strawbridge & Clothier

Subpart—Combining or conspiring: § 13.385 To boycott seller-suppliers; § 13.388 To control allocations and solicitation of customers; § 13.395 To control marketing practices and conditions; § 13.430 To enhance, maintain or unify prices; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.470 To restrain or monopolize trade. Subpart—Controlling, unfairly, seller-suppliers: § 13.530 Controlling, unfairly, seller-suppliers. Subpart—Cutting off access to customers or market: § 13.560 Interfering with distributive outlets; § 13.565 Interfering with advertising mediums; § 13.580 Organizing and controlling seller-suppliers. Subpart—Cutting off supplies or service: § 13.610 Cutting off supplies or service.

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

In the matter of Strawbridge & Clothier, a corporation

Consent order requiring a Philadelphia, Pa., developer of shopping centers and operator of retail department stores and discount outlets, among other things to cease entering into agreements which empower it to control the admission of competing retailers into shopping centers; restrict and control retailers' conduct of sales, use of advertising and other methods of sales promotion; determining particular types or brands of goods and services competing retailers may or may not sell; and determining price or quality ranges within which competing retailers may sell their goods or services.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows: [1]

I. For purposes of this Order the following definitions shall apply:

A. The term "shopping center" refers to a planned development of retail outlets, managed as a unit in relation to a trade area which the development is intended to serve and containing (1) at least two tenants other than respondent; (2) at least one major tenant; and (3) on-site parking in some definite relationship to the types and sizes of stores in the development.

B. The term "tenant" includes any occupant or potential occupant of retail space in a shopping center, whether a lessee or owner of such space, but the term does not refer to an occupant of space within the store or other areas occupied by respondent, which occupant operates a department for respondent pursuant to a license from respondent.

C. The term "major tenant" refers to a tenant providing primary drawing power in a shopping center. A tenant which occupies at least 50,000 square feet of floor area will be deemed to provide primary drawing power.

D. The term "retailer" refers to a tenant which sells merchandise or services to the public.

E. The terms "price line," "price range," "range of prices," "fashion range," "range of fashions," "quality range" and "range of quality" refer to descriptive words identifying a particular tenant as an example of a category of merchants selling merchandise within a generally identifiable range of prices, and also include, but are not limited to, such descriptive words as "popular priced," "medium priced," and "better priced"; "popular fashion," "medium fashion," and "high fashion"; and "popular quality," "medium quality," and "high quality."

F. The term "fringe area" refers to land area bordering a shopping center property, which land area respondent does not own or does not have a right to purchase. A shopping center property includes the tract of land on which the physical structure, parking areas, roadways, landscaped area, open areas, and other common facilities of the shopping centers are located, and areas reserved for future use, as shown on the layout.

G. The term "developer" means any business entity which plans, constructs, or operates a shopping center and negotiates and executes lease agreements with tenants.

II. *It is ordered,* That respondent Strawbridge & Clothier, a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, hereinafter sometimes referred to as respondent, directly or through any corporation, subsidiary, division or other device, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, in its capacity as a tenant in a shopping center, forthwith cease and desist from requesting, obtaining, making, executing, carrying out, or enforcing, directly or indirectly, any agreement, lease provision, operating agreement, contract, or understanding which:

1. Grants respondent the right to approve or disapprove the entrance into a shopping center of any other retailer, or the conditions for entry of other retailers;

2. Prohibits the admission into a shopping center of retailers, including, but not limited to, for purposes of illustration:

a. Other department stores,
b. Junior department stores,
c. Discount stores, or
d. Catalog stores;

3. Grants respondent the right to control or restrict the business operations of other retailers, including but not limited to:

a. The right to specify, prohibit or restrict any type of advertising, including discount advertising, or the right to specify or restrict the content of store signing;

b. The right to use trading stamps, auction sales, bona fide going out of business sales, bankruptcy sales or other like methods of merchandising; or

c. The right to be a discounter or sell merchandise or services at discount prices;

4. Grants respondent the right to approve or disapprove the amount of floor space that any other retailer may lease or purchase in a shopping center, or limit or restrict the use to which such space may be put within the shopping center;

5. Limits the types of merchandise or brands of merchandise or services which any other retailer in a shopping center may offer for sale, or the amount of floor space that may be utilized for the display and sale of such merchandise or service;

6. Specifies that only other retailer in the shopping center shall or shall not sell its merchandise or services at any particular price or within any range of prices, or shall not sell designated price lines of merchandise;

7. Specifies that any other retailer in the shopping center shall or shall not sell merchandise unless said merchandise is of a certain quality or fashion range;

8. Gives covenants to other retailers in their shopping center leases whereby a particular tenant is permitted to have an exclusive right or a right of first refusal to operate a particular type of business, sell a particular type or brand of merchandise, or furnish a particular type of service;

9. Grants respondent the right to approve or disapprove any other retailer's hours of operation in a shopping center;

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

10. Grants respondent the right to approve or disapprove the location in a shopping center of any other retailer;

11. Establishes or maintains a radius or distance from shopping centers within which a retailer may not operate another store similar to or in competition with that retailer's own store at the shopping center;

12. Grants respondent the right to restrict, approve, or disapprove the uses to which fringe areas of a shopping center may be developed or used;

13. Grants respondent the right to prevent or limit expansion of the shopping center;

14. Grants respondent the right to restrict the categories or types of uses designated for the land on which a shopping center is being developed or expanded;

15. Establishes quotas on or limits the number of any class of retailer which can become tenants in a shopping center, by any device, such as, but not limited to, preapproved lists.

Provided, however, That respondent's full line department stores shall not be subject to the provisions of Section II of this Order unless said full line department stores are tenants in a shopping center, as defined as follows: The term "shopping center" refers to a planned development of retail outlets, managed as a unit in relation to a trade area which the development is intended to serve and containing (1) a total floor area designed for retail occupancy of 200,000 square feet or more, of which at least 50,000 square feet is for occupancy by tenants other than respondent; (2) at least two tenants other than respondents; (3) at least one major tenant; and (4) on-site parking in some definite relationship to the types and sizes of stores in the development.

III. A. *It is further ordered* That respondent, in its capacity as a shopping center developer, forthwith ceases and desist from making, carrying out, or enforcing, directly or indirectly, an agreement or provision of an agreement which:

1. Specifies that any retailer in any of respondent's shopping centers shall or shall not sell merchandise or services at any particular price, or within any range of prices or price lines, or within any range of fashions or within any range of quality;

2. Specifies that any retailer in any of respondent's shopping centers shall not be a discounter or sell merchandise or services at discount prices;

3. Specifies the content of or prohibits any type of advertising by a retailer, other than advertising within any of respondent's shopping centers, except that respondent may require a tenant to include the name, insignia, or other identifying mark of any of respondent's shopping centers in advertising pertaining to the tenant's store in any of respondent's shopping centers; or

4. Prohibits price advertising within any of respondent's shopping centers or controls advertising within any of respondent's shopping centers in such a way as to make it difficult for consumers to discern advertised prices from the common area of such shopping centers, provided that in all other respects, respondent may make, carry out and enforce reasonable standards for advertising within any of respondent's shopping centers.

B. *It is further ordered* That respondent, in its capacity as a shopping center developer, cease and desist from entering into any agreement with any tenant that said tenant may:

1. Specify or control or may require respondent to specify or control prices, price ranges, price lines, fashion ranges, or quality ranges of merchandise or services sold by any other retailer;

2. Control or may require respondent to control discounting by any other retailer; or

3. Exclude any retailer from any of respondent's shopping centers by reason of such retailer's discount selling or discount advertising.

C. *It is further ordered* That respondent, in its capacity as a shopping center developer, advise the Commission in writing within sixty (60) days of any occasion that:

1. A tenant disapproves the admission into any of respondent's shopping centers of any other retailer;

2. A tenant refuses to approve the renewal of another retailer's lease in any of respondent's shopping centers;

3. A tenant approves the admission of another retailer into any of respondent's shopping centers subject to conditions imposed by the tenant relating to the pricing, price ranges, price lines, fashion ranges, quality ranges, trade names, store names, trade marks, brands or lines of merchandise, or the discounting practices or methods of such other retailer; or

4. A tenant enters into an agreement with respondent to become a tenant in any of respondent's shopping centers on condition that respondent refuse to renew the lease of another retailer.

D. *It is further ordered* That respondent, in its capacity as a shopping center developer, will not base its decision to grant, renew or extend the lease of a tenant in any of respondent's shopping centers upon the pricing practices of such tenant.

E. *It is further ordered* That respondent, in its capacity as a shopping center developer, shall within thirty (30) days after service of this Order upon respondent, notify each tenant in any of respondent's shopping centers of this Order by providing each tenant with a copy of this Order by registered or certified mail.

IV. A. *It is further ordered* That this Order shall not prohibit respondent from including a provision in a construction, operating and reciprocal easement agreement or lease with respect to a shopping center, which provision identifies in designated buildings respondent and those other major tenants which contemporaneously enter into such agreement or lease with respect to such shopping center; provided that the operation of this Section shall not in any way limit or modify provisions II.(1) or II.(10) of this Order.

B. *It is further ordered* That this Order shall not prohibit respondent from negotiating to include, including, carrying out, or enforcing an agreement or provision in any agreement with the developer or the landlord of a shopping center that the respondent may:

1. Require that with respect to the selection of other tenants in the shopping center, the developer shall select businesses which are financially sound and of good reputation

2. Require the developer or the landlord to maintain reasonable standards of appearance, maintenance and housekeeping of and in the shopping center, including reasonable standards of appearance, maintenance and housekeeping relative to the use of common areas of the shopping center for the advertising or sale of merchandise, and reasonable uniform standards with respect to the appearance of signs;

3. Approve or grant to respondent the right to approve a layout of the shopping center, which layout may a. Designate respondent's store, b. Set forth the location, size and height of all buildings, c. Locate parking areas, roadways, utilities, entrances, exits, walkways, malls, landscaped areas and other common areas, and d. Establish a proposed layout for future expansion of the shopping center;

4. Require the developer or landlord to prohibit occupancy of space in a shopping center immediately proximate to respondent by types of tenants that create undue noise, litter or odor;

5. Require that in respect of the selection of other tenants in the shopping center by the developer the objective of maintaining a balanced and diversified grouping of retail stores, merchandise, and services shall be considered;

6. Require that the developer or the landlord consider the objective of maintaining reasonable uniform minimum hours of operation; or

7. Require that any expansion of the shopping center not provided for in the layout:

a. Shall not interfere with efficient automobile and pedestrian traffic flow into and out of the shopping center and between respondent's store and perimeter and access roads, parking areas, malls and other common areas of the shopping center;

b. Shall not interfere with the efficient operation of respondent's store, including its utilities or its visibility from within the shopping center or from public highways adjacent thereto;

c. Shall not result in a change of (i) the shopping center's parking ratio, (ii) the location of parking spaces reasonably accessible to respondent's store, (iii) the entrances and exists to and from respondent's store and any malls, and (iv) those parking area mall entrances and exits which substantially serve respondent's store;

d. Shall be accomplished only after any and all covenants, obligations and standards (for example, construction, archi-

tecture, operation, maintenance, repair, alteration, restoration, parking ratio and easements) of the shopping center, exclusive of the expansion area (i) shall be made applicable to the expansion area, (ii) shall be made prior in right to any and all mortgages, deeds of trust, liens, encumbrances, and restrictions applicable to the expansion area, and (iii) shall be made prior in right to any and all other covenants, obligations and standards applicable to the expansion area.

V. *It is further ordered* That respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered That respondent shall within thirty (30) days after service of this Order upon respondent, notify each developer or landlord of shopping centers in which respondent occupies floor space, of this Order by providing each such developer or landlord with a copy thereof by registered or certified mail.

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

It is further ordered That respondent shall within sixty (60) days after service of this Order upon respondent file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

The Decision and Order was issued by the Commisison March 22, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-12831 Filed 5-3-76;8:45 am]

Title 21—Food and Drugs

CHAPTER 1—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76S-0053]

PART 51—CANNED VEGETABLES

Canned Green Beans and Canned Wax Beans; Amendment of Standards of Identity and Quality

Correction

In FR Doc. 76-11147 appearing in the FEDERAL REGISTER of Monday, April 19, 1976 at page 16454 the docket number should have appeared as shown above.

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 221—OPERATION AND MAINTENANCE CHARGES

Crow Indian Irrigation Project, Mont.

APRIL 27, 1976.

On page 12688 of the FEDERAL REGISTER of March 26, 1976, there was published a notice of intention to modify § 221.12 of Title 25, Code of Federal Regulations, dealing with the irrigable lands of the Crow Indian Irrigation Project, Montana, that are not subject to the jurisdiction of the several irrigation districts. Purpose of this amendment is to establish the assessment charges for the 1976 season and thereafter until further notice and which charges are applicable to all irrigable lands in the Crow Indian Irrigation Project that are not included in the irrigation district organizations.

Interested people were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received and the proposed amendment is hereby adopted without change as set forth below.

Section 221.12 is revised to read as follows:

§ 221.12 Charges.

In compliance with the provisions of the Act of August 1, 1914 (38 Stat. 583 25 U.S.C. 385), the operation and maintenance charges, for irrigable lands under the Crow Indian Irrigation Project and under certain private ditches for the calendar year 1976 and subsequent years until further notice, are hereby fixed as follows:

For the assessable nondistrict area under constructed works on all Government-operated units excepting Coburn Ditch	$4.60
For the assessable area under constructed works on certain tracts of irrigable trust patent Indian land within and benefited by the Two Leggins Unit	4.18
For the assessable area on certain tracts of irrigable trust patent Indian land within and benefited by the Bozeman Trail Unit	2.18
For all lands in Indian ownership under the Bozeman Trail Unit on June 28, 1946, and under constructed works on all Government-operated units in the Little Big Horn watershed; for non-Indian, non-irrigation, district lands, under private ditches, contracting for the benefits and repayment for the costs of the Willow Creek Storage Works; for operation of said works	.20
For certain tracts of irriagble trust patent Indian lands within and benefited by the Two Leggins Drainage District (contract dated June 29, 1932)	.85

JOHN W. REASE,
Acting Superintendent, Crow Indian Agency.

[FR Doc.76-12883 Filed 5-3-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation, Hospitalization Adjustments

The Administrator of Veterans' Affairs amends provisions of Part 3 of Title 38, Code of Federal Regulations, relating to adjustment of veterans' awards while hospitalized by the Veterans Administration.

Section 104 of Public Law 92-328 (86 Stat. 393), effective August 1, 1972, repealed the former subsection (a) of section 3203 of title 38, United States Code. Prior to repeal this subsection provided for reduction of awards of compensation or retirement pay when a veteran without dependents was hospitalized by the Veterans Administration over 6 months. It further provided for payment in a lump sum of the withheld amounts upon termination of such hospitalization. Subsection (b)(1) of section 3203, as amended by Public Law 92-328, provides that where an incompetent veteran without dependents is hospitalized by the United States or a political subdivision thereof and his or her estate equals or exceeds $1,500 no further payments of pension, compensation or emergency officers retirement pay may be made until the veteran's estate is reduced to $500. It further provides that amounts withheld under this provision may be paid to the veteran in a lump sum 6 months after a finding of competency. The provisions of subsection (b)(1) for withholding benefits because of the size of an incompetent veteran's estate are incorporated in § 3.557, Title 38, Code of Federal Regulations. Regulatory provisions relating to resumption of payments and lump sum payment of withheld amounts in such cases are incorporated in § 3.558, Title 38, Code of Federal Regulations.

Section 106 of Public Law 92-328 provided for immediate payment of amounts withheld under the former subsection (a) of section 3203. However, where an incompetent veteran's award was subject to the estate limitations in subsection (b)(1) immediate payment of the withheld amounts could not be effected but was subject to the delayed payment provisions of that subsection. Paragraph (g) was added to § 3.551 to incorporate the provisions of section 106 in the regulations. Veterans who were eligible for immediate payments under section 106 were identified and the payments were made. For this reason the provisions in paragraph (g) relating to immediate payment of withheld benefits are no longer applicable. The amendments cancel paragraph (g) in its entirety and incorporate the still applicable provisions regarding veterans who were not eligible for immediate payment because of the provisions of subsection (b)(1) but subsequently become eligible for payment in § 3.558, Title 38, Code of Federal Regulations. This change associates in the same section (§ 3.558(c)(1)) related provisions pertaining to lump sum payments for formerly incompetent veterans. Minor changes in § 3.551(c) delete obsolete references to Indian war veterans. The last known Indian war veteran died June 18, 1973.

These changes do not effect any change in entitlement or benefits. Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful pur-

pose since the amendments are editorial in nature.

1. In § 3.551, paragraph (c) is revised and paragraph (g) is revoked so that the revised material reads as follows:

§ 3.551 Reduction because of hospitalization.

* * * * *

(c) *Reduction after 2 months.* Where pension is being paid to a veteran under 38 U.S.C. 521(b) or to a Spanish-American War veteran who was not receiving pension for June 30, 1960, or who is receiving pension under 38 U.S.C. 521, the pension for a veteran who has neither wife, husband, nor child, or who, though married, is receiving pension as prescribed by 38 U.S.C. 521(b) because not living with or reasonably contributing to the support of his or her spouse shall continue at the full monthly rate until the end of the second calendar month (except as provided in paragraph (d) of this section) following the month of admission for hospitalization. The rate payable effective the first of the third calendar month will be an amount not in excess of $50 monthly. Where the veteran has been discharged from a period of hospitalization of not less than 2 full calendar months and is readmitted within 6 months, the award will be reduced effective the date of readmission. (Pub. L. 93-177; 87 Stat. 694)

(1) Where pension was being paid to a married veteran at the rate prescribed by 38 U.S.C. 521(b), all or any part of the rates payable under 38 U.S.C. 521 (c), (d) or (e) may be apportioned for an estranged wife or husband as provided in § 3.454(b). (38 U.S.C. 3203(a))

(2) Where pension is payable to a Spanish-American War veteran who is in need of aid and attendance, pension under 38 U.S.C. 512 may be continued under the provisions of paragraph (b) of this section if the veteran was receiving or entitled to receive pension for June 30, 1960. See § 3.711.

* * * * *

(g) [Revoked]

2. In § 3.558, the title and paragraph (c)(1) are revised to read as follows:

§ 3.558 Resumption and payment of withheld benefits; incompetents $1,500 estate cases.

* * * * *

(c) Any amount not paid because of the provisions of § 3.557 will be awarded:

(1) To a veteran who is currently rated competent by the Veterans Administration or as to whom a legal disability has been removed, after release from hospitalization and after the expiration of 6 months following the effective date of the rating of competency by the Veterans Administration or removal of the legal disability, whichever is the later. Included for payment under this provision are amounts of compensation or retirement pay withheld pursuant to the provisions of § 3.551(b) (and/or predecessor regulatory provisions) as it was constituted prior to August 1, 1972, and not previously paid because of the provisions of § 3.557(b). (38 U.S.C. 3203 Note)

* * * * *

Effective date. These VA Regulations are effective April 27, 1976.

Approved: April 27, 1976.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

[FR Doc.76-12897 Filed 5-3-76;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-74; Amdt. Nos. 173-97; 178-39]

PART 173—SHIPPERS

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Inspection and Testing Requirements for Cylinders Manufactured Outside the United States

This docket was opened on January 19, 1971, when the Hazardous Materials Regulations Board announced that it was considering the necessity for continuing the domestic analysis and test rule (36 FR 838) and that a public hearing had been scheduled for that purpose. The domestic analysis and test rule, found in the compressed gas cylinder specifications of Part 178, requires that an analysis of metal to be used in making a cylinder, as well as tests on the finished or partially finished product, be conducted within the United States, regardless of where that cylinder is manufactured. On June 10, 1971, following a two-day public hearing, the Board announced, based on information then available, that it had concluded that analyses and tests could be performed outside the United States under appropriately controlled manufacturing procedures. The Board at the same time also proposed amendments it believed would establish that control (36 FR 11224).

The 1971 proposals would have—

1. Required all disinterested inspectors to be approved by DOT rather than by the Bureau of Explosives of the American Association of Railroads, as is the current practice;

2. Required disinterested inspection of all foreign-made cylinders, while continuing to allow interested inspection of domestic-made low pressure cylinders (inspection by an employee of the cylinder manufacturer); and

3. Allowed, for the first time, analyses and tests to be made outside the United States, but only upon DOT manufacturing approval, and only in conjunction with DOT-approved disinterested inspection.

The docket remained open for public comment until November 1971. It was reopened February 3, 1972, to consider what additional changes to the cylinder specifications of Part 178, if any, might be necessary to the transportation safety of compressed gas cylinders. The February 1972 notice also sought comment on what specific qualifications and requirements cylinder inspectors should be required to meet before being approved by DOT. The docket remained open for comment until October 3, 1972.

On January 13, 1976 (41 FR 1919), after thorough consideration of the contents of the docket, a revised notice of proposed rulemaking was published, which essentially repeated the 1971 proposals. In addition, the revised notice also proposed—

1. A substitution of the term "independent inspection agency" for "disinterested inspector";

2. A specific process by which a person could apply for approval as an independent inspection agency, a similar process by which a manufacturer could apply for approval to conduct analyses and tests outside the United States, and the information necessary to support such applications (including designation of an agent for service of process for nonresident applicants);

3. The discontinuance of authority for domestic manufacturers of low pressure cylinders to use interested inspectors in favor of independent inspectors (a proposal which has since been severed from this docket and is presently being considered under Docket HM-74A, 41 FR 11179, March 17, 1976).

Well over 300 comments have been received on this rulemaking since it was first opened, about 30 of which have been received since publication of the revised notice early this year. Interest has been expressed by domestic cylinder users, domestic steel suppliers, and both foreign and domestic cylinder manufacturers, trade associations and inspection agencies. References herein are to comments received on the January 1976 revised notice. Those comments, however, are generally representative of comments on earlier docket publications.

THE DOMESTIC ANALYSIS AND TEST RULE

The domestic analysis and test rule dates to 1922 and was originally intended to protect American citizens against gas cylinders of uncertain pedigree. At a time preceding rapid transoceanic travel and communication, the necessity for the rule was clear.

The nature of that necessity has gradually altered. A substantial exchange of complex industrial and scientific information now occurs among Europe, the United States and elsewhere, and it is presently possible for the Department to perform an inspection at a foreign location almost as quickly as at a domestic location. The MTB believes it is practical to establish a properly supervised alternate method involving analysis and testing outside the United States, by which a foreign cylinder manufacturer can comply with the Department's gas cylinder regulations.

It was apparent early in this docket that some domestic users of compressed gas cylinders, as well as some foreign

manufacturers, consider themselves unnecessarily burdened by the domestic analysis and test rule. To enter the American cylinder market, a foreign manufacturer must not only adjust his usual testing and manufacturing cycle to meet DOT requirements, he must also face additional costs and manufacturing delays resulting from the domestic analysis and test rule.

Some domestic cylinder users believe that price and supply in the domestic cylinder market reflect a lack of competition and attribute that condition to the rule, perceiving in it a non-tariff trade barrier that effectively prevents the entry of quality foreign-made cylinders. A representative of the Department of Justice Antitrust Division, in the March 16, 1971 public hearing which is part of this docket, observed similarities between trade restraints intended to be remedied by an antitrust suit filed against the American Society of Mechanical Engineers and the claimed trade barrier effects of the domestic analysis and test rule. In a separate action as late as last year, the Justice Department obtained a consent decree effectively reversing the acquisition of Pressed Steel Tank Company by Norris Industries, the second and fourth largest producers of high pressure cylinders in the United States.

In light of a docket which extends back to 1971, the MTB has concluded that domestic analysis and testing are not any more conducive to safety than properly supervised analysis and testing occurring elsewhere. Moreover, the MTB recognizes the obvious difficulties that the domestic analysis and test rule imposes on foreign cylinder manufacturers and the possibility that those difficulties may be reflected in the domestic cylinder market. Continuance of the Department's reliance on the domestic analysis and test rule as the exclusive means by which foreign-made cylinders can be manufactured in compliance with safety regulations may be tantamount to regulating transportation safety by effectively prohibiting importation of most foreign-made cylinders without regard to quality. The domestic analysis and test rule was never intended to prohibit the importation of foreign-made compressed gas cylinders but to insure that those imported are safe. The amendments are intended to provide a more reliable and economically less burdensome means of distinguishing between good and bad cylinders.

In defense of retaining the domestic analysis and test rule, the American Cylinder Manufacturers Committee (ACMC), commenting on other materials found in the docket, states that—

> [t]estimony * * * which seeks to establish that the current safety regulations are a non-tariff trade barrier or provide the domestic cylinder manufacturers with a monopoly in the domestic cylinder market or limit the supply of cylinders available in this country is irrelevant to this proceeding and invalid * * *. [T]he only information which OHMO may consider in its evaluation of the issues raised by HM-74 is information relevant to the safety of compressed gas cylinders introduced into interstate commerce.

The ACMC is generally correct. The statutory responsibility of the Department is transportation safety. On that basis, the new amendments are an improvement over the existing regulations. The amendments are expected to increase the control and supervision exercised by DOT over foreign manufacturers, as well as over many domestic manufacturers. The amendments accomplish this by requiring all independent cylinder inspectors to be approved by DOT, by requiring that all foreign-made cylinders and domestic-made high pressure cylinders be subjected to independent inspection, and by requiring DOT manufacturing approval in any case where analyses and tests are to be performed outside the United States.

An additional consideration is the fact that retention of the domestic analysis and test rule, absent some justification in transportation safety, wrongly places the Department in the position of preemptively regulating an aspect of national economic policy and foreign trade which is properly addressed by Congress and other Federal agencies. In short, although the new amendments promise greater transportation safety, even if they did not, there would still remain a legitimate question of whether the existing regulations achieve safety in an efficient manner.

Conditions of Foreign Cylinder Manufacture

Many of the comments addressed to foreign manufacturers as a group, asserting that foreign manufacturers have in the past fallen short of meeting DOT specifications, do not now manufacture to DOT specifications, lack adequate testing and inspection procedures and have poor quality control. The conclusion apparently urged is that until all identifiable foreign manufacturers have been evaluated as part of that group, there is not any single manufacturer who can be said to be competent to manufacture gas cyclinders to DOT specifications.

An attempt to exhaustively evaluate all foreign manufacturers before approving any one of them would be wasteful and would produce results of questionable value. Comments from both foreign and domestic interests recognize that foreign cylinder manufacturers constitute a diverse group which unquestionably includes a great many concerns that will never seek entry into the U.S. cylinder market, as well as concerns that will not or cannot comply with DOT regulatory standards. The amendments are therefore structured to provide an individual evaluation of each foreign inspection agency and foreign manufacturer who seeks DOT approval.

Several other comments expressed the view that foreign cylinder manufacturers will have an unfair price advantage because of the availability of cheap labor, or because ineffective regulatory supervision will allow production of defective and thus less expensive cylinders than the quality product of a domestic manufacturer. Cheap labor, to the extent it does exist in countries sufficiently advanced technologically to manufacture cylinders, may indeed result in low manufacturing costs. Foreign producers, however, are also subject to a 5% or 7½% tariff, additional transportation costs, and DOT inspection costs that are not faced by their domestic counterparts. There exist outside the DOT appropriate means of dealing with unfair import competition.

With regard to the possibility of lax regulatory enforcement, it is the intent of the Department that regulatory compliance by foreign manufacturers will be as complete as compliance by domestic manufacturers.

Regulation of Foreign Manufacturers and Inspectors

A number of comments expressed the view that regulating foreign cylinder manufacturers and inspectors is difficult, expensive and beyond the capacity of DOT. One comment suggested that unannounced inspection of foreign manufacturers would be "impractical, if not impossible". DOT inspection of foreign facilities may in some cases be more difficult than inspection of domestic facilities, but it is practical and will be used in essentially the same fashion as it is used domestically. The amendments require the cost of foreign inspection by the Office of Hazardous Materials Operations to be borne by the manufacturer or inspection agency seeking DOT approval as a condition of that approval. The intention is to recover "out-of-pocket" costs to the United States Government for foreign inspections considered necessary to evaluate an approval application, or necessary to monitor an approval holder, but not to recover salary for OHMO personnel.

Another series of comments suggested that the regulations governing cylinder manufacture are so vague that only the domestic industry, with its record of safety, common regulatory experience and common language can be relied upon for comprehension and compliance. It is clear that some foreign manufacturers are capable of making cylinders to DOT specifications and that the regulatory provisions governing cylinder manufacture are capable of communication outside the United States. Differences between domestic and foreign manufacturers can be evaluated in the course of considering approval applications and monitoring approval holders.

Finally, a number of commenters addresed problems foreseen in making civil or criminal penalties effective against a foreign cylinder manufacturer or inspection agency, or collecting from him a tort judgment. A nonresident manufacturer who chooses to conduct analyses and tests outside the United States, or a nonresident inspection agency, must designate a domestic agent for service of process before DOT approval will be granted. Service on that agent will be sufficient for purposes of civil or criminal action under the Hazardous Materials Transportation Act of 1974 (Pub. L. 93-633, 49 U.S.C. 1801 et seq.) when the

necessary implementation of the Act's relevant provisions is completed (see Docket HM-134, 41 FR 9188, March 3, 1976). Actual enforcement of any such action is in any event backed by withdrawal of Departmental approvals. In the case of a civil suit, the MTB recognizes that reaching assets located outside the United States may be more difficult than reaching domestic assets. The concern of the MTB in this matter is that some products liability exposure exist to provide additional motivation for a cylinder producer to avoid manufacturing errors. Distinctions between national jurisdictions as to proof of liability or manner of recovery are marginal to this concern.

THE APPROVAL PROCESS

A criticism made by several commenters dealt with what is perceived as a lack of specificity in the criteria to be used in determining whether to grant approval to a foreign manufacturer or inspector. One commenter addressing the approval process in particularly useful detail was Union Carbide Corporation. Certain of the Union Carbide comments regarding clarity of the proposed rules have been incorporated into the final rules, and others are addressed here.

The term "person" used in the amendments is defined at 49 CFR 171.8 (41 FR 15995, April 15, 1976) as an individual, firm, co-partnership, corporation, company, association, joint stock association, or trustee, receiver, assignee or personal representative of the foregoing.

Among the items of information necessary to support an inspection agency application, new § 173.300a(b)(6) requires identification and qualifications of those inspectors responsible for certifying inspection and test results (certifying inspectors). Certifying inspectors are responsible for the proper performance of inspection duties. Certifying inspectors may witness or perform tests themselves, or supervise others in such activity. In the latter case, new section 173.300a(b)(7) requires a method by which such supervised inspectors may be individually identified. Supervised inspectors may not certify inspection or test results. They are answerable as part of the independent inspection agency, cannot be an employee of the cylinder manufacturer, and cannot delegate their functions. The certifying inspector cannot delegate his certification functions. Actual organizational arrangements must be specified in the application and must meet the circumstances of manufacture.

From applicant inspection agencies, the amendments also require identification and description of testing facilities, a description of the agency's ability to perform duties imposed by Part 178, a description of ownership interests in the agency, and for nonresident agencies, a designation of agent for service of process.

From applicant manufacturers, the amendments require identification and description of each facility at which cylinders are to be manufactured or where analyses and tests will occur. Complete details on each specification cylinder for which manufacturing approval is sought must be provided, and the independent inspection agency to be used must be identified. Nonresident manufacturers must designate an agent for service of process.

The MTB believes that the level of specificity in the new amendments is sufficient to give notice as to how the approval process is expected to operate. A great number of factors, such as experience, credentials, training, available equipment and other resources, as well as (for inspection agencies) independence, are involved in each approval decision. To attempt to enumerate each factor and identify a constant relationship it may bear to any final approval action would suggest absolutes that do not exist and might tend to rule out concerns that may prove to be important. It is the intent of the amendments that the Director retain substantial discretion in approval decisions. Additional information may be sought for any approval application or in the course of monitoring an approval holders activities.

The effect of an approval issued to either an independent inspection agency or a foreign manufacturer is limited by the operation of any terms or conditions considered necessary by the Director, OHMO, and specified therein.

An approval issued either a manufacturer or an inspection agency may be terminated for fraud, noncompliance with Subchapter C, nonsatisfaction of Federal civil or criminal enforcement action, or if continuation of the approval is not consistent with the requirements of transportation safety. The latter category could encompass nonsatisfaction of a final judgment involving a tort claim related to cylinder manufacturing or inspection deficiencies; other circumstances indicating the practical nonexistence of an approval holders' exposure to product safety tort liability; or, a loss of independence by an approved inspection agency.

Prior to approval termination, the approval holder will be notified of the basis for that action and given an opportunity to show why the approval should not be terminated.

Provision has been made for any domestic inspection agency, which the Bureau of Explosives has designated as a competent and disinterested inspector prior to May 1, 1976, upon timely application and presentation of credentials, to be approved as a domestic independent inspection agency. Such agencies will be limited by the terms of such an approval to activities within the United States, for which reason they may choose to submit a full application for DOT approval subsequent to or instead of presentation of Bureau of Explosives credentials. Submission of Bureau of Explosives credentials must be made by July 15, 1976. Until August 15, 1976, Bureau of Explosives designation is acceptable as DOT approval. Following that date, such designation will not be recognized for any purpose.

In consideration of the foregoing, 49 CFR, Parts 173 and 178 are amended as follows:

1. New §§ 173.300a, 173.300b, and 173.300c are added to read as follows:

§ 173.300a Approval of independent inspection agency.

(a) Any person who (1) does not manufacture cylinders for use in the transportation of hazardous materials and (2) is not directly or indirectly controlled by any person or firm which manufactures cylinders for use in the transportation of hazardous materials, may apply to the Department of Transportation for approval as an independent inspection agency for the purpose of performing cylinder inspections and verifications required by Part 178 of this subchapter.

(b) Each application filed under this section for approval as an independent inspection agency must:

(1) Be submitted in writing to: Office of Hazardous Materials Operations, U.S. Department of Transportation, Washington, D.C. 20590;

(2) State the name, address, principal business activity, and telephone number of the applicant and the name and address of each facility where tests and inspections are to be performed;

(3) State the name, address and principal business activity of each person having any direct or indirect ownership interest in the applicant greater than three percent and of each subsidiary or division of the applicant;

(4) If the applicant is not a permanent resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7 of this title;

(5) Set forth a detailed description of the inspection and testing facilities to be used by the applicant and the applicant's capability to perform the inspections and verify the tests required by Part 178 of this subchapter;

(6) Identify by name each individual whom the applicant proposes to employ as an inspector responsible for certifying inspection and test results and a statement of that person's qualifications; and

(7) Specify the identification or qualification number assigned to each inspector who is supervised by a certifying inspector identified in § 173.300a(b)(6).

(c) Upon the request of the Director, OHMO, the applicant shall allow the Director to inspect the applicant's inspection and testing facilities. In the case of inspection and testing facilities located outside the United States, the applicant shall bear the cost of the inspection.

(d) If, on the basis of information submitted in the application and his own investigation, the Director, OHMO, finds that the applicant is qualified to perform the inspections and verifications required by Part 178 of this subchapter for cylinders to be used in the transportation of hazardous materials, he issues an approval subject to such terms and conditions as he considers necessary.

(e) The Director, OHMO, will issue an approval as an independent inspection agency for the purpose of performing inspections and verifications within the United States to any competent and disinterested inspector of cylinders so designated by the Bureau of Explosives before May 1, 1976, who submits a copy of that designation by July 15, 1976, together with the name, the assigned identification or qualification number, and a statement of the qualifications of each person employed as an inspector under that designation to: Office of Hazardous Materials Operations, U.S. Department of Transportation, Washington, D.C. 20590.

(f) Notwithstanding any requirement of this subchapter to the contrary, between May 30, 1976, and August 15, 1976, inspections and verifications required by Part 178 may be performed within the United States by any competent and disinterested inspector so designated by the Bureau of Explosives prior to May 1, 1976.

(g) An approval issued under this section is not transferable and is effective until surrendered or withdrawn or otherwise terminated by the Director, OHMO.

(h) The holder of an approval issued under this section shall notify the Director, OHMO, within 20 days after the date there is any change in the information submitted in the application for the approval.

(i) Upon the request of the Director, OHMO, the holder of an approval issued under this section shall allow the Director to inspect the holder's inspection and testing facilities and shall make available for inspection the holder's records pertaining to inspections and verifications required by Part 178 of this subchapter. In the case of inspection and testing facilities located outside the United States and records made available for inspection outside the United States, the holder shall bear the costs of inspection.

§ 173.300b Approval of non-domestic chemical analyses and tests.

(a) Any person who manufactures cylinders outside the United States may apply to the Department for approval to have the chemical analyses and tests of those cylinders required by Part 178 performed outside the United States for the purpose of qualifying them for use in the transportation of hazardous materials to, from or within the United States.

(b) Each application filed under this section for approval to perform chemical analyses and tests of cylinders outside the United States must:

(1) Be submitted in writing to: Office of Hazardous Materials Operations, U.S. Department of Transportation, Washington, D.C. 20590;

(2) State the name, address, and telephone number of the applicant and the name, address and a description of each facility at which cylinders are to be manufactured and chemical analyses and tests are to be performed;

(3) If the applicant is not a resident of the United States, include a designation of a permanent resident of the United States as his agent for service of process in accordance with § 107.7 of this title;

(4) Set forth complete details concerning the dimension, materials of construction, wall thickness, water capacity, shape, type of joints, location and size of openings and other pertinent physical characteristics of each specification cylinder for which approval is being requested, including calculations for cylinder wall stress and wall thickness which may be shown on a drawing or on separate sheets attached to a descriptive drawing. If units of weights and measures are expressed in the metric system, they must also be stated in the English system equivalents; and

(5) Identify the independent inspection agency to be used.

(c) Upon the request of the Director, OHMO, the applicant shall allow the Director to inspect the applicant's cylinder manufacturing and testing facilities and shall provide such materials and cylinders for analyses and tests as the Director may specify. The applicant shall bear the cost of the inspections, analyses, and tests.

(d) If, on the basis of the information submitted in the application and his own investigation, the Director, OHMO, finds that the applicant has the proper manufacturing equipment and facilities and is otherwise capable of insuring the proper performance of the chemical analyses and tests required by Part 178 of this subchapter for cylinders to be used in the transportation of hazardous materials, the issues and approval, subject to such terms and conditions as he considers necessary.

(e) An approval issued under this section is not transferable and is effective until surrendered or withdrawn or otherwise terminated by the Director, OHMO.

(f) The holder of an approval issued under this section shall notify the Director, OHMO, within 20 days after the date there is any change in the information submitted in the application for the approval.

(g) Upon the request of the Director, OHMO, the holder of an approval issued under this section shall allow the Director to inspect the holder's cylinder manufacturing and testing facilities, any cylinder manufactured under that approval, the holder's inspection and test records, and technical data files pertaining to any cylinder manufactured under that approval. In the case of facilities located outside the United States, or cylinders, records or files made available for inspection outside the United States, the holder shall bear the costs of inspection.

§ 173.300c Termination of approval.

(a) The Director, OHMO, may terminate an approval issued under § 173.300a or § 173.300b of this subpart if he determines—

(1) That information upon which approval was based is fraudulent or substantially erroneous;

(2) That the holder has not complied with Subchapter C of this chapter;

(3) That, in the case of an independent inspection agency, the agency or an employee thereof is or appears to be controlled or improperly influenced by cylinder manufacturing interests;

(4) That the holder is subject to an outstanding final judgment of a Federal court which concerns the enforcement of Subchapter C and which has not been satisfied within a reasonable period of time; or

(5) That continuation of the approval is not consistent with the requirements of transportation safety.

(b) The Director, OHMO, before he terminates an approval issued under § 173.300a or § 173.300b of this subpart, notifies the holder in writing of the reasons therefor and provides the holder an opportunity to show why the approval should not be terminated.

2. In section 173.301, paragraph (i) and the introductory text of paragraph (j) are revised to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(i) *Foreign cylinders in domestic use.* A charged cylinder manufactured outside the United States may not be offered for transportation to, from, or within the United States unless it has been manufactured, inspected, and tested in accordance with the applicable DOT specification set forth in Part 178 of this subchapter.

(j) *Charging of foreign cylinders for export.* Unless it has been manufactured, inspected, and tested in accordance with the applicable DOT specification set forth in Part 178 of this subchapter, a cylinder manufactured outside the United States and received in the United States for charging with compressed gas may be charged and shipped for export only.

* * * * *

3. Sections 178.36–3, 178.37–3, 178.41–3, 178.43–3, 178.44–3, 178.45–3, 178.47–3, 178.48–3, 178.49–3, 178.54–3, and 178.58–3 are revised to read as follows:

§ 178.___ Inspection by whom and where.

Inspections and verifications must be performed by an independent inspection agency approved in writing by the Director, OHMO, in accordance with § 173.300a of this subchapter. Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Director, OHMO, in accordance with § 173.300b of this subchapter.

4. Sections 178.38–3, 178.39–3, 178.40–3, 178.42–3, 178.50–3, 178.51–3, 178.52–3, 178.53–3, 178.55–3, 178.56–3, 178.57–3, 178.61–3, and 178.68–3 are revised to read as follows:

§ 178.___ Inspection by whom and where.

Inspections and verifications must be performed by an independent inspection agency approved in writing by the Director, OHMO, in accordance with § 173.300a or, in the case of cylinders manu-

factured in the United States, a competent inspector of the manufacturer. Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Director, OHMO, in accordance with § 173.300b of this subchapter.

5. In §§ 178.59–3 and 178.60–3, paragraph (a) is revised to read as follows:

§ 178.___–3 [Amended]

(a) Inspections and verifications must be performed by an independent inspection agency approved in writing by the Director, OHMO, in accordance with § 173.300a or, in the case of cylinders manufactured in the United States, a competent inspector of the manufacturer. Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Director, OHMO, in accordance with § 173.300b of this subchapter.

6. Section 178.65–3 is revised to read as follows:

§ 178.65–3 Inspection by whom and where.

(a) In the case of cylinders having marked service pressures higher than 900 psig, inspections and verifications must be performed by an independent inspection agency approved in writing by the Director, OHMO, in accordance with § 173.300a of this subchapter.

(b) In the case of cylinders having marked service pressures of 900 psig or lower, inspections and verifications must be performed by an independent inspection agency approved in writing by the Director, OHMO, in accordance with § 173.300a of this subchapter or, in the case of cylinders manufactured in the United States, by a competent inspector of the manufacturer.

(c) Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Director, OHMO, in accordance with § 173.300b of this subchapter.

(18 U.S.C. 834, 46 U.S.C. 170(7), 49 U.S.C. 1472(h)(1), 49 CFR 1.53(f)–(h).)

Effective date: These amendments take effect May 30, 1976.

Issued in Washington, D.C., on April 28, 1976.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.76–12870 Filed 5–3–76;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Iroquois National Wildlife Refuge, New York

The following special regulations are issued and are effective during the period May 1, 1976 through December 31, 1976.

§ 33.5 Special regulation; sport fishing; for individual wildlife refuge areas.

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

Sport fishing on the Iroquois National Wildlife Refuge, Basom, New York, is permitted on all waters designated by signs as open in accordance with specified dates. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) All waters will be closed to fishing from April 1 through July 15 and October 1 through November 30 except those portions of the Feeder Canal and Oak Orchard Creek designated by signs as open.

(2) Boats without motors may be used on Oak Orchard Creek from the Knowlesville Road to a wire two miles westward.

(3) Firearms are not permitted in boats.

(4) Leaving boats, structures, or other equipment overnight on the refuge is not permitted.

All fishing areas are delineated on maps available at Refuge Headquarters, RFD #1, Casey Road, Basom, New York 14013 or from the Regional Director, U.S. Fish and Wildlife Service, Post Office and Courthouse Building, Boston, Massachusetts 02109.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1976.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

APRIL 27, 1976.

[FR Doc.76–12837 Filed 5–3–76;8:45 am]

PART 33—SPORT FISHING

Tinicum National Environmental Center, Pennsylvania

The following special regulations are issued and are effective during the period April 30, 1976 through December 31, 1976.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

PENNSYLVANIA

TINICUM NATIONAL ENVIRONMENTAL CENTER

Sport fishing on the Tinicum National Environmental Center, is permitted only on those areas designated by signs as open to fishing. These open areas, comprising approximately 145 acres, are delineated on a map available at Center Headquarters, Suite 104, Scott Plaza 2, Philadelphia, Pennsylvania 19113, or from the Regional Director, U.S. Fish and Wildlife Service, Post Office and Courthouse Building, Boston, Massachusetts 02109. Sport fishing shall be in accordance with all applicable State regulations except for the following special conditions:

(1) Season: April 30–December 31—daylight hours only.

(2) Boats prohibited.

(3) No set tackle may be used.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1976.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

APRIL 27, 1976.

[FR Doc.76–12838 Filed 5–3–76;8:45 am]

Title 47—Telecommunications

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19528; FCC 76–377]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

Proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS)

In the Matter of Proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS).

MEMORANDUM OPINION AND ORDER RE PETITIONS FOR DECLARATORY RULING

By the Commission: Commissioner Quello concurring in part and dissenting in part and issuing a statement in which Commissioner Hooks joins; Commissioner Washburn absent.

1. In a First Report and Order in this proceeding (November Order), 56 FCC 2d 593 (1975), the Commission established a registration program designed to allow users of the nationwide telephone network to connect terminal equipment other than PBXs, key telephone equipment, main telephones and coin telephones to the network without the need for carrier-supplied protective couplers, provided that such equipment complies with standards incorporated into the registration program to protect the network against harm. This program was made applicable both to equipment provided by users (customer-supplied equipment) and to equipment provided by telephone companies (carrier-supplied equipment).[1] On February 13, 1976, the Commission issued a Memorandum Opinion and Order (FCC 76–134) (hereafter, February Order) in reconsideration of the November Order which generally affirmed the conclusions and principles of the November Order, but which established certain "grandfather" provisions

[1] 56 FCC 2d at 601.

concerning equipment installed during a transition period established for phasing in registration of terminal equipment. In a Second Report and Order released March 18, 1976 (FCC 76-242) (hereafter, March 18 Order), the Commission extended the registration program to PBXs, key telephone equipment and main telephones (leaving coin telephones and equipment connected with party-line telephone service excluded from the scope of the registration program).

2. We have before us two Petitions for Declaratory Ruling filed, respectively, by Rixon, Incorporated (Rixon) and National Telephone Cooperative Association (NTCA) requesting clarification of the "grandfathering" and transition period requirements of Part 68 of the Commission's Rules, and of certain other provisions of these rules (see 41 FR 12665, March 26, 1976). Rixon, a manufacturer of data equipment which it has supplied to Independent telephone companies for direct connection to the telephone network, is concerned with the effect of the "grandfathering" and transition period requirements as applied to equipment which it supplies to these telephone companies. NTCA raises similar concerns from the vantage point of a trade association of telephone companies, as well as other concerns which are addressed herein. No entities filed comments on Rixon's petition. The Bell System companies filed a "Response" to NTCA's petition.[1] Because the issues raised by these petitions are related, both petitions (and responsive pleadings) will be addressed herein.

"GRANDFATHERING"

3. As amended by the February and March 18 Orders, § 68.2 (b) and (c) of the Rules provides that:

(b) Unless otherwise ordered by the Commission, all items of equipment, other than PBX and key telephone equipment, of a type directly connected to the network as of May 1, 1976 may be connected thereafter up to January 1, 1977—and may remain connected for life—without registration, unless subsequently modified.

(c) Unless otherwise ordered by the Commission, all PBX and key telephone equipment of a type directly connected to the network as of August 1, 1976 may be connected thereafter up to January 1, 1977—and may remain connected for life—without registration, unless subsequently modified.

4. Rixon argues that this language is ambiguous, primarily because "may remain connected" implies continuous connection of a grandfathered item of equipment, without surcease, and therefore grandfathered status would be lost if such an item of equipment were to be removed for repair, or for reinstallation on the same or another customer premise. Also, Rixon argues that "unless subsequently modified" could be interpreted as meaning that repair of a grandfathered item might cause its status to change, if repair operations could be interpreted as "modification."

5. NTCA is concerned with our use of the language "of a type." In NTCA's view, this language might apply to customer-owned equipment connected to the telephone network in violation of FCC-filed tariffs prior to May 1, 1976, and therefore could accord grandfathered status to such equipment. Also, NTCA is concerned that "of a type" might be construed as rather broadly referring to generic classes of equipment (e.g., all items in the class "telephone set"). Finally, NTCA seeks classification of the grandfathered status of equipment which is removed for repair and/or rehabilitation.

6. Our grandfathering language, which is set out in paragraph 3 above, provides both customers and telephone companies an alternative under which certain non-registered telephone terminal equipment may be connected to the telephone network during a limited transition period commencing with the effective date[2] of the Part 68 Rules and ending on January 1, 1977. As was stated in our February Order, one of the primary purposes of providing this alternative was "to afford proper recognition to the millions of items of terminal equipment—produced by both carrier-affiliated and independent manufacturers—which are now and have been directly connected to the network with no evidence of having caused harm thereto." While this statement alone might have been construed as applying only to telephone company-provided equipment, it should be clear from both the general findings and specific text of the February Order that this alternative is equally applicable to customer-provided terminal equipment. To hold otherwise would be to continue the unjust and unreasonable discrimination which we have found to exist between provisions for connecting telephone company-provided equipment and customer-provided equipment.

7. In the context of Section 68.2 (b) and (c) of the Rules, the language "directly connected" refers to any direct electrical connection, either by a telephone company or by a customer, made (1) in accordance with the telephone companies' tariffs and (2) without a protective "connecting arrangement." We wish to point out that it is not our intention to sanctify the direct connection of equipment in violation of the carriers' tariffs. Thus terminal equipment which has been directly connected, within the meaning of our rule, includes all equipment supplied by telephone companies (including "connecting arrangements" and "data access arrangements") as well as the following types of customer-supplied equipment: attested operators' headsets and conferencing devices, conformed telephone answering devices, equipment certified and connected pursuant to General Order No. 138 of the California Public Utilities Commission, and equipment connected by many "special" entities (e.g., gas, oil, electric, and transportation companies, selected industrial firms, the Department of Defense, the National Aeronautics and Space Administration, and customers in "hazardous or inaccessible locations") pursuant to the various exceptions to the general requirement for telephone company-provided "connecting arrangements" (AT&T's Tariff F.C.C. No. 263, Sections 2.7.5, 2.7.6, 2.7.7 and 2.7.8). Equipment of a type which meets the two requirements stated above is eligible for "grandfathered" status. It matters not whether such "grandfathered" equipment is provided by a telephone company or by a customer. Just as registered equipment may be connected by either, under the same terms and conditions, so too may "grandfathered" equipment be connected by either, under the same terms and conditions. As was stated above, our grandfather language is for the benefit of both customers and carriers alike.

8. Our use of the language "of a type" generally means the same model of equipment made by the same manufacturer. Thus it is intended to mean equipment of the same mechanical and electrical design. It does not refer to a generic description (e.g., "telephone set") or to an industry-wide generic type designation (e.g., "500 set", a standard telephone set manufactured by several domestic manufacturers including Western Electric, Stromberg-Carlson and ITT Kellogg). "Of a type", however, does refer to cosmetic variations of a manufacturer's product (e.g., both a white and beige "500 set" telephone instrument by the same manufacturer would be of the same type).

9. The phrase "may remain connected" is clearly intended as a permissive privilege of grandfathered status, not as a condition precedent to the retention of such status. Once an item of equipment is grandfathered by connection prior to January 1, 1977, it will retain that status, regardless of disconnection or reconnection at the same or another premise, and regardless of repair operations which restore it to the same functional operation it had prior to the failure which resulted in the repair operation. "Unless subsequently modified" is not intended to limit routine repairs of this nature. It is intended to cause grandfathered status to be lost if components in previously-grandfathered equipment are replaced during a repair operation with components which are not comparable to the original ones.

10. Section 68.106 of our rules requires customers, before connecting terminal equipment, to notify the telephone company that such connection is being made and to provide the telephone company the F.C.C. Registration Number and the Ringer Equivalence Number. Of course, in the case of grandfathered equipment, the F.C.C. Registration Number and the Ringer Equivalence Number are not available. However, the customer is still

[1] A late response was filed by the North American Telephone Association (NATA). We hereby grant NATA's petition to file this response and will consider it herein. Also received is NTCA's reply to NATA's response.

[2] For PBX and key telephone equipment, the effective date is August 1, 1976; for all other equipment, the effective date is May 1, 1976.

obligated to notify the telephone company of intended connections of grandfathered equipment, and to provide sufficient identifying information (e.g., manufacturer's name, model and serial numbers, etc.) to enable the carrier to determine that the equipment is indeed of a type which has been grandfathered. In order to simplify the determination of whether a certain type of nonregistered terminal equipment is grandfathered, the Commission will maintain a list of all terminal equipment which is eligible for grandfathering. This list will be compiled from lists which we will require the carriers to furnish us, containing sufficient descriptive information to identify all terminal equipment which the carriers are aware of which is directly connected to the telephone network as of May 1, 1976.[4] The composite list thus established shall serve as the basis for determining the grandfather status of both carrier-supplied and customer-supplied equipment.[5]

REPAIRS

11. Section 68.216 of the Rules requires repairs to registered equipment to be performed by the equipment manufacturer, or its authorized agent. NTCA wishes clarification as to whether this rule applies to telephone companies which traditionally repair equipment which they purchase. Considering the telephone companies' claimed expertise in preventing "harm", as set forth in the Docket No. 19528 proceedings, we believe that such formal authority is unnecessary. We will not require the telephone companies to enter into any formal agency relationship with their suppliers.

12. One additional problem which is raised relates to a present practice of telephone equipment refurbishment. Equipment refurbishers typically repair telephone equipment by assembling subequipments of different manufacturers.[6] We view such refurbishment in a manner which is consistent with our view of "unless subsequently modified" as that term is applied to grandfathering. That is, if components are replaced with comparable components during refurbishment, the continuing validity of the equipment registration is unquestioned so long as the refurbishment is done by an authorized agent of the manufacturer (or registration grantee).[7] In the case of equipment which is repaired by replacement of components which are themselves part and parcel of equipment registration (e.g., components which are used in equipment which is registered by another manufacturer), it is clear that no harm will result.

PLUGS AND JACKS

13. Registered equipment is required to be connected to the telephone network through means of connection specified in Part 68 of the Rules. Equipment other than PBX and key telephone equipment is required to be connected through the use of standard plugs and telephone company-installed jacks. NTCA requests clarification as to whether equipment which is connected by the telephone companies during the transition period is required to be connected through the use of such plugs and jacks. We are not requiring such equipment to be connected during the transition period using standard plugs and jacks. Telephone companies may continue to use whatever means of connection they are presently using for the connection of terminal equipment which they supply, provided that they do not discriminate in the treatment of customer-provided equipment. Both registered terminal equipment and grandfathered equipment must be accorded the rights of connection specified in Part 68—through a telephone company-installed standard jack—or, if such means are not available immediately upon the customer's request, the telephone company must permit connection of such terminal equipment through alternative means. Such means may be a non-standard plug and jack, an adapter, or hard-wiring to a connection block. In any event, if a telephone company is unable to install a standard jack upon reasonable request of its customer during the phasing-in period, the customer should not be required to incur any expenses which a customer using similar telephone company-provided equipment does not incur. Once terminal equipment has been installed through other than a standard plug and jack, the telephone company need not make a special service call to replace such installation with a standard plug and jack; such changeover may be done in the routine course of business.

OTHER MATTERS

14. NTCA wishes clarification of the meaning of "extension telephone" and wishes to know if that term refers to remote telephone sets used with PBX and key telephone common equipment.

We regard such instruments as part of the PBX and key systems with regard to the effective date of including such equipment within the scope of Part 68 (specified as August 1, 1976 in the March 18 Order).

15. NTCA seeks clarification as to whether telephone companies can require the use of a permanently installed telephone ringer with user-provided main stations using standard plugs and jacks. Section 68.104 exempts such permanently installed ringers from the plug and jack requirement. As was indicated in paragraph 49 of the November Order, 56 FCC 2d at 611, we regard this as a customer option, and not as a telephone company requirement. If the customer desires a ringer which is not subject to accidental disconnection through inadvertant withdrawal of a plug, our rules accommodate such a desire. We do not view our permissive exception as permitting this to become a telephone company requirement on customers.

16. NTCA requests the Commission to treat certain telephone services provided over "station carrier" systems as party line service under Part 68. Party line service is presently excluded from the application of Part 68 because technical equipment failures of equipment used on single-party line service which only would interfere with the user's telephone service, might interfere with other parties' telephone service on a party line. Although the service provided on these "station carrier" systems is considered single-party service in exchange tariffs, and thus would be included within Part 68, NTCA alleges that "harm" to other users of such a "station carrier" could occur by equipment designs which comply with the specifications of equipment registered in accordance with Part 68, and therefore such "station carrier" systems should be treated as if they were traditional party lines (where simultaneous use by various parties is not possible).

17. In support of this new position, NTCA exemplifies such alleged harm with the following statement:

> Customers with single party service provided by station carrier can cause "harm" to other customers on the same service, for example if equipment with excessive current demand is utilized, another subscriber's battery could become depleted, thus making his service inoperable.

In view of the many procedural opportunities in which appropriate specifications on equipment used with "station carrier" systems could have been brought before this Commission since Docket No. 19528 was instituted in 1972, we will not deny indefinitely the right of connecting registered equipment to users who happen to have service provided on a "station carrier" system, based upon NTCA's unsupported allegation. NTCA may file a Petition for Rulemaking with appropriate documentation if it wishes to address such a problem. If a user connects equipment which does, in fact, have the effect of interferring with the telephone service of another user of a "station carrier", the telephone company can temporarily discontinue service to the offending user's equipment, consistent with Section 68.110 of our Rules.

18. We wish to address the relationship between our "beep-tone" requirements and our new Part 68 rules. In 1947, the Commission ruled that the telephone companies should revise their tariffs to permit the recording of two way conversations through the use of customer-supplied recording devices, provided that an automatic tone warning device, supplied by the telephone company, is used

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[4] For PBXs and key telephone equipment, the relevant date is August 1, 1976.

[5] While we shall expect the initial lists to be as comprehensive as possible, additions and/or deletions should be filed on a continuing basis, promptly upon their identification.

[6] As was mentioned earlier, there are several manufacturers who produce substantially similar "500 sets", for example. Many of the components in these sets are interchangeable. Thus, while a set of new manufacture was assembled under the manufacturer's control, a refurbished set may contain components of some or all of these manufacturers.

[7] If the refurbishment is done by one who is not an authorized agent, the refurbisher itself will have to register its work product.

in conjunction with such recording devices.[8] The Commission imposed the "beep-tone" requirement because it was "keenly appreciative of the importance and desirability of privacy in telephone conversations," and believed that telephone conversations, "should be free from any listening-in by others that is not done with the knowledge and authorization of the parties to the call * * *." Use of Recording Devices in Connection with Telephone Service, Docket No. 6787, 11 FCC 1033 (1947); 12 FCC 1005 (1947); 12 FCC 1008 (1948). On March 28, 1951, the Commission released a "Statement with Respect to Use of Telephone Recording Devices," in which it acknowledged that, "no tone-warning device has yet been developed which is able to give a warning tone on the telephone circuit when being used with an inductive type recorder." (Inductively and acoustically coupled recording devices are distinguished from electrically coupled recorders by their lack of direct physical connection to the telephone line.) In this statement, the Commission directed that until tone-warning devices are available for use with inductive recorders, the use of such recorders in connection with interstate and foreign telephone service would be contrary to its previous orders.

19. Since our 1947 Recording Devices decisions require the telephone companies to provide the automatic "beep-tone" warning device (which is incorporated into their connecting arrangements), they are inconsistent with our recent rulings in Docket No. 19528, which prohibit the carriers from requiring customers to use connecting arrangements with F.C.C. registered equipment. In view of this we will not require the "beep-tone" warning device to be provided by the telephone company, where a customer wishes to directly connect an F.C.C. registered recording device to the telephone network. We are not however, at this time, modifying the basic requirement that a "beep-tone" be used when recording two way conversations. The "beep-tone" requirement is independent of Part 68, which addresses harm to the telephone network, and telephone users who employ recording devices which record two way telephone conversations are still required to supply an appropriate "beep-tone." Of course a "beep-tone" which is generated in registered equipment, or in equipment used with registered equipment, is required to conform to our signal power limitations (Section 68.308).

20. We wish to address one final matter on our own motion. In the November Order, Section 68.2 contained the sentence: "Terminal equipment as used in this Part includes terminal equipment and/or systems." When this section was subsequently revised by our February and March 18 Orders, this sentence was omitted. We wish to make clear that this omission was inadvertent and was not intended to restrict the scope of Part 68. As used in Part 68, the term "terminal equipment" includes terminal equipment and/or systems. With this clarification, we do not believe it is necessary to amend our Part 68 rules.

ORDER

21. In view of the foregoing, *It is ordered*, That the Petitions for Declaratory Ruling filed by Rixon, Inc. and the National Telephone Cooperative Association are granted to the extent indicated herein and are otherwise denied.

22. *It is further ordered*, That all telephone companies shall file within 30 days of the release date of this Order, lists containing sufficient descriptive information to identify all terminal equipment which the carriers are aware of which is directly connected to the telephone network as of May 1, 1976.[9]

Adopted: April 27, 1976.

Released: April 28, 1976.

FEDERAL COMMUNICATIONS COMMISSION,[10]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[FR Doc.76-12900 Filed 5-3-76;8:45 am]

[Docket No. 6741; FCC 76-371]

PART 73—RADIO BROADCAST SERVICES

Report and Order; Proceeding Terminated

In the matter of Clear Channel Broadcasting in the Standard Broadcast Band KOB/WABC).

1. On April 22, 1969, we reopened the captioned clear channel proceeding for the limited purpose of establishing permanent nighttime operating modes for radio stations KOB(AM), Albuquerque, New Mexico (770 kHz, 50 kW, DA-N) and co-channel class I-A WABC(AM) in New York City (770 kHz, 50 kW, nondirectional day and night). Notice of Proposed Rule Making, 17 FCC 2d 257. The proposal was duly published in the Federal Register of April 29, 1969 (34 FR 7033). Both licensees are on deferred renewal status awaiting the outcome of this proceeding.

2. By Notice of Inquiry and Proposed Rule Making released December 12, 1975 (FCC 75-1331; Docket 20642), we opened a new clear channel proceeding to consider the possible nighttime duplication of presently unduplicated U.S. I-A clear channels, the further duplication of presently duplicated U.S. I-A clear channels and, alternatively, the reservation of certain U.S. I-A clear channels for "super-power" operation in order to improve nighttime skywave service to remote regions of the country now lacking interference-free primary service from any aural broadcast source. However, because of the protracted history of litigation involving the frequency 770 kHz and the fact that a series of court decisions has severely narrowed the range of options available to use in resolving the "KOB problem," we decided to deal with it separately and at an early date. Footnote 1, page 2, FCC 75-1331.

BACKGROUND

3. The "KOB problem" originated in 1941, when it became necessary to find another frequency for KOB, then assigned to 1180 kHz as a clear channel station of the first North American Regional Broadcasting Agreement (NARBA), effective in March 1941, which triggered a number of frequency shifts in the United States owing to the creation of new Mexican clear channel priorities. No comparable assignment on another channel could be found, and KOB was summarily assigned to 1030 kHz, a I-A clear channel on which the dominant station is WBZ, Boston. Despite the distance between Boston and Albuquerque, KOB's operation on 1030 kHz proved to be technically unsatisfactory, due in part to the westward orientation of WBZ's directional antenna system and resulting extensive nighttime skywave interference between the two stations.

4. In November 1941, KOB was shifted to 770 kHz, a I-A channel on which the dominant assignment is now WABC (American Broadcasting Companies, Inc.), but which at that time was a Blue Network outlet for the National Broadcasting Company (WJZ). KOB has operated on 770 kHz ever since. Initially, KOB's occupancy of 770 kHz was authorized under a special service authorization (SSA) which specified a power of 50 kW day and 25 kW night, nondirectional. This caused considerable skywave interference to WABC during nighttime hours. In 1944, KOB filed an application (File No. BMP-1738) in which it sought to regularize its operation on this basis, and a hearing thereon was held in January 1945. No decision was reached at that time because in February 1945 we instituted the first clear channel proceeding, which sought to define dominant and secondary uses on all of the 25 I-A frequencies reserved for clear channel use in the United States.

5. In 1946 the KOB application, along with others relating to the U.S. I-A clear channels, was placed in pending status awaiting the outcome of the clear channel proceeding. KOB's SSA operation on 770 kHz was continued on an interim basis. In 1950, WABC appealed from our extension of KOB's interim operation, and in 1951 the U.S. Court of Appeals held the long-standing interference to WABC, without hearing, to be improper, and directed us to find a permanent solution. Accordingly, the KOB application was removed from pending status, but the SSA remained in effect. WABC protested this continuation, and a hearing on its protest was held in 1953. In July

[8] For exceptions to this general policy, see Use of Recording Devices in Connection with Telephone Service (Broadcast of Two-Way Telephone Conversations), 38 FCC 2d 579 (1972), and Use of Recording Devices in Connection with Telephone Service (Telephone Calls referred to United States Secret Service), 50 FCC 2d 905 (1975).

[9] For PBX and key telephone equipment, such lists shall be filed by August 1, 1976, and shall relate to PBX and key telephone equipment connected as of August 1, 1976.

[10] A statement of Commissioner Quello, in which Commissioner Hooks joins, is filed as part of the original document.

1955 we denied the WABC protest. WABC appealed again, in response to which the Court, in 1956, directed us to take immediate steps to remove the interference to WABC. By letter of November 8, 1956, we directed KOB to submit a directional antenna pattern for temporary nighttime operation on 770 kHz, in compliance with the Court's mandate. KOB did so, and commenced directional operation in April 1957 with a two-element array, in effect becoming a class II (or secondary) station on the clear channel 770 kHz, protecting the dominant class I station (WABC) to its 0.5 mV/m 50% nighttime skywave contour.

6. In a wide-ranging decision adopted September 3, 1958—25 FCC 683 (1958)—we gave in-depth consideration to the long-pending KOB application (paragraph 4, supra), as well as to a variety of possible alternative modes of operation at both stations against a backdrop of populations and areas gained and lost, programming and network affiliations, and apparent inequities in the historic distribution of class I facilities in the United States. The reversion of KOB to its licensed frequency (1030 kHz) was ruled out for a variety of reasons, including the high RSS limits which would be imposed on its nighttime operation by co-channel I–A WBZ, Boston and, potentially, by a co-channel class II fulltimer in Mexico City (XEQR). Finally, we found that KOB, operating as a class I–B station on 770 kHz along with WABC, would provide a first nighttime primary (groundwave) service to 118,000 more people in the relatively underserved Southwest than it would if operated as a class II (secondary) station fully protecting WABC. KOB was granted leave to amend its application to specify nighttime directional operation in accordance with theoretical parameters contained in the decision, and WABC was granted leave to file a parallel application to directionalize its nighttime operation.

7. WABC appealed the 1958 decision, and a 1960 Court decision affirmed but with reservations. *American Broadcasting-Paramount Theatres, Inc* v. *FCC*, 280 F. 2d 631. Specifically, the Court stated that WABC should not be precluded from a hearing on its claim that some eastern broadcaster other than ABC should bear the burden of accommodating KOB. The Court also stressed that ABC's position as a network should not be prejudiced by forcing it to share its clear channel if other networks retained on their clear channels greater protection (i.e., WNBC and WCBS, both I–A clear channel stations in New York City on 660 kHz and 880 kHz, respectively). Finally, that Court expressed the view that we should, in still another proceeding, seek to provide facilities for ABC comparable to those of the other networks. In a related development which occurred early in 1960, KSTP, Inc., the then-licensee of KOB, filed a competing application (File No. BP–13,932) for 770 kHz in New York against the then-pending WABC renewal application (File No. BR–167), specifying the nighttime directional parameters we had prescribed for WABC but which WABC had failed to request. Both applications are still pending.

8. In light of these developments, we ordered, in 1961, a further hearing on issues designed to determine whether the result reached in 1958 should be altered on the basis of parity among radio networks, as suggested by the Court. In our decision in this matter, adopted July 3, 1963—35 FCC 36—we conceded that to require WABC to directionalize during nighttime hours while WCBS and WNBC were permitted to operate nondirectionally would leave ABC with a facility in New York inferior, from the standpoint of coverage, to those of NBC and CBS. We concluded, however, that ABC had failed to translate comparative inferiority in station coverage into a competitive inferiority of the ABC radio network vis-a-vis NBC and CBS. This conclusion rested in part on our finding that the outlying secondary (nighttime skywave) service area which would be lost to WABC as a result of nighttime directionalization was already 99 percent served by ABC-owned WLS, Chicago, and 65 percent served from ABC affiliate KXEL, Waterloo, Iowa, both clear channel stations, and that ABC had failed to quantify its allegation that the nighttime directionalization of WABC would affect network time-buying practices as to the ABC radio network. We therefore granted KOB's application for class I directional nighttime facilities in Albuquerque and denied WABC's application for nondirectional renewal in New York, without prejudice to reconsideration "* * * if ABC files, within 30 days of the release date hereof, an application for modification of facilities on the frequency 770 kc in conformity with parameters specified in paragraph 22 of the September 1958 decision * * *"[1] The effect of this decision, insofar as KOB was concerned, was to transform it from the temporary class II–A status mandated by the Court in 1956 to a *de facto* class I–B station[2] which would protect WABC to its 0.5mV/m 50% skywave contour, but only if the latter station directionalized its nighttime signal to suppress radiation toward Albuquerque. On July 3, 1963, we granted an appropriately modified construction permit (BMP–1738), and on October 25 of that year, KOB commenced operation as a de facto class I–B assignment on 770 kHz (50 kW, DA–N) under program test authority of equal date. The station is presently operating with these facilities.

9. Predictably, ABC did not file a directional nighttime proposal, as contemplated in our 1963 decision. Instead, ABC appealed once again. A decision on that appeal was rendered by the United States Court of Appeals (D.C. Cir.) on February 25, 1965, in *American Broadcasting-Paramount Theatres, Inc.* v. *FCC* et al., 345 F. 2d 954, 4 RR 2d 2006, in which the Court again addressed the underlying issues in the case. In reversing our 1963 decision to give KOB class I–B status and remanding the case for further proceedings, the Court made the following observations:

(a) WABC, as ABC's radio network "flagship" station, was treated very differently from WNBC and WCBS in our 1961 Clear Channel Decision in that it remained classified as a class I–B station, was required to share its channel with another class I–B station (KOB), was required to protect that station, and did not receive the same degree of interference protection as the other two network "flagship" stations.

(b) Operating with nighttime class I–B facilities, WABC's primary (groundwave) nighttime service area would be reduced to the extent of 3,680 square miles and some 702,326 persons, and secondary (skywave) service to approximately 17 million people would be lost.

(c) WABC would be required to incur a substantial capital outlay, might be compelled to acquire a new transmitter site, might be unable to obtain airspace clearance from the FAA, and would in any event be precluded from future consideration for higher power.

(d) ABC's failure to sustain the burden of proving that its overall competitive position would be damaged by downgrading WABC to a class I–B facility was irrelevant "* * * because it is not within the scope of [the Court's] 1960 opinion, which indicated that comparable channel facilities should be provided for all networks."

(e) Our 1963 decision, based in part on technical findings elicited in the 1958 proceeding, may have been overtaken by events or otherwise rendered obsolete.

The main thrust of the Court's opinion was that WABC is entitled to "equitable channel treatment" vis-a-vis the "flagship" stations of the other two major networks. While concurring in our oft-expressed technical judgment that 770 kHz is the most suitable permanent frequency for KOB, the fact that KOB was a class I station on 1180 kHz prior to 1941 did not, in the Court's view, confer equities which should in the long run differentiate it from conventional class II fulltimers assigned to the WNBC and WCBS clear channels.

10. We then sought both clarification of the Court's mandate and certiorari from the Supreme Court. Both requests were denied. On July 19, 1965, we issued a Memorandum Opinion and Order reopening the Clear Channel proceeding for the reception of supplemental evidence to up-date the need for additional AM broadcast service in the Southwest. 1 FCC 2d 326. The Memorandum Opinion and Order also contained issues going to the relationship of the projected WABC

[1] Our 1963 decision also made passing reference to the Clear Channel Decision of 1961 (31 FCC 565 (Docket 6471) which, although not determining optimum modes of operation on 770 kHz, did conclude that the public interest required a major fulltime station in New Mexico; that 770 kHz was much preferable to 1030 kHz for this purpose; and that other alternatives should not, and indeed could not, be considered. The rules were amended to accommodate the assignment of two class I Stations on 770 kHz in a manner to be determined. With respect to NBC and CBS, provision was made for permanent nighttime duplication of their clear channels in Alaska and Nebraska, respectively, but without altering their existing I–A nondirectional modes of operation.

[2] With class I–B facilities but not receiving the degree of nighttime protection normally accorded to class I–B stations.

loss area to ABC's network revenues and ABC's competitive position vis-a-vis the CBS and NBC radio networks within the projected WABC loss area. We acknowledged, however, that the Court's decision pointed to a class II status for KOB if such a station "* * * would now adequately meet the needs of the Albuquerque area."

11. Further action was withheld because of a proposed ABC/ITT merger which, it appeared, might lead to a voluntary settlement of the case. This prospect vanished, however, following intervention by the Department of Justice and withdrawal of the transfer application in 1968. In the meantime, and in response to our solicitation of the views of all parties to the dispute, we abandoned earlier efforts to resolve the matter through the adjudicatory process, and decided that the issues raised by the court's 1965 remand "* * * can most appropriately be resolved at this juncture through rulemaking * * *" Memorandum Opinion and Order, 4 FCC 2d 606 (1966). The KOB and WABC applications which had figured in earlier judicial appeals were accordingly removed from hearing status, to be held in abeyance pending further order of the Commission.

THE 1969 PROPOSAL

12. In the Notice of Proposed Rule Making which followed (paragraph 1, supra), we recognized that to give KOB permanent class I–B status in Albuquerque and still comply with the principle of "equitable channel treatment" of WABC, as mandated by the Court, would involve the restructuring, at least in part, of our 1961 Clear Channel Decision and the overall plan of class I–A/II–A channel sharing reached therein, along with further expense, delay, and uncertainty which would end with massive and unacceptable reductions in nighttime coverage presently provided by eastern class I–A clear channel stations. This, we concluded, was a price not worth the benefit. Accordingly, we proposed to resolve the "KOB problem" by amending sections 73.22 and 73.25 of our rules to provide for fulltime operation by a class II–A station on 770 kHz in New Mexico, the effect of which would be to reconvert KOB to a class II–A operation similar to the one conducted between 1957 and 1963. KOB's de facto I–B nighttime mode of operation, which as previously noted does not provide as high a degree of protection to WABC as class I–A stations are normally entitled to, was continued pending outcome of rulemaking.

COMMENTS FILED IN THE PROCEEDING

13. Comments, reply comments, and other pleadings were filed in this proceeding by the following parties:

(a) WEW, Inc., (WEW), licensee of co-channel daytime station WEW, St. Louis, Missouri.

(b) KXA, Inc., (KXA), licensee of co-channel limited-time station KXA, Seattle, Washington.

(c) American Broadcasting Companies, Inc. (ABC or WABC), licensee of class I–A station WABC in New York City.

(d) Hubbard Broadcasting, Inc. (Hubbard or KOB), licensee of station KOB, Albuquerque, New Mexico.

14. WEW, a daytime station on 770 kHz operating with a power of one kilowatt, is one of the oldest AM broadcast stations in the country. It is presently affiliated with ABC's American Entertainment Radio Network. The licensee's efforts over the years to obtain nighttime hours of operation have been unsuccessful, principally because of the protected I–A status of WABC. Citing our commitment in the 1961 Clear Channel Decision to consider the further nighttime duplication of channels once-duplicated in that proceeding, WEW seeks to use this proceeding as a vehicle for once again proposing its own nighttime operation. Specifically, WEW proposes that KOB and WABC both operate as class I–B facilities, as contemplated in our 1958 decision, and that the rules be amended to permit a "midpoint" class II (secondary) operation on 770 kHz in Missouri. Such an operation, if sharply directionalized north and south during nighttime hours would, according to WEW's engineering consultant, fully protect KOB and WABC if those stations were operated as class I–B facilities. Operating as proposed on 770 kHz (50 kW, DA–2), WEW would provide a first nighttime primary ("white area") service in a portion of Ozark Mountains region not served by nondirectional clear channel station KMOX, St. Louis, owing to low soil conductivity in the area.

15. KXA, a limited-time class II station on 770 kHz, operates essentially daytime hours with a power of one kilowatt. Like WEW, KXA has repeatedly attempted to obtain nighttime operating authority. These proposals have been consistently rejected, first because of a World War II "freeze" on the acceptance of new and major change applications, and later because they became entangled in the clear channel protection principles underlying the 1961 Clear Channel Decision. Operating as proposed (50 kW, DA–2, unlimited hours), KXA would protect the day and night primary and secondary service areas of WABC and the primary groundwave) service areas of KOB, assuming the latter station to be operating as a class II–A facility. In so doing, KXA would provide a second primary ("gray area") service in an area of about 8,000 square miles and a first primary ("white area") service in an area of about 1,100 square miles. Finally, KXA points to the curtailment of its pre-sunrise operation growing out of our 1969 rulemaking decision in Docket 17562 et al, in which a power ceiling of 500 watts was imposed on all PSA operations—18 FCC 2d 705 [3]—and attempts to show that its existing daytime use of 770 kHz effectively precludes the efficient fulltime use of that frequency elsewhere in the Northwest.

16. ABC views KOB's presence on 770 kHz as an "encroachment" hastily ordered on a "temporary" basis in 1941 to meet NARBA frequency shift deadlines. This use, ABC observes, was continued through the war years because of a wartime "freeze" on construction, thereafter becoming entangled in clear channel rulemaking from which it never really emerged. The end result, ABC contends, is that among the 25 I–A clear channels reserved by treaty for use in the United States, 770 kHz alone has been singled out for class I–B station duplication; that this "solution" has been branded by the Court as prejudicial to ABC's interests vis-a-vis the other two major networks and removes WABC as a candidate for "superpower" at some future time; [4] that if WABC is ultimately compelled to directionalize, it will lose almost 18,000,000 potential listeners to its nighttime skywave service; that a loss of this magnitude cannot be outweighed by the need for additional nighttime primary service in New Mexico; [5] that under the I–A/II–A dichotomy applying to other duplicated I–A clear channels, WABC is entitled to nighttime protection to its 0.5 mV/m 50% skywave contour; that to place all U.S. class I–A stations on the same footing by adopting a lesser degree of protection across the board would produce massive skywave dislocations in the East which would run counter to the basic rationale of the Clear Channel Decision; that Hubbard, having acquired KOB in 1957 subject to the outcome of the instant litigation, has no "overpowering private equities" in 770 kHz beyond what might be asserted on any other U.S. I–A clear channel; and that in the Notice in this proceeding we decisively rejected the assertion of such equities based on channel-by-channel analyses of I–A frequencies whose usage has already been settled in the Clear Channel Decision. In short, ABC contends that the past holdings of the Court, as well as the basic conclusions reached in the Clear Channel Decision and tentatively reaffirmed in the Notice in this proceeding, require that WABC continue as a non-directional class I–A station, and that KOB be relicensed as a class II–A station affording the same degree of protection to WABC as other class II–A stations provide to the dominant clear channel stations on their frequencies.

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[3] On September 16, 1969, the 500-watt PSA power ceiling was stayed as to KXA and certain other western class II daytime and limited-time stations pending reconsideration of the 1969 rulemaking. Accordingly, KXA has continued to operate during the pre-sunrise hours with its authorized daytime power of one kilowatt.

[4] The same impediment to expansion, however, would appear to apply to most of the 13 currently duplicated I–A channels.

[5] ABC observes that of the 25 million people in the continental United States who receive no primary (groundwave) AM service during nighttime hours, 18 million live east of the Mississippi River and depend primarily on eastern clear channel stations like WABC for nighttime skywave reception.

17. The comments filed by KOB endorse the past findings of the Commission in this matter and hence are confined, in large measure, to a critical analysis of the Court's reasoning in remanding the case in 1965. KOB's position may be fairly summarized as follows: our 1969 Notice in this proceeding, which looks toward a II–A status for KOB, represents a retreat from earlier judgments, reached in 1958 and 1963, that the public interest would best be served by class I–B facilities in New York and Albuquerque on 770 kHz; that operating in this manner, KOB would bring a first primary AM service to 98,000 people in a 34,500 square-mile area and a second primary AM service to 9,000 persons in a 1,330 square-mile area; that the massive reduction in WABC's secondary (skywave) service area which would result from its nighttime directionalization is not significant because the loss area is served by 18 to 20 other secondary services; that based on an analysis of WABC's programming compiled from 1968 composite-week renewal data and off-air monitoring, WABC's pretensions to network "flagship" status are invalid because the station is operated "* * * primarily and almost exclusively as a local New York City station for the benefit of New York advertisers * * *"; that this conclusion is reinforced by the fact that the carriage of network programs accounts for only 8.5 percent of WABC's composite week as against 20 percent for WCBS, 22 percent for WNBC, and 36 percent for KOB (an NBC network affiliate); that in any event radio network operations are no longer a significant factor in the mass media field and hence should not be a consideration in AM allocations decisions; that in contrast to WABC, KOB has "* * * endeavored to preserve its pattern of programming for regional and wide-area coverage"; that for all these reasons, WABC should be compelled to directionalize during nighttime hours, preferably at sunset, New York, but at least no later than sunset, Albuquerque; and that such directionalization, twice ordered by the Commission, can be accomplished at WABC's present transmitter site at a probable cost of less than $50,000.

18. Reply comments were filed in this proceeding by KXA, Hubbard, and ABC. The gist of KXA's reply brief is that if KOB's counter-proposal is adopted (i.e., mutually protected class I–B directional facilities for KOB and WABC), KXA could design a 5 kW nighttime array which would fully protect the secondary service contours of both KOB and WABC and, in the process, serve a new area of 1,073 square miles with a population of almost one million. KXA also renews its request that the rules be amended to accommodate a class II unlimited-time station on 770 kHz in Seattle. Hubbard, up-dating earlier allegations that WABC fails to carry programming of interest to listeners outside the New York metropolitan area, submitted for inclusion in the record the community ascertainment showing filed by WABC in 1969 in connection with its long-deferred license renewal application. ABC reiterates the massive nighttime skywave signal loss which would occur if WABC and/or the other two network "flagship" stations were required to directionalize, but fails to address Hubbard's recurring argument that no one is listening and that, in any event, WABC's programming is oriented only toward the needs and interest of the New York metropolitan area. ABC also condemns as "premature" the efforts of WEW and KXA to "muscle into" the instant proceeding, which it views as being restricted to the purpose of implementing the outstanding mandates of the court. In a "Petition to Enlarge Scope of Proceedings", supported by KXA and opposed by ABC, WEW again urges that consideration be given, within the context of this proceeding, to the possibility of fulltime operation in St. Louis on 770 kHz.

ANALYSIS OF THE COMMENTS

19. While we sympathize with the frustrations endured over the years by WEW and KXA in their efforts to obtain nighttime operating privileges on 770 kHz, their desire to do it within the context of this proceeding must be rejected. To enlarge the present proceeding to accommodate their proposals for fulltime operation would require the issuance of a further notice of proposed rulemaking, thus delaying again the resolution of a problem which is already 35 years old. Moreover, to do so would transgress the bounds of the Court's 1965 remand order; i.e., the issue of channel equality for WABC vis-a-vis the other network "flagship" stations in New York and the extent to which KOB's nighttime mode of operation would destroy that equality. Because of the manner in which the remand order was drawn, our Notice in this proceeding sought only to define the permanent relationship between WABC and KOB. Other licensees on (and prospective applicants for nighttime hours of operation on) 770 kHz, including WEW and KXA, must await clarification of this relationship before their proposals can be intelligently evaluated.[6]

20. We now proceed to a resolution of the respective priorities of WABC and KOB. This matter is best approached by a brief recitation of those solutions which are clearly not acceptable to us or to the Court:

(a) *Reversion by KOB to 1030 kHz.* For technical reasons fully explained in our 1958 and 1963 decisions, and summarized in paragraph 6, *supra*, together with the disruptive effects of such a move on channel assignments made in the western United States on frequencies adjacent to 1030 kHz since the onset of litigation, we find this solution to be unacceptable.

(b) *Shifting KOB from 770 kHz to a frequency other than 1030 kHz.* None of the parties to this proceeding has offered this possibility as a counter-proposal, nor does it appear to be technically feasible. Apart from 70 kHz and 1030 kHz, the only other east coast I–A clear channel even remotely suitable for nighttime duplication in Albuquerque is 1210 kHz, currently assigned to CBS-owned and operated WCAU in Philadelphia. In our 1961 Clear Channel decision, 1210 kHz was earmarked for nighttime duplication in "Kansas, Nebraska, or Oklahoma" and was thereafter assigned to a new class II–A station in Guymon, Oklahoma. This forecloses the nighttime use of 1210 kHz in Albuquerque. We therefore conclude that KOB must be permanently accommodated on 770 kHz.

(c) *Achievement of "channel equality" by directionalizing all three network "flagship" stations in New York City.* While apparently acceptable to the Court, we categorically reject this "solution" as contrary to the public interest. It is clear that we cannot order the directionalization of all three stations without hopelessly undermining the rationale of the 1961 Clear Channel Decision as to the function to be served by class I–A stations generally. We wish to stress that our earlier decisions in the "KOB" case flowed from an evaluation and balancing of service gains and losses between the stations involved, in a manner typical of section 307(b) adversary proceedings in the AM broadcast field. By way of contrast, the pattern of I–A clear channel use decided upon in the 1961 Clear Channel proceeding came from an examination of channel usage in broad perspective, with the effects of proposals for individual channels considered in relationship to the proposed usage of all other I–A channels. As stated in the 1969 Notice in this proceeding

> * * * such directionalization by all three New York City I–A stations would result in very extensive losses of service in the densely populated northeastern part of the country, depriving large populations of three skywave services and of three groundwave services in areas west of New York City, where 'white areas' might result if the service of all three stations were lost. Such losses in service obviously could not be found to be in the public interest if the sole purpose is to equalize the New York City facilities of the three networks.

Thus, as an isolated transaction, we found in 1958 and again in 1963 that the public interest would best be served by "balkanizing" 770 kHz in such a way that needed increments of nighttime groundwave and skywave service could be introduced into New Mexico and portions of surrounding states without disruption to corresponding services provided by the two remaining class I–A clear channel stations in New York City. To sacrifice the latter services on the altar of "channel equality" among networks is too high a price to pay. As already indicated, we reject this approach as contrary to public interest judgments already made in the 1961 Clear Channel Decision.

(d) *Intermixture of class I–A and I–B facilities on 770 kHz.* As indicated in paragraph 8, *supra*, KOB has been operating with a I–B pattern and directional

[6] WEW and KXA may, of course, file comments with respect to the possible nighttime duplication of 770 kHz in St. Louis and Seattle in the newly instituted clear channel proceeding (Docket 20642).

parameters since 1963, anticipating the installation, by WABC, of a companion I–B nighttime directional array in New York City. WABC has, however, continued to operate nondirectionally. KOB does not, therefore, receive the nighttime protection to which class I–B stations are entitled under our rules (0.5 mV/m 50% skywave contour protection). Conversely, KOB is not protecting WABC's 0.5 mV/m 50% skywave contour, which is also the degree of protection which class I–A stations on "duplicated" clears are entitled to receive from class II fulltimers on the same channel. The net result is that during nighttime hours, the interference imposed on KOB by WABC destroys essentially all of what would otherwise be KOB's secondary service area and a substantial portion of KOB's primary service area. KOB, in turn, is destroying WABC's nighttime skywave service within a crescent-shaped area running through portions of Georgia, Tennessee, Kentucky, Indiana, Illinois, Wisconsin, and Michigan. This area, which encompasses metropolitan Chicago and Milwaukee, contains a population of about 9,500,000 persons within a 39,500 square-mile area.[7] Admittedly, this represents a highly inefficient use of the channel, and if allowed to continue might well preclude the assignment of additional western class II fulltimers on 770 kHz as part of our deliberations in the new Clear Channel proceeding (Docket 20642).[8] To summarize, and although not addressed by the parties, we believe that the permanent continuance of KOB on 770 kHz with its present I–B parameters is both technically unsound and, in view of the above-described impact on WABC's secondary service area, fails to meet the test of "comparatively equal channel facilities" among the major networks, as laid down by the Court in its 1965 decision.

21. Thus, by a process of elimination, we come to the solution recommended in the outstanding Notice in this proceeding; i.e., specifying II–A parameters for KOB and thus returning that station to essentially the same nighttime mode of operation as observed between 1957 and 1963. Given the reality of a 50 kW nondirectional nighttime operation by WABC in New York City and the nighttime RSS limitation (approximately 2.2 mV/m) already imposed by WABC on KOB, adjustment of the latter station's directional pattern and operating parameters to meet II–A requirements instead of I–B requirements should not substantially alter the areas and populations it is presently serving.

22. The rationale of this solution was amply expressed in paragraph 46 of the Notice which initiated this proceeding:

> In any event, neither KOB nor the public interest will be ill-served by its permanent assignment to the channel 770 kHz, with a II–A classification. Operating with a power of 50 kilowatts, day and night, on a basis which will protect WABC's present operation, KOB can serve extensive areas and populations. The conditions for groundwave propogation on 770 kHz are considerably more favorable than on 1180 kHz, the channel on which KOB operated unduplicated as a class I station for a brief period, and the primary service KOB would provide on 770 kHz as a class II–A station approaches that which it delivered on 1180 kHz in its class I status. While KOB will have no secondary service as a II–A station, this lack should not appreciably affect the viability of its operation.

23. There have been several developments since the 1965 court remand which tend to make a "II–A" solution in Albuquerque moore acceptable in the public interest than before. In rulemaking proceedings concluded in recent years, we have increasingly come to regard the AM and FM broadcast services as equal components of a single aural broadcast service. In this connection, the following FM broadcast services (all unlimited time) have been established in New Mexico during this 11-year period: KOB–FM, Albuquerque (93.3 MHz); KPAR–FM, Albuquerque (100.3 MHz); KRST(FM), Albuquerque (92.3 MHz); KUNM(FM), Albuquerque (90.1 MHz); KSVP–FM, Artesia (92.9 MHz); KBAD–FM, Carlsbad (92.1 MHz); KMTY–FM, Clovis (99.1 MHz); KBSO(FM), Espanola (102.3 MHz); KRWN(FM), Farmington (92.9 MHz); KRAZ(FM), Farmington (96.9 MHz); KQNM(FM), Gallup (93.7 MHz); KGLP(FM), Gallup (94.5 MHz); KSCR (FM), Hobbs (95.7 MHz); KPOE(FM), Humble City (94.1 MHz); KASK(FM), Las Cruces (103.1 MHz); KGRD, Las Cruces (103.9 MHz); KEDP(FM), Las Vegas (91.1 MHz); KFUN–FM, Las Vegas (100.9 MHz); KLEA–FM, Lovington (101.7 MHz); KOPE(FM), Mesilla Park (104.9 MHz); KENW–FM, Portales (88.9 MHz); KTDB(FM), Ramah (89.7 MHz); KAFE–FM, Santa Fe (97.3 MHz); KSNM(FM), Santa Fe (95.5 MHz); and KTNM, Tucumcari (92.7 HMz). As a result of these post-1965 service increments, 25.1 percent of the land area of the State now receives one or more primary (1 mV/m) nighttime FM broadcast services, and about 70 percent of the State is provided with 50-uV/m nighttime FM coverage. Significantly, FM stations have been established at seven places within the area which KOB would serve as a protected I–B but not as a class II–A station.

24. Moreover, in Berrendo Broadcasting Company et al., 52 FCC 2d 413 (1975), we accepted for filing an application to upgrade the nighttime facilities of class II–A station KSWS, Roswell, New Mexico (1020 kHz) from 10 kW to 50 kW. This proposal, when implemented, will bring a first nighttime primary (groundwave) service to an area of 1,820 square miles with a population of about 4,000. Finally, we note that the act of relegating KOB to a II–A status will, in overall terms, still leave the State of New Mexico in a better position than most western states with respect to nighttime duplication privileges on the eastern I–A clear channels; i.e., apart from the State of Nevada, which has class II–A assignments in Las Vegas and Reno, New Mexico will be the only state with two class II–A stations. For all these reasons, it appears that at this point in time, a "II–A" solution of the "KOB problem" would comply with our obligation, under section 307(b) of the Communications Act, to "* * * provide a fair, efficient, and equitable distribution of radio service * * *" among the states and communities of the United States.

OTHER MATTERS

25. As indicated in paragraph 18, supra, ABC fails to rebut Hubbard's persistent argument that WABC's nighttime programming is not responsive to the problems, needs, and interests of the thousands of communities and millions of listeners within the secondary (skywave) service area ABC seeks to protect in this proceeding. By its silence, ABC concedes this to be true. The question then becomes: what significance, if any, attaches to WABC's failure to design programming for communities far removed from the New York metropolitan area and, if such an obligation exists, how would it be discharged? Renewal ascertainment data currently on file indicate that WABC does in fact carry a limited amount of public affairs programming which is responsive to the problems, needs, and interests of communities in northern New Jersey, Connecticut, eastern Long Island, and elsewhere within its primary (groundwave) service area. These efforts must be judged against the test laid down in the Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650 (1971), which provides in pertinent part as follows:

> * * * An applicant's principal obligation is to ascertain the problems of his community of license. [While] he should also ascertain the problems of the other communities that he undertakes to serve * * * no major city more than 75 miles from the transmitter site need be included in the applicant's ascertainment, even if the station's contours exceed that distance.

From the information of record, it appears that WABC is meeting its ascertainment obligation within the 75-mile perimeter, and that insofar as its nighttime skywave service area is concerned, there is no parallel obligation. A different conclusion would, we feel, impose an impossible ascertainment burden on every clear channel station in the country.

26. With respect to "equitable channel treatment" for WABC, as mandated by the Court, KOB asserts that WABC devotes well under 10% of its time to network programs from the ABC Contemporary network (only 5.6% during evening hours in a week in May 1969, with all programs longer than 5 minutes being run between midnight and 3 a.m. on Monday morning); that this is a much smaller percentage of time than WNBC and WCBS devote to their networks' material; that WABC in fact does not carry some ABC Contemporary programs and is not shown to originate any of them; and that network radio, consisting now chiefly of brief newscasts and similar

[7] This translates into area and population losses of 8 percent and 9 percent, respectively, within WABC's 0.5 mV/m 50% nighttime skywave contour.

[8] This preclusion would occur because KOB would continue to be protected as a class I–B station rather than as a class II–A (secondary) station on the channel.

programs, has much less importance in radio and in the mass media than was true in earlier years. In sum, KOB contends that the loss in ABC programming to the public, and to ABC as a network operation, would be minuscule as compared to the service benefits in the Southwest resulting from true I–B status for KOB.

27. In a Notice of Inquiry and Proposed Rule Making recently issued concerning network radio regulation generally (Docket 20721, FCC 76–157, February 1976), we recognized the changes which have taken place in radio, and network radio in particular, since 1941 when our network rules were adopted. However, we do not find in these developments, or in the characteristics of ABC's and WABC's current operations urged by KOB, reason why the concept emphasized by the Court is no longer valid. Networks are important in radio as sources of national news and other informational material, and we have repeatedly recognized in recent years both this importance and, in view of the economic problems such radio operations face in the "television era", the importance of permitting experimentation and innovation. See, for example, National Broadcasting Company, Inc., 55 FCC 2d 59 (1975). While WABC itself is directly involved in the carriage of material for only one of ABC's four networks, and is not in this sense a "flagship" with respect to the other three, we believe it appropriate to look at the situation in a more general sense, in line with what we regard as the Court's concern—ABC as one of three network companies owning radio facilities in the country's largest market as well as in other places, and the desirability of putting these facilities on an equal footing instead of taking affirmative action which would unbalance them. The net loss to WABC through directionalization—some 700.000 persons with respect to primary service, and 17,200,000 as to secondary service—cannot be regarded as of no consequence, even if only a small amount of the station's time is devoted to network programs and there are three other ABC networks.

28. Moreover, in view of the emphasis which the Court placed on equality among the three companies with respect to clear channel facilities, it must also be regarded as significant that both CBS and NBC have more clear channel skywave signals than does ABC in the area which would be lost to WABC by directionalizing to protect KOB at night. According to KOB's exhibits, all of this area has one ABC skywave signal (from WCKY), nearly all of it a second (from ABC-owned WLS), and portions of it receive one or two other ABC skywave signals, from three other stations. All parts of the area receive at least 4 NBC and at least 5 CBS secondary services, ranging up to 10 and 9 such signals respectively.[9] Since several million persons in this area do not have nighttime primary AM service available to them, the loss of one ABC secondary service to this population must be regarded as a significant matter.[10] In sum, we conclude that these concepts have much the same importance they had in 1965, and in light of the Court's 1965 decision, support the result reached herein.

DECISION IN THE PROCEEDING

29. The "KOB problem is perhaps the oldest unresolved matter before the Commission. Our earlier efforts to resolve it have been the object of four appeals to the Courts and three major proceedings before this agency. The public interest now demands that it be brought to a conclusion. While we adhere to the view that there is considerable merit in the concept of assigning class I–B operations in Albuquerque and New York City on 770 kHz, as determined through the hearing process in 1958 and again in 1963, we recognize that this solution would find favor with the Court only if WNBC and WCBS were similarly directionalized. For the reasons we have expressed, such a solution would run counter to the overall objectives of the 1961 Clear Channel Decision. We are not prepared to pay that price. Finally, the introduction of new and improved aural broadcast services into the State of New Mexico over the past 11 years has redressed part of the allocations imbalance on which our earlier decisions turned, and makes a "II–A" status for KOB more acceptable today than in years past. We conclude that this can be done with minimal disruption to KOB's present nighttime listenership, given the RSS limit already imposed by WABC's nondirectional operation on KOB, and that, everything considered, a "II–A" status for KOB will not disserve the public interest.

30. As we noted in paragraph 7, supra, KOB has on file an application (BP–13932) for permission to operate a class I–B directionalized station on the 770 kHz assignment occupied by WABC in New York. That application, as the Court recognized in American Broadcasting, supra, 345, F. 2d at 957, was responsive to our 1958 Orders that both KOB and WABC should operate as class I–B directionalized stations on their respective 770 kHz assignments. WABC, however, had refused to seek a renewal under those terms, and KOB hoped, by applying, to substitute itself on the channel and thus obviate the protracted controversy between the two stations. We deferred action on the application, and the Court approved, until such time as we should resolve the issue of equal treatment for the New York network "flagship" stations, and the classification for 770 kHz in that city. Id. at 961. Now, by our action herein, making KOB a II–A station and returning WABC to I–A status, KOB's application for a I–B assignment in New York is effectively mooted. The larger concern—clear channel protection from co-channel interference—has been resolved in a manner we view as fair, equitable and public-serving. We find no compelling reasons for lengthy consideration of that application, especially in light of the overall circumstances. However, our actions herein cannot be taken as foreclosing future filings by any qualified party who may desire to compete, at the appropriate time with the proper application, for the 770 kHz assignment now licensed to WABC. Therefore, we are dismissing KOB's application (BP–13932), and granting the WABC renewal application (BR–167).

31. Accordingly, and pursuant to sections 4(i), 303(r), 307(b), and 308(a) of the Communications Act of 1934, as amended, It is ordered, That the "Petition to Enlarge Scope of Proceedings" filed by WEW and supported by KXA, is denied.

32. *It is further ordered,* That Hubbard's application (File No. BP–13932) to establish a new class I–B station in New York City on 770 kHz is dismissed as inconsistent with the rule amendments herein adopted, which contemplate a I–A clear channel priority on 770 kHz at that location.

33. *It is further ordered,* That Hubbard is directed to tender for filing, on or before June 30, 1976, an application to modify its outstanding construction permit (BMP–1738) to specify a nighttime directional pattern and theoretical parameters appropriate to the operation of KOB as a class II–A station.

34. *It is further ordered,* That section 1.1111 of the Commission's rules are waived to permit the acceptance and processing of such application without payment of filing and grant fees.

35. *It is further ordered,* That Hubbard's program test authorization of October 25, 1963, is hereby extended until further order of the Commission.

36. *It is further ordered,* That ABC's application (File No. BR–167; Docket No. 14225) for renewal of the WABC license on 770 kHz is granted without prejudice to such further action as the Commission may deem appropriate upon the conclusion of proceedings in which American Broadcasting Companies, Inc., is a party defendant: (i) *Columbia Pictures Industries, Inc.,* et al., v. *American Broadcasting Companies, Inc.,* et al. (Civil Action File No. 70 Civ. 4202, United States District Court for the Southern District of New York); (ii) *United States of America* v. *American Broadcasting Companies, Inc.* (Civil Action File No. 74 Civ.

[9] There have been some changes in affiliation of these class I stations since KOB's exhibits were prepared, but the general picture is still the same. Of 37 other class I stations which provide skywave signals to all or part of the skywave coverage area which WABC would lose by directionalizing, as of late 1975 only one (WLS, Chicago, ABC-owned) was an ABC Contemporary outlet; three were affiliated with other ABC networks (KXEL, WBT and WWVA), and one affiliated with both the ABC Information network and with CBS (WCKY). Eight others were affiliated with CBS and 13 with NBC. Eleven had no national network affiliation.

[10] ABC has, among its 4 networks, many more affiliated stations than do CBS or NBC, about 1,400 AM and FM stations compared to roughly 300 for NBC (in two networks) and 250 for CBS, as of early 1976. However, only the clear channel stations referred to in the text and in footnote 9 provide skywave service.

3600, United States District Court for the Central District of California); and (iii) *Dubuque Communications Corp.* v. *American Broadcasting Companies, Inc.* (Civil Action File No. 73 Civ. 1473, United States District Court for the Northern District of Illinois, Eastern Division).

37. *It is further ordered,* That effective June 4, 1976, sections 73.22, 73.25 and 73.182 of the Commission's rules are amended as set forth in the Appendix.

38. *It is further ordered,* That proceedings in Docket Nos. 6741 and 14225 are terminated.

(Secs. 4, 303, 307, 308, 48 Stat., as amended, 1066, 1082, 1083, 1084; 47 U.S.C. 154, 303, 307, 308.)

Adopted: April 21, 1976.

Released: April 30, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPENDIX

Part 73 of Chapter 1, Title 47 Code of Federal Regulations, is amended as follows:

1. Section 73.22(a) is revised to read as follows:

§ 73.22 Assignment of Class II–A stations.

(a) *Table of assignment.* One Class II–A station may be assigned on each channel listed in the following table within the designated State or States:

Channel (Kilohertz)	Location of existing class I station	State(s) in which class II–A assignment may be applied for
670	Chicago, Ill.	Idaho.
720	do.	Nevada or Idaho.
770	New York, N.Y.	New Mexico.
780	Chicago, Ill.	Nevada.
880	New York, N.Y.	North Dakota, South Dakota, or Nebraska.
890	Chicago, Ill.	Utah.
1020	Pittsburgh, Pa.	New Mexico.
1030	Boston, Mass.	Wyoming.
1100	Cleveland, Ohio.	Colorado.
1120	St. Louis, Mo.	California or Oregon.
1180	Rochester, N.Y.	Montana.
1210	Philadelphia, Pa.	Kansas, Nebraska, or Oklahoma.

* * * * *

2. In § 73.25, (a)(1) is revised to read as follows and (a)(5) note 3 is deleted, and notes 4, 5 and 6 are redesignated as notes 3, 4 and 5, respectively.

§ 73.25 Clear Channels; Classes I and II Stations.

* * * * *

(a) * * *

(1) On 670, 720, 770, 780, 880, 890, 1020, 1030, 1100, 1120, 1180, and 1210 kHz, one class II–A unlimited time station, assigned and located pursuant to the provisions of § 73.22.

* * * * *

§ 73.182 [Amended]

3. Section 73.182(v) is amended by deleting the final sentence in footnote 7.

[FR Doc.76-12898 Filed 5-3-76;8:45 am]

Title 7—Agriculture

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

PART 29—TOBACCO INSPECTION

Fees and Charges for Permissive Inspection

Notice was published in the FEDERAL REGISTER issue of March 9, 1976, (41 FR 10068) that the U.S. Department of Agriculture has under consideration the amendment of Subparts B, E, and F of 7 CFR, Part 29, relating to fees and charges for permissive inspection of tobacco pursuant to the authority contained in the Tobacco Inspection Act (49 Stat. 731; U.S.C. 511 et seq.).

Statement of Consideration. The Department is amending "Subpart B—Regulations," relating to fees and charges for services performed other than under an agreement (21 F.R. 3669, May 30, 1956; 25 F.R. 4949, June 4, 1960; and 40 F.R. 44112, September 25, 1975).

The Tobacco Inspection Act authorizes official inspection and grading of tobacco. Such inspection and grading service is either mandatory or permissive. Mandatory inspection as defined in 7 CFR 29.71, consists of inspecting and certifying tobacco, free of charge, on designated markets (as defined in 7 CFR 29.1(e), before it is offered for sale. Permissive inspection, as defined in 7 CFR 29.56, consists of inspecting, including sampling and weighing, and certificating, and is made available to interested parties on a fee basis. The Act requires such fees to be reasonable, and as nearly as possible, to cover the cost of performing the services.

On September 25, 1975, a notice was published at 40 F.R. 44112, adopting amendments to the regulations appearing at 7 CFR 29.123, relating to fees and charges for inspection and certification services performed other than under an agreement. As these fees and charges for permissive inspection also should be the fees and charges for inspection and certification services performed under an agreement, the Department is revising the regulations to so reflect.

The Department also is deleting § 29.9001, of 7 CFR Part 29, appearing in Subpart E, "Application and Agreement for Permissive Inspection Service," since it has been necessary to revise the form prescribed therein which, in addition, may need to be further revised in the future.

Additionally, the Department is amending § 29.9252 of 7 CFR Part 29, appearing in Subpart F, which establishes the fees and charges for the permissive inspection of nonquota Maryland tobacco, U.S. Type 32, produced and marketed in a quota area. The amended section provides that the fees charged for such inspection are the same as the fees provided for in 7 CFR 29.123, as amended herein.

Interested persons desiring to submit written data, views, or arguments in connection with the proposed revisions were given until April 8, 1976, to do so. No comments were received. After consideration of all relevant facts, the proposed regulations are hereby adopted.

Therefore, the regulations are amended as follows:

§§ 29.121 and 29.122 [Removed]

1. Delete § 29.121, *Fees for inspection service performed under an agreement,* and § 29.122, *Fees and charges for inspection other than under an agreement.*

2. § 29.123 is revised to read as follows:

§ 29.123 Fees and charges.

The fees and charges for inspection under an agreement or other than under an agreement are as follows:

(a) Fees and charges for inspection at redrying plants and receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly rate shall be $12.60. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $15.00. The rate of $13.85 shall be charged for work performed on Sundays or holidays.

(b) The fees or charges for hogshead, bale or case inspection shall comprise the same costs as provided in paragraph (a) of this section.

(c) The fees or charges for sample inspection shall comprise the same costs as provided in paragraph (a) of this section.

3. Amended § 29.9251, *Fees for inspection and certification services performed under agreement,* to read: "§ 29.9251, *Fees and charges.*" Also, the first paragraph is amended to add the phrase, "other than under an agreement," thus the section reads as follows:

§ 29.9251 Fees and charges.

Fees and charges for inspection and certification services performed under an agreement or other than under an agreement are as follows:

Fees and charges for inspection and certification services at receiving points shall comprise the cost of salaries, travel, per diem, and related expenses to cover the cost of performing the service. Fees shall be for actual time required to render the service calculated to the nearest 30-minute period. The base hourly rate shall be $12.60. The overtime rate for service performed outside the inspector's regularly scheduled tour of duty shall be $15.00. The rate of $18.85 shall be charged for work performed on Sundays or holidays.

§ 29.9252 [Removed]

4. Delete § 29.9252, *Fees and charges for inspection and certification services other than under an agreement.*

Subpart E—[Removed]

5. Delete Subpart E—Forms, § 29.9001, *Application and agreement for permissive tobacco inspection service.*

Effective date: May 4, 1976.

Done at Washington, D.C., this 28th day of April 1976.

DONALD E. WILKINSON,
Administrator.

[FR Doc.76-12922 Filed 5-3-76;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt. 22]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Child Nutrition Programs

On January 30, 1976, there was published in the FEDERAL REGISTER (41 F.R. 4596) a proposed amendment to the regulations governing the National School Lunch Program. The main purpose of the proposed amendment was the implementation of Public Law 94-105.

All of the comments received have been carefully considered. Further, in order to more carefully consider those comments pertaining to issues which are both controversial and significant in impact upon Program operation, the Department will issue at a later date final regulations involving: (1) the provision that senior high school students not be required to accept offered foods which they do not intend to consume; (2) the elimination of butter or fortified margarine from the meal patterns; and (3) the limitation of Federal reimbursement to one lunch per child per day.

The most substantive comments and recommendations affecting portions of the proposed regulations, other than those mentioned above, together with the resulting changes in the amendment or reasons for not accepting the suggestions are discussed below.

Some concern was expressed with the limited range of children who would be reached under the proposed "long-term care hospital" definition. Inasmuch as there are large numbers of children residing in other types of nursing facilities, the definition is expanded in the final regulations to include other intermediate care facilities.

Several respondents opposed the proposed definition of "school" primarily because of the limited number of examples of residential institutions that would be considered a "school". In order to further illustrate examples of residential child care institutions now eligible to participate in the National School Lunch Program, group homes, homes for the physically handicapped, and halfway houses are included as examples in the final regulations. However, it should be pointed out that the definition "school" clearly indicates that participation in the Program is not limited to those institutions mentioned in the definition.

Other concerns focused around residential child care institutions, other than hospitals, which may contain a significant number of adults yet maintain a section or area of the institution for children. The definition is changed to reflect situations where distinct sections of institutions are for children.

Comments also have been received regarding the meaning of "license" as it pertains to institutions. In the law, Congress specified "licensed nonprofit private residential child care institutions" to be eligible for participation in the National School Lunch Program. Recognizing that States use varying licensing codes pertaining to different kinds of residential child care institutions, the proposed regulations are changed to reflect that institutions be licensed under the appropriate licensing code.

The provisions in § 210.8(f) allowing a school participating in the Program to serve children from any other school is deleted. However, the authority remains for schools participating in the Program to serve children from other schools. The deletion occurred because of the potential confusion and complexity of developing regulations which would cover a variety of situations involving schools participating and non-participating and under the administration of State educational agencies, other State agencies, or FNSROs.

The requirement that the term of Federal/State agency agreements coincide with the Federal fiscal year has been deleted as impractical because future fiscal years will begin on October 1—after the beginning of the school year.

Several nonsubstantive changes have been made for the purpose of clarification and consistent treatment of similar provisions.

Accordingly, this part 210 is amended as set forth below:

1. In § 210.1, a sentence is added to the end of paragraph (c), to read as follows:

§ 210.1 General purpose and scope.

* * * * *

(c) * * * The Act also requires the Secretary to establish, in cooperation with State educational agencies, School Food Authorities, and children, administrative procedures, training modules, nutrition education materials, and guidance materials designed to diminish waste without endangering the nutritional integrity of the lunches.

* * * * *

2. In § 210.2, paragraph (c-1), is revised and redesignated as (c-2), paragraph (h-2) is redesignated as (h-6), paragraphs (c-1), (h-2), (h-3), (h-4), (h-5), and (p-1) are added, and paragraphs (f) (i), (k), (o), (p), and (s) are revised to read as follows:

§ 210.2 Definitions.

* * * * *

(c-1) "Child" means a person under 21 chronological years of age in schools as defined in § 210.2(o) (2) and (3) or a student of high school grade or under as determined by the State educational agency in schools as defined in § 210.2 (o) (1).

(c-2) "Commodity only school" means a school which does not participate in the Program under this part, but which enters into an agreement as provided in § 210.15a(b) to receive commodities donated under Part 250 of this chapter for a nonprofit lunch program.

* * * * *

(f) "Fiscal year" means the period of 12 calendar months beginning July 1, 1975, and ending June 30, 1976; the period beginning July 1, 1976 and ending September 30, 1976; and the period of 12 calendar months beginning October 1, 1976 and each October 1 of any calendar year thereafter and ending with September 30 of the following calendar year.

* * * * *

(h-2) "Infant cereal" means any iron-fortified dry cereal especially formulated and generally recognized as cereal for infants that is routinely mixed with formula or milk prior to consumption.

(h-3) "Infant formula" means any iron-fortified infant formula intended for dietary use solely as a food for normal, healthy infants excluding these formulas specifically formulated for infants with inborn errors of metabolism or digestive or absorptive problems. Infant formula, as served, must be in liquid state at recommended dilution.

(h-4) "Long-term care facility" means any hospital, skilled nursing facility, intermediate care facility, or distinct part thereof, which is intended for the care of children confined for 30 days or more.

(h-5) "Lunch" means a meal which meets the lunch pattern for specified age groups of children as designated in § 210.10.

(i) "Milk" means pasteurized fluid types of unflavored or flavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk except that, in the meal pattern for infants (0 to 1 year of age) milk means unflavored types of whole fluid milk or an equivalent quantity of reconstituted evaporated milk which meet such standards. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, Trust Territory of the Pacific Islands, and the Virgin Islands, if a sufficient supply of such types of fluid milk cannot be obtained, "milk" shall include reconstituted or recombined milk. All milk should contain vitamins A and D at levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

* * * * *

(k) "Nonprofit" means exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1954, as amended; or, in the Commonwealth of Puerto Rico, certified as nonprofit by its Governor.

* * * * *

(o) "School" means (1) An educational unit of high school grade or under operating under public or nonprofit private ownership in a single building or complex of buildings. The term "high school grade or under" includes classes of preprimary grade when they are conducted in a school having classes of primary or

higher grade, or when they are recognized as a part of the educational system in the State, regardless of whether such preprimary grades classes are conducted in a school having classes of primary or higher grade. (2) With the exception of residential summer camps which participate in the Summer Food Service Program for Children and private foster homes, any distinct part of a public or nonprofit private institution or any public or nonprofit private child care institution, which (i) maintains children in residence, (ii) operates principally for the care of children, and (iii) if private, is licensed to provide residential child care services under the appropriate licensing code by the State or a subordinate level of government. The term "child care institution" includes, but is not limited to: homes for the mentally retarded, the emotionally disturbed, the physically handicapped, and unmarried mothers and their infants; group homes; halfway houses; orphanages; temporary shelters for abused children and for runaway children; long-term care facilities for chronically ill children; and juvenile detention centers. (3) With respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico.

(p) "School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program therein.

(p-1) "School year" means the period July 1 to June 30 of each year.

* * * * *

(s) "State agency" means (1) the State educational agency or (2) such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in schools as defined in § 210.2(o)(2) of this part.

* * * * *

3. In § 210.3, the last sentence of paragraph (c) is deleted; and paragraph (b) is revised and new paragraphs (b–1) and (b–2) are added, to read as follows:

§ 210.3 **Administration.**

* * * * *

(b) Within the States, responsibility for the administration of the Program in schools, as defined in § 210.2(o)(1) and (o)(3), shall be in the State educational agency, except that FNSRO shall administer the Program with respect to nonprofit private schools, as defined in § 210.2(o)(1), of any State wherein the State educational agency is not permitted by law to disburse Federal funds paid to it under the Act to such schools, or to match Federal funds paid with respect to such schools.

(b–1) Within the States, responsibility for the administration of the Program in schools, as defined in § 210.2(o)(2), shall be in the State educational agency, or if the State educational agency cannot administer the Program in such schools, such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Departmtnt to administer the Program in such schools: *Provided, however,* That FNSRO shall administer the Program in such schools if the State agency is not permitted by law to disburse Federal funds paid to it under the Act to such schools or to match Federal funds paid with respect to such schools.

(b–2) References in this part to "FNSRO where applicable" are to FNSRO as the agency administering the Program.

* * * * *

4. In § 210.4a, paragraphs (b)(3) and (c) are deleted; in paragraph (b)(5)(iii) the words "and the Special Food Service Program for Children" are deleted; and the first sentence of paragraph (a) is revised to read as follows:

§ 210.4a **State Plan of Child Nutrition Operations.**

(a) Not later than May 15 of each year, each State agency shall submit to FNS for approval a State Plan of Child Nutrition Operations for the following school year. * * *

* * * * *

5. In § 210.5, paragraphs (a)(2) and (3) are revised to read as follows:

§ 210.5 **Method of payment to States.**

(a) * * * (2) submit requests for funds only at such times and in such amounts, as will permit prompt payment of claims or authorized advances; and (3) use the funds received from such requests without delay for the purpose for which drawn.

* * * * *

§ 210.5a [Amended]

6. In § 210.5a, the words "Child Nutrition Operations for the applicable fiscal year" are deleted and the words "Child Nutrition Operations for the applicable school year" are inserted in lieu thereof.

7. In § 210.6, the words "nonprofit private" are deleted in the last sentence of paragraph (c), in paragraph (j) the words "nonprofit private" are deleted, and paragraphs (a) and (b) are revised to read as follows:

§ 210.6 **Matching of funds.**

(a) Each State agency shall match each dollar of general cash-for-food assistance funds expended by it, other than those determined by the Secretary to have been expended under the Program each fiscal year in connection with lunches served to children free or at a reduced price, with $3 of funds from sources within the State: *Provided, however,* That, if the per capita income of any State is less than the per capita income of the United States, the matching requirements so computed, for any fiscal year, shall be decreased by the percentage by which the State per capita income is below the per capita income of the United States.

(b) For the fiscal years beginning July 1, 1975, and October 1, 1976, State revenues (other than revenues derived from the Program) appropriated or specifically utilized for Program purposes (other than salaries and administrative expenses at the State, as distinguished from local levels) shall constitute at least 8 percent of an amount determined by multiplying $3 (or a lower matching requirement based upon the State's per capita income) times the total dollars of all general cash-for-food assistance funds expended by the State for the prior 12-month fiscal year; and for each fiscal year thereafter, an amount equal to at least 10 percent of such product. For the 3-month period beginning July 1, 1976, and ending September 30, 1976, such State revenue shall constitute at least 8 percent of the matching requirements for the same 3-month period of the preceding fiscal year based on the total general cash-for-food assistance funds expended during that period.

§ 210.7 [Amended]

8. In § 210.7, the words, of high school grade or under" are deleted from paragraph (a).

9. In § 210.8, the word "administrative" is deleted from paragraph (e)(14), paragraph (f) is deleted, and the first sentence of paragraph (d) is revised to read as follows:

§ 210.8 **Requirements for participation.**

* * * * *

(d) Any School Food Authority may employ a food service management company, nonprofit agency or nonprofit organization in the conduct of its feeding operation, in one or more of its schools. * * *

* * * * *

10. In § 210.10 (a) and (c), the words "Type A" are deleted wherever they appear, paragraphs (b), (c), (d), (e), (f), (g), and (b) are redesignated as (c), (d), (e), (f), (g), (h) and (i) respectively; redesignated paragraph (d) is amended by adding the following words at the end thereof: "or the preschool lunch pattern listed in (b)(3)(i) and (ii) of this section."; the words "ufl" and "tanniers" are deleted in redesignated paragraph (f); redesignated paragraph (g) is amended by deleting the words "(a)(1)" and inserting the words "(a)(2), (b)(2) and (b)(3)" in lieu thereof; paragraph (a) is revised and a new paragraph (b) is added to read as follows:

§ 210.10 **Requirements for lunches.**

(a)(1) This paragraph sets forth the requirements for Type A lunches eligible for Federal cash reimbursement. The requirements are designed to provide a nutritious and well-balanced Type A lunch daily to each child of school age which, averaged over a period of time, will approximate one third of the child's Recommended Dietary Allowances. To provide variety and encourage participation, the School Food Authority should, whenever possible, provide a selection of foods from which the children may

choose the Type A lunch. When more than one Type A lunch is offered or when a variety of items within the Type A lunch pattern is offered, all children shall be offered the same selections regardless of whether they are eligible for free or reduced price lunches or pay the full price.

(2) Except as otherwise provided in this section, and in any appendix to this part, to be eligibile for Federal cash reimbursement, a Type A lunch shall contain, as a minimum, each of the following food components in the amounts indicated:

(i) One-half pint of fluid milk as a beverage.

(ii) Two ounces (edible portion as served) of lean meat, poultry, or fish; or two ounces of cheese; or one egg; or one-half cup of cooked dry beans or peas; or four tablespoons of peanut butter; or an equivalent quantity of any combination of the above listed foods. To be counted in meeting this requirement, these foods must be served in a main dish or in a main dish and one other menu item.

(iii) Three-fourths cup of two or more vegetables or fruits, or both. Full-strength vegetable or fruit juice may be counted to meet not more than one-fourth cup of this requirement.

(iv) One slice of whole-grain or enriched bread; or a serving of cornbread, biscuits, rolls, muffins, etc., made of whole-grain or enriched meal or flour.

(v) One teaspoon of butter or fortified margarine.

(3) The kinds and amounts of foods specified in paragraph (a)(2) of this section are approximate amounts of foods to serve 10 to 12 year-old children. The Department shall issue guidance materials for the use of State agencies and FNSROs on the amounts of foods to be served children in various age groups. If consistent with State policy, School Food Authorities may allow children aged 6 through 10 years to be served lesser amounts of selected foods than are specified in paragraph (a)(2) of this section. For children older than 12 years of age, School Food Authorities shall encourage the serving of larger amounts of selected foods than are specified in paragraph (a)(2) of this section.

(b)(1) This paragraph, in subdivision (2) sets forth the requirements for lunches eligible for Federal cash reimbursement which are designed to provide nutritious lunches for infants aged up to 1 year, and, in subdivision (3), for children aged 1 to 6 years.

(2) When infants aged up to 1 year participate in the Program, an infant lunch pattern shall be offered. Foods within the infant lunch pattern shall be of texture and consistency appropriate for the particular age group being served. The amount of food in the lunch may be offered to the infant during a span of time consistent with the infant's eating habits. The infant lunch pattern shall contain, as a minimum, each of the following components in the amounts indicated for the appropriate age group:

(i) 0 to 4 months—four to six fluid ounces of infant formula; and zero to one tablespoon of infant cereal; and zero to one tablespoon of fruit or vegetable of appropriate consistency or a combination of both.

(ii) 4 to 8 months—six to eight fluid ounces of infant formula; and one to two tablespoons of infant cereal; and one to two tablespoons of fruit or vegetable of appropriate consistency or a combination of both; and zero to one tablespoon of meat, fish, poultry, or egg yolk, or zero to one-half ounce (weight) of cheese or zero to one ounce (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(iii) 8 months to 1 year—six to eight fluid ounces of infant formula, or six to eight fluid ounces of whole fluid milk and zero to three fluid ounces of full-strength fruit juice; and three to four tablespoons of fruit or vegetable of appropriate consistency or infant cereal or combination of such foods; and one to four tablespoons of meat, fish, poultry, or egg yolk, or one-half to two ounces (weight) of cheese or one to four ounces (weight or volume) of cottage cheese or cheese food or cheese spread of appropriate consistency.

(3) When children aged 1 year to 6 years participate in the Program, a preschool lunch pattern shall be offered, which shall contain, as a minimum, each of the following food components in the amounts indicated for the appropriate age group:

(i) 1 to 3 years—one-half cup of fluid milk; and one ounce (edible portion as served) of lean meat, poultry, or fish, or one ounce of cheese, or one egg, or one-fourth cup of cooked dry beans or peas, or two tablespoons of peanut butter; and a one-fourth cup serving consisting of two or more vegetables or fruits or both; and one-half slice of whole-grain or enriched bread or equivalent; and one-half teaspoon of butter or fortified margarine.

(ii) 3 years to 6 years—three-fourths cup of fluid milk; and one and one-half ounces (edible portion as served) of lean meat, poultry, or fish, or one and one-half ounces of cheese, or one egg, or three-eighths cup of cooked dry beans or peas, or three tablespoons of peanut butter; and a one-half cup serving consisting of two or more vegetables or fruits or both; and one-half slice of whole-grain or enriched bread or equivalent; and one-half teaspoon of butter or fortified margarine.

* * * * *

§ 210.16 [Amended]

11. In § 210.16, in paragraph (g), the words "with respect to nonprofit private schools" are deleted, and in paragraph (h), the words, "§ 210.10 (a)(2), (b)(2) and (b)(3)", are substituted for the words "§ 210.10(a)(1)".

12. In § 210.17, the first sentence of paragraph (e) is amended to read as follows:

§ 210.17 Management evaluation and audits.

* * * * *

(e) In making management evaluations or audits for any fiscal year, the State agency, FNS, or OA may disregard any overpayment which does not exceed $35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations, or procedure as a minimum amount for which claim will be made for State losses generally. * * *

§ 210.19 [Amended]

13. In § 210.19, in paragraph (a), the word "private" is deleted and, in paragraph (b), the words "nonprofit private" are deleted.

14. In § 212.20, paragraph (a) is revised and paragraph (f) is added to read as follows:

§ 210.20 Program information.

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: New England Regional Office, FNS, U.S. Department of Agriculture, 34 Third Avenue, Burlington, Massachusetts 01803.

* * * * *

(f) In the States of Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FMS, U.S. Department of Agriculture, 729 Alexander Road, Princeton, New Jersey 03540.

* * * * *

NOTE: The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date: This amendment shall become effective on April 30, 1976.

Dated: April 30, 1976.

JOHN DAMGARD,
Deputy Assistant Secretary.

[FR Doc.76-13122 Filed 5-3-76;9:43 am]

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

[Lemon Reg. 36, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period April 25–May 1, 1976. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) 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 applicable provisions of 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 the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 36 (41 FR 16944). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* Paragraph (b) (1) of § 910.336 (Lemon Regulation 36) (41 FR 16944) is hereby amended to read as follows:

§ 910.336 Lemon Regulation 36.

* * * * *

(b) * * *

(1) The quantity of lemons grown in California and Arizona which may be handled during the period April 25, 1976 through May 1, 1976, is hereby fixed at 270,000 cartons.

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

Dated: April 29, 1976.

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

[FR Doc.76–12880 Filed 5–3–76;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.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE PROGRAM

REA Requirements and Procedure Covering the Purchase of Common Control Switching Equipment

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 USC 901 et seq.), including the amendment thereto enacted by Pub. L. 93–32, REA proposes to issue a memorandum (File With REA Bulletin 344–1) to provide REA requirements and procedure for purchasing common control switching equipment with funds loaned by REA, the Rural Telephone Bank or by another lender with the loan guaranteed by REA. On issuance of the proposed memorandum, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the contents of the proposed memorandum may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250 on or before June 3, 1976. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division, during regular business hours.

The text of the proposed memorandum is as follows:

FILE WITH REA BULLETIN 344–1

Subject: Guidelines for the Purchase of Common Control Switching Equipment.

To: REA Telephone Borrowers and Consulting Engineers.

This will supplement the "Guidelines" letter of January 15, 1975.

REA Bulletin 344–2, "List of Materials Acceptable for Use on Telephone Systems of REABorrowers," divides common control equipment into the following two categories:

1. Electro-mechanical control. Equipped with crossbar or crosspoint switches and electro-mechanical common control.

2. Electronic control. Equipment with crossbar or crosspoint switches and electronic common control.

If a borrower so desires, he may request approval from REA to restrict requests for proposals or bids to thes econd category, i.e., electronic control.

Dated: April 27, 1976.

JOHN H. ARNESEN,
Acting Assistant Administrator.

[FR Doc.76-12847 Filed 5-3-76;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. OSH–38]

EMPLOYMENT RELATED HOUSING (TEMPORARY LABOR CAMPS)

Withdrawal of Proposal; Advance Notice of Proposed Rulemaking

On September 23, 1974 (39 FR 34057), the Occupational Safety and Health Administration (OSHA) proposed to amend Part 1910 of Title 29 of the Code of Federal Regulations (CFR) by revising § 1910.142, the agency's standard on Temporary Labor Camps. Public comments were solicited, and hearings were held throughout the country.

The proposal was intended to establish a new safety and health regulation in the area of "Employment Related Housing," which could be enforced as a single standard by all agencies of the Department of Labor having interest in such matters. At present in addition to OSHA, the Employment and Training Administration (formerly the Manpower Administration) and the Employment Standards Administration have such interests through, respectively, the Wagner-Peyser Act of 1933, 20 U.S.C. 49 et seq. (regulations published in 20 CFR Part 620), and the Farm Labor Contractor Registration Act of 1963, as amended, 7 U.S.C. 2401 et seq.

Based on a thorough review of the testimony adduced at the public hearings, exhibits submitted, and other pertinent material made a part of the record, OSHA has concluded that the record in the proceeding on the proposed standard does not provide an adequate basis for the publication of a new final standard or for the issuance of a new proposal.

The agency believes that the record is deficient with respect to the following:

1. ascertaining the scientific, technical, and medical rationale for various substantive provisions of the proposal;

2. evaluating the scope and coverage of the proposal and the consequences of such scope and coverage;

3. comparing the experiences of states; and

4. gauging the impact on, and effect of, local public health and housing ordinances.

The agency also believes that further efforts to develop a new standard based on this record would be unlikely to produce a satisfactory final rule.

OSHA therefore has determined that a final standard should not be promulgated at this time on the basis of the record developed subsequent to the 1974 proposal on employment related housing, and in accordance with section 6(b)(4) of the Act (84 Stat. 1594, 29 U.S.C. 655) and 29 CFR 1911.18, that proposal is hereby withdrawn.

Notwithstanding the withdrawal of this proposal, OSHA continues to believe that the development of a modified occupational safety and health standard for employment related housing is a priority agency task. It is OSHA's intention to develop such a standard in the following manner: pre-proposal fact-finding hearings and on-site visits to labor camps commencing June 1976; publication in the FEDERAL REGISTER of a new proposed Department-wide standard on or about December 1, 1976; and promulgation of a final rule in or about April 1977.

To assist in the development of a new proposal, OSHA invites the participation of interested parties at this time. OSHA solicits written comments regarding all aspects of employment related housing including the subjects listed below:

1. The nature and type of housing to be regulated; for example, should the regulation apply to permanently occupied facilities. Applicability and inclusion of mobile or other non-fixed types of housing may also be discussed.

2. The scope of new regulations in terms of industries to be covered; for example, should the regulation be limited to agricultural housing, or should it also include such other employment related housing located in logging camps, marine platforms, ranching and construction camps, etc.

3. Existing safety and health hazards, and suggested provisions to protect against such hazards.

4. Appropriateness of provisions containing specification requirements;

5. Evaluation of existing Departmental regulations (29 CFR 1910.142 and 20 CFR Part 620), and relevant state and local ordinances; and

6. Economic feasibility and potential inflationary impact of any new regulations in the area of employment related housing.

All written comments pursuant to this advance notice must be submitted to the Docket Officer, OSHA Technical Data Center, Docket No. OSH–38, Room N3620, U.S. Department of Labor, Third and Constitution Avenue NW., Washington, D.C. 20210. All written comments will be available to the public for examination and copying, at the Technical Data Center.

Until such time as a single Departmental standard on employment related housing is promulgated, OSHA will continue to inspect temporary labor camps and enforce its existing standard, 29 CFR 1910.142. In accordance with the Department's policy on agricultural employments set forth in the notice published on January 18, 1972, at 37 FR 743, during this period, compliance with the requirements of either 20 CFR Part 620 or 29 CFR 1910.142, to the extent that it applies to agricultural employment by virtue of 29 CFR 1928.21, shall be deemed to be compliance for OSHA enforcement purposes.

(Sec. 6(b), Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655); Secretary of Labor's Order 12-71 (36 FR 8754); 29 CFR Part 1911)

Signed at Washington, D.C. this 29th day of April 1976.

MORTON CORN,
Assistant Secretary of Labor.

[FR Doc.76-12937 Filed 5-3-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 532-5]

COMMONWEALTH OF VIRGINIA

Proposed Revision to Virginia State Implementation Plan

On January 29, 1976, the Commonwealth of Virginia submitted to the Administrator of the Environmental Protection Agency amendments to the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. The Commonwealth requested that these amendments be reviewed and processed as a revision to the Virginia State Implementation Plan(SIP) for the attainment and maintenance of Ambient Air Quality Standards.

The amendments consist of the following changes to Part VII, Air Pollution Episodes, Section 7.02, oxidant criteria pollutant level:

1. The oxidant criteria pollutant level as shown in Section 7.02(b) (2) (ii) for the Alert Stage of an Air Pollution Episode for Commonwealth Air Quality Control Regions 1 through 6 has been changed from 200 micrograms per cubic meter (or 0.100 ppm) to 400 micrograms per cubic meter (or 0.200 ppm). Because of adverse public testimony at the Commonwealth's public hearings, and in order to ensure uniformity of the episode plans controlling air pollution episodes in the National Capital Interstate AQCR, the criteria pollutant level was not changed for Commonwealth Region 7.

2. The oxidant criteria pollutant level as shown in Section 7.02(b) (4) (ii) for the Emergency Stage of an Air Pollution Episode for Regions 1 through 7 has been changed from 1200 micrograms per cubic meter (0.600 ppm) to 1000 micrograms per cubic meter (0.500 ppm).

The Commonwealth contended that the change to the oxidant episode plan for the alert stage for Regions 1 through 6 was necessary as the 0.1 ppm requirement was too restrictive. Similarly, the Commonwealth amended the oxidant criteria pollutant level for the Emergency State to conform with a similar change instituted by EPA to Appendix L, 40 CFR Part 51 (40 FR 36333, 8/20/75).

On February 2, 1976, the Commonwealth submitted proof that hearings regarding these amendments as required by 40 CFR Section 51.4 were held simultaneously on November 14, 1975 in Richmond and in all seven regional districts.

This notice is to announce receipt of these amendments by the Regional Administrator, to propose the amendments as a revision to the Virginia SIP and to provide for a 30 day public comment period. All comments received on or before (30 days after publication of this notice) will be considered.

The Administrator's decision to approve or disapprove this proposed plan revision will be based on whether the amendments meet the requirements of Section 110(a) (2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed revision, including related supplemental information provided by the Commonwealth, are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III
Curtis Building, Second Floor
Sixth and Walnut Streets
Philadelphia, Pennsylvania 19106
ATTN: Mr. Harold A. Frankford

Virginia State Air Pollution Control Board
Room 1106, Ninth Street State Office Building
Richmond, Virginia 23219
ATTN: John M. Daniel, Jr.

Public Information Reference Unit
Room 2922, EPA Library
U.S. Environmental Protection Agency
401 M Street SW.
Washington, D.C. 20460

All comments should be addressed to:

Mr. Howard Heim, Chief,
Air Programs Branch
Air & Hazardous Materials Division
U.S. Environmental Protection Agency
Region III
Curtis Building
Sixth and Walnut Streets
Philadelphia, Pennsylvania 19106
ATTN: AH008VA

(42 U.S.C. 1857c-5)

Dated: April 20, 1976.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.76-12815 Filed 5-3-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20364; RM-2336]

FM BROADCAST STATIONS

Tawas City and Oscoda, Michigan; Order Extending Time for Filing Reply Comments

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Tawas City and Oscoda, Michigan)

By the Chief, Broadcast Bureau:

1. On December 11, 1975, the Commission adopted a Further Notice of Proposed Rule Making in the above-mentioned proceeding (40 Fed. Reg. 59452). The date for filing comments has expired and the date for filing reply comments is presently May 3, 1976.

2. On April 23, 1976, Carroll Enterprises, Inc., by counsel, requested that the time for filing reply comments be extended to and including May 18, 1976. Counsel states that Lawrence Norman DeBeau ("DeBeau"), proponent in this proceeding, filed comments in which he showed a proposed operation on Channel 223C with an effective radiated power of 100 kilowatts from an antenna 1,200 feet above ground. He adds that DeBeau in these comments again requested the Commission to issue an order directing him to show cause why the license of Class A Station WDBI-FM, Tawas City, Michigan, should not be modified to specify operation as a Class C station with the facilities shown. Counsel adds that an estimate of the cost of such an installation should be included in its reply comments. He further states that the comprehensive showing which accompanied DeBeau's comments will require study but there is insufficient time to obtain the cost estimates and to prepare additional engineering reports, if found necessary, by the present deadline date.

3. Counsel for DeBeau advised that he has no objection to the grant of this request.

4. We are of the view that the public interest would be served by extending the time in this proceeding. Accordingly, it is ordered, That the date for filing reply coments is extended to and including May 18, 1976.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d) (1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Adopted: April 27, 1976.

Released: April 28, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.76-12899 Filed 5-3-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-12378; File No. S7-613]

EXCHANGE MEMBER TRADING

Extension of Comment Period

On January 27, 1976, the Commission published Securities Exchange Act Release No. 12055 announcing, among other things, the adoption of Temporary Securities Exchange Act Rule 11a1-1(T), the proposal of Securities Exchange Act Rule 11a1-2 and an amendment to Securities Exchange Act Rule 17a-3(a)(9), and a request for comment on Section 11(a) generally. The Commission invited interested persons to submit written views, data, and arguments with respect to these temporary and proposed rules (and amendment) or in response to the questions posed or otherwise raised by Section 11(a) of the Securities Exchange Act of 1934. The time originally specified for submitting such comments expires on May 1, 1976.[1]

In view of the complexity of the subject matter of the Release and requests for additional time within which to submit such comments, the Commission has determined to extend the comment period with respect to questions posed by the Commission or otherwise raised by Section 11(a) until June 15, 1976. Persons wishing to make written submissions should file six copies thereof with George A. Fitzsimmons, Secretary of the Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, with reference to Commission File No. S7-613. Copies of all submissions will be made available in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

APRIL 28, 1976.

[FR Doc.76-12910 Filed 5-3-76;8:45 am]

[1] 41 FR 8075 (February 24, 1976).

notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular, Public Debt Series, No. 10-76]

TREASURY NOTES OF SERIES L-1978

Dated and Bearing Interest From May 17, 1976, Due April 30, 1978

APRIL 29, 1976.

I. INVITATIONS FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders on a yield basis for $2,000,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series L-1978. The interest rate for the notes will be determined as set forth in Section III, paragraph 3, hereof. Additional amounts of these notes may be issued at the average price of accepted tenders to Government accounts and to Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 4, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 6½ percent Treasury Notes of Series B-1976 and 5¾ percent Treasury Notes of Series E-1976, maturing May 15, 1976, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. DESCRIPTION OF NOTES

1. The notes will be dated May 17, 1976, and will bear interest from that date, payable on a semiannual basis on October 31, 1976, April 30, 1977, October 31, 1977, and April 30, 1978. They will mature April 30, 1978, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry notes will be available to eligible bidders in multiples of those amounts. Interchanges of notes of difference denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Tuesday, May 4, 1976. Each tender must state the face amount of notes bid for, which must be $5,000 or a multiple thereof, and the yield desired, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a yield. In the case of competitive tenders, the yield must be expressed in terms of an annual yield, with two decimals, e.g., 7.11. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash or the notes referred to in Section I which will be accepted at par) of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and yield range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be determined at a ⅛ of one percent increment that translates into an average accepted price close to 100.000 and a lowest accepted price above 99.750. That rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price corresponding to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept tenders for more or less than the $2,000,000,000 of notes offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated yield from any one bidder will be accepted in full at the average price[1] (in three decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before Monday, May 17, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, notes referred to in Section I (interest coupons dated May 15, 1976, should be detached), in other funds immediately available to the Treasury by May 17, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury not later than: (1) Wednesday, May 12, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in case of the Treasury, or (2) Monday, May 10, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Inter-

[1] Average price may be at, or more or less than 100.000.

nal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount of notes submitted and the amount payable on the notes allotted.

V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new notes are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for Treasury Notes of Series L–1978 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon Treasury Notes of Series L–1978 to be delivered to _____." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

GEORGE H. DIXON,
Acting Secretary of the Treasury.

[FR Doc.76–13010 Filed 4–30–76;3:31 pm]

[Department Circular, Public Debt Series—No. 11–76]

7⅞ PERCENT TREASURY NOTES OF SERIES A–1986

Dated and Bearing Interest From May 17, 1976, Due May 15, 1986

APRIL 29, 1976.

I. OFFERING OF NOTES

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended offers $3,500,000,000 of notes of the United States, designated 7⅞ percent Treasury Notes of Series A–1986, at par. The amount of the offering may be increased by a reasonable amount to the extent that the total amount of subscriptions warrants. Additional amounts of these notes may be issued to Government accounts and to Federal Reserve Banks. The 6½ percent Treasury Notes of Series B–1976, and 5¾ percent Treasury Notes of Series E–1976, maturing May 15, 1976, will be accepted at par in payment, in whole or in part, to the extent subscriptions are allotted by the Treasury. The books will be open through Wednesday, May 5, 1976, for the receipt of subscriptions.

II. DESCRIPTION OF NOTES

1. The notes will be dated May 17, 1976, and will bear interest from that date, payable on a semiannual basis on November 15, 1976, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 1986, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry notes will be available to eligible subscribers in multiples of those amounts. Interchanges of notes of different denominations and of coupon and registered notes, and the transfer of registered notes will be permitted.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. SUBSCRIPTIONS AND ALLOTMENTS

1. Subscriptions accepting the offer made by this circular will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, through Wednesday, May 5, 1976. Each subscription must state the face amount of notes subscribed for, which must be $1,000 or a multiple thereof.

2. All subscribers are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after midnight, May 5, 1976.

3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit subscriptions for account of customers provided the names of the customers are set forth in such subscriptions. Others will not be permitted to submit subscriptions except for their own account.

4. Under the Second Liberty Bond Act, as amended, the Secretary of the Treasury has the authority to reject or reduce any subscription, to allot more or less than the amount of notes applied for, and to make different percentage allotments to various classes of subscribers when he deems it to be in the public interest; and any action he may take in these respects shall be final. Subject to the exercise of that authority, subscriptions for $500,000, or less, will be allotted in full provided that 20% of the face value of the securities for each subscriber is submitted as a deposit (in cash or the notes referred to in Section I which will be accepted at par). Such deposits must be submitted to the Federal Reserve Bank or Branch, or to the Bureau of Public Debt, with the subscription; this will apply even if the subscription is for the account of a commercial bank or securities dealer, or for one of their customers. Guarantees in lieu of deposits will not be accepted. Allotment notices will not be sent to subscribers submitting subscriptions in accordance with this paragraph.

5. Subscriptions not accompanied by the 20% deposit will be received subject to a percentage allotment. On such subscriptions a 5% deposit (in cash or the notes referred to in Section I which will be accepted at par) will be required from all subscribers except commercial and other banks for their own account. Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign

central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, Federal Reserve Banks, and Government accounts. Commercial banks and securities dealers authorized to enter subscriptions for customers will be required to certify that they have received the 5% deposit from their customers or guarantee payment of the deposits. Allotment notices will be sent out promptly upon allotment to subscribers submitting subscriptions in accordance with this paragraph. Following allotment, any portion of the 5 percent payment in excess of 5 percent of the amount of notes allotted may be released upon the request of the subscriber.

6. Subscribers may submit subscriptions under the provisions of each of the two foregoing paragraphs, i.e., up to $500,000, with a 20% deposit and in any amount with a 5% deposit. Each of the two types of subscriptions will be treated as separate subscriptions.

IV. PAYMENT

1. Payment at par for notes allotted hereunder must be made or completed on or before May 17, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, notes referred to in Section I (interest coupons dated May 15, 1976, should be detached), in other funds immediately available to the Treasury by May 17, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the subscription is submitted to it which must be received at such Bank or at the Treasury no later than: (1) Wednesday, May 12, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted or the Fifth Federal Reserve District in case of the Treasury, or (2) Monday, May 10, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States.

2. Delivery of notes in bearer form will be made on May 17, 1976, except that if adequate stocks of the notes are not available on that date, the Department of the Treasury reserves the right to issue interim certificates on that date which will be exchangeable for the notes when available at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. If a subscriber elects to receive an interim certificate, the certificate must be returned at his own risk and expense.

V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for notes allotted hereunder are not required to be assigned if the notes are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the notes, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the new notes are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for 7⅞ percent Treasury Notes of Series A–1986 in the name of (name and taxpayer identifying number)." If notes in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 7⅞ percent coupon Treasury Notes of Series A–1986 to be delivered to _____." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve banks are authorized and requested to receive subscriptions, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

GEORGE H. DIXON,
Acting Secretary of the Treasury.

[FR Doc.76-13011 Filed 4-30-76;3:31 pm]

[Department Circular, Public Debt Series—No. 12-76]

7⅞ PERCENT TREASURY BONDS OF 1995–2000 REDEEMABLE AT THE OPTION OF THE UNITED STATES AT PAR AND ACCRUED INTEREST ON AND AFTER FEBRUARY 15, 1995

Dated February 18, 1975, With Interest From May 17, 1976, Due February 15, 2000

APRIL 29, 1976.

I. INVITATION FOR TENDERS

1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 94.26 percent of their face value for $750,000,000, or thereabouts, of bonds of the United States, designated 7⅞ percent Treasury Bonds of 1995–2000. Additional amounts of these bonds may be issued at the average price of accepted tenders to Government accounts and Federal Reserve Banks for themselves and as agents of foreign and international monetary authorities. Tenders will be received up to 1:30 p.m., Eastern Daylight Saving time, Friday, May 7, 1976, under competitive and noncompetitive bidding, as set forth in Section III hereof. The 6½ percent Treasury Notes of Series B–1976 and 5¾ percent Treasury Notes of Series E–1976, maturing May 15, 1976, will be accepted at par in payment, in whole or in part, to the extent tenders are allotted by the Treasury.

II. DESCRIPTION OF BONDS

1. The bonds now offered will be identical in all respects with the 7⅞ percent Treasury Bonds of 1995–2000 issued pursuant to Department Circular, Public Debt Series—No. 4–75, dated January 23, 1975, except that interest will accrue from May 17, 1976. With this exception the bonds are described in the following quotation from Department Circular No. 4–75:

"1. The bonds will be dated February 18, 1975, and will bear interest[1] from that date, payable on a semiannual basis on August 15, 1975, and thereafter on February 15 and August 15 in each year until the principal amount becomes payable. They will mature February 15, 2000, but may be redeemed at the option of the United States on and after February 15, 1995, in whole or in part, at par and accrued interest on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption, the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

"2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-

[1] On January 30, 1975, the Secretary of the Treasury announced that the interest rate on the bonds would be 7⅞ percent per annum.

entry bonds will be available to eligible bidders in multiples of those amounts. Interchanges of bonds of different denominations and of coupon and registered bonds, and the transfer of registered bonds will be permitted.

"5. The bonds will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States bonds."

III. TENDERS AND ALLOTMENTS

1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to the closing hour, 1:30 p.m., Eastern Daylight Saving time, Friday, May 7, 1976. Each tender must state the face amount of bonds bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, eg.g., 100.00. Tenders at a price less than 94.26 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $500,000.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others will not be permitted to submit tenders except for ther own account. Tenders will be received without deposit from banking institutions for their own account, Federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment (in cash, or the notes referred to in Section I which will be accepted at par) of 5 percent of the face amount of bonds applied for.

3. Immediately after the closing hour tenders will be opened, following which public anouncement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting competitive tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, those at the highest prices will be accepted to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, including the right to accept more or less than the $750,000,000 of bonds offered, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $500,000 or less without stated price from any one bidder will be accepted in full at the average price[2] (in two decimals) of accepted competitive tenders.

IV. PAYMENT

1. Settlement for accepted tenders in accordance with the bids together with $19.90385 per $1,000 for accrued interest from February 15 to May 17, 1976, must be made or completed on or before May 17, 1976, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt. Payment must be in cash, notes referred to in Section I (interest coupons dated May 15, 1976, should be detached), in other funds immediately available to the Treasury by Monday, May 17, 1976, or by check drawn to the order of the Federal Reserve Bank to which the tender is submitted, or the United States Treasury if the tender is submitted to it, which must be received at such Bank or at the Treasury no later than: (1) Wednesday, May 12, 1976, if the check is drawn on a bank in the Federal Reserve District of the Bank to which the check is submitted, or the Fifth Federal Reserve District in the case of the Treasury, or (2) Monday, May 10, 1976, if the check is drawn on a bank in another district. Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at a Federal Reserve Bank. Payment will not be deemed to have been completed where registered bonds are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of bonds allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. When payment is made with notes, a cash adjustment will be made to or required of the bidder for any difference between the face amount of notes submitted and the amount payable on the bonds allotted.

V. ASSIGNMENT OF REGISTERED NOTES

1. Registered notes tendered as deposits and in payment for bonds allotted hereunder are not required to be assigned if the bonds are to be registered in the same names and forms as appear in the registrations or assignments of the notes surrendered. Specific instructions for the issuance and delivery of the bonds, signed by the owner or his authorized representative, must accompany the notes presented. Otherwise, the notes should be assigned by the registered payees or assignees thereof in accordance with the general regulations governing United States securities, as hereinafter set forth. When the bonds are to be registered in names and forms different from those in the inscriptions or assignments of the notes presented the assignment should be to "The Secretary of the Treasury for 7⅞ percent Treasury Bonds of 1995–2000 in the name of (name and taxpayer identifying number)." If bonds in coupon form are desired, the assignment should be to "The Secretary of the Treasury for 7⅞ percent coupon Treasury Bonds of 1995–2000 to be delivered to_____." Notes tendered in payment should be surrendered to the Federal Reserve Bank or Branch or the Bureau of the Public Debt, Washington, D.C. 20226. The notes must be delivered at the expense and risk of the holder.

VI. GENERAL PROVISIONS

1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of bonds on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive bonds.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

GEORGE H. DIXON,
Acting Secretary of the Treasury.

[FR Doc.76-13012 Filed 4-30-76;3:32 p.m.]

[2] Average price may be at, or more or less than 100.00.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 22, 1976.

The dates for the USAF Scientific Advisory Board Electronics Panel meeting published in the FEDERAL REGISTER on April 19, 1976, Volume 41, Number 76, have been changed from May 18 and 19, 1976 to June 8 and 9, 1976.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8404.

JAMES L. ELMER,
Major, USAF, Executive, Directorate of Administration.

[FR Doc.76-12328 Filed 5-3-76;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

APRIL 22, 1976.

The USAF Scientific Advisory Board ad hoc Committee on Cruise Missile Technology will hold meetings on May 25-26-27-28, 1976 from 8:30 a.m. to 5:30

p.m. in the Pentagon, Room 5D1033, Washington, D.C.

The Committee will receive classified briefings and conduct classified discussions.

The meetings concern matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

JAMES L. ELMER,
Major, USAF, Executive, Directorate of Administration.

[FR Doc.76-12829 Filed 5-3-76;8:45 am]

Department of the Navy

X-RAY TRENDS ORGAN DOSE INDEX SYSTEM

Memorandum of Understanding With the Food and Drug Administration

CROSS REFERENCE: For a document giving notice of a Memorandum of Understanding between the Department of the Navy/Bureau of Medicine and Surgery and the Food and Drug Administration regarding certain related objectives in the Nationwide Evaluation of X-Ray Trends Organ Dose Index System, see FR Doc. 76-12879 appearing under the Food and Drug Administration in the notice's section of this issue of the FEDERAL REGISTER.

[FR Doc.76-12879 Filed 5-3-76;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division, Justice Department

UNITED STATES V. MORGAN DRIVE AWAY, INC., ET AL.

Written Comments Upon Consent Judgment and Department of Justice Response Thereto

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the following written comments on the proposed judgment filed with the United States District Counrt for the District of Columbia, Civil No. 74-1781, United States of America v. Morgan Drive Away, Inc., et al., were received by the Department of Justice and are published herewith, together with Justice's response to the comments.

CHARLES F. B. MCALEER,
Assistant Chief, Judgments and Judgment Enforcement Section.

MARCH 22, 1976.

Re: Civil No. 74-1781, Requested Modification, Final Judgment, U.S. A.V.'s Morgan Drive Away, Inc. et al.

JOSEPH J. SAUNDERS,
Chief, Public Counsel and Legislative Section, Department of Justice, Anti-Trust Division, Washington, D.C. 20530

DEAR MR. SAUNDERS: Please correct page 8, paragraph 6 of my letter of 3-19-76 to read ETA-R 11, instead of ETA-R 8. We applied for buildings on wheeled undercarriage the 3-11-76 (double wide mobile homes) from Delaware County, Oklahoma to various states in initial shipment—which was ETA-R 11—(This was the subject of Transits protest). ETA-R 8 was applied for in February 1974. Please excuse our inadvertent error.

Respectfully,

JACK L. GRIFFIN.

MARCH 19, 1976.

Re: Cvil No. 74-1781, Requested Modification Final Judgment, U.S.A.V.'s Morgan Drive Away, Inc. et al.

JOSEPH J. SAUNDERS,
Chief, Public Counsel and Legislative Section, Department of Justice, Anti-Trust Division, Washington, D.C. 20530

DEAR MR. SAUNDERS: The following is a request to modify proposed consent judgment as provided under Paragraph V Article XI Page 19 of said Decree.

REQUEST MODIFICATION

By adding the State of Oklahoma to the 12 States named in Article X Sub Paragraph (a) of proposed Decree.

SUBMITTED BY

This request is submitted by, for and on behalf of Jack Griffin personally and Jack Griffin as President of Griffin Transportation, Inc. (A third person presentation).

It is the opinion of Jack Griffin that this Consent Decree is intended to be remedial for and on behalf of person or persons, corporations and associations who have in the past had strong and active opposition by the defendants and associations representing said defendants in their attempts to obtain carrier authority.

Jack Griffin personally has been financially affiliated with several motor carrier entities in Oklahoma during the past 20 years, some of which he no longer has a financial interest. At the present time he is the sole and only stockholder of Griffin Transportation, Inc. his only carrier affiliation.

It is his experiences that he hereby presents as his support for the modification suggested above.

HISTORICAL EXPERIENCE OF JACK GRIFFIN IN ATTEMPTING TO BECOME AN ESTABLISHED MOBILE HOMES TRANSPORTATION CARRIER

I. Griffin House Trailer Towing, Inc. was created by Jack Griffin as sole and only stockholder in early 1958 with the name changed to Griffin Mobile Home Transporting, Inc. in 1962.

(a) In October 1958—MC-117756, an application was filed to transport new and used mobile homes from Oklahoma to points and places in several specifically named States. National Trailer Convey, Inc., Morgan Drive Away, Inc. and Transit Homes, Inc., hereinafter to be referred to as National, Morgan and Transit respectively, filed Protests although National was the only carrier with terminal facilities in Oklahoma. Their only terminal at that time was in Tulsa, Oklahoma, to this application. Hearing was held in March 1959 and authority was granted by examiner in September 1959. October 1959 Petitions were filed for reconsideration; May 1960 reconsidered; August 1960 authority was denied by Division 1.

(b) Griffin Mobile Home Transporting Co., then filed application for contract authority from Oklahoma to specific named States for five shippers—in February 1962; Again, National, Morgan and Transit filed Protests although these carriers were not being used by any of these shippers; during the next six years these protestants kept this carrier before the Commission and in the Courts, even though they were not being used in the geographic area involved, summarizing, here are the highlights: September 1962 Exceptions taken to examiners grant of authority; after authority granted Petition for Reconsideration filed in February 1963; after many filings full Commission granted authority in January 1967; following March, protestants filed Petition for Reconsideration; August taken to Federal Court; November 1968 Court affirmed Commission; October 1968 appealed to Supreme Court—Supreme Court affirmed the Commision's Order; January 1969 Commission issued its Order; April 1969 protestants filed a second appeal to Supreme Court; May 1969 Supreme Court again approved Commission's Order; June 1969 permit issued.

During these proceedings this carrier filed for approval of three additional contracts, each of which were protested by defendants.

During these years of litigation carrier had no authority to operate, thus were unable to serve their shippers under contract. By the time the permits were issued in June 1969, some seven year later, only two shippers were able to use this carrier. It had become necessary for one shipper to obtain its own equipment and less than 10% of their business was available to this carrier in June 1969. Other shippers went out of business for various reasons.

From June 1969, the date permit was granted, until it became necessary for Jack Griffin to sell this operation, this carrier filed for the following authority approvals; December 1969 ETA-R1 and ETA-R2, application from Mayes County and Tulsa County were protested by National—the authority was not granted; May 1970 ETA out of Tulsa (no protest) authority was granted. May 1970 under Sub 2 TA—application for contract for shipper Redman was protested by National Morgan and Transit, authority was denied; July 1970 Application for Contract for Cherokee Mfg. Co., protested by National and authority was denied; October 1970 filed for contract permit on Redman Industries, protested by Morgan, not Transit; In June 1971 filed for substitution of contract for Atkinson Interprise, protested by National, Morgan and Transit; In January 1972 substitution was granted; April 1971 authority sought for wrecked and disabled vehicles—protested by Morgan and authority was denied; September 1971—R3, Redman contract protested by National and authority was denied; in November 1971 Sub. 2, protested by National and was denied; December 1971 contract substitution for Redman was granted.

After spending thousands of dollars in Court costs, attorney fees and other expenses, related to the above cases, although some authority was granted, in most cases by the time the permit was issued the shippers had either gone out of business or were no longer in a position to use this carrier and it was necessary for Mr. Griffin to look to other types of carrier activity. He therefore, sold this carrier in December 1971.

It should be noted also that on nine different attempts to establish rates the Mobile Home Carrier Conference filed for and were successful in getting the said tariffs suspended. These protests are set out as follows:

October 1963—No. 17831 House Trailers-Okla. to 33 States.
December 1967—No. 21292 House Trailers-Okla. to 33 States.
November 1968—No. 48796 House Trailers-Okla. to 33 States.
March 1970—No. 23789 House Trailers-Okla. to 33 States.
March 1970—No. 51466 House Trailers-Okla. to 33 States.
October 1971—No. 25199 House Trailers-Okla. to 33 States.

October 1971—No. 555158 House Trailers-Okla. to 33 States.
December 1971—No. 55502 House Trailers-Okla. to 33 States.
December 1971—No. 72-2495 House Trailers-Okla. to 33 States.

II.(a). Jack Griffin bought Banning Transportation, Inc. hereinafter referred to as Banning, in March 1972 (MC-129068) and in May 1972 Banning purchased Mobile Homes Express, Ltd. (Mobile). The transfer was protested by National, Morgan and Transit. During the proceedings the name Banning was changed to Griffin Transportation, Inc. The transfer was granted and protestants filed Exceptions, and the Commission approved the transfer on January 3, 1973.

(b) National, Morgan and Transit were even successful in forcing a hearing before State Commission on the mere changing of the Corporate name (The Commission sustained Griffin's Demur to the evidence of protestants), in May 1973.

(c) Prior to the purchase of Mobile by Griffin Transportation, Inc. (Griffin), Mobile had the following experiences:

In March 1969 Mobile was incorporated. Below, listed chronologically, are the applications filed, by whom protested and the outcome. These applications were from specific named points in Oklahoma to points and places in specifically named States.

Sub. No.	Date ruling made	From—	Mobile home type of authority sought	Protested by—	Result
2	February 1969	Shawnee, Okla	Initial	National	Granted.
3	January 1970	Lea County, N. Mex	Secondary	No record	Do.
4TA	June 1969	Lawton, Okla	Initial	National-Morgan	Do.
5	October 1969	Mayes and Creek Counties, Okla.	do	Transit	Denied.
6	December 1969	Claremore, Okla	do	Transit-Morgan	Granted.
7	August 1969	Shawnee, Okla	do	National-Morgan and Transit.	Denied.
8TA	May 1969	Claremore, Okla	do	No record	Granted.
9TA	February 1970	Mayes County, Okla	do	Transit	Denied.
10	April 1970	Wynnewood, Okla	do	No protest	Granted.
11	May 1970	Lawton, Okla	do	National-Morgan and Transit.	Denied.
12	September 1970	Le Flore County, Okla	do	Morgan	Do.
13	July 1970	Shawnee, Okla	do	No protest	Granted.
14	February 1971	Mayes County, Okla	do	National-Morgan and Transit.	Denied.
15	December 1970	Pontotoc City, Okla	do	Morgan	Granted.
16	April 1971	Childress, Tex	do	National-Morgan and Transit.	Denied.
17	October 1971	Oklahoma City, Okla	do	Morgan	Do.
18	April 1971	Garvin County, Okla	do	do	Do.
19TA	August 1970	Mayes County, Okla	do	Morgan-Transit	Do.
20	October 1971	Hobbs, N. Mex	do	National-Transit	Granted.
21	August 1971	Bell City, Tex	do	National-Morgan and Transit.	Denied.
22	November 1971	Love and Carter Counties, Okla.	Secondary	do	Do.
23TA	January 1971	Lea County, N. Mex	Initial	Not protested	Granted.
24	February 1972	Logan County, Okla	do	Transit	Denied.

MOBILE HOME EXPRESS, LTD. ATTEMPTS TO ESTABLISH SPECIAL RATES

The following is Mobile Home Carrier Conference attack on the rates and success.

Date	Suspension No.	From Oklahoma	Decision
1968			
April	47558	Lawton	Suspended.
1969			
May	49732	Shawnee	Do.
June	49949	Lawton	Do.
July	50086	do	Do.
Sept.	23187	do	Do.
Sept.	23071	do	Do.
Oct.	50538	Mayes County.	Do.

In April 1971 Banning Transportation, Inc. attempted to purchase Dempsey Transportation Co. In May 1971 purchase was approved by Motor Carrier Board. In June 1971 National filed for reopening and requested oral hearing. In November 1971 Division 3 of Commission approved the purchase. In December 1971 National filed Petition for reopening on basis of National Transportation's importance. In February 1972 the Commission gave final approval of the Banning purchase of Dempsey.

(d) Under either Banning or Griffin the following experiences should be noted:

Sub No.	Date ruling made	From—	Mobile homes type of authority sought	Protested by—	Result
6	December 1971	Ponca City, Okla	Initial	National	Denied.
7TA	do	Perry, Okla	do	National-Transit	Granted.
14					
15TA	September 1972	Carter County Okla	do	Transit	Granted.
16	do	do	do	Morgan-Transit	Do.
17TA	October 1972	Woodward, Okla	do	do	Do.
18	July 1972	do	do	do	Do.
19	do	Perry, Okla	do	No protest	Do.
20TA	March 1973	Lawton, Okla	do	National-Morgan	Denied.
21	July 1973	Hobb, N. Mex	Initial-purchase.	No protest	Granted.
22TA	August 1974	Delaware County, Okla	Initial	Transit	Do.
23	October 1974	do	do	do	Do.

[1] Under Sub 14, Griffin made application to purchase an intrastate registered rights carrier called Mobile Homes Movers and requested that the registration be converted to certificated authority. National, Morgan, and Transit protested this application. The application was granted. These protestants then sought for reconsideration and a reopening of this case on grounds that Griffin was an unfit carrier resulting from common control. The Commission denied the petition but did have the case reopened to determine fitness. A 3-day oral hearing was held and the joint board found Griffin fit. Protestants then filed exceptions on Jan. 27, 1976, in MC 129068 Sub 14. The review board upheld their original approval of the transfer and conversion of registered to certificated authority and found further that there was no common control exercised, but that Jack Griffin personally and as the president of Griffin, had the power to control Griffin Mobile Home Transporting, Inc., and gave Jack Griffin 90 days to eliminate the power to control, with 3 ways suggested with Commission final approval, that might achieve the elimination of power to control. An affidavit is being prepared for submission to the Commission in compliance to that order.

SUMMARY

It is the opinion of Jack Griffin that this historical review, though not discussed in complete detail, substantiates his request that carriers in Oklahoma have been virtually closed out from any successful attempts to obtain authorities either initial or secondary from and to the State of Oklahoma. In spite of the uniformity of protesting every application filed by Jack Griffin and his carrier affiliates, by these protestants, Jack Griffin knows of no applications filed to or from Oklahoma where they filed any protests against each other. The judgment as proposed, recognized that Oklahoma should be included in the States listed in Article X, Subparagraph B involving applications for initial authority but Oklahoma was not included in Subparagraph (a) of said Article X regarding secondary authority. If this Decree is to be remedial, surely Jack Griffin has suffered, and the additions of Oklahoma may be an area where some restitution may be acquired. One point not mentioned in the above historical presentation that shows a specific intent to do more than merely protest this authority should be noted. For example: during the several years that these protestants had Griffin Mobile Homes Transporting in the Federal Courts, in 1968 Griffin filed for temporary authority from Chickasha, Oklahoma, so that he could serve this important shipper during the Court litigation these protestants appealed the temporary authority grant through the Commission and into Federal Court even though this shipper was not using their service and refused to do so. It was necessary for said shipper to continue in private carrier and to increase his fleet of equipment to do so.

It should be recognized that common carrier authority for secondary movements is much more difficult to obtain due to the unknown potential of shipper needs and the frequency of their moves. Also due to the blanketing authorities held by National, Morgan and Transit, it is almost impossible to show a need for secondary movement authority on the transportation of mobile homes, since most new homes move from factory to sales floor in initial movement and therefore any moves from the sales floor to customers are in secondary movement.

The real area of activity in the interstate secondary moves arises in the homeowner moving his home from or to Oklahoma.

It is therefore respectfully requested that a relaxation is merited in the area of secondary movements into and out of Oklahoma for the reasons stated above.

Jack Griffin herein asks the Court indulgence in recognizing the tremendous task of reviewing the voluminous files to make this presentation and the possibility for an oversite or possible minor errors such as dates on specific areas of carrier activity. It was not intended that the above presentation be letter perfect in all details but merely a presentation of facts to show the overall involvement and a general insight into the problems of Jack Griffin and the carriers which he has had a financial interest.

It was intended, however, that this presentation be as actual and correctly stated as possible under the circumstances and no intent to misrepresent any fact or to cast any reflections. Griffin has just been advised that Transit filed objection to ETA-R8 filed by Griffin this month for authority to transport Mobile Homes, in initial movements, from Delaware County, Oklahoma to all points in the United States. It appears that Transit wants one more good sized bite out of Griffin before they are forced by the government to lay off. They are not currently nor have in the past served this shipper, so no loss of traffic could have occurred.

Respectfully submitted,

JACK GRIFFIN,
Griffin Transportation, Inc.

MARCH 26, 1976.

Re: *United States* v. *Morgan Drive Away, Inc., et al.*, Civil Action No. 74-1781 (D.D.C.)

JOSEPH J. SAUNDERS, Esquire
Chief, Public Counsel and Legislative Section, Department of Justice, Antitrust Division, Washington, D.C. 20530

DEAR MR. SAUNDERS: Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), enclosed are comments on the proposed consent decree in the above case filed on behalf of Barrett Mobile Home Transport, Inc., and Chandler Trailer Convoy, Inc.

Sincerely yours,

PIERSON, BALL & DOWD,
William S. D'Amico.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil Action No. 74-1781]

United States of America, Plaintiff, v. Morgan Drive Away, Inc., National Trailer Convoy, Inc., and Transit Homes, Inc., Defendants.

COMMENTS OF BARRETT MOBILE HOME TRANSPORT, INC., AND CHANDLER TRAILER CONVOY, INC., ON PROPOSED CONSENT JUDGMENT

These comments are submitted by Barrett Mobile Home Transport, Inc., and Chandler Trailer Convoy, Inc. [hereinafter "Barrett' and "Chandler"], pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16. Both Barrett and Chandler are engaged in the for-hire transoprtation of mobile homes. A notice of intent to participate pursuant to 15 U.S.C. § 16 was previously filed on February 10, 1975.

Under 15 U.S.C. § 16(e), the Court must find that the proposed consent decree is in the public interest before it can be entered. The consent decree offered here contains several serious defects which preclude the Court from making that determination. Absent certain changes, the proposed decree will effectively entrench the defendants in their monopolistic positions by allowing them to continue with their abuse of the regulatory process which led to the filing of this case. This result would conflict with one of the purposes of antitrust relief, which is to cure the effects of past illegal conduct and prevent its recurrence. See e.g., *United States* v. *Glaxo Group Ltd.*, 410 U.S. 52, 64 (1973); *United States* v. *International Harvester Co.*, 274 U.S. 693 (1927), aff'g, 10 F.2d 827 (D. Minn. 1926); *Standard Oil Co.* v. *United States*, 221 U.S. 1 (1911).

These comments note those changes which must be made in the proposed consent decree in order that it truly attain the results sought by the Government and operate effectively in the public interest. Only then can the decree meet the public interest requirement of 15 U.S.C. § 16(e). Unless these changes are made, the Court also will be called upon frequently to interpret the scope of the decree both during and after the moratorium period.

I. Nature and Purpose of The Proceeding

The Complaint charged the three defendants with violations of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2, and sought recovery of actual damages to the United States. The defendants were alleged to have conspired and combined to restrain trade in the for-hire transportation of mobile homes in several respects and methods, to have combined and conspired to monopolize the for-hire transportation of mobile homes, and to have monopolized the for-hire transportation of mobile homes.

In its Competitive Impact Statement filed with the proposed judgment, the Government stated that this case was brought: [F]irst, to terminate the unlawful combination and conspiracy and to prevent its recurrence; [and] second, to prevent the perpetuation of its effects.[1]

A prior criminal case based upon the same conduct (Crime No. 697-73) was also brought against the defendants. That case was terminated by the entry of nolo contendere pleas and the imposition of fines by this Court.

II. Factual Background

The primary allegations of unlawful conduct in the Complaint were the defendants' efforts to limit and restrict the growth of

[1] Competitive Impact Statement at 3. The case was also brought to recover damages incurred by the United States. The comments filed herein, however, are restricted to the effect of the proposed decree on the for-hire transportation of mobile homes industry and the public interest.

their competitors while at the same time expanding their power. The defendants accomplished this in large measure by depriving persons applying for the authority to transport mobile homes of full and meaningful access to, and fair hearings before, federal and state agencies and courts. This was done through protests of applications by others for mobile home authority, without regard to their merits, and a series of related tactics, including inducing protests, jointly financing those protests, delaying application proceedings, refraining from protesting each other's applications, and using false testimony in administrative proceedings.

Other conduct of the defendants in furtherance of their illegal acts is also alleged. It is clear, however, that the focus of the Complaint and the relief now proposed is on the protest activities of the defandants.

III. *The Proposed Decree In Its Present Form Is Not In The Public Interest*

Section X of the proposed consent decree imposes a protest moratorium upon the defendants. The protest moratorium is designed in theory to keep the defendants from participating in administrative proceedings for mobile home authority. Without the defendants' participation, other parties presumably will be free to prosecute applications on their own merits.

The Government envisages the moratorium as a cure for the past conduct of the defendants which will dilute their market power, restructure the industry and give the opportunity for the entry of new competitors into the industry and the expansion of existing carriers. Thus, in the Competitive Impact Statement, the Government states:

The Judgment is intended to insure that defendants not only will comply with the provisions of the antitrust laws, but also that *they will refrain from any abuse of regulatory processes* which may have occurred in the past as part of their alleged unlawful conspiracy. * * * Compliance with the proposed Judgment should restore competition to the mobile home transportation industry.[2]

A. *The public interest standard requires effective relief*

An effective protest moratorium may serve the public interest. But the moratorium in the proposed consent decree contains several defects which will prevent it from being effective. Unless these defects are corrected, the defendants will be free to engage in protests in a manner similar to that done in the past. The consent decree will then have insulated the defendants from the operation of the antitrust laws, rather than have insured compliance with them. This entire litigation will have defeated, rather than promoted, the public interest. See *International Salt Co.* v. *United States*, 332 U.S. 392, 401 (1947).

Absent the decree, the defendants clearly have the right to protest any application independently and in good faith. Therefore an effective decree requires something more than prohibiting conduct already made illegal by operation of law. If the moratorium is to mean anything, it must deprive the defendants of rights which they could otherwise exercise. Indeed this appears to have been the Government's intent, but the proposed decree does not achieve that purpose.

This deprivation is consistent with antitrust principles. The "fencing in" of the conduct of a violator must be expected in antitrust relief.[3] *Otter Tail Power Co.* v. *United States*, 410 U.S. 366, 381 (1973). The elimination of the effects of the conduct which offended the antitrust laws is necessary and appropriate in the public interest. *United States* v. *E. I. duPont de Nemours & Co.*, 353 U.S. 586, 607 (1957). The public interest requires relief curing the effects of past conduct and assuring against its continuance. *United States* v. *United States Gypsum Co.*, 340 U.S. 76, 88 (1950). Competition may be nurtured in the public interest to correct for past conduct. *Ford Motor Co.* v. *United States*, 405 U.S. 562, 578 (1972).

The modifications noted below are essential to the success of the consent decree in meeting the public interest and restoring competitive balance in the mobile home transportation industry. In providing for review of consent decrees based on public interest factors, Congress was concerned that decrees insure "healthy competition in the future." S. Rep. No. 93-298, 93d Cong., 1st Sess. 6 (1973). Unless the changes noted here are made, the Court is required to reject the proffered decree as not in the public interest. See *United States* v. *Gillette Co.*, 1975-2 Trade Cas. ¶ 60,651, at 67,841 (D. Mass. 1975); *United States* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29, 40-41 (W.D. Mo. 1975).

B. The definition of "mobile home" used in the decree will aid in circumvention of its terms

The Government's Competitive Impact Statement has made an extensive showing of the activities of the defendants which violated the antitrust laws. It also attempts to describe the industry of transporting mobile homes. That description, however, is not completely accurate.

The proposed consent decree defines "mobile home" in a manner which is inconsistent both with that used in the industry and by the Interstate Commerce Commission [hereinafter "ICC"], which grants authority for their transport.[4] Unless that definition is changed, the defendants will be able to circumvent the decree and protest virtually all applications for transport authority. The protest moratorium will thus become a nullity.

In applications for ICC operating authority for the transportation of mobile homes, standard definitions of the commodities to be shipped are used. Those definitions are: "(1) trailers designed to be drawn by passenger automobile;" and "(2) buildings, complete or in sections, travelling on their own or with removable undercarriages."[5] These describe (1) singlewides and (2) doublewides. These are the same descriptions of the commodities which are contained in the operating certificates of the defendants which gave them the authority to transport mobile homes. Common sense dictates that if the defendants violated the law by protesting applications using these definitions in the past, an effective protest moratorium must apply to future applications using those same definitions.

Because of the word "dwelling" in the present definition of mobile home in the proposed decree, it can be argued that the decree applies on to those structures used as residences. Yet applications for authority are not made on a residence-nonresidence basis. Applications are made to transport singlewides and doublewides, as defined above.

Both singlewides and doublewides are manufactured and used for purposes other than residences. For example, they are made and used as business and construction offices, mobile factories, motels, coin laundries, portable kitchens, and schools.[6] Often these different units are made by the same manufacturer at the same factory site, with the only difference being the interior finishing. Therefore initial moves from a factory will often include more than dwellings.

If the protest moratorium runs only to dwelling structures, it will be ineffective. The defendants may still be able to protest all applications because those applications will use the ICC definitions of singlewides and doublewides, which will include nonresidential buildings, including those used for commercial and recreational purposes.

It is no solution to interpret the moratorium only as preventing the defendants from protesting that portion of an application relating to dwellings but allowing protests of other authority. This interpretation would ignore not only how the regulatory process operates, but also the structure of the industry.

If a protest is made only of the "nondwelling" portion of an application, the applicant and the competitive process have received little. The applicant has requested total authority and must wait for all to be granted before it has received anything. Moreover, limited authority is not beneficial to the applicant.

Because the difference between residences and nonresidences in manufacture may be little more than what is placed inside the unit, and the same equipment is used to transport both, any realistic authority must include both. A shipper simply will not use a carrier that can take residences in the morning but cannot take offices in the afternoon. Practical business necessity requires that a shipper use a carrier it can call on for all moves. Therefore, even if a fragmented right to transport residences is obtained, it would not strengthen an individual carrier's competitive position. Indeed, the past protest activities of the defendants have resulted in the issuance of fragmented rights which have enhanced their market position.

This natural preference of shippers is even more significant because of the current market structure. The defendants already have broad operating authority and dominate the industry. If the consent decree in its present form is approved, the defendants will retain this competitive advantage (which was achieved by illegal means) against carriers with fragmented authority. Thus the decree will enhance the defendants' monopolistic position.

Moreover, fragmented authority is uneconomical to the carrier. Unless a carrier can transport all types of units between points, it will be forced to "deadhead" from one place to the next without any unit to transport, thus incurring operating costs without receiving revenue.

The purpose of the protest moratorium is to encourage new entry and the expansion of the authority of existing carriers. For the reasons stated above, this will not occur under the definition of mobile home now

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[2] Competitive Impact Statement at 18 (emphasis added).

[3] Under 15 U.S.C. § 16, the Court's public interest determination on the decree is to be made on the assumption that the Government would have prevailed. United States v. Gillette Co., 1975-2 Trade Cas. ¶ 60,651, at 67,839 n. 2 (D. Mass. 1975).

[4] The Governments definition is contained in the Fina Judgment at 2.

[5] See, e.g., Barrett Mobile Home Transport, Inc. v. United States, 381 F. Supp. 1317, 1325 (D. Minn. 1973); Barrett Mobile Home Transport, Inc., No. MC-116073 (Sub. No. 31), Appendix A (Init. Dec. Apr. 17, 1975). These commodity descriptions were finally settled in Mobile Homes Between Points in the United States, 337 I.C.C. 111, 121-22 (1970), aff'd sub nom. Pre-Fab Transit Co. v. United States, 321 F. Supp. 1147 (S.D. Ill. 1971).

[6] See National Trailer Convoy, Inc., Extension-Portable Buildings, 91 M.C.C. 301 (1962), aff'd sub nom. National Trailer Convoy, Inc. v. United States, 240 F. Supp. 286 (N.D. Okla. 1965), aff'd per curiam, 382 U.S. 40 (1965).

used in the decree. Absent a change in the definition, any protest moratorium may be an ineffective sham.[7] At the least the parties will be forced to return to the Court to battle over the meaning of "mobile home" once a protest is filed.[8]

This serious defect can be cured by substituting the commodity description of mobile home used by the ICC, and indicating that it includes both singlewides and doublewides, as is done in the present definition. This makes eminent sense, as the moratorium applies to ICC proceedings. In the alternative, the term dwelling should be defined to include residential, commercial, and recreational units.

C. The term "mobile home authority" as defined may not include important groups of applications

The proposed consent decree defines "mobile home authority" as the

authority to engage in for-hire transportation of mobile homes according to certificates of public convenience and necessity or similar operating permits, licenses or rights issued by the Interstate Commerce Commission or various state agencies under applicable law.[9]

The protest moratorium in turn applies to applications for "mobile home authority." This definition apparently does not include applications for temporary authority under Section 210a of the Interstate Commerce Act, 49 U.S.C. § 310a, although the protest of temporary authority formed an important part of the defendants' anticompetitive conduct.

Under ICC rules, a temporary authority is neither a permit nor a certificate. 49 C.F.R. § 1131a.4(a)(2) & (3). Because the consent decree definition of mobile home authority includes only certificates and similar operating permits, it could be argued that the protest moratorium would not include temporary authority applications. This failure seriously undermines the efficacy of the proposed decree.

Temporary authority (and emergency temporary authority) is applied for by carriers to enable them to provide "service for which there is an immediate and urgent need and which cannot be met by existing carrier services." 49 C.F.R. § 1131.1(b)(1). Temporary authority usually remains in effect pending the final outcome of the application for a permanent ICC or state certificate.

Unless temporary authority is granted, shippers will be forced to use existing carriers (usually the defendants) who are not providing adequate service, depriving the new carrier of its entry into the market. Also, absent the operating revenue obtained from temporary authority, a carrier may be unable to prosecute his application for permanent authority, especially in the presence of protests.[10] Therefore allowing the defendants to protest temporary authority will enable them in effect to protest applications for permanent authority and maintain their control over the market.

The public interest requires that such circumvention of the purpose of the consent decree should not be possible. This is particularly true when it is recalled that the protest moratorium is essentially the only part of the decree to prohibit activity which is otherwise not already illegal under the law. If the consent decree is to have the remedial effect on the industry which the Government attributes to it, it must do more than prohibit illegal conduct. The decree must affirmatively loosen the defendants' monopolistic grip on the industry.

Therefore, it is suggested that the definition of "mobile home authority" be clarified to include applications under Sections 206, 209, and 210a of the Interstate Commerce Act, 49 U.S.C. §§ 306, 309, and 310a, and any similar or comparable provisions of state law, including applications for temporary or emergency temporary authority, no matter how they are described under state law.

D. The consent decree should be modified to insure that it covers all applications filed during the moratorium periods which are still pending at the moratorium's conclusion

The proposed consent decree has two moratorium periods of differing geographic and temporal scopes. The Government has stated that the moratorium would apply "even if the application is still pending after the expiration of the time period provided therein for filing." [11]

This result is the only logical and effective way to read the proposed consent decree. Little would be gained if an application filed two months before the end of the moratorium could be protested when the moratorium terminates.[12] Because the Government clearly intended the moratorium to work in this fashion, that intent should be spelled out in no uncertain terms in the decree itself. At present, those terms are not contained in the decree.

This failure could be devastating. Absent such a specific clarification of the extent of the ban, the defendants will be free to argue to the ICC and state authorities that they may protest any applictaion, including pending ones, after each moratorium terminates. Applicants should not be put to the expense of fighting such a position, including by coming to the Court for such a ruling. See, e.g., *United States* v. *Armour & Co.*, 402 U.S. 673, 681 (1971). Applicants should be protected from the possibility of having to bear this needless expense at the hands of these defendants who have in the past shown their ability to abuse the regulatory process to their advantage.

E. The restraints upon litigation conduct will be rendered useless unless they extend through final agency decision

In addition to the defendants' blanket policy of protesting applications, the Government has alleged that they used unfair and illegal methods in the conduct of protest litigation. Those methods included subsidizing, directly or indirectly, the protest costs of others, using or soliciting the use of joint counsel, and providing or sharing services in connection with a protest. The proposed consent decree would prohibit these practices for five years. Yet what is given with one hand is taken away by the other because the prohibition apparently does not apply beyond the level of the initial agency decision.

This failure to expand the prohibition through the final agency decision renders the relief illusory. It does an applicant little good to be free from oppressive litigation tactics through an initial decision but then be subjected to them for the two or three internal agency appeals that may follow. If a reversal were to result at any of these levels, the defendants would presumably be free to continue their old ways back down at the initial agency level.

The procedural delay certain to result from allowing appellate participation will prevent the public from receiving needed service during the interim period. This result is clearly counter to the public interest and cannot be approved by the Court in its determination under 15 U.S.C. § 16(e).

Moreover, this serious omission invites deceptive and collusive practices. Assurances that expenses will be paid at a later date beyond the initial decisionmaking level are as good as guaranteeing all expenses, especially if inflated rates are paid at appellate levels. Given the monopolistic tendencies of the defendants, these temptations should not be placed in their way.

F. An effective moratorium must extend to mergers and consolidations

The proposed consent decree does not on its face prohibit the protest of applications for mergers and consolidations of authorities pursuant to 49 U.S.C. §§ 5 and 312(b). Likewise it does not extend to temporary authority pending approval of those applications. These failures once again will severely dilute the effectiveness of any moratorium, and prevent it from remedying the defendants' past conduct.

The defendants are acknowledged to hold approximately 85 per cent of the market in the mobile home transportation industry. The protest moratorium in the proposed consent decree lasts only 12 months for secondary moves and only 30 months for initial moves. Yet the defendants have built their monopolistic position in a period lasting over 20 years. Any effective protest moratorium must grant the greatest chance to others for the entry or expansion into the marketplace.

The purchase of operating rights, mergers, and control transactions are significant means by which existing and potential carriers can extend and gain their authority to transport mobile homes. If the defendants' market strength is to be diluted by the growth of competitors, these carriers should not be subjected to the same protest activity which gave rise to this case. Only by extending the moratorium to cover the various means of market entry and expansion, such as through mergers, can optimum conditions for real competition be created.

The moratorium also must cover temporary authorities while mergers are awaiting ap-

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[7] It is no objection that the definition of mobile home used in the decree is the same as that in the Complaint. Such a difference is not unusual. Antitrust relief can extend to matters beyond the illegal conduct and should be directed to deny future benefit from past forbidden conduct. United States v. United States Gypsum Co., 340 U.S. 76, 89-90 (1950). A decree must be permitted effectively to close all the paths to the prohibited goal so that its terms may not be by-passed with impunity. International Salt Co. v. United States, 332 U.S. 392, 400 (1947). See FTC v. Ruberoid Co., 343 U.S. 470 (1952). The avoidance of evasion of the terms of a consent decree is in the public interest. United States v. Armour & Co., 402 U.S. 673, 681 (1971).

[8] The Antitrust Procedures and Penalties Act was passed in part to foreclose future disputes as to the meaning of terms. H.R. Rep. No. 93-1463, 93d Cong., 2d Sess. 8-9 (1974).

[9] Final Judgment at 2.

[10] Barrett, for example, derives approximately 12 percent of its tariff volume from temporary authorities.

[11] Competitive Impact Statement at 16.

[12] Even a simple unprotested application often takes three to six months to be processed and granted.

proval. Often the purchase of operating rights or a merger takes place because a carrier is in financial difficulty. Unless temporary authority is obtained by the new carrier, the service will be stopped pending ultimate approval. If one of the defendants also has operating authority in the same area, its protest would enable it to delay the grant of temporary authority until the weak carrier failed. Thus the defendants would still be free to exercise their monopolistic practices.

This oversight in the consent decree should be remedied by noting that the moratorium applies to appplications under 49 U.S.C. §§ 5 and 312(b).

G. The moratorium does not adequately guard against protests of State applications

Under the proposed decree, protests of applications for secondary authority are prohibited for 12 months; protests of applications for initial authority are banned for 30 months. The reasons for the differences in these periods are never explained, which results in a related and serious defect in the decree, which again limits its effectiveness.

State procedures for mobile home authority generally do not distinguish between initial and secondary applications. Therefore, once the 12 months of the secondary authority moratorium elapse, arguably all applications, including those for initial authority, may be legally protested because protest is being made of secondary authority. The 30 month moratorium on protests of initial authority then would be circumvented and rendered ineffective.

Thus, as was also the case with the definition of mobile home, the consent decree could be evaded readily at an early date. The least burdensome alternative for other carriers would be to go to the District Court for relief. This exercise should be avoided by extending the secondary move protest moratoirum to the same 30 month period applicable to initial authority.

CONCLUSION

The consent decree in its present form does not meet the public interest standard of 15 U.S.C. § 16(e). If the decree is to serve its purpose of preventing the recurrence of past abuses and restoring competition to the mobile home transportation industry it must be modified. Absent modification as suggested herein, the decree may not be accepted.

Respectfully submitted,

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Dated: March 26, 1976.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[Civil No. 74-1781]

United States of America, v. Morgan Drive Away, Inc.; National Trailer Convoy, Inc.; Transit Homes, Inc., Defendants.

Response of the United States to the Joint Comments of Barrett Mobile Home Transport, Inc. and Chandler Trailer Convoy, Inc. and to the Comments of Griffin Transportation, Inc.

INTRODUCTION

On January 21, 1976, the United States filed a stipulation, proposed final judgment and competitive impact statement pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (hereinafter "APPA"). Entry by the Court of the proposed judgment would terminate the instant antitrust action which was commenced on December 5, 1974.

The APPA provides that comments to a proposed consent decree may be filed within the sixty (60) day waiting period after the filing with the Court. On March 26, 1976, the last day of the sixty day period, Barrett Mobile Home Transport, Inc. ("Barrett") and Chandler Trailer Convoy, Inc. ("Chandler") filed joint comments objecting to the entry of the decree. At about the same time, the government also received comments from Griffin Transportation, Inc. ("Griffin"). No other comments have been received.

This memorandum responds to the issues raised by each of the foregoing comments in the context of the following general principles.

The APPA was enacted in recognition of the fact that the disposition of an antitrust case brought by the United States to obtain equitable relief affects the public interest. Therefore in 1974 Congress created a new statutory duty that "before entering any consent judgment proposed by the United States, the court shall determine that the entry of such judgment is in the public interest," 15 U.S.C. § 16(e). This was not done to discourage settlements. On the contrary, Congress recognized at the time that consent decrees represent compromises on both sides of a litigation and that such settlements are important to antitrust enforcement:

> The Committee wishes to retain the consent judgment as a substantial antitrust enforcement tool. * * *[1]

Speaking of the limits to the new duty imposed on the district courts, it was noted: The court is nowhere compelled to go to trail or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process. * * *[2] Indeed, in so saying Congress aligned itself with cases decided before and after enactment of the APPA which recognized the necessary dependence of consent decrees on the process of compromise.[3]

How, then, should this Court undertake its statutory duty to review the effect of the proposed consent decree on the public interest, since as Judge Aldrich recently observed in Gillette, "taken literally, the burden is impossible." We commend to this Court the general approach taken by the court in the Gillette case:

> Here I make one final generalization. It is not the court's duty to determine whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest. Basically I must look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass. * * *[4]

Having urged the foregoing as a useful guide for construing the public interest in connection with the proposed decree, the government nevertheless is of the view that the proposed judgment should satisfy virtually any public interest test. The judgment imposes stringent negative prohibitions and affirmative obligations. Its protest moratorium (Sec. X, Judgment) is the first such relief ever obtained by the Antitrust Division in a case involving defendants in a heavily regulated industry.[5] Indeed, the government is satisfied that it could not reasonably expect to obtain any broader or more effective relief after a successful trial on the merits. With this in mind, we turn to a discussion of the specific comments.

I. The Barrett-Chandler comments

Barrett and Chandler limit their comments to provisions of the proposed judgment which deal with the defendants' protest activities.[6] In particular, Barrett and Chandler doubt the effectiveness of the protest moratorium (Sec. X, Judgment), focusing all but one of their six criticisms upon it.[7]

A. The protest moratorium

Barrett and Chandler concede that a protest moratorium may serve the public interest if it is effective,[8] but contend that the judgment has defects which render the moratorium ineffective. This contention is ill-founded.

1. The judgment covers mobile home transportation regardless of the use for which a mobile home is designed.

First, Barrett and Chandler argue that because of the use of the word "dwelling" in conjunction with the judgment's definition of "mobile home" (Sec. II(a), Judgment), defendants "will be able to circumvent the decree and protest virtually all applications for transport authority."[9] They argue this is so because mobile homes are not simply residences, but may be built and used for different purposes, including "business and construction offices, mobile factories, motels, coin laundries, portable kitchens, and schools."[10] Their recommended solution is "substituting the commodity description of mobile home used by the ICC * * *" or defining the term "dwelling" to "include residential, commercial and recreational units."[11]

The Barrett-Chandler criticisms on this point raise three questions: first, is the judgment as narrow in application as the comments contend; second, does the judgment cover as much of the relevant product market as it should in the public interest; and third, does the judgment define the industry or relevant product market in the right way?

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[1] S. Rep. 93-298, 93rd Cong., 1st Sess. (1973) at p. 7.

[2] 119 Cong. Rec. 24598 (1973).

[3] See *United States* v. *Armour & Co.*, 402 U.S. 673, 681 (1971); *United States* v. *Itt Continental Baking Co.*, 420 U.S. 223, 235 (1975); and *United States* v. *The Gillette Co.*, 1975-2 Trade Cas. ¶ 60,651 at p. 67,839-40 (D. Mass. 1975).

[4] *United States* v. *Gillette Co.*, supra at p. 67,839.

[5] This is a considerably greater degree of "fencing in" of conduct than the injunction against "sham" litigation obtained by the government in *Otter Tail Power Co.* v. *United States*, 410 U.S. 366. Cited in Barrett-Chandler Comments at p. 5.

[6] As explained in the government's competitive impact statement at pp. 6-8, a protest is litigation conducted by carriers before the Interstate Commerce Commission and various state agencies to prevent such agencies from granting new operating authority to competitors. The usual ground asserted as the basis of the protest is the adequacy of existing service provided by the protestants under its operating authority.

[7] See Barrett-Chandler Comments, points B, C, D, F, and G. Point E involves the judgment's prohibition of certain cost sharing in protests, but not its flat ban of certain protests as defined in Section X of the judgment.

[8] Barrett-Chandler Comments at p. 4.

[9] *Id.* at p. 6.

[10] *Id.* at p. 8.

[11] *Id.* at p. 10.

The answer to the first question is that the coverage of the judgment does not turn on the particular use for which a mobile home might be designed or built. The judgment would apply regardless of the mobile home's ultimate use as an office, factory, motel, coin laundry, kitchen or school. This is the government's understanding based upon months of negotiation with defendants and upon detailed analysis of the impact of the judgment on defendants' operations. More importantly, it is also the defendants' understanding. For on April 19, 1976, the defendants, acceding to our request, wrote to the Assistant Attorney General for the Antitrust Division acknowledging "that the term 'mobile homes' as used in the judgment means singlewide mobile homes and doublewide mobile homes, *regardless of the use for which such mobile homes are designed.*" (emphasis supplied) [12] Their admission that the scope of the decree is not limited to purely residential mobile homes as argued by Barrett and Chandler would be binding upon the defendants in any future proceeding before the Court to construe the decree.[13]

This brings us to the question of whether the judgment covers all that it should in the public interest. Barrett and Chandler argue that the definition of mobile homes in the decree will allow defendants "to protest virtually all applications for transport authority." [14] It cannot have escaped attention that "all transport authority" was *not* the industry which the government charged as having been monopolized by defendants. The indictment and civil complaint both allege that the monopolized industry consisted of "for-hire transportation of mobile homes." The pleadings reflect the limits of the government's evidence relating to the effects of the defendants' alleged conduct.

The judgment was also carefully drawn to cover the four corners of the industry alleged to have been monopolized by the defendants, and no more. In this regard, defendants correctly point out in their April 19, 1976, letter that the terms of the judgment do not apply to "recreational vehicles such as campers and travel trailers, and modular units or prefabricated buildings." [15] The reason for the exclusion is the fact that these products comprise distinct segments of the trucking industry [16] falling outside the area of the government's charges and evidence.

We assume that Barrett and Chandler seek to extend the Judgment into these other areas because they ask that it cover recreational units (a term of art in the transportation industry) and commercial units (a term broad enough to cover modular units used for commercial purposes).[17] Moreover, Barrett and Chandler in a footnote imply that antitrust relief can extend to defendants' activities in relation to products which were not the direct subject of alleged illegal conduct.[18] The argument fails for two reasons. First, restraining the legal activities of a defendant must have a remedial purpose, that is, be reasonably related to the restoration of competition in the injured market. Here, placing defendants under injunctive prohibitions in relation to the transportation of recreational vehicles or modular units would perhaps serve the private interests of Barrett and Chandler, but would have absolutely no effect on the public interest in restoring competition in for-hire transportation of mobile homes. The objective sought by Barrett and Chandler would thus result in punishment, not remedy. This is an impermissible use of the equity powers of courts.

A second reason for the failure of the Barrett-Chandler argument is that it ignores the duty of the government and the Court here to reconcile two statutory schemes, the Sherman Act (15 U.S.C. §§ 1, 2) and the Interstate Commerce Act (49 U.S.C. § 301 et seq.). While the Court's clear obligation is to grant relief consistent with its underlying subject matter jurisdiction, i.e., the Sherman Act, it is also obliged to reject any proposal which would serve no useful antitrust purpose and at the same time would interfere with the implementation of public policy embodied in a separate federal law. The suggested extension of the judgment to cover modular unit and recreational vehicle transportation would unnecessarily involve the Court's powers in markets which the ICC is authorized by federal law to administer and as to which no antitrust violations are alleged. The government cannot recommend that this Court approve such a course.[19]

Barrett and Chandler do raise one practical problem in support of their argument that the scope of the judgment is too narrow. Some manufacturers, they point out, produce and sell residential and non-residential units. Since shippers prefer to use a carrier who can carry both "residences" and "offices" they will avoid patronage of carriers who hold insufficient authority to transport the shipper's entire output, i.e., carriers with "fragmented authority." Moreover, carriers with "fragmented authority" will be forced to "deadhead," that is, to travel without a revenue producing load. And, if a carrier applies to the ICC for authority to transport all of a shipper's output including mobile homes, recreational vehicles and modular units, that application can be protested.[20]

The problem with the Barrett and Chandler analysis is that it speaks not to a defect in the scope of the decree but to a defect in regulation under the Interstate Commerce Act. It is well known that fragmentation of authority is a direct by-product of ICC entry regulation under the Interstate Commerce Act.[21] Indeed, cases which hold that authority to transport prefabricated buildings also authorizes the carriage of double-wide mobile homes but does not allow carriage of single-wide mobile homes are a perfect example of such fragmentation.[22] It was to remedy this problem among others that President Ford transmitted to the Congress proposed legislation which would greatly liberalize entry under the Interstate Commerce Act.[23] But fragmentation created by artificial commodity descriptions in operating authorities is not susceptible to judicial correction in an antitrust case. Here the Court's corrective powers are limited to the effects created by the unlawful acts of private parties, not by the discretionary acts of governmental authorities.[24] In this regard, the government has shown that the decree is coextensive with the industry which defendants allegedly monopolized. To the extent the decree covers that industry it goes as far as it should to correct any additional fragmentation created by defendants' past conduct.

The suggestion that broadly cast applications for authority may draw the protests of defendants is also misleading.[25] Every applicant has the power to limit exposure to defendants' protests by the simple expedient of stating in an application for mobile home authority that authority to transport recreational vehicles, for example, is not being sought. Such disclaimer would clearly indicate the scope of the application, thus invoking the strict prohibitions of the judgment.

The third question raised by the Barrett and Chandler comments goes to the correct method of defining mobile homes. Assuming the validity of the government's view that the judgment's present coverage reaches only so much of the regulated transportation industry as it should, the issue is whether what is covered should be defined by present ICC terminology, as suggested by Barrett and Chandler.[26] The answer is negative for rather obvious reasons. Considerations of equity and efficient administration of justice require that a judgment which controls private conduct under threat of serious sanctions be certain as to its reach. Certainty can only be obtained by use of definitions whose meaning and scope do not depend on collateral events beyond the control of the parties or the Court, such as the ICC's adherence to present commodity descriptions in operating authorities.

Moreover, while the government does not dispute that the technical ICC language quoted in the Barrett-Chandler comments [27]

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[12] Defendants' letter to the Assistant Attorney General is made an Attachment A to this memorandum.

[13] See defendants' affirmation to that effect at page 4 of their letter; and see *United States* v. *ITT Continental Baking Co.* supra, at p. 238.

[14] Barrett-Chandler Comments at p. 6.

[15] Defendants' letter at p. 2.

[16] Recreational vehicles include travel trailers, campers, and motor homes. Modular units are a type of prefabricated building in sections which are hauled by methods different from those use to transport mobile homes.

In actuality defendants are not heavily engaged in the transportation of such products. Transit hauls only a few recreational vehicles or modular units. Morgan and National's business in such transportation is small in comparison to their overall business of mobile home transportation.

[17] Barrett-Chandler Comments at p. 9.

[18] Id. at p. 10, n. 7.

[19] In the interest of avoiding such potential conflicts, the trial staff took care to apprise the ICC of the Division's relief objectives prior to the filing of the complaint, and at the commencement and conclusion of negotiations. The Commission did not object to any of the particulars of the relief sought or obtained.

[20] Barrett-Chandler Comments at pp. 8–9. This "problem: may have been answered by our demonstration and the defendant's representations that the judgment covers all mobile home transportation regardless of the use for which the mobile home is designed. We proceed to a fuller discussion on the assumption that Barrett and Chandler are seeking to justify inclusion of recreational vehicles and prefabricated buildings under the terms of the judgment.

[21] T. G. Moore, Freight Transportation Regulation, American Enterprise Institute for Public Policy Research, Washington, D.C., 1972.

[22] *Nat'l Trailer Convoy, Inc., Extension-Portable Buildings*, 91 MCC 301 (1962), *Nat'l Trailer Convoy, Inc.* v. *United States*, 240 F. Supp 286 (ND Okla 1965), aff'd 382 U.S. 40 (1965), *Mobile Homes Between Points in the United States*, 337 I.C.C. 111, 121–22 (1970), aff'd sub nom. *Pre-Fab Transit Co.* v. *United States*, 321 F. Supp. 1147 (S.D. Ill. 1971), aff'd 382 U.S. 40 (1965).

The convoluted litigation of this particular issue consumed several years at the ICC and in the courts, and at one time involved days of expert testimony from English professors as to the meaning of the word "building." We seek to avoid any need for similar maze-wandering by courts construing this decree.

[23] Motor Carrier Reform Act, (H.R. 10909; S2929).

[24] See *Parker* v. *Brown*, 317 U.S. 341 (1943).

[25] Barrett-Chandler Comments at p. 8.

[26] Id. at p. 10.

[27] Id. at p. 7.

embraces mobile home authority, we believe that the definition is too narrow to provide effective relief in this case. This conclusion is based on the government's investigation of defendants' protests, which in part involved a review of all applications for interstate mobile home authority covering a several year period. During that investigation it was discovered that applications for mobile home authority utilized a wide variety of descriptive terminology, including some terminology which did not fall within the ICC's technical definition of mobile home authority. Needless to say such applications were protested regardless of their technical faults. Thus, use of the ICC definition in the judgment would permit continuing protests of applications falling outside the ICC technical definition to the detriment of numerous competitors less sophisticated in ICC practice than Barrett and Chandler.

2. *The moratorium applies to applications for emergency temporary and temporary mobile Home Authority*

Barrett and Chandler suggest that because the judgment's definition of "mobile home authority" is not in conformity with terminology used by the ICC, the protest moratorium "may not" apply to applications for temporary or emergency temporary authority.[29] It is the government's view that notwithstanding ICC interpretations, the judgment is sufficiently broad in wording to cover the temporary and emergency temporary situations. This is because the definition of mobile home authority (Sec. II(d), Judgment) includes "authority to engage in for-hire transportation of mobile home according to * * * licenses or rights issued by the Interstate Commerce Commission * * *" Literally construed, this definition would include any kind of authority to transport mobile homes whether issued on a temporary, emergency temporary or permanent basis.

In any event, defendants in their letter to Assistant Attorney General Kauper clearly represent "that it has been and is their understanding that the protest moratorium provisions of Section X of the judgment apply to applications for temporary authority and emergency temporary authority."[30]

3. *The protest moratorium applies to applications pending at the time of the moratorium's conclusion*

Barrett and Chandler argue that the protest moratorium should explicitly provide that it *permanently* bans protests of applications otherwise within the provisions of the moratorium.[31] Barrett and Chandler urge additional language in spite of the government's assurance in its competitive impact statement that the moratorium would apply "even if the application is still pending after the expiration of the time period provided therein for filing"[32] and in spite of the concession of Barrett and Chandler that "this result is the only logical and effective way to read the proposed decree."[33]

A careful reading of the Judgment shows that Section X is consistent with other provisions of the Judgment: absent an explicit time limitation, prohibitions are perpetual in duration. There being no time limitation on the injunction prohibiting each defendant from protesting any application falling within paragraph (a) or (b) of Section X of the Judgment, such prohibition is clearly permanent. During the negotiations, the government insisted that such a perpetual ban replace a more limited provision offered by defendants. Not surprisingly, in their April 19, 1976 letter, defendants represent "that it has been and is their understanding that the filing date of the application is controlling and applications covered by the geographic and time limitations of Section X cannot be protested, regardless of whether they are still pending at the expiration of the time periods provided therein."[34]

4. *The moratorium does not and need not apply to mergers and consolidations*

Barrett and Chandler correctly observe that the protest moratorium set forth in Section X of the Judgment does not cover applications for mergers and consolidations. This is claimed to be a failure "which would severely dilute the effectiveness of any moratorium and prevent it from remedying the defendants' past conduct."[35]

This assertion is contrary to fact. During the course of the alleged conspiracy, competitors sought to grow through mergers, consolidations and purchases of authorities because growth opportunities through applications to the ICC for operating authority had been effectively foreclosed by the defendants' protests. In other words mergers and consolidations were pursued as a second-best alternative. Moreover, even as a second-best alternative, such transactions afforded relatively minimal expansion opportunities compared to the competitive potential of the application process. Indeed, even during the alleged conspiracy, the number of contested applications for new operating authority far exceeded the number of similar purchase and merger transactions.

Since the government concluded that the Judgment would effectively restore competitive growth opportunities by making entry significantly easier in the mobile home transportation industry, it was decided that extension of the moratorium to include mergers was unnecessary. It is also important to note that, unlike new entry, mergers can produce anticompetitive consequences.

5. *The moratorium does not and need not apply to State applications*

Barrett and Chandler go through a strained analysis of Section X of the Judgment to prove that the moratorium does not apply to applications for state mobile home authority.[36] This is alleged to be a defect in the moratorium which somehow can be cured "by extending the secondary move protest moratorium to the same thirty-month period applicable to initial authority."[37] Plainly, however, the time periods of the moratorium have nothing to do with its inapplicability to petitions for state mobile home authority. Indeed, Barrett and Chandler at page 10 of their Comments clearly recognize that "the moratorium applies to ICC proceedings." While the government is in some doubt as to what Barrett and Chandler are complaining about at page 17 of their Comments, it nevertheless will justify its decision not to seek an extension of the moratorium to state application proceedings.

The government conducted a nation-wide survey to determine the full scope of the mobile home industry and the defendants' position in that industry. The survey successfully identified virtually all carriers operating under ICC or state mobile home authority. The survey confirmed defendants' monopoly position in the mobile home industry, but also indicated that the defendants' share of intrastate mobile home transportation markets was less than 70 per cent. It was decided, therefore, that the drastic affirmative relief set forth in the moratorium need only apply to the interstate segment of the industry where defendants' market shares exceeded 80 per cent. This does not mean that the Judgment is devoid of relief with respect to defendants' conduct before state agencies. The Judgment has extensive provisions governing defendants' protest activities before state agencies, as well as before the ICC. Applicants who appear before state agencies can be sure that under the terms of Section VI of the Judgment, any decision by a defendant to protest must be made independently, in good faith and in conformity with a required investigation.

B. The restraints upon cost sharing in protests

As explained in the competitive impact statement, the Judgment would impose a wide range of negative restraints and affirmative obligations on defendants in connection with their protest or litigation conduct.[37] Barrett and Chandler argue that the provisions which enjoin the defendants from sharing costs, counsel and services in connection with protests (Sec. VI (d), (e), and (f), Judgment) would provide ineffective relief because they only apply to pre-appellate stages of litigation.[38] It is also claimed that in the event of a remand after appeal defendants would "presumably be free to continue their old ways back down at the initial agency level."[39]

As to the latter point, the Judgment's reference to the "initial decision" in Section VI does not contain the further limitation which Barrett and Chandler read into the Judgment. In regulatory proceedings the initial decision stage includes that part of the adjudicatory process which involves the making of an evidentiary record. The literal terms of the decree cover that process whether occurring before appeal or upon remand after appeal. Here too, defendants state in their letter of April 19, 1976 (at p. 3) "that it has been and is their understanding that Section VI (d), (e), and (f) prohibitions are applicable to the initial level of proceedings, whether those proceedings are held in the first step of the decision-making process or on remand following consideration by an appellate forum."

As to the former point that the Judgment should restrain cooperation during the appellate process, the government has concluded that such relief is unnecessary to the accomplishment of its basic objectives. Based upon its long investigation of defendants' activities, the government is convinced that the significant anticompetitive effects of defendants' varous cost-sharing activities occurred at the evidence gathering stages of litigation. It is at this stage that applicants must carry a heavy and expensive burden of persuasion which includes the burden of introducing evidence of inadequate service of protestants. During the alleged conspiracy these application and trial costs were absorbed by the individual applicant, while the defendants through the sharing of costs and counsel were able to increase their joint ability to appear in multiple trial forums and to present a united front against potential competitors.

The government's objective is to obtain an injunction which can change this pattern by requiring: that the decision of a defendant

[29] Id at p. 11.
[30] Defendants' letter at p. 2.
[31] Barrett-Chandler Comments at p. 13.
[32] Competitive Impact Statement at p. 16.
[33] Barrett-Chandler Comments at p. 13.
[34] Defendants' letter at p. 3.
[35] Barrett-Chandler Comments at p. 15.
[36] Barrett-Chandler Comments at p. 17.
[37] Id.
[37] See Sec. VI (a)–(k), Judgment; and see Competitive Impact Statement at p. 13.
[38] Barrett-Chandler Comments at p. 14.
[39] Id. at p. 14.

to lodge a protest be independent; that such decision be based upon a good faith belief in the ability to serve in light of an appropriate investigation; and that each defendant pay its own costs of litigation up to the point of appeal. In short, the government has sought as far as practicable to equalize the costs of litigation between applicants and defendants when they are protestants.

Other public interest considerations weigh against extending such prohibitions into the appellate process. The government would not, for example, wish to burden the ICC or the courts with the necessity of considering duplicative pleadings which argue the same points of law. Yet, the filing of a joint appendix and a joint brief would be prohibited if Section VI of the Judgment were to govern defendants' conduct during the appellate process. Efficient administration of justice in cases of appeal is an interest which outweighs any marginal additional gains, from an antitrust standpoint, of enjoining limited cooperative activities among defendants after the trial stage. This is especially true given the extensive moratorium banning certain protests altogether and given Section VI of the Judgment which may have the effect of reducing the frequency of protests by defendants, singly and in combination.

Barrett and Chandler also suggest that the Judgment's appellate process exception will invite defendants to deviously share costs incurred at trial.[40] Such a course would constitute a willful violation of the terms of the Judgment and would expose any participating defendant to serious criminal contempt sanctions. It is not believed, however, that the risk of such violation is any greater in the hypothetical posed by Barrett and Chandler than exists under other more general provisions of the decree. If defendants are determined to continue their conspiracy through willful violations of the decree, they will do so. There is simply no reason to assume that they will be more likely to pursue such a course because three of the Judgment's provisions attempt to strike a balance between the public interests of efficient regulatory and court processes and the restoration of efficient competition in the mobile home transportation industry.

II. Griffin comment

Jack Griffin, as President of Griffin Transportation, Inc., filed a comment requesting that the protest moratorium be enlarged to include the State of Oklahoma within the provision which governs applications for secondary interstate mobile home authority (Sec. X(a) Judgment).[41] The basis for the request is Griffin's view that he was a victim of the defendants' alleged conspiratorial conduct.

The government must oppose this request for the following reasons. First, the history recounted by Griffin in his comment is part of the evidentiary record considered by the government in constructing the scope of the relief which it requested and obtained from the defendants. Significantly, the protest moratorium includes the State of Oklahoma with respect to applications for initial interstate mobile home authority (Sec. X(b), Judgment). Thus, Griffin is provided an opportunity to seek initial interstate mobile home authority for a period of thirty (30) months from the entry of the final judgment, free of the protests of any of the defendants.[42] Moreover, in applying for secondary authority out of Oklahoma, Griffin will benefit from the constraints placed upon defendants' protest conduct by Section VI of the Judgment.

There is a second reason why the government must resist this request. The purpose of the relief sought in the proposed decree is to serve the public interest in restoring competition in the mobile home transportation industry. The purpose of the decree as proposed is not and cannot be to serve the special interests of any particular individual carrier. There is no reasonable way for the government to decide which of the hundreds of actual and potential competitors who may have been the victims of the alleged conspiracy are deserving of special consideration. Moreover, the fashioning of relief cannot be managed on the basis of referendum. Rather, it must be determined on the basis of objective analysis of the practices which gave rise to the anticompetitive effects and the measures best able to dispel such effects. Griffin, like Barrett and Chandler, stands in a good position to profit from the terms of the decree in its present form.

CONCLUSION

For the reasons set forth in this memorandum and in the government's competitive impact statement it is respectfully requested that this Court find that entry of the proposed Final Judgment is in the public interest. Immediate entry of the proposed Judgment will begin the long overdue process of restoring competition and individual opportunity in the mobile home transportation industry.

Dated:

DONALD L. FLEXNER,
CARL A. CIBA, Jr.,
Attorneys, Antitrust Division,
Department of Justice.

APRIL 19, 1976.

Re: United States v. Morgan Drive-Away, Inc., *et al Civil No. 74-1781 (D.D.C.)*

Hon. THOMAS E. KAUPER,
Assistant Attorney General,
Antitrust Division,
U.S. Department of Justice,
Washington, D.C. 20530.

DEAR MR. KAUPER: On January 21, 1976, a Stipulation and Final Judgment were filed with the Court in the subject litigation in accordance with the provisions of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16. On March 26, 1976, Barrett Mobile Homes Transport, Inc., and Chandler Trailer Convoy, Inc. filed with the Court certain comments on the proposed Final Judgment.

Included among the comments to Barrett and Chandler are contentions to the effect that because of the language utilized in certain provisions of the Judgment, the defendants will be able to circumvent those provisions. The purpose of this letter is to set forth the understanding of the defendants as to the provisions in question.

First, the comments urge that because of the use of the term "designed to be used as a dwelling" in the definition of "mobile homes" in the Judgment, defendants would be free to protest applications for authority to transport mobile homes designed for purposes other than as dwellings, without regard to the provisions of the Judgment. Defendants hereby represent that it has been and is their understanding that the term "mobile homes" as used in the Judgment means singlewide mobile homes and doublewide mobile homes, regardless of the use for which such mobile homes are designed. Recreational vehicles such as campers and travel trailers, and modular units or prefabricated buildings are not included within that term.

Second, the comments urge that because of the definition of "mobile home authority" used in the Judgment, the defendants would not be precluded during the periods set forth in Section X of the Judgment from protesting applications for temporary authority or emergency temporary authority. Defendants hereby represent that it has been and is their understanding that the protest moratorium provisions of Section X of the Judgment apply to applications for temporary authority and emergency temporary authority.

Third, the comments urge that the Judgment is unclear as to whether the protest moratorium would apply if an application is still pending after expiration of the time periods provided in Section X. Defendants hereby represent that it has been and is their understanding that the filing date of the application is controlling and applications covered by the geographic and time limitations of Section X cannot be protested, regardless of whether they are still pending at the expiration of the time periods provided therein.

Finally, the comments focus on Section VI(d), (e) and (f) of the Judgment, which proscribe certain kinds of joint activity during any stage of the protest litigation process "except appeal stages after the rendering of the initial decision." The contention is, apparently, that since joint activity in the appellate process is not proscribed, such activity could be continued in a subsequent initial hearing should the matter be remanded for that purpose. Defendants hereby represent that it has been and is their understanding that the Section VI(d), (e) and (f) prohibitions are applicable to the initial level of proceedings, whether those proceedings are held as the first step in the decision-making process, or on remand following consideration by an appellate forum.

We trust that this letter will serve to correct any apparent misunderstandings by Barrett and Chandler as to the foregoing provisions of the Judgment. Further, it is defendants' intention that this letter be used by the Court in any future construction of the proposed Final Judgment.

Sincerely yours,

MORGAN DRIVE-AWAY, INC.,
JOHN C. CHRISTIE, Jr.,
Bell, Boyd, Lloyd, Haddad and Burns.

NATIONAL TRAILER CONVOY, INC.,
RICHARD T. COLMAN,
Howrey & Simon.

TRANSIT HOMES, INC.,
DAVID R. MELINCOFF,
O'Connor and Hannan.

[FR Doc.76-12844 Filed 5-3-76;8:45 am]

[40] Barrett-Chandler Comments at p. 15.

[41] In response to our inquiry, defendants each refused to acquiesce in the requested enlargement of the secondary protest moratorium.

[42] It is noteworthy that Griffin relies on circumstances involving initial applications in requesting the extension of the secondary protest moratorium. See Griffin Comments at p. 2.

Law Enforcement Assistance Administration

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the Juvenile Justice and Delinquency Prevention Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Juvenile Justice and Delinquency Prevention Task Force will be meeting at the Airport Marina Hotel, 1380 Bayshore Highway, Burlingame, California on May 21 and 22, 1976. The meeting will be open to the public.

The tentative agenda includes the following items:

Report of the NAC Meeting
Review of the Draft Standards Volume
Part I—Introduction
Part II—Delinquency Prevention
Part III—Police
Part IV—Judicial Process
Part V—Corrections
Part VI—Planning and Evaluation in the Juvenile Justice System

Meeting Times: May 21 and 22—8:30 a.m.–5 p.m.

For further information, contact Richard VanDuizend, General-Attorney, National Institute of Juvenile Justice Delinquency Prevention, 633 Indiana Avenue NW., Washington, D.C.

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

[FR Doc.76–12819 Filed 5–3–76;8:45 am]

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Meeting

This is to provide notice of meeting of the Research and Development Task Force of the National Advisory Committee on Criminal Justice Standards and Goals.

The Research and Development Task Force will be meeting at the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C. on May 27 and 28, 1976. (If the Task Force members feel that the items on the agenda have not been adequately addressed by the time of adjournment on Friday, May 28, the meeting will reconvene on Saturday, May 29, 1976 at 9 a.m.). The meeting will be open to the public.

Meeting Times: May 27 and 28—9 a.m.–4:30 p.m.

Discussion will focus on the review of recommendations of the Task Force Report.

For further information, contact Betty Chemers, Special Assistant to the Director, National Institute of Law Enforcement and Criminal Justice, 633 Indiana Avenue NW., Washington, D.C.

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

[FR Doc.76–12820 Filed 5–3–76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

[Serial Number A 7066]

Termination of Proposed Withdrawal and Reservation of Lands

Notice of Application A–7066, filed by the United States Forest Service Department of Agriculture, for withdrawal and reservation of the following described lands for transfer to the Forest Service as an addition to the Santa Rita Experimental Range was published as Federal Register Document No. 73–5470 on pages 7477 and 7478 of the issue for March 22, 1973:

GILA AND SALT RIVER MERIDIAN

T. 18 S., R. 14 E.,
Sec. 7, lot 4 and E½SE¼;
Sec. 18, lots 1, 2, 3, and 4, NE¼NE¼, S½NE¼, SE¼SW¼, and SE¼;
Sec. 19, lots 1, 2, and 3, E½W½, and E½;
Sec. 20, all.

The areas described aggregate approximately 1,797.54 acres of public land in Pima County, Arizona.

The applicant agency has canceled its application involving the lands described in the FEDERAL REGISTER publication referred to above. Therefore, pursuant to the regulations contained in 43 CFR, Part 2091.2–5, such lands, upon publication of this notice in the FEDERAL REGISTER, will be relieved of the segregative effect of application A–7066. However, the lands described in this notice have been classified for school land indemnity selection pursuant to sections 2275 and 2276, U.S. Revised Statutes, as amended, 43 U.S.C. 851, 852 (1970), or for acquisition pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869. The lands, therefore, will not be subject to other use or disposition under the public land laws in the absence of a modification or revocation of such classifications, 43 CFR 2440.4.

MARIO L. LOPEZ,
Chief, Branch of Lands and Minerals Operations.

APRIL 26, 1976.

[FR Doc.76–12836 Filed 5–3–76;8:45 am]

OUTER CONTINENTAL SHELF (OCS) ENVIRONMENTAL STUDIES ADVISORY COMMITTEE

Notice and Agenda for Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92–643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A–63, Revised.

The Outer Continental Shelf Environmental Studies Advisory Committee will meet during the period 9:30 a.m., May 20 to 4:00 p.m., May 21, in Rooms 7000 A and B, Department of the Interior, 18th and E Streets, N.W., Washington, D.C.

The meeting will cover the following principal subjects:

Review of OCS leasing—tract selection, exclusion, sales.
The OCS environmental studies rationale and its relation to work in planning.
Plans for extending environmental baseline studies in the Mid-Atlantic and Alaskan OCS.
Plans for extended studies of biological impacts.
Status report, OCS baseline study, Southern California.
Report of Committee on nearshore environmental data needs.
Report on Georgia Conservancy and Coastal Zone Management Conference concerning onshore impacts of OCS development.
Other OCS work in prospect or planning.
Special topics:
Risk assessment of Georges Bank.
Regulation of floating and semisubmersible drill rigs.
Environmental implications of gas reinjection in OCS development.

The meeting of this Committee is open to the public. Approximately 75 visitors can be accommodated on a first-come-first-served basis. Written or oral statements concerning agenda items are welcome. Those who expect to attend should make this known, not later than May 14, to the Committee Chairman:

Frank E. Clarke, Senior Scientist, U.S. Geological Survey, Room 4443, Interior Building, Washington, D.C. 20240. Phone: 202–343–3888.

Dated: April 29, 1976.

GEORGE L. TURCOTT,
Acting Director, Bureau of Land Management.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.76–12913 Filed 5–3–76;8:45 am]

National Park Service

ADVISORY BOARD ON NATIONAL PARKS, HISTORIC SITES, BUILDINGS AND MONUMENTS

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held June 7–17 during field inspections of Grand Teton National Park, Yellowstone National Park, Glacier National Park, Mt. Rainier National Park and Olympic National Park.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System, and the administration of the Historic Sites Act of 1935.

The members of the Advisory Board are as follows:

Mr. Steven Rose (Chairman) La Canada, Calif.
Dr. Douglas W. Schwartz (Vice Chairman) Santa Fe, New Mexico
Dr. William G. Shade (Secretary) Bethlehem, Pa.
Hon. E. Y. Berry, Rapid City, South Dakota
Hon. Alan Bible, Reno, Nevada
Mr. Laurence W. Lane, Jr., Menlo Park, Calif.
Dr. A. Starker Leopold, Berkeley, Calif.
Mrs. Anne Jones Morton, Easton, Maryland
Mr. Linden C. Pettys, Ludington, Michigan
Mrs. Nancy Rennell, Greenwich, Conn.
Dr. Edgar A. Toppin, Petersburg, Virginia

The Advisory Board will begin its inspection of various management and operational functions within the parks on June 7–8 at Grand Teton National Park; June 9–10, Yellowstone National Park; June 11–13, Glacier National Park; June 14, Mt. Rainier National Park;

June 15–16, Olympic National Park and concluding its inspection trip on June 17.

The meetings will be open to the public. However, members of the public wishing to participate must provide their own transportation, food and accommodations, which are generally available on a commercial basis. Any member of the public may file with the Advisory Board a written statement concerning the matters to be considered. Persons desiring further information concerning this field inspection or who wish to file written statements, may contact Miss Shirley Luikens, National Park Service, Department of the Interior, Washington, D.C. (telephone: 202–343–2012), Rocky Mountain Regional Director Lynn Thompson, 655 Parfet Street, Denver, Colorado (telephone 303–234–2500); or Pacific Northwest Regional Director Russell E. Dickenson, 523 Fourth and Pike Building, Seattle, Washington (telephone 206–442–5565).

A summary report of the activities will be available for inspection by members of the public on or about July 30, 1976, at Room 3123, National Park Service, Department of the Interior, Washington, D.C., the Rocky Mountain Regional Office, and the Pacific Northwest Regional Office.

Dated: April 27, 1976.

ROBERT M. LANDAU,
Liaison Officer, Advisory Commissions, National Park Service.

[FR Doc.76–12920 Filed 5–3–76;8:45 am]

CUYAHOGA VALLEY NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Cuyahoga Valley National Recreation Area Advisory Commission will be held at 7:00 p.m. (EDT), May 25, 1976, at the Fairlawn City Hall, 3487 South Smith Road, Fairlawn, Ohio.

The Commission was established by Public Law 93–555 to meet and consult with the Secretary of the Interior on matters relating to the development of the Cuyahoga Valley National Recreation Area and with respect to carrying out the provisions of the Public Law.

The members of the Commission are as follows:

Mrs. Robert G. Warren (Chairman), Mr. Courtney Burton, Mr. Norman A. Godwin, Mr. Donald W. Haskett, Mr. Robert L. Hunker, Mr. James S. Jackson, Mr. Melvin J. Rebholz, Mrs. Roger Rossi, Mrs. George N. Seltzer, Ms. Robbie Stillman, Mr. Barry K. Sugden, Mr. Robert W. Teater, Mr. William O. Walker.

Matters to be discussed at this meeting include:

1. Report on community relations.
2. Status of legislation regarding transfer of State lands and the "In Lieu of Taxes" Bill.
3. Status of land acquisition.
4. Status report on Advisory Commission resolution.
5. Discussion of educational resources and uses in the Valley.
6. Report on park operations.

The meeting will be open to the public. It is expected that about 100 persons in addition to members of the Commission will be able to attend this meeting. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from William C. Birdsell, Superintendent, Cuyahoga Valley National Recreation Area, P.O. Box 158, Peninsula, Ohio 44264, telephone (216) 653–9036. Minutes of the meeting will be available for public inspection three weeks after the meeting at the office of Cuyahoga Valley National Recreation Area, located at 501 West Streetsboro Road, (State Route 303), two miles east of Peninsula, Ohio.

Dated: April 22, 1976.

MERRILL D. BEAL,
Regional Director, Midwest Region.

[FR Doc.76–12921 Filed 5–3–76;8:45 am]

MINUTE MAN NATIONAL HISTORICAL PARK

Notice of Establishment

In accordance with Section 2 of the Act of September 21, 1959, (73 Stat. 590) providing for the establishment of Minute Man National Historical Park in Massachusetts, it has been determined that sufficient lands within the designated area have been acquired to warrant such establishment. Therefore, Minute Man National Historical Park is hereby formally established.

A map, showing lands acquired, is on file in the Office of the Regional Director, North Atlantic Region, National Park Service, 150 Causeway Street, Boston, Massachusetts and is available for public inspection.

Effective date. This formal establishment shall become effective on May 8, 1976.

GARY E. EVERHARDT,
Director, National Park Service.

[FR Doc.76–12877 Filed 5–3–76;8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 10, 1976, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

The following properties have been added to the National Register since April 6, 1976. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; properties recorded by the Historic American Engineering Record are designated by HAER.

ALABAMA

Dallas County

Selma, *U.S. Post Office Building*, 908 Alabama Ave. (3–26–76)

Lowndes County

Calhoun, *Calhoun School Principal's House*, C.R. 33 (3–26–76)

ALASKA

Fairbanks Division

Fairbanks, *Immaculate Conception Church*, 115 N. Cushman St. (4–3–76)

ARIZONA

Pinal County

Superior vicinity, *Thompson, Boyce, Southwestern Arboretum*, 2 mi. W of Superior on U.S. 60/70 (3–26–76)

ARKANSAS

Howard County

Center Point vicinity, *Ebenezer Campground*, N of Center Point off AR 4 (3–26–76)

Ouachita County

Stephens vicinity, *Lester & Haltom No. 1 Well Site*, NE of Stephens on Old Wire Rd. (4–3–76)

CALIFORNIA

San Mateo County

Pacifica, *Sanchez Adobe Park*, Linda Mar Blvd., 1 mi. E of CA 1 (4–13–76)

CONNECTICUT

Hartford County

Hartford, *Goodwin Block*, 219–257 Asylum St.; 5–17 Haynes St.; 210–228 Pearl St. (3–26–76)

Simsbury, *Simsbury Railroad Depot*, Railroad Ave. and Station St. (3–26–76)

Litchfield County

West Cornwall vicinity, *Cream Hill Agricultural School*, NE of W. Cornwall off CT 128 on Cream Hill Rd. (3–26–76)

New Haven County

Guilford, *Hyland–Wildman House*, Boston St. (3–26–76)

GEORGIA

Fulton County

Atlanta, *Atlanta and West Point Railroad Freight Depot*, 215 Decatur St. (3–26–76)

Atlanta, *English-American Building*, 74 Peachtree St. (3–26–76)

Fairburn, *Campbell County Courthouse*, E. Broad and Cole Sts. (3–26–76)

Walker County

Chickamauga, *Gordon-Lee House*, 217 Cove Rd. (3–22–76)

Wilkes County

Tignall vicinity, *Pharr-Callaway-Sethness House*, N of Tignall on GA 2193 (3-26-76)

HAWAII

Honolulu County

Honolulu, *Katsuki House*, 1326 Keeaumoku St. (3-26-76)

IDAHO

Nez Perce County

Lewiston vicinity, *Hasotino*, S. of Lewiston along E bank of Snake River (4-2-76)

Shoshone County

Wallace, *Northern Pacific Railway Depot*, off U.S. 10 (4-2-76)

KANSAS

Labette County

Parsons, *Carnegie Library*, 17th and Broadway (4-14-76)

KENTUCKY

Boyle County

Danville, *Constitution Square Historic District*, bounded by Main and Walnut Sts., 1st and 2nd Sts. (both sides) (4-2-76)
Danville, *Todd-Montgomery Houses*, 229, 243, 251, and 305 N. 3rd St. (3-26-76)

Fleming County

Flemingsburg vicinity, *Ringos Mill Covered Bridge*, KY 158, 13.7 mi. S of Flemingsburg (3-26-76)
Hillsboro vicinity, *Hillsboro Covered Bridge*, KY 111 S of Hillsboro (3-26-76)
Sherburne, *Sherburne Covered Suspension Bridge*, KY 11 at Licking River (3-26-76)

Greenup County

Greenup vicinity, *Bennett's Mill Covered Bridge*, SR 2125 W of Greenup (3-26-76)
Oldtown vicinity, *Oldtown Covered Bridge*, off KY 1, S of Oldtown (3-26-76)

Jefferson County

Louisville vicinity, *Eight-Mile House*, Shelbyville Rd., N of Louisville (3-26-76)

Lawrence County

Fallsburg vicinity, *East Fork Covered Bridge*, off KY 3, NW of Fallsburg over E. Fork of Little Sandy River (3-26-76)
Fallsburg vicinity, *Yatesville Covered Bridge*, off KY 3, S of Fallsburg over Blaine Creek (3-26-76)

Lewis County

Tollesboro vicinity, *Cabin Creek Covered Bridge*, KY 984, 4.5 mi. NW of Tollesboro (3-26-76)

Mason County

Dover vicinity, *Lee's Creek Covered Bridge*, off KY 8, S of Dover on Tuckahoe Rd. (3-26-76)
Maysville vicinity, *Valley Pike Covered Bridge*, W of Maysville off KY 8 (3-26-76)

Warren County

Bowling Green vicinity, *Murrell, Samuel, House (Susannah Henry Madison Farm)*, U.S. 31 W, 8 mi. NE of Bowling Green (3-26-76)

Washington County

Mooresville vicinity, *Mount Zion Covered Bridge*, KY 458, N of Mooresville (3-26-76)

LOUISIANA

Orleans Parish

New Orleans, *St. Vincent de Paul Roman Catholic Church*, 3051 Dauphine (4-13-76)

MAINE

Cumberland County

Harrison vicinity, *Barrows-Scribner Mill*, Scribner's Mill Rd., SE of Harrison (3-26-76)

Knox County

North Haven vicinity, *Turner Farm Site*, NE of North Haven (3-26-76)

Penobscot County

Hudson vicinity, *Young Site*, E of Hudson (3-26-76)

MARYLAND

Calvert County

Lusby vicinity, *Morgan Hill Farm*, Sollers Rd., W of Lusby (4-3-76)

Carroll County

Westminster, *Western Maryland College Historic District*, W. Main and College Sts. (3-26-76)

Harford County

Havre de Grace, *Havre de Grace Lighthouse*, Concord and Lafayette Sts. (4-2-76)
Perryman, *Vestery House, St. John's Parish*, 1522 Perryman Rd. (3-26-76)

MASSACHUSETTS

Berkshire County

Great Barrington, *Dwight-Henderson* House, Main St. (3-26-76) HABS
Lee, *Lee Lower Main Street Historic District*, Main and Park Sts. (3-26-76)

Essex County

Newburyport, *First Religious Society Church and Parish Hall*, 26 Pleasant St. (4-2-76) HABS

Hampshire County

Haydenville, *Haydenville Historic District*, Main and High Sts., and Kingsley Ave. (3-26-76)

Middlesex County

Somerville, *Boy Street Historic District*, Boy St. (3-26-76)

Plymouth County

Brockton, *Brockton City Hall*, 45 School St. (3-26-76)
Norwell, *Bryant-Cushing House*, 768 Main St. (3-26-76)

NEVADA

Clark County

Las Vegas vicinity, *Sandstone Ranch*, 20 mi. SW of Las Vegas (4-2-76)

NEW JERSEY

Bergen County

Fort Lee, *Church of the Madonna*, Hoefley's Lane (4-8-76) HABS

Monmouth County

Ocean Grove, *Ocean Grove Camp Meeting Association District*, bounded by Fletcher Lake, NJ 71, Lake Wesley, and the ocean (4-12-76)

Sussex County

Stockholm, *Stockholm United Methodist Church*, SR 515 (3-26-76)

NEW MEXICO

Catron County

Datil vicinity, *Ake Site*, SE of Datil (4-2-76)

NORTH CAROLINA

Polk County

Tryon vicinity, *Seven Hearths*, N of Tryon at jct. of U.S. 176 and Harmon Field Rd. (3-26-76)

Robeson County

Red Springs, *Macdonald, Flora, College*, College St. and 2nd Ave. (4-3-76)

OHIO

Hamilton County

Cincinnati, *Lytle Park Historic District*, roughly bounded by 3rd, 5th, Sycamore, Commercial Sq., and Butler Sts. (3-26-76)

Marion County

Marion, *Palace Theater*, 272 W. Center St. (3-26-76)

OREGON

Clackamas County

Molalla, *Vonder Ahe, Fred, House and Summer Kitchen*, 625 Metzler Ave. (3-26-76)

Multnomah County

Portland, *Commonwealth Building*, 421 SW. 6th Ave. (3-30-76)

PENNSYLVANIA

Chester County

Bucktown vicinity, *Michener, Nathan, House*, W of Bucktown on Ridge Rd. (4-8-76)
Coatesville, *High Bridge*, spans west branch of the Brandywine (3-26-76)
Phoenixville vicinity, *Hartman, George, House*, W of Phoenixville on Church Rd. (3-26-76)

McKean County

Bradford vicinity, *Crook Farm*, NE of Bradford on Seaward Ave. extended (3-26-76)

SOUTH DAKOTA

Stanley County

Fort Pierre vicinity, *Fort Pierre Chouteau Site*, N of Fort Pierre (4-3-76)

TENNESSEE

Washington County

Johnson City vicinity, *Hammer, Isaac, House*, N of John City off U.S. 11 (3-19-76)

Williamson County

Brentwood vicinity, *Johnston, James, House*, S of Brentwood on U.S. 31 (3-26-76)

TEXAS

Limestone County

Mexia vicinity, *Johnston, Joseph E., Confederate Reunion Grounds*, 4 mi. W of Mexia on F.M. 1633 (4-2-76)

Lubbock County

Lubbock, *Canyon Lakes Archeological District*, Yellowhouse Canyon off U.S. 84 (3-26-76)

WASHINGTON

Clallam County

Forks vicinity, *Wedding Rock Petroglyphs*, NW of Forks in Olympic National Park (4-3-76)

WEST VIRGINIA

Kanawha County

Charleston, *Fort Scammon*, Fort Circle Dr. (3-26-76)

The following is a list of corrections to properties previously listed in the "Federal Register":

ALABAMA

Autauga County

Prattville vicinity, *Montgomery-Whittaker House (Buena Vista)*, S of Prattville off AL 14 (10-25-74) HABS

WASHINGTON

Chelan County

Stehekin vicinity, *Black Warrior Mine*, N of Stehekin on North Cascades National Park (10–15–74)

Whatcom County

Newhalem vicinity, *Devil's Corner Cliff Walk*, N of Newhalem on Ross Lake National Recreation Area (6–7–74)

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The following properties have been either demolished or removed from the National Register of Historic Places

COLORADO

Adams County

Thornton vicinity, *Wolpert, David, House*, E of Thornton on River Dale Rd. (demolished)

INDIANA

Marion County

Indianapolis, *Maennerchor Building*, 102 W. Michigan St. (demolished).

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The following property was omitted from the February 10, 1976, listing of properties in the FEDERAL REGISTER

OHIO

Ross County

Bainbridge vicinity, *Seip Earthworks and Dill Mounds District*, U.S. 50 3 mi. E of Bainbridge (8–13–74)

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The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County

Gainesville vicinity, *Archeological Sites in Gainesville Project*, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I–459–4(4).

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

ALASKA

Northwestern District

Little Diomede Island, *Iyapana, John, House*.

ARIZONA

Apache County

Flattop Site, Petrified Forest National Park.
Newspaper Rock Petroglyphs Archeological District, Petrified Forest National Park.
Puerco Ruin and Petroglyph, Petrified Forest National Park.
Twin Buttes Archeological District, Petrified Forest National Park.
Grand Canyon National Park, *Old Post Office*.

Coconino County

House Rock Springs, Upper Houserock Valley
Paria Plateau Archeological District

Graham County

Foote Wash—No Name Wash Archeological District.

Mohave County

Colorado City vicinity, *Short Creek Reservoir No. 1, Site NA 13,257*.
Colorado City vicinity, *Short Creek Reservoir No. 1, Site 13,258*.

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.
Skunk Creek Archeological District.

Navajo County

Painted Desert Petroglyphs and Ruins Archeological District, Petrified Forest National Park.
Polacca vicinity, *Walpi Hopi Village*, adjacent to Polacca.

Pima County

Tucson, *Armory Park Historic District*.
Tucson, *Convento Site*.
Tucson vicinity, *Old Santan*, NW of Tucson.

Yavapai County

Copper Basin Archeological District, Prescott National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, *Southern Pacific Depot*.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites *3VB49–3VB51*, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed

Ouachita County

Camden, *Old Post Office*, Washington St.

CALIFORNIA

Point Lobos Archeological Sites, Golden Gate National Recreation Area.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoney ford vicinity, *Upper and Lower Letts Valley Historical District*, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Giebenhahn House and Mountain Brewery Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites, Sierra National Forest.
Muir Hut, Kings Canyon National Park.

Glenn County

Willows vicinity, *White Hawk Top Site*, Twin Rocks Ridge Road Reconstruction project.

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District*.

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.

Lassen County

Archeologocial Site HJ–1.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, I 210 Project.
Los Angeles, *Fire Station No. 26*, 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA–LAN 646, CA–LAN 643, Site CA–LAN 490, and a cluster made up of Sites CA–LAN, 475, 491, 492, and 493.

Madera County

CA–MAD 176–185, Lower China Crossing, and New Site, in Hidden Dam-Hensley Lake Project Area, Fresno River.

Marin County

Point Reyes, *Olena Lime Kilns*, Point Reyes National Sea Shore.
Point Reyes, *Point Reyes Light Station*.

Modoc County

Alturas vicinity, *Rail Spring*, about 30 mi. N of Alturas in Modoc National Forest.
Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Monterey County

Big Sur, *Point Sur Light Station*.
Pacific Grove, *Point Pinos Light Station*.

Napa County

Archeological Sites 4–Nap–14, 4–Nap–261, Napa River Flood Control Project.

Riverside County

Twentynine Palms, *Cottonwood Oasis (Cottonwood Springs)*, Joshua Tree National Monument.
Twentynine Palms, *Lost Horse Mine*, Joshua Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project, Site 1, Sacramento River.

San Bernardino County

Twentynine Palms, *Keys, Bill, Ranch*, Joshua Tree National Monument.
Twentynine Palms, *Twentynine Palms Oasis*, Joshua Tree National Monument.

San Diego County

North Island, *Camp Howard, U.S. Marine Corps*, Naval Air Station.
North Island, *Rockwell Field*, Naval Air Station.
San Diego, *Marine Corps Recruit Depot*, Barnett Ave.

San Francisco County

San Francisco, *Alcatraz*.

San Luis Obispo County

New Cuyana vicinity, *Caliente Mountain Aircraft Lookout Tower*, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, *San Luis Obispo Light Station*.

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station*.
Hillsborough, *Point Montara Light Station*.

Santa Barbara County

Santa Barbara, *Site SBa-1330*, Santa Monica Creek.

Santa Clara County

Sunnyvale, *Theuerkauf House*, Naval Air Station, Moffett Field.

Shasta County

Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Santa Rosa, *Santa Rosa Post Office*.

Tehama County

Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
Cattle Cabin, Sequoia National Park.
Quinn River Station Tharp's Log Smithsonian Institution Shelters Squatter's Cabin.

COLORADO

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, *Alamo Hotel*, corner of Tejon and Cucharras Sts.
Colorado Springs, *Old El Paso County Jail*, corner of Vermijo and Cascade Ave.

Larimer County

Site 5-LR-257, Boxelder Watershed Project.

CONNECTICUT

Fairfield County

Norwalk, *Washington Street—S. Main Street Area*.

Hartford County

Hartford, *Colt Factory Housing*, Huyshope Ave., between Sequassen and Weehasset Sts.
Hartford, *Colt Factory Housing (Potsdam Village)*, Curcombe St. between Hendriexsen Ave. and Locust St.
Hartford, *Colt Park*, bounded by Wethersfield Ave., Stonington, Wawarme, Curcombe, and Marseek Sts., and by Huyshope and Van Block Aves.
Hartford, *Colt, Col. Samuel, Armory, and related factory buildings*, Van Dyke Ave.
Hartford, *Flat-Iron Building (Motto Building)*, Congress St. and Maple Ave.
Hartford, *Houses on Charter Oak Place*.
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.

Middlesex County

Middleton, *Mather - Douglas - Santangelo House*, 11 S. Main St.

New Haven County

New Haven, *Post Office-Courthouse*, Church and Court Sts.

New London County

New London, *Williams Memorial Institute Building*, 110 Broad St.

DELAWARE

Sussex County

Lewes, *Delaware Breakwater*.
Lewes, *Harbor of Refuge Breakwater*.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
Central Heating Plant, 13th and C Sts. SW.
1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County

Hillsboro Inlet, *Coast Guard Light Station*.

Collier County

Marco Island, *Archeological Sites on Marco Island*.

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County

Bay Pines, *VA Center*, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA

Bibb County

Macon, *Vineville Avenue Area*, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
Savannah, 516 Ott Street.
Savannah, 908 Wheaton Street.
Savannah, 914 Wheaton Street.
Savannah, 920 Wheaton Street.
Savannah, 928 Wheaton Streat.
Savannah, 930 Wheaton Street.

Chatooga County

Archeological Sites in area of Structure 1-M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, *Atkins Park Subdivision*, St. Augustine, St. Charles, and St. Louis places.
Decatur, *Sycamore Street Area*.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, *Hudgins, Scott, Home (Charles W. Summerour House)*, McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Augusta, *Blanche Mill*.
Augusta, *Enterprise Mill*.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chet Quarry*, Souther Field.

HAWAII

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail*.

Maui County

Hana vicinity, *Kipahulu Historic District*, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO

Ada County

Boise, *Alexanders*, 826 Main St.
Boise, *Falks Department Store*, 100 N. 8th St.
Boise, *Idaho Building*, 216 N. 8th St.
Boise, *Simplot Building (Boise City National Bank)*, 805 Idaho St.
Boise, *Union Building*, 712½ Idaho St.

Clearwater County

Orofino vicinity, *Canoe Camp—Suite 18*, W. of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, *East Kamiah—Suite 15*, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trail, Pattee Creek Camp*.

Lewis County

Jacques Spur vicinity, *St. Joseph's Mission (Slickpoo)*, S of Jacques Spur on Mission Creek off U.S. 95.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Dr. and C St. in Nez Perce National Park.
Lapwai, *Spalding*.
Lewiston, *Fix Building*, 211-213 Main St.
Lewiston, *Lower Snake River Archeological District*

Lewiston, *Moxley Building*, 215 Main St.
Lewiston, *Scully Building*, 209 Main St.

ILLINOIS

Carroll County

Savanna vicinity, *Spring Lake Cross Dike Island Archeological Site*, 2 mi. SE of Savanna.

Cook County

Chicago, *McCarthy Building (Landfield Building)*, NE corner of Dearborn and Washington Sts.
Chicago, *Ogden Building*, 180 W. Lake St.
Chicago, *Oliver Building*, 159 N. Dearborn St.
Chicago, *Springer Block (Bay, State, and Kranz Buildings)*, 126–146 N. State St.
Chicago, *Unity Building*, 127 N. Dearborn St.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, *Museum Bldg. 33*, Lyster Rd.
Fort Sheridan, *Water Tower*, Bldg. 49, Leonard Wood Ave.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Marion County

Indianapolis, *Lockfield Gardens Public Housing Project*, 900 Indiana Ave.

Monroe County

Bloomington, *Carnegie Library*.

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, *100 NW Block*, properties fronting N. Main St. and W. Lincoln Way.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Boone County

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

Muscatine County

Muscatine, *Clark, Alexander, Property*, 125–123 W. 3rd and 307, 309 Chestnut.

KANSAS

Douglas County

Lawrence, *Curtis Hall (Kiva Hall)*, Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY

Louisa County

Fort Ancient Archeological Site.

Trigg County

Golden Pond, *Center Furnace*, N of Golden Pond on Bugg Spring Rd.

MAINE

Washington County

Machiasport, *Libby Island Light Station*.

MARYLAND

Allegany County

Flintstone vicinity, *Martin-Gordon Farm*, Breakneck Rd. (Rte. 1).
Flintstone vicinity, *Martins Mountain Farm*, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claiborne, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craghill Channel Upper Range Front Light*, on Chesapeake Bay.
New Owings Mills Railroad Station, W of Reisterstown Rd.
Old Owings Mills Railroad Station, Reisterstown Rd.
Sparrows Point, *Craighill Channel Range Front Light*, on Chesapeake Bay.

Carroll County

Bridge No. 1–141 on Hughes Road.

Cecil County

Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, *Hooper Island Light*, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, *Piney Point Light Station*.
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic System Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilghman Island, *Sharps Island Light*, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

North Eastham, *French Cable Hut*, jct. of Cable Rd. and Ocean View Dr.
Rider, Samuel House, Gull Pond Rd. off Mid-Cape Hwy. 6.
Truro, *Highland Gold Course*, Cape Cod Light area.
Truro, *Highland House*, Cape Code Light (Highland Light) area.
Wellfleet vicinity, *Atwood—Higgins House*, Boundbrook Island.

Berkshire County

Adams, *Quaker Meetinghouse*, Maple Street Cemetery.

Bristol County

New Bedford, *Fire Station No. 4*, 79 S. 6th St.

Hampden County

Holyoke, *Caledonia Building (Crafts Building)*, 185–193 High St.
Holyoke, *Cleary Building (Stiles Building)*, 190–196 High St.

Middlesex County

Wayland, *Old Town Bridge (Four Arch Bridge)*, Rte. 27, 1.5 mi. NW of Rte. 126 Jct.

Worcester County

North Brookfield, *Meadow Site No. 11*, Upper Quaboag River Watershed.
Worcester, *Oxford-Crown Streets District*, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA

Beltrami County

Blackduct, *Rabideau CCC Camp Site*, S. of Blackduct in Chippewa National Forest.

St. Louis County

Duluth, *Morgan Park Historic District*.

Winona County

Winona, *Second Street Commercial Block*.

MISSISSIPPI

Tishomingo County

Tennessee—Tombigbee Waterway

MISSOURI

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th St. on W. Robidoux on S. 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, *Hyer, John, House*.

Franklin County

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Rte. 1.

Henry County

La Due, *Batschelett House*, near Harry S. Truman Dam and Reservoir.

MONTANA

Big Horn County

Fort Smith, *Big Horn Canal Headgate*.

Carbon County

Hardin, *Pretty Creek Site (Hough Creek Site)*, Big Horn Canyon National Recreation Area.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.
Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, *Marysville Historic District*.

NEBRASKA

Cherry County

Valentine vicinity, *Fort Niobrara National Wildlife Refuge*.
Valentine vicinity, *Newman Brothers House*.

NEVADA

Clark County

Indian Springs vicinity, *Tim Springs Petroglyphs*, N of Indian Springs.
Las Vegas vicinity, *Blacksmith Shop*, Desert National Wildlife Range.
Las Vegas vicinity, *Mesquite House*, Desert National Wildlife Range.
Las Vegas vicinity, *Mormon Well Corral*, NE of Las Vegas.

Elko County

Carlin vicinity, *Archeological Sites 26EK1669—26EK1672*.

Nye County

Las Vegas vicinity, *Emigrant's Trail*, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, *Adobe in Ruddell Ranch Complex*.
Lovelock vicinity, *Lovelock Chinese Settlement Site*.

Storey County

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

NEW HAMPSHIRE

Rockingham County

Portsmouth, *Pulpit Rock Observation Station*, Portsmouth Harbor.

NEW JERSEY

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District.*

Middlesex County

New Brunswick, *Delaware and Raritan Canal*, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Sussex County

Old Mine Road Historic District (also in Warren County).

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, *Sites SCSPA 1—8.*

Lea County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, *Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.*

Otero County

Three Rivers Petroglyphs.

NEW YORK

Albany County

Guilderland, *Nott Prehistoric Site.*

Bronx County

New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Vestal, *Chenango Extension Canal*, Vestal Project, Pure Waters Construction Project

Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Loomis Archeological Site, South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.

New York County

New York, *Harlem Courthouse*, 170 E. 121st St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.

Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.

Saratoga County

Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District*, between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project

Suffolk County

Janesport vicinity, *East End Site.*

Janesport vicinity, *Hallock's Pond Site.*

New York, *Fire Island Light Station*, U.S. Coast Guard Station.

New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.

New York, *Plum Island Light Station*, off Orient Point, Long Island.

New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.

Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.

New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.

New York, *Saugerties Light Station*, Hudson River.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.

NORTH CAROLINA

Alamance County

Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston*, Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).

Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Brood River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hosital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Durham County

Durham, *St. Joseph's A.M.F. Church*, Fayetteville St. at the Durham Expwy.

Hyde County

Ocracoke, *Ocracoke Lighthouse.*

New Hanover County

Wilmington, *Market Street Mansions District*, both sides of Market St. between 17th and 18th Sts.

NORTH DAKOTA

Burleigh County

Bismarck, *Fort Lincoln Site.*

OHIO

Clermont County

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 mi. NW of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Warren County

Corwin, *Shafer Mound*, S of New Burlington Rd.

Harveysburg, *E. L. Anderiee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.

Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.

Fort Sill, Camp Comanche Site, E range on

Fort Sill, *Chiefs Knoll, Post Cemetery*, N of Cache Creek.

Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON

Baker County

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappose.

Coos County

Charleston, *Cape Arago Light Station.*

Curry County

Port Orford, *Cape Blanco Light Station.*

Douglas County

Winchester Bay, *Umpqua River Lighthouse.*

Gilliam County

Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.

Crum Gristmill, Ghost Camp Reservoir area.

Old Wagon Road, Ghost Camp Reservoir area.

Olex School, Ghost Camp Reservoir Area.

Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, *Crater Lake Lodge.*

Lane County

Roosevelt Beach, *Heceta Head Lighthouse.*

Roosevelt Beach, *Heceta Head Light Station.*

Lincoln County

Agate Beach, *Yaquina Head Lighthouse.*

Tillamook County

Tillamook, *Cape Meares Lighthouse.*

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, *Antone Mining Town*, Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Rd.

Berks County

Mt. Pleasant, *Berger-Stout Log House*, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, *Conrad's Warehouse*, near jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *Heck-Stamm-Unger Farmstead*, Gruber Rd.
Mt. Pleasant, *Miller's House*, jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, *O'Bolds-Billman Hotel and Store*, Gruber Rd. and Rte. 183.
Mt. Pleasant, *Pleasant Valley Roller*, Gruber Rd.
Mt. Pleasant, *Reber's Residence and Barn*, on Tulephocken Creek.
Mt. Pleasant. *Union Canal*, Blue Marsh Lake Project area.

Clinton County

Lockhaven, *Apsley House*, 302 E. Church St.
Lockhaven, *Harvey Judge, House*, 29 N. Jay St.
Lockhaven, *McCormick, Robert, House*, 234 E. Church St.
Lockhaven, *Mussina, Lyons, House*, 23 N. Jay St.

Dauphin County

Middletown, *Swatara Ferry House (Old Fort)*, 400 Swatara, St.

Delaware County

I 476 Historic Sites (20 Historic Sites) Mid-County Expwy. (also in Montgomery County.)

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, *Miners and Mechanics Bank* Bldg 13N., Main St.

Lehigh County

Dorneyville, *King George Inn and two other stone houses*, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, *Faxon Co., Inc.*, Williamsport Beltway.

Northampton County

Lehigh Canal.

Philadelphia County

Philadelphia, *Bridge on "I" Street*, over Tacony Creek.
Philadelphia, *Tremont Mills*, Wingonocking St. and Adams Ave.
U.S. Naval Base, *Quarters "A" Commandant's Quarters.*

Washington County

Charleroi, *Ninth Street School.*
Cross Creek Village, Cross Creek watershed.
Somerset Township, *Wright No. 22 Covered Bridge.*

SOUTH CAROLINA

Beaufort County

Parris Island, *Marine Corps Recruit Depot.*

Charleston County

Charleston, *139 Ashley St.*
Charleston, *69 Barre St.*
Charleston, *69r Barre St.*
Charleston, *316 Calhoun St.*
Charleston, *316r Calhoun St.*
Charleston, *268 Calhoun St.*
Charleston, *274 Calhoun St.*
Charleston, *Old Rice Mill*, off Lockwood Dr.

SOUTH DAKOTA

Pennington County

Rapid City, *Rapid City Historic Commercial District*, portions of 612–632 Main St.

TENNESSEE

Trousdale County

Dixon Springs, *McGee House.*

TEXAS

Bexar County

Fort Sam Houston, *Eisenhower House*, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, *Prehistoric Archeology in the Southwest Laterals Subwatershed* (also in McCulloch County).

Denton County

Hammons, George, House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, *Quanah Railroad Station*, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed Archeological Sites.

Webb County

Laredo, *Bertani, Paul Prevost House*, 604 Iturbide St.
Laredo, *De Leal, Viscaya, House*, 620 Zaragoza St.
Laredo, *Garza, Zoila De La, House*, 500 Iturbide St.
Laredo, *Leyendecker/Salinas House*, 702 Iturbide St.
Laredo, *Montemayor, Jose A., House (Carols Vela House)*, 601 Zaragosa St.

UTAH

Salt Lake County

Salt Lake City, *Karrick Building (Leyson-Pearsoll Building)*, 236 S. Main St.
Salt Lake City, *Lollin Block*, 238–240 S. Main St.

VERMONT

Franklin County

Highgate Falls, *Lenticular or Parabolic Truss Bridge*, over Missiquoi River.

Windsor County

Windsor, *Post Office Building.*

WASHINGTON

Benton County

Richland vicinity, *Hanford Island Archeological Site*, 18 mi. N of Richland.
Richland vicinity, *Hanford North Archeological District*, 22 mi. N of Richland.
Richland vicinity, *Paris Archeological Site*, Hanford Works Reservation.
Richland vicinity, *Snively Canyon Archeological District*, 25 mi. NW of Richland.
Richland vicinity, *Wooded Island Archeological District*, N of Richland.

Clallam County

Cape Alava vicinity, *White Rock Village Archeological Site*, S of Cape Alava.
Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).
Segium, *New Dungeness Light Station.*

Franklin County

Richland vicinity, *Savage Island Archeological District*, 15 mi. N of Richland.

Grays Harbor County

West Port, *Grays Harbor Light Station.*

King County

Burton, *Point Robinson Light Station.*
Seattle, *Alki Point Light Station.*
Seattle, *West Point Light Station.*

Kitsap County

Hansville, *Point No Point Light Station.*

Pacific County

Ilwaco, *North Head Light Station.*

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes, July 4, 1841, Celebration Site.*
Longmire, *Longmire Cabin*, Mount Rainier National Park.

San Juan County

San Juan Islands, *Patos Island Light Station.*

Skamania County

North Bonneville, *Site 44SA11*, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, *Mukilteo Light Station.*

WEST VIRGINIA

Cabell County

Huntington, *Old Bank Building*, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse.*
St. Albans, *Chilton House*, 439 B St.

Ohio County

Wheeling, *B & O Railroad Freight Station and Train Shed.*

Wood County

Parkersburg, *Wood County Courthouse.*
Parkersburg, *Wood County Jail.*

WISCONSIN

Ashland County

Ashland vicinity, *Madeline Island Site 7302.*

WYOMING

Goshen County

Torrington, *Union Pacific Depot.*

Natrona County

Casper, *Cantonment Reno.*
Casper, *Castle Rock Archeological Site.*
Casper, *Dull Knife Battlefield.*
Casper, *Middle Fork Pictograph-Petroglyph Panels.*
Casper, *Portuguese Houses.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts.*

[FR Doc.76-12793 Filed 5-3-76;8:45 am]

NATIONAL REGISTER OF HISTORIC PARKS

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 23, 1976. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted on or before May 14, 1976.

JERRY L. ROGERS,
Acting Director, Office of Archeology and Historic Preservation.

ALABAMA

Jefferson County

Bessemer vicinity, *Owen Plantation House*, S of Bessemer on Eastern Valley Rd.
Birmingham, *Highland Avenue Historic District*, 2000 block through 3200 block Highland Ave.

Mobile County

Mobile, *St. Louis Street Missionary Baptist Church*, 108 N. Dearborn St.

Talladega County

Childersburg vicinity, *Kymulga Mill and Covered Bridge*, 4.5 mi. NE of Childersburg.

ALASKA

Cordova-McCarthy Division

Katalla vicinity, *Bering Expedition Landing Site*, Kayak Island

ARKANSAS

Madison County

Alabam vicinity, *Alabam School*, S of Alabamat jct. of AR 68 and 127.

CALIFORNIA

Amador County

Fiddletown, *Fiddletown*, Fiddletown Rd.

Riverside County

Corona, *Carnegie, Andrew, Library*, 8th and Main Sts.

San Francisco County

San Francisco, *Myrtle Street Flats*, 234–248 Myrtle St.

IDAHO

Ada County

Boise, *Moore-Cunningham House*, 1109 Warm Springs Ave.

ILLINOIS

Champaign County

Champaign, *U.S. Post Office*, Randolph and Church Sts.

Cook County

Chicago, *Germania Club*, 108 W. Germania Pl.
Winnetka, *Orth House*, 42 Abbotsford Rd.

Kane County

Batavia, *Batavia Institute*, 333 S. Jefferson St.
Elgin, *Elgin Academy*, 350 Park St.

Union County

Anna, *Willard House*, 608 S. Main St.

INDIANA

Allen County

Fort Wayne, *Edsall, William S., House*, 305 W. Main St.

Elkhart County

Bristol vicinity, *Bonneyville Mills*, 2.5 mi. E of Bristol on SR 131
Elkhart, *Bucklen Theatre*, S. Main St. and Harrison St.

Knox County

Vincennes, *Old Cathedral*, 205 Church St.

Madison County

Anderson, *Gruenewald House*, 626 N. Main St.

Marion County

Indianapolis, *Stewart Manor (Charles B. Sommers House)*, 3650 Cold Spring Rd.

Monroe County

Bloomginton, *Monroe County Courthouse*, Courthouse Square

Owen County

Gosport, *New Albany and Salem Railroad Station*, E end of North St.

Randolph County

Windsor vicinity, *Windsor Archeological Site*, E of Windsor

Tippecanoe County

Lafayette vicinity, *Ely Homestead*, 4106 East 200 North

Vanderburgh County

Evansville, *Hooker-Ensle-Pierce House*, 6531 Oak Hill Rd.

IOWA

Wapello County

Ottumwa, *U.S. Post Office*, Court and 4th Sts.

KENTUCKY

Anderson County

Van Buren, *Watson Archeological Site (15 An 28)*
Van Buren vicinity, *Cornish Archeological Site (15 An 22)*, E of Van Buren
Van Buren vicinity, *Goodnight Bridge Archeological Site (15 An 34)*, E of Van Buren
Van Buren vicinity, *Moore Archeological Site (15 An 30)*, E of Van Buren
Van Buren vicinity, *Phelps Archeological Site (15 An 37)*, E of Van Buren
Van Buren vicinity, *Stevens Archeological Site #1*, E of Van Buren
Van Buren vicinity, *Stevens Archeological Site (15 An 18)*, E of Van Buren
Van Buren vicinity, *Warford Archeological Site (15 An 27)*, E of Van Buren

Fayette County

Lexington, *Episcopal Buring Ground and Chapel*, 251 E. 3rd St.

Powell County

Clay City, *Clay City National Bank Building*, 6th Ave.

Scott County

Georgetown vicinity, *Gaines, James, House*, S of Georgetown on Yarnallton Pike

Shelby County

Simpsonville vicinity, *Old Stone Inn*, U.S. 60, E of Simpsonville

Spencer County

Van Buren vicinity, *Love Archeological Site*, W of Van Buren

MARYLAND

St. Marys County

St. Marys City vicinity, *Mary W. Sommers (Chespeake Bay skipjack)*, SE of St. Marys City at St. Inigoes Creek

MASSACHUSETTS

Bristol County

Fall River, *Battleship Cove*, off U.S. 194 at Taunton River

Middlesex County

Lowell, *Locks and Canals Historic District*, between Middlesex St. and the Merrimack River
Malden, *Old City Hall*, Main St.

MICHIGAN

Cheboygan County

Cambell Farm Site/Mill Creek Site/Filbert Site, NW Cheboygan County

Houghton County

Jacobsville vicinity, *Jacobsville Finnish Lutheran Church*, W of Jacobsville

MISSOURI

Boone County

Columbia, *Senior Hall*, Stephens College campus
Rocheport, *Rocheport Historic District*, Mo. 240

Carter County

Grandin, *Missouri Lumber and Mining Company District*, Mo 21

Jackson County

Kansas City, *Janssen Place Historic District*, Janseen Place

New Madrid County

Portageville vicinity, *Portwood Village and Mound*, 2.5 mi. SE of Portageville

Ripley County

Currentview vicinity, *Price Site*, W of Currentview

St. Louis (independent city)

Fox Theater, 527 N. Grand Boulevard

NEW JERSEY

Morris County

Succasunna vicinity, *Carey, Lewis*, Farmhouse, 208 Emmans Rd.

Somerset County

Flagtown vicinity, *Huff House and Farmstead*, W of Flagtown at River Rd and S. Branch of Raritan River

NEW YORK

Oneida County

Utica, *Stanley Theater*, 259 Genesee Street

SOUTH DAKOTA

Brookings County

Brookings, *Chicago and Northwestern Railroad Depot*, U.S. 77

Codington County

Watertown, *Mellette House*, 421 5th Ave, N.W.

Yankton County

Yankton, *Excelsior Flour Mill*, 2nd and Capital Sts.
Yankton, *Yankton County Courthouse*, 3rd and Broadway

TEXAS

Caldwell County

Lockhart vicinity, *Withers, M. A., House*, W of Lockhart on Borchert Loop Rd.

Goliad County

Goliad vicinity, *Nuestra Senora del Espiritu Santo de Zuniga*, 0.5 mi. S of Goliad on U.S. 183

Hutchinson County

Stinnet vicinity, *Adobe Walls*, E of Stinnet

San Augustine County

San Augustine, *Horn-Polk House*, 717 W. Columbia St.

Tarrant County

Arlington vicinity, *Marrow Bone Spring Archeological Site*, S of Arlington

Webb County

Mirando City vicinity, *Los Ojuelos*, 2.5 mi. S of Mirando City on C.R. 649

WASHINGTON

Franklin County

Pasco vicinity, *Strawberry Island Village Archeological Site*, E of Pasco in Snake River

[FR Doc.76-12794 Filed 5-3-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-212]

APACHE MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Apache Mining Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 5 and No. 14 Mines, Virgie County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner states that its No. 5 Mine is in the Amburgy coal seam, and ranges from 47 to 56 inches in height; and that its No. 14 Mine is in the #2 Elkhorn coal seam, and ranges from 40 to 48 inches in height. Said coal seams have consistent ascending and descending grades creating dips in the coalbed. These dips and the varying height make it impossible to keep canopies from ripping out roof bolts, hitting the roof and catching the machine.

2. Petitioner seeks a modification of the foregoing standard as it relates to haulage and force equipment in its two mines.

3. Petitioner maintains that management and employees of the mines feel that the use of canopies on said equipment is creating a greater hazard than operating without them.

4. Petitioner states that the canopies restrict visibility, and that at times the equipment operators are "running blind."

Requests for Hearing or Comments. Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 3, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 26, 1976.

[FR Doc.76-12839 Filed 5-3-76;8:45 am]

[Docket No. M 76-290]

DD&R COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), DD&R Coal Company has filed a petition to modify the application of 30 CFR 75.301 to its Tracy Slope Mine, Schuylkill County, Pennsylvania.

30 CFR 75.301 provides:

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake and of a pillar line shall be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be 3,000 cubic feet a minute. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

The substance of Petitioner's statement is as follows:

1. Petitioner requests that 30 CFR 75.301 be modified for this anthracite mine to require that the minimum quantity of air reaching each working face shall be 1,500 cubic feet a minute, that the minimum quantity of air reaching the last open crosscut in any pair or set of developing entries shall be 5,000 cubic feet a minute, and that the minimum quantity of air reaching the intake end of a pillar line shall be 5,000 cubic feet a minute, and/or that whatever additional quantity of air which may be required in any of these areas to maintain a safe and healthful mine atmosphere shall be provided.

2. Petitioner states that its petition requesting modification of 30 CFR 75.301 is submitted for the following reasons:

(a) Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine;

(b) Ignition, explosion and mine fire histories are nonexistent for the mine;

(c) There is no history of harmful quantities of carbon dioxide and other noxious or poisonous gases;

(d) Mine dust sampling programs have revealed extremely low concentrations of respirable dust;

(e) Extremely high velocities in small cross sectional areas of airways and manways required in friable anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners;

(f) High velocities and large air quantities cause extremely uncomfortable damp and cold conditions in the already uncomfortable, wet mines; and

(g) Difficulty in keeping miners on the job and securing additional mine help is due primarily to the conditions cited.

3. Petitioner avers that a decision in its favor will in no way provide less than the same measure of protection afforded the miners under the existing standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 3,

1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearing Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 26, 1976.

[FR Doc.76-12840 Filed 5-3-76;8:45 am]

[Docket No. M 76-187]

JIMMEY'S CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Jimmey's Creek Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 2C Mine, Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner seeks a modification of the foregoing standard as it relates to its battery machine, loading machine, and roof bolter.

2. Petitioner states that coal heights in its No. 2C Mine range in places from 34 to 38 inches.

3. Petitioner asserts that installation of the required cabs or canopies would create the hazards of diminished visibility and cramped operator positions when said equipment is in motion resulting in more dangerous conditions in the mine than would otherwise exist in the absence of such devices.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on a before June 3, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 26, 1976.

[FR Doc.76-12841 Filed 5-3-76;8:45 am]

[Docket No. M 76-154]

LITTLE HACKNEY CREEK COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Little Hackney Creek Coal Corporation has filed a petition to modify the application of 30 CFR 75.1710 to its Mine Nos. 37, 36, 40, 32, and 17, Mouth Card, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches, and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of the foregoing mandatory standard as it relates to equipment used in five underground mines, as follows:

(a) Mine No. 37, working one section in the Hagy Seam, which ranges in height from 28 to 46 inches, utilizing a loading machine, a roof bolter, and mine tractors;

(b) Mine No. 36, working one section in the Hoay Seam, which ranges in height from 26 to 34 inches, utilizing scoops, a roof bolter, and mine tractors;

(c) Mine No. 40, working one section in the Hagy Seam, which ranges in height from 24 to 40 inches, utilizing a scoop and a roof bolter;

(d) Mine No. 32, working one section in the Lower Elkhorn Seam, which ranges in height from 26½ to 35½ inches, utilizing a loading machine, a roof bolter, and mine tractors; and

(e) Mine No. 17, working one section in the Clintwood Seam, which ranges in height from 28 to 31 inches, utilizing a scoop and a roof bolter.

2. Petitioner states that it believes that it would not be safe to use cabs or caponies on the foregoing machinery due to the dangers of shearing roof bolts, equipment damage from constantly changing coal heights, impaired operator visibility, and cramped operator positions.

3. Petitioner states that application of the standard involved will result in a diminution of safety at the aforedescribed mines; and that technology is not presently available to otherwise satisfactorily accomplish the intended result of said standard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before June 3, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

APRIL 26, 1976.

[FR Doc.76-12842 Filed 5-3-76;8:45 am]

[Docket No. M76-228]

STANDARD SIGN & SIGNAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Standard Sign & Signal Company has filed a petition to modify the application of 30 CFR 75.1710 to its Raccoon #1, May, and Standard Sign & Signal #1 Mines, Frozen Branch of Racoon Creek, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with Section 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) On and after January 1, 1976, in coal mines having mining heights of 24 inches or more, but less than 36 inches; and

(6) On and after July 1, 1976, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner states that the following equipment in each of its three (3) aforementioned mines, is presently equipped with an approved canopy:

(a) Raccoon No. 1 Mine: Lee Norse 265 continuous miner; 18 SC Joy shuttle cars; LRB 15 Long-Airdox roof bolters; and 14 BU 10 Joy loader;

(b) May Mine: Lee Norse 265 continuous miners; 18 SC Joy shuttle cars; 250 S & S tractors; and LRB 15 Long-Airdox roof bolters;

(c) Standard Sign & Signal No. 1 Mine: Lee Norse 265 continuous miner; 18 SC Joy shuttle cars; and LRB 15 Long-Airdox roof bolters.

2. Petitioner's coal seam ranges from 38 to 46 inches, and it rolls. Petitioner states that operators of the foregoing equipment do not have sufficient room under said canopies to operate their machines in a safe manner.

3. Petitioner maintains that roof bolters and headers are being dislodged by such canopies, that canopies are being torn off of equipment, and that MESA inspectors are issuing citations based upon these dislodged roof bolts and headers.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on on before June 3, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

BRUCE A. BURNS,
Acting Director,
Office of Hearings and Appeals.

APRIL 26, 1976.

[FR Doc.76-12843 Filed 5-3-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A342]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Tennessee counties as a result of the natural disasters shown below:

Chester—excessive rainfall April 9 through May 18, 1975; excessive rainfall contributed substantially to the flourishing of insects June 1 to August 31, 1975.

McNairy—excessive rainfall April 9 through May 18, 1975; intermittent rainfall contributed substantially to the flourishing of insects July 19 through August 5, 1975; drought August 17 through September 24, 1975.

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 by Public Law 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than June 21, 1976, for physical losses and January 20, 1977, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated 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 26th day of April 1976.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.76-12872 Filed 5-3-76;8:45 am]

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The Deschutes National Forest Advisory Committee will meet at Tony's Poco Toro Restaurant, 221 N.E. Burnside, Bend, Oregon 97701, at 8:00 p.m. on May 20, 1976.

The purpose of this meeting is to seek comments regarding a number of current significant topics: proposed plan to Inform and Involve the public in the next phase of Land Use Planning; projects proposed for construction by the National Guard; Newberry Crater trail system dedication scheduled for August 26, 1976; recommended changes of ranger district boundaries.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Sandy Fergerson at 211 N.E. Revere, Bend, Oregon 97701, telephone number (503) 382-6922. Written statements may be filed with the Committee before or after the meeting.

Dated: April 26, 1976.

EARL E. NICHOLS,
Forest Supervisor.

[FR Doc.76-12824 Filed 5-3-76;8:45 am]

NANTAHALA UNIT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a Final Environmental Statement for the Nantahala Unit Plan, USDA-FS-R8 DES (adm) 76-05.

The environmental statement concerns a proposed ten-year management plan for the Nantahala Unit (22), Wayah, Tusquitee, and Cheoah Ranger Districts, Nantahala National Forest, containing 71,164 acres of National Forest land in Clay, Graham, Macon, and Swain Counties, North Carolina.

This final environmental statement was transmitted to CEQ on April 27, 1976.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. & Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Room 804, 1720 Peachtree Rd. NW., Atlanta, GA 30309.

USDA, Forest Service, National Forests in North Carolina, 50 South French Broad Avenue, Post Office Box 2750, Asheville, NC 28802.

A limited number of copies are available upon request to Forest Supervisor, National Forests in North Carolina, P.O. Box 2750, Asheville, NC 28802.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

ROBERT W. CERMAK,
Forest Supervisor.

APRIL 27, 1976.

[FR Doc.76-12825 Filed 5-3-76;8:45 am]

Soil Conservation Service

REELFOOT-INDIAN CREEK WATERSHED, TENNESSEE AND KENTUCKY

Availability of Negative Declaration

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 a portion of the Reelfoot-Indian Creek Watershed Project, Obion County, Tennessee and Fulton County, Kentucky.

The environmental assessment of this federal action indicates that this portion of the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with this portion of the project. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, USDA, 561 United States Courthouse, Nashville, Tennessee 37203, has determined that the preparation and review of an environmental impact statement is not needed for this portion of the project.

The project concerns a plan for watershed protecton and flood prevention. The planned works of improvement, as described in this negative declaration, include conservation land treatment supplemented by fourteen single-purpose floodwater retarding structures, one desilting basin, and remedial vegetation of 6.4 miles of eroding roadbanks.

The negative declaration is being filed with the Council on Environmental Quality and copies are being sent to various federal, state, and local agencies. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 561 U.S. Courthouse, Nashville, Tennessee 37203. A limited number of copies of the negative declaration is available from the same address to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 15 days after the date of this publication.

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

Date: April 26, 1976.

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

[FR Doc.76-12826 Filed 5-3-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, June 8, 1976, at 9:30 a.m. in Room 1167, 1717 H Street NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Reports on the work programs of the Subcommittees: (a) Technology Transfer; (b) Foreign Availability; (c) Licensing Procedures; and (d) Hardware.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Commitee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on November 11, 1975, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specially required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER (40 FR 56960, appearing in the issue of December 5, 1975).

Dated: April 29, 1976.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.76-12893 Filed 5-3-76;8:45 am]

Economic Development Administration

RIPCO, INC.

Notice of Petition for a Determination Under Section 251 of the Trade Act of 1974

A petition by Ripco, Inc., 251 South Third Street, Oxford, Pennsylvania 19363, a producer of truck bodies and pneumatic handling systems, was accepted for filing on April 26, 1976, under Section 251 of the Trade Act of 1974 (P.L. 93-618). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the

United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

JACK W. OSBURN,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.76-12821 Filed 5-3-76;8:45 am]

National Bureau of Standards

FEDERAL INFORMATION PROCESSING STANDARDS TASK GROUP 15 COMPUTER SYSTEMS SECURITY

Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. III, 1973), notice is hereby given that the Federal Information Processing Standards Task Group 15 (FIPS TG-15), "Computer Systems Security," will hold a meeting from 9:00 a.m. to 4:00 p.m. on Tuesday, June 22, 1976 in Lecture Room D, Building 101 and on Wednesday, June 23 and Thursday, June 24, 1976 in Room B-27, Building 225 of the National Bureau of Standards at Gaithersburg, Maryland.

The purpose of this meeting is to review the efforts of the task teams in their specific assignments and to continue the development of guidelines in the management and technological areas of information processing security.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify Miss Susan K. Reed, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (Phone 301-921-3861).

Dated: April 29, 1976.

ERNEST AMBLER,
Acting Director.

[FR Doc.76-12919 Filed 5-3-76;8:45 am]

Office of the Secretary

WATCHES AND WATCH MOVEMENTS

Invitation for New Entrants in Guam and the Virgin Islands

Correction

In FR Doc. 76-12465 appearing at page 17951 in the issue for Thursday, April 29, 1976, in the fifth line of the quoted material from section 8 of the joint notice, page 17951, "200,00" and "700,000" should read "200,000" and "70,000" respectively.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (5 U.S.C. Appendix I), the Alcohol, Drug Abuse, and Mental Health Administration announcer approval and certification by the Secretary, Department of Health, Education, and Welfare, with the concurrence of the Office of Management and Budget Committee Management Secretariat of the following advisory committees:

Designation: Paraprofessional Training Review Committee

Purpose: The Paraprofessional Training Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications from universities, training centers, and service organizations for training grants for projects designed to support paraprofessional manpower development and utilization, and for training activities such as conferences, institutes, workshops, demonstrations, and surveys. The Committee shall make recommendations on applications also to the Division of Manpower and Training Programs, NIMH, and the National Advisory Mental Health Council.

Designation: Psychiatric Nursing Review Committee

Purpose: The Psychiatry Training Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications from universities, service organizations, and other appropriate educational organizations for training grants in undergraduate mental health nursing, pilot projects, and such areas of graduate psychiatric nursing as general-adult, nursing in child psychiatry, and special areas. The Committee shall make recommendations on applications also to the Division of Manpower and Training Programs, NIMH and the National Advisory Mental Health Council.

Designation: Psychiatry Training Review Committee

Purpose: The Psychiatry Training Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications from universities, service organizations, and other appropriate educational organizations for training grants in basic psychiatry residency, child psychiatry, and other specialty training; for grants to conduct and evaluate special studies in psychiatric education, educational standards and curriculum development. The Committee shall make recommendations on applications also to the Division of Manpower and Training Programs, NIMH, and the National Advisory Mental Health Council.

Designation: Psychology Training Review Committee

Purpose: The Psychology Training Review Committee shall advise the Secretary and the Director, National Institute of Mental Health, concerning applications from universities, training centers, and service organizations for training grants in clinical, school, and other science-professional areas of psychology, field training, and special areas. The Committee shall make recommendations on applications also to the Division of Manpower and Training Programs, NIMH, and the National Advisory Mental Health Council.

Designation: Social Work Training Review Committee

Purpose: The Social Work Training Review Committee shall advise the Secretary and the Director, National Institute of Mental Health concerning applications from universities, service organizations, and other appropriate educational organizations for training grants in social work training in mental health and related areas and applications for social work educational standards, and pilot and special projects. The Committee shall make recommendations on applications also to the Division of Manpower and Training programs, NIMH, and the National Advisory Mental Health Council.

Authority for these committees will expire September 30, 1976, unless the Secretary formally determines that continuance is in the public interest.

Dated: April 28, 1976.

JAMES D. ISBISTER,
Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.76-12907 Filed 5-3-76;8:45 am]

Food and Drug Administration

[FDA-225-76-6002]

X-RAY TRENDS ORGAN DOSE INDEX SYSTEM

Memorandum of Understanding With the Department of the Navy/Bureau of Medicine and Surgery

The Food and Drug Administration executed a Memorandum of Understanding with the Department of the Navy/Bureau of Medicine and Surgery on February 18, 1976. The purpose of the memorandum is to provide for the participation of the Bureau of Medicine and Surgery, Office of Radiation Safety, in the Nationwide Evaluation of X-ray Trends Organ Dose Index System administered by the Food and Drug Administration.

Pursuant to the publication of this statement in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing this notice.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF THE NAVY/BUREAU OF MEDICINE AND SURGERY AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose:* To provide for the participation of the U.S. Navy, Bureau of Medicine and Surgery's Office of Radiation Safety, in the Nationwide Evaluation of X-ray Trends Organ Dose Index System administered by the Food and Drug Administration.

II. *Background:* FDA (Division of Training and Medical Applications, Bureau of Radiological Health) has responsibility for improving the efficiency and techniques of users of radiation producing equipment and radiation control personnel such that unnecessary radiation exposure is reduced to a minimum. To aid in the accomplishment of this goal, members of the office staff serve on various national committees and task forces whose activities are directed at reducing radiation exposure. The task force for the Nationwide Evaluation of X-ray Trends, which is made up of equal numbers of FDA/BRH and State Radiological Health Program personnel, has developed a system for measuring the effectiveness of equipment during the diagnostic radiography. In addition to measuring the effectiveness of ongoing programs, the present system known as the Organ Dose Index System, can be used to obtain the baseline information of x-ray equipment-users needed to design a program to correct observed deficiencies. Presently, 37 State Radiological Health Programs and 7 Federal Agencies are using this system. The purpose of this agreement is to extend the system to x-ray installations under the jurisdiction of the U.S. Navy's Bureau of Medicine and Surgery.

III. *Substance of Agreement:* A. The Food and Drug Administration shall:

1. Supply forms for the collection of data and Kodak linograph paper for the determination of beam size.

2. Process data.

3. Provide BUMED/ORS the following reports and data tabulations at the frequency indicated. Tabulations will include BUMED/ORS data and the pooled data of all other users of the system.

a. Error Listing and Proof Listing—3 weeks after receipt of punched cards or completed forms.

b. Mean Gonad Dose Index Tabulations—Quarterly.

c. Special Radiographic Cross Tabulations—Annually or upon request.

d. Summary Listing of all data in the master file—Annually or upon request.

e. Graphs—Annually.

B. The Department of the Navy/Bureau of Medicine and Surgery shall submit to FDA for processing, completed survey forms.

IV. *Name and Address of Participating Activity:* Department of the Navy, Bureau of Medicine and Surgery, Code 532, Washington, DC 20372.

V. *Liaison Officers:* A. W. M. Beckner, LCDR, MSC, USN, Head, Ionizing Radiation Branch, Undersea Medicine Division, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372, (202) 254-4224; B. LaVert C. Seabron, Asst. to the Dir. for Program Development, Division of Training and Medical Applications, Bureau of Radiological Health, 1901 Chapman Ave. (HFX-70), Rockville, MD 20852, (301) 443-2845.

VI. *Period of Agreeemnt:* This agreement, when accepted by both parties, will have an effective period of performance from date of signature for an indefinite period, and may be modified by mutual consent of both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Bureau of Medicine and Surgery/Department of Navy:

R. C. LANING,
Read Admiral, Assistant Chief for Operational Medical Support.

Dated: April 2, 1976.

Approved and accepted for the Food and Drug Administration:

Dated: February 18, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

Effective date. This Memorandum of Understanding became effective April 2, 1976.

Dated: April 28, 1976.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.76-12879 Filed 5-3-76;8:45 am]

Health Resources Administration

PUBLIC HEALTH CONFERENCE ON RECORDS AND STATISTICS

Meeting

The Administrator, Health Resources Administration, announces the dates and other information for the following conference scheduled to assemble during the month of June 1976:

Name: Public Health Conference on Records and Statistics.

Date and time: June 14-16, 1976, 9:00 a.m.

Place: Chase-Park Plaza Hotel, Lindell Boulevard and Kingshighway, St. Louis, Missouri 63108.

Open meeting (registration required).

Purpose: The Sixteenth Meeting of the Public Health Conference on Records and Statistics (PHCRS), sponsored by the National Center for Health Statistics, will be held on June 14-16, 1976. The biennial conference is recognized as the principal national meeting for workers in the field of public health statistics. The Theme of this year's Conference will focus on the relationships between health statistics and health planning.

Anyone wishing to obtain an agenda, registration information or other relevant information concerning the Conference should contact: Miss Kathy Quillian, Room 8-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone (301) 443-1470.

Dated: April 28, 1976.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.76-12871 Filed 5-3-76;8:45 am]

Health Services Administration

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area IX of the State of California

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c-1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Santa Clara Valley PSRO for PSRO Area IX, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Santa Clara Valley PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 per centum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the Santa Clara Valley PSRO are:

NAME AND OFFICE HELD

1. Harry R. Glatstein, M.D., President.
2. Philipp M. Lippe, M.D., Vice President.

The official address of the corporation is 700 Empey Way, San Jose, California 95128.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area IX of the State of California who objects to the Secretary entering into an agreement with the Santa Clara Valley PSRO, on the grounds that this organization is not representative of the doctors in such area may, on or before June 3, 1976 mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,988 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area

IX of the State of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Santa Clara Valley PSRO is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) [42 USC 1320c-1(f)] relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: April 23, 1976.

ROBERT VAN HOEK,
Acting Administrator.

[FR Doc.76-12832 Filed 5-3-76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area XVII of the State of California

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c-1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Ventura Area PSRO, Inc. for PSRO Area XVII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the Ventura Area PSRO, Inc. is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XVII of the State of California.

As stipulated in its Articles of Incorporation, the interim officers of the Ventura Area PSRO, Inc., are:

NAME AND OFFICE HELD

1. Russell C. Spoto, M.D., President.
2. Steven Chess, M.D., Vice President.
3. Robert Brown, M.D., Secretary.
4. Arthur Fingerle, M.D., Treasurer.

The official address of the corporation is 3212 Loma Vista Road, Ventura, California 93003.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XVII of the State of California who objects to the Secretary entering into an agreement with the Ventura Area PSRO, Inc., on the grounds that this organization is not representative of the doctors in such area may, on or before May 3, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 669 doctors of medicine and/or osteopathy are engaged in active practice in PSRO Area XVII of the State of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Ventura Area PSRO, Inc. is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94-182, the provisions of Section 1152(f) [42 USC 1320c-1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: April 20, 1976.

LOUIS M. HELLMAN,
Administrator.

[FR Doc.76-12833 Filed 5-3-76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for PSRO Area XXII of the State of California

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c-1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the California Area XXII PSRO for PSRO Area XXII, which area is designated a Professional Standards Review Organization area in 42 CFR 101.7.

The Secretary has determined that the California Area XXII PSRO is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of California, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in PSRO Area XXII of the State of California.

As stipulated in its Articles of Incorporation, the principal officers of the California Area XXII PSRO are:

NAME AND OFFICE HELD

1. Edwin W. Butler, M.D., President.
2. Ransom J. Arthur, M.D., Vice President.
3. Daniel A. Lang, M.D., Secretary/Treasurer.

The official address of the corporation is 1281 Westwood Boulevard, Suite 102B, Los Angeles, California 90024.

Any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area XXII of the State of California who objects to the Secretary entering into an agreement with the California Area XXII PSRO, on the grounds that this organization is not representative of the doctors in such area may, on or before June 3, 1976, mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 2,624 doctors

of medicine and/or osteopathy are engaged in active practice in PSRO Area XXII of the State of California. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the California Area XXII PSRO is representative of such doctors in the area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provisions of Section 1152(f) [42 USC 1320c–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: April 23, 1976.

ROBERT VAN HOEK,
Acting Administrator.

[FR Doc.76-12834 Filed 5-3-76;8:45 am]

PROFESSIONAL STANDARDS REVIEW ORGANIZATION

Notice to Physicians Regarding Intention To Enter Into Agreement Designating Professional Standards Review Organization for the State of Kentucky

Notice is hereby given, in accordance with Section 1152(f) of the Social Security Act [42 USC 1320c–1(f)] and 42 CFR 101.104, that the Secretary of the Department of Health, Education, and Welfare proposes, subject to satisfactory completion of the contract negotiation process, and completion of required changes in the organizational structure and formal plan, to enter into an agreement with the Kentucky Peer Review Organization, Inc. for the State of Kentucky, which area is designated a Professional Standards Review Organization area in 42 CFR 101.21.

The Secretary has determined that the Kentucky Peer Review Organization, Inc., is qualified to assume the duties and responsibilities of a Professional Standards Review Organization as specified in Title XI, Part B of the Social Security Act. The aforementioned organization is incorporated, according to the laws of the State of Kentucky, as a nonprofit professional organization whose membership is voluntary and comprises at least 25 percentum of the licensed doctors of medicine or osteopathy engaged in active practice in the State of Kentucky.

As stipulated in its Articles of Incorporation, the principal officers of the Kentucky Peer Review Organization, Inc. are:

NAME AND OFFICE HELD

1. W. Neville Caudill, M.D., President.
2. Lee C. Hess, M.D., Vice President.
3. Henry H. Garretson, M.D., Secretary/Treasurer.

The official address of the corporation is Professional Towers Building, 4010 Dupont Circle, Suite 410, Louisville, Kentucky 40207.

Any licensed doctor of medicine or osteopathy engaged in active practice in the State of Kentucky who objects to the Secretary entering into an agreement with the Kentucky Peer Review Organization, Inc., on the grounds that this organization is not representative of the doctors in such area may, on or before June 3, 1976 mail such objection in writing to the Secretary of the Department of Health, Education, and Welfare, P.O. Box 1588, FDR Station, New York, New York 10022. All such objections must include the physician's address, the location(s) of his office(s), his signature, and a certification that such physician is engaged in the active practice of medicine or osteopathy (i.e., direct patient care and related clinical activities, administrative duties in a medical facility, or other health related institutions, and/or mental or osteopathic teaching or research activity).

Pursuant to 42 CFR 101.103, the Secretary has determined that 3,714 doctors of medicine and/or osteopathy are engaged in active practice in the State of Kentucky. In the event that more than 10 percentum of the doctors express objections as described in the preceding chapter, the Secretary will, in accordance with 42 CFR 101.106, conduct a poll of all such doctors of medicine or osteopathy in such area to determine whether the Kentucky Peer Review Organization, Inc. is representative of such doctors in such area; Provided that pursuant to Section 108(b) of Public Law 94–182, the provision of Section 1152(f) [42 USC 1320–1(f)], relating to notification and polling, as described above, shall not apply where: (1) the membership association or organization representing the largest number of doctors of medicine in such area, or in the State in which such area is located if different, has adopted by resolution or other official procedure a formal policy position of opposition to or noncooperation with the established program of professional standards review; or (2) the organization proposed to be designated by the Secretary under Section 1152 of such Act has been negatively voted upon in accordance with the provisions of subsection (f)(2) thereof.

Dated: April 20, 1976.

LOUIS M. HELLMAN,
Administrator.

[FR Doc.76-12835 Filed 4-3-76;8:45 am]

National Institutes of Health

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Environmental Health Sciences, June 14–15, 1976, Building 18, Conference Room, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina. This meeting will be open to the public from 8:30 a.m. to 3:00 p.m. on June 14, and 8:30 a.m. to 12:00 noon on June 15, 1976, for the purpose of discussing legislative developments in the Institute's budget, personnel and permanent facilities; and for the review and discussion of individual programs and projects, with specific emphasis on the chemistry and comparative biology programs of the Enivronmental Biology and Chemistry Branch and the Institute's inhalation toxicology and asbestos programs. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552(b)(6) Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public from 3:00 p.m. to 5:00 p.m. on June 14, 1976, and from 1:00 p.m. to 2:00 p.m. on June 15, 1976, for the evaluation of the programs of the Environmental Biology and Chemistry Branch, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. David P. Rall, Director, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina 27709, telephone (919) 549–8411, extension 3201, will furnish summaries of the meeting, rosters of committee members, and substantive program information.

Dated April 28, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-12889 Filed 5-3-76;8:45 am]

CANCER AND NUTRITION SCIENTIFIC REVIEW COMMITTEE AND THE DIET AND CANCER SCIENTIFIC REVIEW COMMITTEE

Establishment

The Director, National Institutes of Health, announces the establishment on March 31, 1976, of the advisory committees indicated below by the Director, National Cancer Institute, under the authority of section 410(a)(3) and 410A(a) of the Public Health Service Act (42 U.S.C. 286d) and (42 U.S.C. 286e). Such advisory committees shall be governed

by the provisions of the Federal Advisory Committee Act (Public Law 92–463) setting forth standards governing the establishment and use of advisory committees.

Name: Cancer and Nutrition Scientific Review Committee and Diet and Cancer Scientific Review Committee.

Purpose: The Committees provide to the Director, NCI and the Director, Division of Cancer Cause and Prevention, advice concerning the scientific merit of contract proposals and grant applications submitted to the Diet, Nutrition and Cancer Program, NCI. Authority for these committees will expire March 31, 1978.

Dated: April 27, 1976.

DONALD S. FREDERICKSON,
Director,
National Institute of Health.

[FR Doc.76–12886 Filed 5–3–76;8:45 am]

CARDIOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart and Lung Institute, June 2 and 3, 1976, Connecticut Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 8:30 A.M. to 5:00 P.M. The agenda will include primarily a discussion of the consultants' report on the artificial heart, a program review with particular emphasis upon the Ischemic Heart Disease Specialized Centers of Research and upon the status of the Coronary Artery Surgery Studies, and a further definitive discussion upon the Report of the Task Force on Cardiovascular Rehabilitation, "Needs and Opportunities for Rehabilitating the Coronary Heart Disease Patient" (DHEW Publication No. NIH 75–750). Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart and Lung Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Peter L. Frommer, M.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart and Lung Institute, Landow Building, Room A922, Bethesda, Maryland 20014, phone (301) 496–5421, will furnish substantive program information.

Dated: April 28, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76–12888 Filed 5–3–76;8:45 am]

NATIONAL CANCER ADVISORY BOARD

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, June 21–22, 1976, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland 20014.

The meeting will be open to the public on June 21 from 9:00 a.m. to 11:15 a.m., and from 1:30 p.m. to 5:00 p.m. On June 22, the meeting will be entirely open from 9:00 a.m. to adjournment. Agenda items include reports on the Clearinghouse for Environmental Carcinogenesis; the status of in vitro test procedures; cancer from interaction of environment and genetics in man; 85% cancers environmentally induced; and, the Board Subcommittee on Environmental Carcinogenesis. On June 22, the morning session will include a report on international activities, and the afternoon agenda includes a discussion on clinical education and a review of five-year projections for the 1977–1981 budgets. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, the Board meeting will be closed to the public on June 21 from 11:15 a.m. to 12:00 noon for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of Board members on individual grant applications containing detailed research protocols, designs, and other technical information; fiancial data, such as salaries; and personal information concerning individuals associated with the applications.

Dr. Richard A. Tjalma, Assistant Director, NCI, Building 31, Room 11A46, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5854) will provide summaries of the meeting, substantive program information, and rosters of Board members.

(Catalog of Federal Domestic Assistance Program Nos. 13.312; 13.314; 13.391; 13.392, National Institutes of Health)

Dated: April 27, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institute of Health.

[FR Doc.76–12887 Filed 5–3–76;8:45 am]

NIH PUBLIC ADVISORY COMMITTEES

Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the National Institutes of Health announces the renewal by the Secretary, HEW, with the concurrence of the Office of Management and Budget Committee Management Secretariat, of the following committees:

Advisory Committee to the Director, NIH
Allergy and Immunology Study Section
Applied Physiology and Bioengineering Study Section
Bacteriology and Mycology Study Section
Biochemistry Study Section
Biophysics and Biophysical Chemistry A Study Section
Biophysics and Biophysical Chemistry B Study Section
Board of Scientific Counselors, National Institute of Child Health and Human Development
Board of Scientific Counselors, National Institute of Environmental Health Sciences
Cell Biology Study Section
Computer and Biomathematical Sciences Study Section
Developmental Behavioral Sciences Study Section
Endocrinology Study Section
General Medicine A Study Section
Oral Biology and Medicine Study Section

Authority for these committees will expire on May 31, 1977 unless the Secretary formally determines that continuance is in the public interest.

Dated: April 27, 1976.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.76–12892 Filed 5–3–76;8:45 am]

REVIEW OF RESEARCH CONTRACT PROPOSALS, NATIONAL CANCER INSTITUTE

Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552(b)(4) and 552(b)(6) of Title 5, U.S. Code and Section 10(d) of P.L. 92–463 for the review, discussion and evaluation of individual research contract proposals as indicated. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings are at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Name of Committee: Diet and Cancer Scientific Review Committee
Dates: June 2, 1976; 8:30 a.m.
Place: Building 1, Wilson Hall, National Institutes of Health.
Times: Open: June 2, 8:30 a.m–9:15 a.m.
Closed: June 2, 9:15 a.m.—adjournment.

Closure reason: To review Research Contract Proposals.
Executive Secretary: Dr. Gio B. Gori.
Address: Building 31, Room 11A03, National Institutes of Health.
Phone: 301/496–6616.
Catalog of Federal Domestic Assistance Number 13.825.
Name of Committee: Cancer Control Intervention Programs Review Committee.
Dates: June 3–4, 1976; 1:00 p.m.
Place: Building 31B. Conference Room 5, National Institutes of Health.
Times: Open: June 3, 1:00 p.mfl–1:30 p.m., June 4, 8:30 a.m.–9:00 a.m.; Closed: June 3, 1:30 p.m.–5:00 p.m., June 4, 9:00 a.m.—adjournment.
Closure Reason: To review Research Contract Proposals.
Executive Secretary: Dr. Robert T. Bowser.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301/427–7943.
Catalog of Federal Domestic Assistance Number 13.825.
Name of committee: Cancer and Nutrition Scientific Review Committee.
Dates: June 3–4, 1976;8:30 a.m.
Place: Building 1, Wilson Hall, National Institutes of Health.
Times: Open: June 3, 8:30 a.m.–9:15 a.m., June 4, 8:30 a.m.–9:15 a.m.; Closed: June 3, 9:15 a.m.–5:00 p.m., June 4, 9:15 a.m.—adjournment.
Closure reason: To review Research Contract Proposals.
Executive Secretary: Dr. Gio B. Gori.
Address: Building 31, Room 11A03, National Institutes of Health.
Phone: 301/496–6616.
Catalog of Federal Domestic Assistance Number 13.825.
Name of Committee: Carcinogenesis Program Scientific Review Committee A.
Dates: June 4, 1976; 9:00 a.m.
Place: Landow Building, Room A809, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Times: Open: June 4, 9:00 a.m.–9:30 a.m.; Closed: June 4, 9:30 a.m.—adjournment.
Agenda/open portion: To review program information.
Closure reason: To review Research Contract Proposals.
Executive Secretary: Dr. Richard A. Pledger.
Address: Landow Building, Room A306, National Institutes of Health.
Phone: 301/496–5471.
Catalog of Federal Domestic Assistance Number 13.825.
Name of Committee: Committee on Cancer Immunodiagnosis.
Dates: June 7–8, 1976; 8:30 a.m.
Place: Landow Building, Conference Room C–418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Times: Open: June 7, 8:30 a.m.–9:00 a.m., June 7, 1:30 p.m.–5:00 p.m., June 8, 8:30 a.m.—adjournment; Closed: June 7, 9:00 a.m.–1:30 p.m.
Agenda Open Portion: Generation of new requests for proposals and review of the Immunodiagnosis Program.
Closure reason: To review Research Contract Proposals.
Executive Secretary: Mrs. Judith M. Whalen.
Address: Building 10, Room 4B17, National Institutes of Health.
Phone: 301/496–7791.
Catalog of Federal Domestic Assistance Number 13.825.
Name of Committee: Committee on Cancer Immunobiology.
Dates: June 14, 1976; 1:30 p.m.
Place: Hyatt Hotel, Hilton Head Island, South Carolina.
Times: Open: June 14, 1:30 p.m.–2:00 p.m.; Closed: June 14, 2:00 p.m.—adjournment.
Closure reason: To review Research Contract Proposals.
Executive Secretary: Mrs. Judith M. Whalen.
Address: Building 10, Room 4B17, National Institutes of Health.
Phone: 301/496–1791.
Catalog of Federal Domestic Assistance Number 13.825.
Name of Committee: Virus Cancer Program Scientific Review Committee A.
Dates: June 14–15, 1976; 9:00 a.m.
Place: Landow Building, Conference Room C–418, 7910 Woodmont Avenue, Bethesda, Maryland 20014.
Times: Open: June 14, 9:00 a.m.–9:30 a.m.; Closed: June 14, 9:30 a.m.–5:00 p.m., June 15, 9:00 a.m.—adjournment.
Closure reason: To review Research Contract Proposals.
Executive Secretary: Dr. Elke Jordan.
Address: Building 37, Room 1A–01, National Institutes of Health.
Phone: 301/496–6927.
Catalog of Federal Domestic Assistance Number 13.825.
Name of committee: Joint Meeting of Virus Cancer Program Scientific Review Committees A and B.
Dates: June 28–29, 1976; 9:00 a.m.
Place: Building 37, Conference Room 1B04, National Institutes of Heatlh.
Times: Open: June 28, 9:00 a.m.–9:30 a.m.; Closed: June 28, 9:30 a.m.–5:00 p.m., June 29, 9:30 a.m.—adjournment.
Agenda/open portion: To discuss management practices.
Closure reason: To review research contract proposals.
Executive Secretary: Dr. Elke Jordan.
Address: Building 37, Room 1A01, National Institutes of Health.
Phone: 301/496–6927.
Catalog of Federal Domestic Assistance Number 13.825.

Dated: April 27, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–12890 Filed 5–3–76;8:45 am]

REVIEW OF RESEARCH GRANT APPLICATIONS, NATIONAL CANCER INSTITUTE

Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6) of Title 5, U.S. Code and Section 10(d) of P.L. 92–463, for the review, discussion and evaluation of individual initial pending, supplemental, and renewal grant applications. The closed portions of the meetings involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496–5708) will furnish summaries of the meetings and rosters of committee members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings are held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Name of committee: National Large Bowl Cancer Project Working Cadre.
Dates: June 3–4, 1976; 7:30 p.m.
Place: Anderson Mayfair Hotel, Mayfair, Dining Room, 1600 Holcombe Boulevard, Houston, Texas 77030.
Times: Open: June 3, 7:30 p.m.–8:00 p.m.; Closed: June 3, 8:00 p.m.–10:30 p.m., June 4, 9:00 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, Room 855, National Institutes of Health.
Phone: 301/496–7194.
Catalog of Federal Domestic Assistance Number 13.391.
Name of committee: Clinical Cancer Education Committee.
Dates: June 9–10, 1976; 8:30 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Heatlh.
Times: Open: June 9, 8:30 a.m.–9:30 a.m.; Closed: June 9, 9:30 a.m.–5:00 p.m., June 10, 8:30 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Margaret Edwards.
Address: Westwood Building, Room 10A18, National Institutes of Heatlh.
Phone: 301/496–7762.
Catalog of Federal Domestic Assistance Number 13.314.
Name of committee: National Bladder Cancer Project Working Cadre.
Dates: June 10–11, 1976; 1:00 p.m.
Place: O'Hare Hilton Hotel, Room 2109, O'Hare International Airport, Chicago, Illinois 60666.
Times: Open: June 10, 8:00 p.m.–10:00 p.m., June 11, 8:30 a.m.—adjournment; Closed: June 10, 1:00 p.m.–5:00 p.m.
Agenda/open portion: For program planning and evaluation.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Olga G. Joly.
Address: Westwood Building, Room 853, National Institutes of Health.
Phone: 301/496–7194.
Catalog of Federal Domestic Assistance Number 13.391.

Name of committee: Cancer Special Program Advisory Committee.
Dates: June 10–12, 1976; 9:00 a.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Times: Open: June 10, 9:00 a.m.–10:00 a.m.; Closed: June 10, 10:00 a.m.–5:00 p.m., June 11, 8:30 a.m.–5:00 p.m., June 12, 8:30 a.m.—adjournment.
Closure reason: To review research grant applications.
Executive Secretary: Dr. William R. Sanslone.
Address: Westwood Building, Room 805, National Institutes of Health.
Phone: 301/496–7565.
Catalog of Federal Domestic Assistance Number 13.312.

Name of committee: National Cancer Advisory Board Subcommittee on Centers and Construction.
Date: June 20, 1976; 7:30 p.m.
Place: Building 31C, Conference Room 8, National Institutes of Health.
Times: Open: June 20, 7:30 p.m.–8:30 p.m.; Closed: June 20, 8:30 p.m.—adjournment.
Agenda/open portion: Continuation of the Subcommittee's review and evaluation of cancer centers and the cancer centers program.
Closure reason: To review research grant applications.
Executive Secretary: Dr. Simeon Cantril.
Address: Westwood Building, Room 826, National Institutes of Health.
Phone: 301/496–7427.
Catalog of Federal Domestic Assistance Number 13.312.
Name of committee: Cancer Control Grant Review Committee.
Dates: June 28–29, 1976; 8:30 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open: June 28, 8:30 a.m.–9:30 a.m.; Closed: June 28, 9:30 a.m.–5:00 p.m., June 29, 8:00 a.m.—adjournment.
Agenda/open session: Administrative details and a one-half hour mini-symposium on cancer pain.
Closure reason: To review research grant applications.
Executive Secretary: Dr. John E. Lane.
Address: Blair Building, Room 7A07, National Institutes of Health.
Phone: 301/427–7946.
Catalog of Federal Domestic Assistance Number 13.312.
Name of committee: Cancer Clinical Investigation Review Committee.
Dates: June 28–30, 1976; 8:30 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open: June 28, 8:30 a.m.–10:00 a.m., June 29, 9:00 a.m.–12:00 noon; Closed: June 28, 10:30 a.m.–5:00 p.m., June 29, 1:00 p.m.–5:00 p.m., June 30, 8:30 a.m.—adjournment.
Agenda/open session: On June 28, administrative details pertaining to the Committee will be discussed. On June 29, a mini-symposium on Immunology and Its Application to Clinical Cancer Research will be held.
Closure reason: To review research grant applications.
Executive Secretary: Mr. Clare W. White.
Address: Westwood Building, Room 822, National Institutes of Health.
Phone: 301/496–7058.
Catalog of Federal Domestic Assistance Number 13.314.
Name of Committee: National prostatic Cancer Project Working Cadre.
Dates: June 30–July 1, 1976; 8:00 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.
Times: Open: June 30, 8:00 a.m.–8:30 a.m.; Closed: June 30, 8:30 a.m.–5:00 p.m., July 1, 9:00 a.m.—adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Andrew Chiarodo.
Address: Westwood Building, Room 855, National Institutes of Health.
Phone: 301/496–7194.
Catalog of Federal Domestic Assistance Number 13.391.

Dated: April 27, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–12891 Filed 5–3–76;8:45 am]

VIRUS CANCER PROGRAM SCIENTIFIC REVIEW COMMITTEES A AND B

Joint Meeting, Cancellation

Notice is hereby given of the cancellation of the joint meeting of the Virus Cancer Program Scientific Review Committees A and B, Viral Oncology Program, Division of Cancer Cause and Prevention, National Cancer Institute which was published in the FEDERAL REGISTER on April 16, 1976, Vol. 41, No. 75, page 16198.

This Virus Cancer Program Scientific Review Committees A and B joint meeting was to have convened on May 26–28, 1976 but has been cancelled due to the extension of the deadline for receipt of responses to Request for Proposals.

Dated: April 28, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76–12885 Filed 5–3–76;8:45 am]

Social Security Administration

HEALTH INSURANCE PROGRAM

Proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that a revised Schedule of Limits on Hospital Inpatient General Routine Service Costs in the Medicare program for cost-reporting periods beginning on or after July 1, 1976, is set forth in tentative form as proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Section 1861(v)(1) of the Social Security Act permits the Secretary to set prospective limits on direct or indirect overall incurred costs or incurred costs of specific items or services or groups of items or services furnished by a provider, to be recognized a reasonable based on estimates of the cost necessary in the efficient delivery of needed health services. The revised Schedule of Limits will replace the Schedule currently in effect which was published in the FEDERAL REGISTER (40 FR 23622) on May 30, 1975.

The proposed Schedule of Limits on Hospital Inpatient General Routine Service Cost set out below, when published in final form, will be applicable for cost-reporting periods beginning on or after July 1, 1976, and before the effective date of a revised schedule. The proposed schedule of limits will apply to the entire cost reporting period of a hospital whose cost reporting period begins during the effective period of the schedule. The proposed schedule applies to the total of the cost of hospital inpatient general routine service costs. These limits do not apply to the cost of special care units or ancillary services.

The initial classification system, which is described in the FEDERAL REGISTER (39 FR 20168) published June 6, 1974, was developed to provide for comparison of hospitals of similar size and in similar economic environments. Several refinements of the initial classification system were made effective July 1, 1975, and are described in the FEDERAL REGISTER (40 FR 23622) published May 30, 1975.

An additional refinement has been made in the revised schedule of limits proposed to be effective July 1, 1976. The refinement is the result of changes in the size of units of economic environment, used for the classification proposed herein, which were developed by the Office of Management and Budget (OMB) to recognize the existence of continuously developed high density population areas which are larger than an individual Standard Metropolitan Statistical Area (SMSA). Use of the new unit, the Standard Consolidated Statistical Area (SCSA), will give a better cost comparison among providers in contiguous SMSA's that are part of an integrated economic area.

OMB has designated 13 areas containing one-third of the total population of the United States as SCSA's. The SCSA concept associates contiguous SMSA's between which a significant degree of economic interaction exists. Each of the new consolidated areas includes a smaller Standard Metropolitan Statistical Area with a population of at least one million, plus one or more adjoining SMSA's related to it by continuously developed high density population corridors and metropolitan commuting of workers. The SCSA's are: Chicago-Gary, New York-Newark-Jersey City, Boston-Lawrence-Lowell, Cincinnati-Hamilton, Cleveland-Akron-Lorain, Detroit-Ann Arbor, Houston-Galveston, Los Angeles-Long Beach-Anaheim, Miami-Fort Lauderdale, Milwaukee-Racine, Philadelphia-Wilmington-Trenton, San Francisco-Oakland-San Jose, and Seattle-Tacoma. The SCSA will be used to classify all providers in the SCSA without regard to component SMSA boundaries. The SCSA's were ranked based on their overall average per capita income.

The proposed revised schedule of limits has also been modified to include a provision to protect providers, for a one year period, from the effects of lower limits that might result from circumstances that result in a lower per capita income for the provider's area. Thus, if an area's per capita income in a year, or a change in SMSA/SCSA designation during the year, places the area in a group lower than in the previous year, the limit to be applied for that year will be the higher of the current period group or the immediately preceding year group.

For instance, widespread devastation in an SMSA/SCSA caused by a natural disaster, e.g., hurricane, can result in severe economic loss which manifests itself in a sharp drop in the SMSA/SCSA's per capita income during one year. The depression of per capita income caused by the extreme economic dislocation may result in reclassifying the SMSA/SCSA from a group having a higher limit into a group having a lower limit. Because the reduction in per capita income is usually

indicative of adverse economic conditions rather than lower than average hospital cost in the area, the resulting classification may not appropriately account for providers' cost of doing business under normal circumstances. In order to address this situation, the revised cost limit applicable to the group in which the provider has been classified during the immediately preceding cost reporting period will be applied for the current cost reporting period. Thus, a provider moving from Group II to Group III as a result of changes in per capita income will continue to be subject to the limits (if higher) applicable to Group II. This provision will be applied only to the cost reporting period immediately following a change in the provider's grouping (e.g., from Group II to Group III). This provision primarily will lessen the effect of unusual short-term fluctuations in area per capita income and the impact of such fluctuations on reimbursement to individual providers. SMSA and non-SMSA areas affected are indicated in the list of groups by an asterisk preceding the area name.

Example:

Hospital A, Bed Size: 150. Per capita income in the provider's SMSA during the period on which the classification is based was reduced because of the effects of a severe drought. Provider A had been classified in Group II effective July 1, 1975, and is now classified in Group III beginning July 1, 1976. The limit to be applied to Provider A beginning July 1, 1976, is the higher of the Group II limit or the Group III limit.

All SMSA's and SCSA's have been divided into the following five groups based on per capita income.

SMSA/SCSA Group I

ALASKA

Anchorage

CALIFORNIA

Los Angeles-Long Beach-Anaheim (SCSA)

Los Angeles-Long Beach
Anaheim-Santa Ana-Garden Grove
Oxnard-Simi Valley-Ventura
Riverside-San Bernardino-Ontario
Salinas-Seaside-Monterey

San Francisco-Oakland-San Jose (SCSA)

San Francisco-Oakland
San Jose
Vallejo-Fairfield-Napa

COLORADO

Denver-Boulder

CONNECTICUT

Bridgeport
Bristol
Danbury
Hartford
New Britain

(See also New York SCSA)

DISTRICT OF COLUMBIA

Washington, DC-Manassas Park City, DC-MD-VA
City-Manassas

FLORIDA

Miami-Fort Lauderdale (SCSA)

Fort Lauderdale-Hollywood
Miami
Sarasota
West Palm Beach-Boca Raton

HAWAII

Honolulu

ILLINOIS

Chicago-Gary, IL-IN (SCSA)

Chicago, IL
Gary-Hammond-East Chicago, IN
Peoria
Rockford
Springfield

MASSACHUSETTS

Boston-Lawrence-Lowell, MA-NH (SCSA)

Lowell, MA-NH
Lawrence-Haverhill, MA-NH
Boston, MA
Brockton, MA

MICHIGAN

Detroit-Ann Arbor (SCSA)

Detroit
Ann Arbor
Flint

MINNESOTA

Minneapolis-St. Paul, MN-WI

NEVADA

Las Vegas
Reno

NEW JERSEY

(See New York SCSA)

NEW YORK

New York-Newark-Jersey City, NY-NJ-CT (SCSA)

New York, NY-NJ
Newark, NJ
Jersey City, NJ
Paterson-Clifton-Passaic, NJ
Nassau-Suffolk, NY
Long Branch-Asbury Park, NJ
New Brunswick-Perth Amboy-Sayerville, NJ
Norwalk, CT
Stamford, CT
Rochester

NORTH DAKOTA

Fargo-Moorehead, ND-MN

OHIO

Cleveland-Akron-Lorain (SCSA)

Cleveland
Akron
Lorain-Elyria

VIRGINIA

Richmond

WISCONSIN

Kenosha

SMSA/SCSA Group II

ARIZONA

Phoenix

CALIFORNIA

Santa Barbara-Santa Maria-Lompoc
San Diego
Stockton

CONNECTICUT

*Meriden
New London-Norwich
*New Haven-West Haven
*Waterbury

DELAWARE

(See Philadelphia SCSA)

GEORGIA

Atlanta

ILLINOIS

*Decatur
Kankakee

INDIANA

Anderson
Fort Wayne
Indianapolis
South Bend

IOWA

Cedar Rapids
Davenport-Rock Island-Moline, IA-IL
Des Moines
Waterloo-Cedar Falls

KANSAS

Wichita

KENTUCKY

Louisville, KY-IN

MARYLAND

Baltimore

MASSACHUSETTS

Pittsfield

MICHIGAN

Battle Creek
Grand Rapids
Jackson
Lansing-East Lansing
Saginaw

MINNESOTA

Rochester

MISSISSIPPI

Kansas City, MO-KS
St. Louis, MO-IL

NEW JERSEY

(See Philadelphia SCSA)

NEW YORK

Albany-Schenectady-Troy
Buffalo
Poughkeepsie

OHIO

Cincinnati-Hamilton, OH-KY-IN (SCSA)

Cincinnati, OH-KY-IN
Hamilton-Middletown, OH
Dayton
Lima
Toledo, OH-MI
Youngstown-Warren

OREGON

Portland, OR-WA

PENNSYLVANIA

Philadelphia-Wilmington-Trenton, PA-DE-MD-NJ (SCSA)

Philadelphia, PA-NJ
*Trenton, NJ
*Wilmington, DE
Allentown-Bethlehem-Easton, PA-NJ
Harrisburg
Lancaster
Pittsburgh
Reading

TEXAS

Houston-Galveston (SCSA)

Houston
Galveston-Texas City
Dallas-Fort Worth
Midland

WASHINGTON

Seattle-Tacoma, (SCSA)

Seattle
Tacoma
Richland-Kennewick

WISCONSIN

Milwaukee-Racine, (SCSA)

*Milwaukee
Racine

SMSA/SCSA Group III

ALABAMA

Birmingham

CALIFORNIA

Bakersfield
Fresno
Modesto
Sacramento
Santa Cruz
Santa Rosa

FLORIDA

Jacksonville
Orlando
Tampa-St. Petersburg

IDAHO

*Boise City

ILLINOIS

*Bloomington-Normal
Champaign-Urbana-Rantoul

INDIANA

Evansville, IN-KY
Lafayette-West
Lafayette

IOWA

Dubuque — Sioux City, IA–NE

KANSAS

*Topeka

KENTUCKY

Lexington-Fayette

LOUISIANA

New Orleans

MAINE

Portland

MASSACHUSETTES

*Fitchburg-Leominster — Springfield-Chicopee-Holyoke
*Worcester

MICHIGAN

Bay City — Kalamazoo-Portage

MISSOURI

St. Joseph

MONTANA

Billings — Great Falls

NEBRASKA

Lincoln — Omaha, NE–IA

NEW HAMPSHIRE

Nashua — Manchester

NEW JERSEY

Atlantic City — Vineland-Millville-Bridgeton

NEW YORK

Binghamton, NY–PA — Syracuse
Elmira

NORTH CAROLINA

*Charlotte-Gastonia — Raleigh-Durham
Greensboro-Winston-Salem-High Point

OHIO

Columbus — Springfield
Canton — Steubenville-Weirton, OH–WV
*Mansfield

OKLAHOMA

Tulsa

PENNSYLVANIA

Erie — York

RHODE ISLAND

Providence-Warwick-Pawtucket

SOUTH DAKOTA

Sioux Falls

TENNESSEE

Memphis, TN–AR–MS — Nashville-Davidson

TEXAS

Amarillo — *Wichita Falls

VIRGINIA

Newport News-Hampton-Poquoson City — Norfolk-Virginia Beach-Portsmouth, VA–NC Roanoke

WASHINGTON

Spokane — Yakima

WEST VIRGINIA

Charleston

WISCONSIN

Appleton-Oshkosh

SMSA/SCSA Group IV

ALABAMA

Montgomery

ARIZONA

*Tucson

ARKANSAS

*Little Rock-North Little Rock

COLORADO

*Colorado Springs — Pueblo

FLORIDA

Daytona Beach — Melbourne-Titusville-Cocoa
Fort Meyers — Tallahassee
*Lakeland-Winter Haven

GEORGIA

Augusta, GA–SC — Savannah
Macon

INDIANA

Munice — Terre Haute

KENTUCKY

Owensboro

MASSACHUSETTS

New Bedford — Fall River, MA–RI

MICHIGAN

Muskegon-Muskegon Heights

MINNESOTA

Duluth-Superior, MN–WI

MISSISSIPPI

Jackson

MISSOURI

Springfield

NEW MEXICO

Albuquerque

NEW YORK

Utica-Rome

NORTH CAROLINA

Ashville — Burlington

OKLAHOMA

*Oklahoma City

OREGON

Eugene-Springfield — Salem

PENNSYLVANIA

Wilkes Barre-Scranton-Hazleton (Northeast PA) — Williamsport

SOUTH CAROLINA

Columbia — Greenville-Spartanburg

TENNESSEE

Chattanooga, TN–GA — Clarksville-Hopkinsville, TN–KY

TEXAS

Abilene — Odessa
Austin — San Angelo
*Beaumont-Port Arthur-Orange — San Antonio
*Killeen-Temple — Sherman-Denison
Longview — Tyler
Lubbock — Waco

UTAH

Salt Lake City-Ogden

VIRGINIA

Petersburg-Colonial Heights-Hopewell — Lynchburg

WEST VIRGINIA

Parkersburg-Marietta, WV–OH — Wheeling, WV–OH

WISCONSIN

Green Bay — La Crosse

SMSA/SCSA Group V

ALABAMA

Anniston — Huntsville
Florence — Mobile
Gadsden — Tuscaloosa

ARKANSAS

Fayetteville-Springdale — Fort Smith, AR–OK
Pine Bluff

COLORADO

Greeley — Fort Collins

FLORIDA

*Gainesville — *Pensacola

GEORGIA

Albany — Columbus, GA–AL

INDIANA

Bloomington

LOUISIANA

Alexandria — Lake Charles
*Baton Rouge — Monroe
Lafayette — *Shreveport

MAINE

Lewiston-Auburn

MINNESOTA

St. Cloud

MISSOURI

Columbia

MISSISSIPPI

Biloxi-Gulfport — Pascagoula-Moss Point

NORTH CAROLINA

Fayetteville — Wilmington

OKLAHOMA

Lawton

PENNSYLVANIA

Altoona — Johnstown

PUERTO RICO

Caguas — Ponce
Mayaguez — San Juan

SOUTH CAROLINA

Charleston

TENNESSEE

Johnson City-Kingsport-Bristol, TN–VA — *Knoxville

TEXAS

Brownsville-Harlingen-San Benito — El Paso
Bryan-College Station — Laredo
Corpus Christi — McAllen-Pharr-Edinburg
Texarkana, TX–AR

UTAH

Provo-Orem

WEST VIRGINIA

Huntington-Ashland, WV–KY–OH

WISCONSIN

Eau Claire

*Hospitals in areas (SCSA or SMSA) identified by an asterisk will receive the higher of the limit for the group in which they are shown or the current limit for the group in which they were last classified (see text).

Non-SMSA areas will be classified according to the per capita income of all non-SMSA counties within a State. The following are the five income groupings, with States classified according to per capita income to be used for hospitals located in non-Standard Metropolitan Statistical Areas in those States.

Non-SMSA

GROUP I

Alaska — Nebraska
Illinois — Nevada
Iowa — New Jersey
Kansas — North Dakota
Massachusetts — Washington

GROUP II

California	Maryland
*Connecticut	Minnesota
*Delaware	Montana
Hawaii	South Dakota
*Indiana	Wyoming

GROUP III

Florida	*Ohio
Idaho	Oklahoma
Michigan	*Oregon
Missouri	Pennsylvania
*New Hampshire	*Vermont
*New York	

GROUP IV

*Arizona	North Carolina
Arkansas	Texas
*Colorado	Virginia
Maine	*Wisconsin

GROUP V

Alabama	Puerto Rico
*Georgia	*South Carolina
Kentucky	Tennessee
Louisiana	Utah
Mississippi	Virgin Islands
*New Mexico	West Virginia

*Hospitals in States identified by an asterisk will receive the higher of the limit for the group in which they are shown or the current limit for the group in which they were lasst classified (see text).

With respect to the Standard Consolidated Statistical Area/Standard Metropolitan Statistical Area groupings, the groupings were developed by combining those SCSA/SMSA's which reflect a similar economic environment as expressed by per capital income data. The SCSA/SMSA's were arrayed in order of the size of their per capital income and groupings were established. The same procedure was followed for grouping the non-SCSA/SMSA areas to arrive at State groups.

The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS

Groups I and II	*Groups III, IV, and V*
Less than 100	Less than 100
100–404	100–404
405–684	405 and above
685 and above	

NON-STANDARD METROPOLITAN STATISTICAL AREAS

Less than 100
100–169
170 and above

The proposed limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.

2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.

3. The 80th percentile and the median were computed for each class.

4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.

5. This sum was adjusted to reflect the 14.5 percent annual rate of estimated cost increases in per diem routine service costs following the date of data collection.

6. The amounts calculated in step 5 are rounded to the next highest dollar which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period beginning July 1, 1976.

Under the authority of section 1861(v) of the Social Security Act, it is proposed that the following cost limitations apply to the total of the hospital inpatient general routine service costs (excluding costs incurred for special care units and ancillary services), adjusted upward as provided for below. The proposed limits are applicable to cost reporting periods beginning on or after July 1, 1976, and will remain in effect until the effective date of a revised schedule. However, this schedule will apply to the entire cost-reporting period of a hospital whose cost-reporting period begins during its effective period.

The proposed limits are applicable to any hospital with a cost reporting period beginning on or after July 1, 1976. Where a hospital has a cost reporting period beginning after July 1, 1976, the published limit will be adjusted upward by a factor of 1.21 percent for each elapsed month between July 1, 1976, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example: Hospital A's cost reporting period starting in 1976 begins October 1, 1976, and ends September 30, 1977. The cost factor for Hospital A's group from the table below is $100.00.

COMPUTATION OF ADJUSTED COST LIMIT

Cost factor	$100.00
Plus: Adjustment for 3-month period (July 1, 1976, to Sept. 30, 1976), 3 months×1.21%=3.63%, 3.63%×cost factor	3.63
Adjusted cost limit applicable to Hospital A for the Oct. 1, 1976, to Sept. 30, 1977, reporting period	103.63

SCHEDULE OF LIMITS ON HOSPITAL INPATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1976

Hospitals located within SMSA's (urban) bed size

SMSA group	Less than 100	100 to 404	405 to 684	685 and above
I[1]	$124	$130	$146	$194
II	104	109	109	123
III	98	101	98	98
IV	87	94	93	98
V	76	80	94	93

[1] Limits apply to all group I SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (22.5 pct Anchorage, Alaska; 12.5 pct Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 674	685 and above
Anchorage	$152	$159	$179	$237
Honolulu	140	146	164	217

Hospitals located outside SMSA's (nonurban) bed size

State group	Less than 100	100 to 169	170 and above
I[1]	$87	$101	$96
II[2]	94	100	96
III	85	89	90
IV	81	79	87
V	75	76	77

[1] Limits apply to all group I States except Alaska where cost-of-living adjustment (25 percent) was made. Limits for Alaska are: Less than 100, $109; 100 to 169, $126; 170 and above, $119.
[2] Applies to all group II States except Hawaii where cost-of-living adjustment (12.5 percent) was made—limits for Hawaii are: Less than 100, $106; 100 to 169, $112; 170 and above, $108.

Prior to the final adoption of the proposed Schedule of Limits on Hospital Costs, consideration will be given to any views and comments pertaining thereto which are submitted in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Secs. 1102, 1861(v)(1), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647, as amended; 79 Stat. 313, as amended; 79 Stat. 327, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395x(v), 1395cc(a), and 1395hh.)

(Catalog of Federal Domestic Assistance, Program No. 13.800, Health Insurance for the Aged—Hospital Insurance.)

Dated: April 13, 1976.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: April 27, 1976.

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

[FR Doc.76-12769 Filed 5-3-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition Docket No. RSFC–75–3; Notice 2]

NORFOLK AND WESTERN RAILWAY CO.

Waiver of Periodic Lubrication

On September 23, 1975, the Federal Railroad Administration (FRA) published notice in the FEDERAL REGISTER (40 F.R. 43755) that the Norfolk and Western Railway Company (N&W) had petitioned the FRA for permission to conduct a test program in which 968 covered hopper cars would be operated for a period not to exceed six years without compliance with the present FRA periodic lubrication requirements (49 CFR 215.99).

The Railroad Safety Board of the FRA, after reviewing all the information submitted in connection with that proceeding, granted the requested waiver. In reaching that decision the Railroad Safety Board specifically found that granting the waiver was in the public interest and consistent with railroad safety.

The N&W recently requested to both amend the aforementioned petition to include 750, one-hundred ton, Class G–73 gondolas and permission to operate these cars for a period not to exceed 10 years without compliance with the present FRA periodic lubrication requirements (49 CFR Part 215.99). These cars, which are in the construction stage, will bear reporting marks in the series between 189750 and 190499, and will be subject to the same test conditions previously described.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. FRA does not anticipate scheduling an opportunity for oral comment on this petition since the facts do not appear to warrant it. An opportunity to present oral comments will be provided, however, if requested by any interested person prior to May 18, 1976. All communications concerning this petition should identify the appropriate Docket Number (FRA Waiver Petition Docket Number RSFC–75–3) and shall be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before June 18, 1976, will be considered by the FRA before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This notice is issued under the authority of 45 U.S.C. 431; and section 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.40(n).

Issued in Washington, D.C. on April 28, 1976.

EDWARD F. CONWAY, Jr.,
Acting Assistant Chief Counsel, Safety Regulation Division, Federal Railroad Administration.

[FR Doc.76–12894 Filed 5–3–76;8:45 am]

AMERICAN INDIAN POLICY REVIEW COMMISSION

NOTICE OF HEARINGS

Notice is hereby given pursuant to the provision of the Joint Resolution establishing the American Indian Policy Review Commission (Pub. L. 93–580), as amended, that hearings related to their proceedings will be held in conjunction with Commission Task Forces 1, 2, 3, 4, and 9 which are investigating the following issues: Task Force #1, the Federal-Indian relationship; Task Force #2, Tribal Government; Task Force #3, Federal Administration and the Structure of Indian Affairs; Task Force #4, Federal, State and Tribal Jurisdiction and Task Force #9, Indian Law Revision, Consolidation and Codification.

Hearings have been scheduled May 13 and 14 at the Trade Winds Motel, 534 South 32nd Street, Muskogee, Oklahoma beginning each day at 9:00 a.m.

The members of the Task Forces will hear testimony from people in the area of Eastern Oklahoma.

The American Indian Policy Review Commission has been authorized by Congress to conduct a comprehensive review of the historical and legal developments underlying the unique relationship of Indians to the Federal Government in order to determine the nature and scope of necessary revision in the formulation of policies and programs for the benefit of Indians. The Commission is composed of eleven members, three of whom were appointed from the Senate, three from the House of Representatives and five members of the Indian community elected by the Congressional members.

The actual investigations are conducted by eleven task forces in designated subject areas. These hearings will focus on issues related to the studies of Task Forces 1, 2, 3, 4 and 9.

Persons interested in submitting testimony should contact Don Wharton or Kevin Gover at 202–225–2235, 2979 or 2984, or write to their attention at the American Indian Policy Review Commission, HOB Annex #2, Room 3364, Washington DC 20515.

Dated: April 29, 1976.

KIRKE KICKINGBIRD,
General Counsel.

[FR Doc.76–12918 Filed 5–3–76;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 29041]

ALOHA AIRLINES, INC.

Enforcement Proceeding; Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 20, 1976 (41 F.R. 15735, April 14, 1976), is postponed to May 27, 1976, at 9:30 a.m. (local time), and will be held in Room 1003, Hearing Room B, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., April 29, 1976.

[SEAL] RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.76–12923 Filed 5–3–76;8:45 am]

[Docket No. 28738]

EUGENE HORBACH AND GAC CORP., MODERN AIR TRANSPORT PURCHASE AGREEMENT

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding, which was assigned to be held on May 25, 1976 (41 F.R. 15362, April 12, 1976), is postponed to June 29, 1976, at 9:30 a.m. (local time), and will be held in Room 1003, Hearing Room D, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., April 28, 1976.

[SEAL] RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.76–12924 Filed 5–3–76;8:45 am]

[Order 76–4–157; Docket No. 27614, 27624, 27646, 27648, 29186]

MEMPHIS, TENNESSEE; MINNEAPOLIS-ST. PAUL METROPOLITAN AIRPORTS COMMISSIONS, ET AL.

Order Instituting an Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of April, 1976.

Petition of Memphis, Tennessee; Minneapolis-St. Paul Metropolitan Airports Commission; State of Minnesota for an investigation of the need for Memphis-Twin Cities Air Service, Docket 27614.

Applications of North Central Airlines, Inc., Delta Air Lines, Inc., Southern Airways, Inc., for amendment of certificates of public convenience and necessity, Dockets 27624, 27646, 27648.

The Memphis-Twin Cities/Milwaukee Case, Docket 29186.

The City of Memphis, Tennessee, the Minneapolis-St. Paul Metropolitan Airports Commission, and the State of Minnesota (hereinafter Civic Parties) have petitioned the Board to institute an investigation of the need for first direct air service between Memphis and the Twin Cities on the grounds that there is currently neither single-plane nor even single-carrier service in the market.[1]

[1] At the present time the best available service between these metropolitan areas is two-carrier connection via Chicago, St. Louis or Kansas City.

Concurrent with its petition, the Civic Parties filed a motion for hearing, citing section 399.60(b) of the Board's Policy Statements and relying upon the matters, facts and considerations set forth in their petition.

In support of their petition, the Civic Parties emphasize the rapid growth of their two metropolitan areas. They contend that Memphis and the Twin Cities are each other's largest markets presently without single-carrier service. They state that the volume of traffic of approximately 14,000 O&D passengers per year is substantial, particularly in light of the unusually high ratio of connecting traffic to true originating traffic at Memphis.[2] With first single-plane and nonstop service, the petitioners argue that the stimulation factor will be well in excess of 100 percent. Finally, they contend that the public interest will be well-served because the environmental impact would be minimal, the travel time would be greatly reduced, and there exists a potential for reduced fares.

In response to the petition, three carriers have filed applications for Memphis-Twin Cities authority. On March 14, 1975, North Central Airlines filed an application in Docket 27624 for one-stop single-plane service in the market via Milwaukee. Applications from Delta Air Lines and Southern Airways for nonstop Memphis-Twin Cities authority were filed on March 21, 1975, in Dockets 27646 and 27648, respectively.

Additionally, answers in support of the motion for hearing were filed by Northwest, North Central, and Delta. The latter two also filed motions to consolidate their applications with Docket 27614. An answer was filed in support of both North Central's application and the Civic Parties' motion by the Oshkosh Area Chamber of Commerce of Oshkosh, Wisconsin.

Upon consideration of the pleadings and all the relevant facts, we have decided to institute an investigation, to be set down for immediate hearing, for the purpose of investigating the need for first single-plane service between Memphis, on the one hand, and Milwaukee and/or the Twin Cities, on the other hand. Accordingly, we are consolidating for hearing the applications of North Central, Delta, and Southern in Dockets 27624, 27646, and 27648, respectively, insofar as those applications conform to the scope of the proceeding instituted herein.

While the reported true O&D traffic is fairly low for the two markets,[3] our decision to go forward is based upon the potential flow of traffic. There are three factors which lead us to believe that these proposed routes may be capable of attracting traffic substantially in excess of that now shown in the Board's O&D surveys. First, and most obviously, the major factor in the underdevelopment of the markets is the lack of single-plane service. The stimulation potential with the introduction of first single-plane service could be substantial. Secondly, Memphis would be an excellent connecting point for traffic flowing to the Southeastern United States from both Milwaukee and the Twin Cities. Improved service via Memphis could attract a substantial number of passengers who are presently forced to take more inconvenient or circuitous routings. Thirdly, in light of the lack of through-plane service, it is probable that many passengers in the Milwaukee area currently travel by means of surface transportation to Chicago's O'Hare Airport from which there are more than ten daily nonstop flights to Memphis.[4] Thus, a number of Milwaukee passengers are undoubtedly being shown as Chicago traffic in the Memphis and beyond-Memphis markets. This situation results in an understated potential for Milwaukee traffic. Moreover, it indicates that an award could result in some relief in passenger congestion at O'Hare.

Further, the circumstances in this proceeding are similar to those we considered in instituting The Fort Myers-Atlanta Case, Order 74-12-26, December 6, 1974. Therein we emphasized that where potentially significant public benefits could result from the authorization of first single-plane service in a given market, a consideration of the needs of that market should be given a priority status on our hearing docket. This investigation clearly falls within that priority category. As in the Fort Myers Case, and more recently in the Des Moines/Milwaukee-Phoenix Route Proceeding,[5] we wish to focus this proceeding on those markets in which no carrier is currently authorized to provide single-plane service. Consequently, we will at the outset prohibit the award of any new local traffic rights in the Minneapolis/St. Paul-Milwaukee market.

Finally, the applicants have not submitted sufficient information for us to determine the environmental consequences of their certificate amendment applications at this time. Therefore, we will require Delta, North Central, and Southern to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow these carriers, and all other carriers filing applications in this proceeding, 30 days from the date of adoption of this order to file their environmental evaluations.

Accordingly, it is ordered That: 1. The petition of the Memphis and Twin Cities Civic Parties to institute an investigation and their motion for hearing be and they hereby are granted;

2. A proceeding to be known as The Memphis-Twin Cities/Milwaukee Case, Docket 29186, be and hereby is instituted and shall be set down for hearing before an Administrative Law Judge of the Board at a time and place hereinafter designated, as the orderly administration of the Board's Docket permits;

3. The proceeding instituted in paragraph 2 above shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop air transportation between Memphis, Tennessee, on the one hand, and Milwaukee, Wisconsin and/or Minneapolis-St. Paul, Minnesota, on the other hand?

(b) If the answer to (a) is in the affirmative, which air carrier (s) should be authorized to engage in such service, and what conditions, if any, should be placed on the operations of such carrier(s)?

4. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

5. Insofar as they conform to the scope of the proceeding set forth in paragraph 3 above, the applications of North Central Airlines in Docket 27624, Delta Air Lines in Docket 27646, and Southern Airways in Docket 27648 be and they hereby are consolidated with the proceeding instituted by paragraph 2 above; to the extent not consolidated the foregoing applications be and they hereby are dismissed without prejudice;

6. Delta Air Lines, North Central Airlines, Southern Airways, and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days from the date of adoption of this order; [6] and

7. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within twenty (20) days from the service date of this order and answers thereto shall be filed no later than ten (10) days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.76-12925 Filed 5-3-76;8:45 am]

[2] The Civic Parties state that for all traffic flow in the total Memphis market, the ratio of total enplanements to true reported originations was 1.78 for the year ended December 31, 1973. Thus, they contend, in measuring the market strength of Memphis in relation to the Twin Cities where there is no existing one-carrier or one-plane service, the true traffic attained would be more accurately represented by 178% of the reported O&D.

[3] For the 12 months ended March 31, 1975, the number of passengers in the Twin Cities-Memphis market was 13,730 or about 38 per day. In the Milwaukee-Memphis market there were 9,040 passengers or about 25 per day.

[4] OAG, April 1, 1976.

[5] Order 76-1-102, January 27, 1976.

[6] To the extent the above-established procedure does not comply with Part 312 of the Board's Procedural Regulations, for those carriers requesting consolidation with this proceeding, we hereby waive the requirement of Part 312 that applications contain an environmental evaluation upon filing.

COMMISSION ON CIVIL RIGHTS

NEBRASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regula-

tions of the U.S. Commission on Civil Rights, that a planning meeting of the Nebraska Advisory Committee (SAC) to this Commission will convene at 2:00 p.m. and end at 6:00 p.m. on May 21, 1976, at the Guadalupe Center, 9th Street & 12th Avenue, Scottsbluff, Nebraska 69361.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, Old Federal Office Bldg., Rm. 3103, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting is to receive information regarding migrant conditions.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 3, 1976.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.76-13123 Filed 5-3-76;10:15 am]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Federal Employees Pay Council will meet at 2:00 p.m. on Wednesday, May 26, 1976. This meeting will be held in room 5323 of the U.S. Civil Service Commission building, 1900 E. Street NW., and will consist of continued discussions on future comparability adjustments for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

The Chairman of the U.S. Civil Service Commission is responsible for the making of determinations under section 10(d) of the Federal Advisory Committee Act as to whether or not meetings of the Federal Employees Pay Council shall be open to the public. He has determined that this meeting will consist of exchanges of opinions and information which, if written, would fall within exemptions (2) or (5) of 5 U.S.C. 552(b). Therefore, this meeting will not be open to the public.

For the President's Agent.

RICHARD H. HALL,
Advisory Committee Management Officer for the President's Agent.

[FR Doc.76-12848 Filed 5-3-76;8:45 am]

COMMISSION OF FINE ARTS

MEETING

APRIL 27, 1976.

The Commission on Fine Arts will meet on Tuesday, May 18, 1976, at 10:00 a.m. at its offices at 708 Jackson Place NW., Washington, D.C. 20006, to discuss various public projects affecting the appearance of the city of Washington, D.C. Inquiries regarding the agenda, or requests to present a written or verbal statement, should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

CHARLES H. ATHERTON,
Secretary.

[FR Doc.76-12882 Filed 5-3-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COLOMBIA

Adjusting Import Limits for Certain Cotton and Wool Textile Products

APRIL 28, 1976.

On July 3, 1975, there was published in the FEDERAL REGISTER (40 F.R. 28122) a letter dated June 30, 1975 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, implementing those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975, between the Governments of the United States and Colombia, which establish export limitations on certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia and exported to the United States during the twelve-month period which began on July 1, 1975. As set forth in that letter, the levels of restraint are subject to adjustment pursuant to paragraphs 5 and 7 of the bilateral agreement which provide that specific levels of restraint may be exceeded by designated percentages and that such levels may be increased for carryover and carryforward up to 11 percent of the applicable category limits.

Accordingly, at the request of the Government of Colombia and pursuant to the provisions of the bilateral agreement referred to above, there is published below a letter of April 28, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the levels of restraint applicable to cotton textile products in Categories 9/10 and 22/23 and wool textile products in Categories 120 and 121 for the twelve-month period which began on July 1, 1975.

Effective date: April 28, 1976.

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, Deputy Assistant Secretary for Resources and Trade Assistance U.S. Department of Commerce.

COMMISSIONER OF CUSTOMS
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: On June 30, 1975, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning July 1, 1975 and extending through June 30, 1976 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Colombia, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 30, 1973, pursuant to paragraphs 5 and 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975, between the Governments of the United States and Colombia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to amend, effective on April 28, 1976, the levels of restraint established for Categories 9/10, 22/23, 120 and 121 to the following amounts:

Category		Amended 12-month level of restraint[1]
9/10	square yards	7,986,000
22/23	do	13,310,000
120	numbers	145,950
121	do	93,656

[1] The levels of restraint have not been adjusted to reflect any entries made after June 30, 1975.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton and wool textile products from Colombia 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,

ALAN POLANSKY,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-12905 Filed 5-3-76;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

DOCTRINE OF PRIMARY JURISDICTION

Statement Concerning Referrals of Private Litigation

The 1974 amendments to the Commodity Exchange Act created the Commodity Futures Trading Commission and vested the Commission with exclusive jurisdiction to regulate commodity futures markets, commodity options and

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 28, 1975 between the Governments of the United States and Colombia 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 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.

certain transactions involving the sale of gold and silver on margin.[1] Since that time, a number of courts have invoked the doctrine of primary jurisdiction, thereby staying the progress of cases brought to obtain relief for injuries allegedly suffered as a result of violations of the Act. However, it is not apparent whether those cases involve issues that the Commission, rather than the courts, should pass upon. Since the effect of an inappropriate referral to the Commission may be to delay justice, the Commission considers it important to express its views concerning the application of the doctrine of primary jurisdiction to litigation arising under the Commodity Exchange Act.

The Commission recognizes that it is solely within the discretion of the court, in the first instance, to invoke the doctrine and stay any action pending an appropriate application to the Commission. It is, however, the Commission's responsibility to decide whether the issues raised by the referral are appropriate for Commission consideration, whether the Commission, under law, can afford a meaningful procedure for the resolution of those issues and whether in light of competing demands upon its resources, the issues raised present important questions of law or policy with could have a material effect on the Commission's administration of the Act.

The doctrine of primary jurisdiction applies when the disposition of an action instituted in the courts requires the resolution of some issues which, under a regulatory scheme, have been placed within the special competence of an administrative body. The need for regulatory uniformity, together with the necessity of applying administrative expertise to issues not within the conventional experience of judges, have formed the basis for the doctrine's application. Under the doctrine, the issues properly referred to administrative bodies include questions of policy involving, for example, regulated business practices in light of antitrust considerations. When the doctrine is invoked, the judicial process is suspended pending resolution of such issues by the administrative body.[2] Issues inappropriate for referral under the doctrine include questions of law and fact, which are within the normal competence of the courts to resolve. It is signifiant also that an agency may not have authority under law to conduct a form of proceeding that can afford a meaningful remedy to a complainant.

A significant issue of regulatory policy might be raised in private litigation that will warrant the Commission's time and attention. Such an issue might concern, for example, an apparent conflict between the antitrust laws and a course of business being pursued by a contract market in the exercise of self-regulatory responsibilities. Since the Act entrusts regulatory policy over this type of issue to the Commission,[3] and the resolution of this issue may be necessary before the court may reach a decision on the merits of the case, the Commission will generally accept referral of the antitrust issue in order to insure that the courts may proceed with the benefit of the Commission's policy determination.[4]

On the other hand, private litigation seeking damages for alleged violations of provisions of the Act will rarely, if ever, involve issues appropriate for review by the Commission under the doctrine of primary jurisdiction. The judicial resolution of a private fraud action, for example, requires only the application of specific statutory standards to the particular conduct alleged. The issues raised by a particular fraudulent scheme, however complicated, are entirely within the conventional ability of the courts to resolve and should therefore not occasion referral to the Commission.[5] If a court wishes the Commission to express its view on questions of law raised in litigation, it may request the Commission's participation as amicus curiae without unnecessary disruption or delay of the proceeding.

Issued in Washington, D.C. on April 28, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.76-12906 Filed 5-3-76;8:45 am]

[1] Section 2 of the Commodity Exchange Act, as amended, 7 U.S.C. § 2 (Supp. IV, 1974).

[2] United States v. Western Pacific Railroad Company, 352 U.S. 59, 64 (1956).

[3] See Section 15 of the Commodity Exchange Act, as amended, 7 U.S.C. § 19.

[4] Prior to the 1974 amendments to the Commodity Exchange Act the Supreme Court twice recognized the propriety of referring antitrust questions under that Act to the Commodity Exchange Commission, the predecessor of the Commodity Futures Trading Commission, the resolution of which could affect the court's disposition of an antitrust claim. See Chicago Mercantile Exchange v. Deaktor, 414 U.S. 113 (1973) and Ricci v. Chicago Mercantile Exchange, 409 U.S. 289 (1973). In those cases the Supreme Court held that antitrust actions were properly stayed to permit administrative consideration of the dispute under the Commodity Exchange Act. The petition for proceedings in *Deaktor* was accepted by the Commodity Exchange Commission, and a complaint was issued. A hearing has been scheduled by the Commodity Futures Trading Commission, which has taken jurisdiction of this matter under authority of Sections 411 and 412 of Pub. L. 93-463 (Oct. 23, 1974). The Commodity Exchange Commission, however, declined to institute the proceedings requested in Ricci.

The continued applicability of those decisions has no doubt been affected by the enactment in 1974 of Section 15 of the Commodity Exchange Act, which provides:

"The Commission shall take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of this Act, as well as the policies and purposes of this Act, in issuing any order or adopting any Commission rule or regulation, or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of this Act."

[5] Of course, in some cases, in which a party alleges injury as a result of a violation of the Act by an individual or entity registered with the Commission under the Act, he may elect either to pursue a reparation award under Section 14 of the Act, 7 U.S.C. § 18, or to seek relief in court. Since that election is available by law to the injured party, if the election is made (for whatever reason) to resolve the dispute in a court of law, it would be inappropriate for the court to refer the matter to the Commission under the doctrine of primary jurisdiction.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

TASK FORCE ON DEMONSTRATION PROJECTS AS A COMMERCIALIZATION INCENTIVE

Meeting

APRIL 30, 1976.

In accordance with provisions of P.L. 92-463 (Federal Advisory Committee Act), the Task Force on Demonstration Projects as a Commercialization Incentive will meet on Monday, May 17, 1976 in Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. The meeting will be open to the public and begin at 9:00 a.m. and end at approximately 4:00 p.m. The meeting is to be a working session concerned with preliminary report preparation.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements on the report preparation may do so by mailing 12 copies thereof, postmarked no later than May 13, 1976, to the Director, Office of Industry, State and Local Relations, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Comments shall be directly relevant to the report preparation. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Information as to whether the meeting has been rescheduled or relocated can be obtained by a prepaid telephone call on May 14, 1976, to the Office of Industry, State and Local Relations on (202) 376-4119 between 8:30 a.m. and 5:00 p.m., e.s.t.

(c) Questions at the meeting may be propounded only by members of the Task Force and ERDA officials assigned to participate with the Task Force in its deliberations.

(d) Seating to the public will be made available on a first-come, first-served basis.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the

meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Copies of minutes will be made available for copying, following their certification by the Chairman, in accordance with the Federal Advisory Committee Act, at the Energy Research and Development Administration's Public Document Room, 20 Massachusetts Avenue, NW., Washington, D.C. 20545, upon payment of all charges required by law.

HARRY L. PEEBLES,
Deputy Advisory Committee Management Officer.

[FR Doc.76-13060 Filed 5-3-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 532-6]

SCIENCE ADVISORY BOARD, NATIONAL AIR QUALITY CRITERIA ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a two-day meeting of the National Air Quality Criteria Advisory Committee of the Science Advisory Board will be held on May 20 and 21, 1976 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia. The meeting will start at 9:00 a.m. on May 20, 1976.

The purpose of the meeting will be to conclude the Committee's review of the six air quality criteria documents and to agree on a report and on recommendations to the Agency as intended by this review. The Agenda will also include a discussion of the need for stronger support of research on basic principles of interaction of air pollutants and living systems; and brief reports and informational items of current interest to the members.

It is anticipated that this will be the last meeting of the Committee.

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. May 17, 1976. Please ask for Mrs. Shirley Smith or Miss Mary Ann Igou.

The telephone number is (703) 557-7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

APRIL 27, 1976.

[FR Doc.76-12816 Filed 5-3-76;8:45 am]

[FRL 532-7]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held beginning at 9:00 a.m., May 21, 1976 in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

This meeting is the seventh meeting of the Ecology Advisory Committee. The agenda includes a report on the activities of the Science Advisory Board; consideration of the Committee's report, "Assessment of the Scientific Quality of the Ecological Research Programs of the Office of Research and Development"; response to the Ecology Advisory Committee's recommendations resulting from the scientific evaluation of the "Technical Bulletin on Acceptable Methods for the Utilization or Disposal of (Municipal) Sludges"; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J Frances Allen, Executive Secretary, Ecology Advisory Committee, (703) 557-7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

APRIL 27, 1976.

[FR Doc.76-12817 Filed 5-3-76;8:45 am]

[FRL 532-8]

SCIENCE ADVISORY BOARD, HAZARDOUS MATERIALS ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Hazardous Materials Advisory Committee will be held beginning at 9:00 a.m., May 19, 1976, in Room 1101, Administrator's Conference Room, Waterside Mall, West Tower, 401 M Street SW., Washington, D.C.

This meeting is a regularly scheduled meeting of the Committee. The agenda includes current activities of the Science Advisory Board, response to the Committee's recommendations on proposed prioritization methodology, response to Committee's recommendations resulting from the scientific evaluation of the Technical Bulletin Municipal Sludge Management: Environmental Factors, potential problems and future issues relative to hazardous materials, and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain additional information should contact Dr. J Frances Allen, Executive Secretary, Hazardous Materials Advisory Committee (703) 557-7720.

THOMAS D. BATH,
Staff Director,
Science Advisory Board.

APRIL 28, 1976.

[FR Doc.76-12818 Filed 5-3-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20789; File No. BR-4932; FCC 76-362]

CENTRAL WESTMORELAND BROACASTING CO.

Order

In re Application of: Verna M. Calisti and John K. Seremet d/b as CENTRAL WESTMORELAND BROADCASTING CO., Radio Station WBCW, Jeanette Pennsylvania, for renewal of License.

By the Commission: Commissioner Washburn absent.

1. The Commission has before it for consideration the above-captioned application and its inquiries into the operation of Station WBCW, Jeanette, Pennsylvania.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. Accordingly, it is ordered, That the captioned application is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine all the facts and circumstances surrounding the association and/or employment of Albert A. Calisti by WTRA Broadcasting Company, licensee of Station WTRA, Latrobe, Pennsylvania.

(b) To determine whether Verna M. Calisti, manager of WBCW and controlling partner of Central Westmoreland Broadcasting Company, or her husband, Albert A. Calisti, or both, have been lacking in candor with the Commission regarding the facts and circumstances of Albert A. Calisti's association and/or employment with Radio Station WTRA.

(c) To determine whether, and, if so, the extent to which the licensee of Station WBCW has operated in the past in contravention of the Commission's policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area.

(d) To determine whether a grant of the application of the Central Westmoreland Broadcasting Company would contravene the Commission policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area.

(e) To determine, in light of the evidence adduced under the preceding issues, whether the licensee of WBCW possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the cap-

tioned application would serve the public interest, convenience and necessity.

4. It is further ordered, That in view of the possible past contravention of the Commission's policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area, Albert A. Calisti and WTRA Broadcasting Company, licensee of Station WTRA, Latrobe, Pennsylvania, are made parties to this proceeding.

5. It is ordered, That the Chief of the Broadcast Bureau is directed to serve upon the captioned applicant and the Parties named in paragraph 4 above, within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a) through (d), inclusive.

6. It is further ordered, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) through (d), inclusive, and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of the application would serve the public interest, convenience and necessity.

7. It is further ordered, That the Chief Administrative Law Judge assign the same Administrative Law Judge to conduct this hearing who is assigned to conduct the hearing ordered this day to determine whether the licensee of Station WTRA possesses the requisite qualifications to be and remain a licensee of the Commission, and that the said Administrative Law Judge shall take cognizance, with respect to each proceeding, of any findings of fact in the other proceeding which bear upon the qualifications of the licensee in that proceeding.

8. It is further ordered, That to avail itself of the opportunity to be heard, the applicant, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this Order.

9. It is further ordered, That the applicant herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such Rule and shall advise the Commission thereof as required by Section 1.594(g) of the Rules.

10. It is further ordered, That the Secretary of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to Verna M. Calisti and John K. Seremet d/b as Central Westmoreland Broadcasting Company, licensee of Station WBCW Jeanette, Pennsylvania; to Albert A. Calisti; and to WTRA Broadcasting Company, licensee of Station WTRA, Latrobe, Pennsylvania.

Adopted: April 20, 1976.

Released: April 29, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.76-12901 Filed 5-3-76;8:45 am]

[Docket No. 20788; File No. BR-3337; FCC 76-363]

WTRA BROADCASTING CO.

Order and Notice of Apparent Liability

By the Commission: Commissioner Washburn absent.

In re Application of: WTRA Broadcasting Company, Radio Station WTRA, Latrobe, Pennsylvania, for renewal of license.

1. The Commission has before it for consideration the above-captioned application and its inquiries into the operation of Station WTRA, Latrobe, Pennsylvania.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain a licenee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. Accordingly, it is ordered, That the captioned application is designated for hearing pursuant to Section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether Radio Station WTRA employees were instructed by management or supervisory personnel to falsify entries in the station's operating logs;

(b) To determine whether the WTRA general manager made misrepresentations to the Commission regarding entries on WTRA's operating logs;

(c) To determine whether the president of the licensee corporation made misrepresentations concerning the purchase of technical equipment in a letter to the Commission dated July 18, 1975.

(d) To detrminee whether and, if so, the extent to which the licensee of WTRA failed to comply with the following sections of the Commission's Rules: 73.31, 73.46, 73.47, 73.55, 73.56, 73.67, 73.92, 73.93, 73.111, 73.112, 73.113, 73.114, 73.910, 73.932, and 73.1201;

(e) To determine whether the licensee of WTRA violated Sections 1.615 and 1.541 of the Commission's Rules after the death of Paul W. Mahady in October 1973, by failing to timely file with the Commission a supplemental Ownership Report (FCC Form 323) and an application for involuntary transfer of control of the licensee corporation (FCC Form 316);

(f) To determine whether the licensee of WTRA violated Section 1.615 of the Commission's Rules by failing to timely file with the Commission a supplemental Ownership Report (FCC Form 323) reflecting the appointment of John Maloy as an officer of the licensee corporation.

(g) To determine whether, in light of the evidence adduced under issues (d) through (f), WTRA Broadcasting Company has evidenced the requisite degree of responsibility expected of Commission licensees;

(h) To determine whether and, if so, to what extent the licensee of WTRA and/or its principals knew or should have known of the nature of Albert A. Calisti's and/or Verna M. Calisti's testimony in the Central Westmoreland Broadcasting Company proceeding, Docket No. 19042, regarding the facts and circumstances of Albert A. Calisti's association and/or employment with WTRA Broadcasting Company;

(i) To determine whether, in light of the evidence adduced under issue (h), the licensee possesses the requisite qualifications to be or to remain a licensee of the Commission;

(j) To determine whether and, if so, the extent to which the licensee of WTRA has operated in the past in contravention of the Commission policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area;

(k) To determine whether a grant of the captioned application of WTRA Broadcasting Company would contravene the Commission policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area;

(l) To determine whether, in light of the evidence adduced under the preceding issues, the licensee of WTRA possesses the requisite qualifications to be or to remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. It is further ordered, That if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license of Station WTRA, it shall also be determined whether the applicant has repeatedly or willfully violated the following Sections of the Commission's Rules and Regulations: Section 73.31, 73.46, 73.47, 73.55, 73.56, 73.67, 73.92, 73.93, 73.111, 73.112, 73.113, 73.114, 73.116, 73.910, 73.932, 73.1201 and Sections 1.541 and 1.615. If so, it shall also be determined whether an Order of Forfeiture pursuant to Section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or less should be issued for violations which occurred within one year preceding the issuance of the Bill of Particulars in this matter.

5. It is further ordered, That this document constitutes a Notice of Apparent Liability to WTRA Broadcasting Company for forfeiture for violations of the Commissions' Rules set out in paragraph

4 above. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of Section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since this procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

6. It is further ordered, That in view of the possible past contravention of the Commission's policy requiring divorcement of interests between stations in the same broadcast service and serving substantially the same area, Verna M. Calisti and John K. Seremet d/b as Central Westmoreland Broadcasting Company, licensee of Station WBCW, Jeanette, Pennsylvania, IS MADE A PARTY to this proceeding.

7. It is further ordered, That the Chief of the Broadcast Bureau is directed to serve upon the captioned applicant and the Party named in paragraph 6, above, within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a) through (k).

8. It is further ordered, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a) through (k) inclusive, and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee and that a grant of the application would serve the public interest, convenience and necessity.

9. It is further ordered, That the Chief Administrative Law Judge assign the same Administrative Law Judge to conduct this hearing who is assigned to conduct the hearing ordered this day to determine whether the licensee of Station WBCW possesses the requisite qualifications to be or to remain a licensee of the Commission, and that the said Administrative Law Judge shall take cognizance, with respect to each proceeding, of any findings of fact in the other proceeding which bear upon the qualifications of the licensee in that proceeding.

10. It is further ordered, That to avail itself of the opportunity to be heard, the applicant, pursuant to Section 1.221(c of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

11. It is further ordered, That the applicant herein, pursuant to Section 311 (a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such Rule and shall advise the Commission thereof as required by Section 1.594(g)of the Rules.

12. It is further ordered, That the Secretary of the Commission send a copy of this Order by Certified Mail—Return Receipt Requested to WTRA Broadcasting Company, licensee of Station WTRA, Latrobe, Pennsylvania, and to Verna M. Calisti and John K. Seremet d/b as Central Westmoreland Broadcasting Company, licensee of Station WBCW, Jeanette, Pennsylvania.

Adopted: April 20, 1976.

Released: April 29, 1976.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-12902 Filed 5-3-76;8:45 am]

[FCC 76-375]

COMMERCIAL RADIO OPERATORS

Temporary Authorization

APRIL 29, 1976.

The Commission has adopted a procedure whereby applicants who pass the written examination for any of the various classes of commercial radio operator licenses may be issued temporary authorization to operate ratio stations for a period of up to 60 days, pending the issuance of the license document. This procedure will become effective June 15, 1976.

The Commission's radio operator examination and licensing program is administered by the Field Operations Bureau's 29 field offices. License documents are normally issued within 7 to 10 days following the examination. However, delays sometimes occur in offices which experience unusual workloads or temporary personel shortages.

The Commission is aware that many applicants depend upon the issuance of the license to obtain employment and is also aware of the difficulty encountered by many small market broadcasters and other employers in obtaining qualified operators in their local communities. The issuance of a temporary authorization to applicants who pass the written examination should alleviate these hardships.

Action by the Commission April 27, 1976. Commissioners Wiley (Chairman), Lee, Reid, Hooks, Quello and Robinson.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLIN,
Secretary.

[FR Doc.76-12903 Filed 5-3-76;8:45 am]

BROADCAST BUREAU INTERNATIONAL SERVICE GROUPS (WARC-1979)

Schedule of Meetings

APRIL 29, 1976.

Pursuant to Public Law 92-463, notice is hereby given of the following meetings.

WARC-79 AM Broadcasting Service Group. Wednesday, May 19, 1979—10:30 AM to 1:00 PM, Room 6331—2025 "M" Street, N.W., Washington, D.C. Chairman: D. C. Everist, FCC Liaison: Dennis Williams.

The Agenda for the meeting is as follows:

1. Call to order by the Chairman.
2. Approval of the Minutes of the April 21, 1976 meeting.
3. Review of requested allocation space.
4. Review of recommendation for criteria for worldwide coverage in interference.
5. Review of ITU regulations.
6. Other matters for consideration.
7. Setting next meeting date and adjournment.

The above meeting is open to broadcast industry representatives and interested members of the public. Individuals wishing to present oral or written statements at the meeting should consult with the respective committee chairman before the meeting commences.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.76-12904 Filed 5-3-76;8:45 am]

FEDERAL MARITIME COMMISSION

DELTA STEAMSHIP LINES, INC. AND FLOTA MERCANTE GRAN CENTRO-AMERICANA S.A.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 24, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or dertiment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notices of Agreement Filed by:

Donald Macleay, Esquire, Macleay, Lynch, Bernhard & Gregg, Commonwealth Building, 1625 K Street, N.W., Washington, D.C. 20006.

Agreement No. 10234, between Delta Steamship Lines, Inc. and Flota Mercante Gran Centroamericana S.A., is a cargo revenue pooling, sailing and equal access to government-controlled cargo agreement in the trades from ports in the range between Key West, Florida, and Brownsville, Texas, to ports on the Atlantic Coast of Guatemala.

By Order of the Federal Maritime Commission.

Dated: April 29, 1976.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-12928 Filed 5-3-76;8:45 am]

FEDERAL RESERVE SYSTEM

ALPINE BANCORPORATION, INC.

Formation of Bank Holding Company

Alpine Bank Corporation, Inc., Belvidere, Illinois, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Alpine State Bank, Rockford, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 24, 1976.

Board of Governors of the Federal Reserve System, April 26, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-12915 Filed 5-3-76;8:45 am]

STARBUCK BANCSHARES, INC.

Order Denying Formation of Bank Holding Company

Starbuck Bancshares, Inc., Starbuck, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842 (a)(1)) of formation of a bank holding company through acquisition of 80 per cent or more of the voting shares of The First National Bank of Starbuck, Starbuck, Minnesota ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by the Comptroller of the Currency, in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a nonoperating corporation organized under the laws of Minnesota for the purpose of becoming a bank holding company through the acquisition of Bank. Upon acquisition of Bank, Applicant would hold .07 per cent of the total deposits in commercial banks in that State. Bank, with deposits of approximately $10.2 million,[1] is the fifth largest of twelve commercial banks in the relevant banking market [2] and holds 9.5 per cent of total deposits in commercial banks in the market. Inasmuch as this proposal represents essentially a reorganization of existing ownership interests, the acquisition of Bank by Applicant would not have any significantly adverse effect upon either existing or potential competition within the relevant market.

The Board has indicated on previous occasions that it believes that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s), and that the Board will closely examine the condition of an applicant in each case with this consideration in mind. While the Board considers the managerial resources of Applicant and Bank to be generally satisfactory, the Board notes that Applicant would incur a sizable debt in connection with the proposed acquisition. Applicant proposes to service this debt over a 12-year period through dividends to be declared by Bank and the tax benefit to be derived from filing consolidated tax returns. It appears that dividends by Bank necessary to enable Applicant to service this debt would impede growth of Bank's capital through its retention of its earnings. The reliability of Applicant's projections of Bank's deposit and earnings growth, which bear on Bank's future capital needs, is of considerable importance. However, the financial projections submitted by Applicant are not supported by Bank's growth record. Bank's earnings have, since 1970, been markedly lower as a percentage of deposits than those projected for Bank by Applicant for the period of debt retirement and, in view of the absence of any management changes proposed by Applicant, it does not appear that the increased earnings of Bank projected by Applicant will be realized.[3] Bank has experienced substantial deposit growth since 1970, without commensurate capital growth,[4] due to lagging earnings. Applicant projects a decline in deposit growth during the debt servicing period. As in the case of its projections of increased earnings for Bank, Applicant's projection of a slowing of Bank's deposit growth appears unrealistic in the light of actual experience.[5]

In concluding that Applicant's debt servicing requirement would constitute an undue strain on Bank's capital, the Board has not disregarded certain commitments made by Applicant's principal. In connection with this application, the principal of Applicant has committed to contribute the commission income earned during the debt amortization period by his individually-owned insurance agency directly to Bank. While these contributions would provide some assistance, it is the Board's view that they would not significantly lighten the proposed debt burden of Applicant. Applicant's principal has also indicated that, if Bank's capital ratios decline to unacceptable levels, either he or Applicant would inject capital into Bank. The Board notes, however, that Applicant's principal would borrow the funds to make such capital injections. Such borrowing would increase the demands on Bank's earnings, thus counteracting to a significant extent the benefits of any capital contributions by Applicant's principal. In the Board's view, besides straining Bank's capital adequacy, the debt servicing obligation to be incurred by Applicant would significantly limit Applicant's ability to meet unforeseen financial problems that might arise. Accordingly, the Board views the debt to be incurred by Applicant in connection with this application as a significantly adverse factor in the consideration of the subject proposal and finds that the considerations relating to financial resources and future prospects weigh against approval of the application.

As indicated above, the proposed formation essentially involves the reorganization of the ownership interests of Bank. No significant changes in Bank's operations or in the services offered to customers of Bank are anticipated. The Board notes that Bank has maintained a low level of risk assets by maintaining a relatively low loan to deposit ratio as compared to banks located in neighboring communities. That ratio has declined since 1971 and is now approximately 30 percent. There is no indication that Applicant intends to increase significantly Bank's lending in future years. Indeed, in light of the effect of the proposed debt servicing requirement on

[1] All banking data are as of June 30, 1975.

[2] The relevant banking market is approximated by most of Swift and Pope Counties, as well as the extreme northern portion of Chippewa County.

[3] Applicant has projected that Bank's earnings as a percentage of deposits will be .65 percent while over the last five years that ratio has averaged .53 percent. Bank experienced a significant increase in income in 1975. However, this increase appears attributable to Bank's change from cash basis accounting to accrual basis accounting.

[4] Bank's capital-to-assets ratio is below the average ratio for similar-sized banks in the area, and it appears that this will continue to be the case in future years.

[5] Applicant has projected that Bank's deposits will grow at a rate of from 7 to 9 percent annually over the amortization period. The Board notes, however, that Bank's deposits have grown at an average rate of 14 percent annually in recent years. Moreover, Bank's total deposits at year-end 1975 (which figures became available only after the application was submitted) were only slightly below what Applicant projected in its application for year-end 1976.

It should be noted that projections for later years are inherently less reliable than those for early years and, accordingly, the Board must stress the more meaningful early years in its analysis of the financial prospects of an applicant. In this application less than 5 percent of the acquisition debt is projected to be paid in the first four years.

Bank's capital, it does not appear that Bank could, consistent with the maintenance of sound capital ratios, expand its lending to meet the credit needs of its community. Consequently, considerations relating to the convenience and needs of the community to be served lend no weight toward approval of the application.

On the basis of the circumstances concerning this application, the Board concludes that the banking considerations involved in this proposal present adverse factors bearing upon the financial condition and future prospects of both Applicant and Bank. Such adverse factors are not outweighted by any procompetitive effects, managerial resources, or by benefits that would result in serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.[6]

On the basis of the facts of record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[7] effective April 26, 1976.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-12916 Filed 5-3-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

Automated Data and Telecommunications Service

ADP PROCUREMENT

Notice of Meeting

Notice is hereby given that the General Services Administration and the National Bureau of Standards will sponsor a public Workshop on Remote Terminal Emulation to be held on Wednesday, September 8, 1976, from 8:30 a.m.–4:30 p.m. and on Thursday, September 9, 1976, from 9:00 a.m.–3:30 p.m. at the National Bureau of Standards facilities in Gaithersburg, Maryland.

Background: Current and projected data processing requirements of many Federal Government organizations necessitate the procurement of teleprocessing (i.e., integrated computer and data communications) components, systems, and services. Remote terminal emulation is a new approach to teleprocessing performance validation. This approach uses a "driver"—an external computer system—to provide a test workload to the ADP system under test. The General Services Administration, Automated Data and Telecommunications Service (GSA/ADTS) has begun a program to incorporate the use of remote terminal emulation in the Federal ADP procurement process. The National Bureau of Standards, Institute for Computer Sciences and Technology (NBS/ICST), is assisting GSA in the program by providing technical advisory services.

Purpose of meeting. As an integral part of the program, GSA and NBS are jointly sponsoring a Public Workshop on Remote Terminal Emulation. The workshop will serve as a forum for presenting interim results of the emulation program and as a sounding board for the solicitation of private sector inputs on remote terminal emulation as it applies to ADP procurement. The workshop is open to the public. Public attendance may be limited, depending upon available space.

Individuals and organizations with significant experience in the use of teleprocessing performance evaluation techniques including, but not limited to, remote terminal emulation in ADP procurement are invited to contact GSA. Requests for additional information pertaining to the remote terminal emulation program and the workshop should be addressed to:

General Services Administration (CS), Washington, DC 20405, ATTN: Mr. Gerald W. Findley, Director, Special Projects Staff, Telephone (202) 343-6976.

Dated: April 27, 1976.

T. D. PUCKORIUS,
Commissioner, ADTS.

[FR Doc.76-12823 Filed 5-3-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 76-37]

ADVISORY BOARD ON AIRCRAFT FUEL CONSERVATION TECHNOLOGY

Meeting

MAY 24, 1976.

The Advisory Board on Aircraft Fuel Conservation Technology will meet on May 24, 1976, at NASA Headquarters, Washington, D.C. 20546. The meeting will be held in Room 625 of Federal Office Building 10B, 600 Independence Avenue, SW. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room which is about 40 persons. All visitors must sign in prior to attending the meeting.

The Advisory Board on Aircraft Fuel Conservation Technology serves in an advisory capacity. Its Chairman is Dr. Raymond L. Bisplinghoff, and there are 13 members. The following list sets forth the approved agenda and schedule for the meeting of this Advisory Board on May 24, 1976. For further information, please contact the Executive Secretary, Dr. James J. Kramer, Area Code 202, 755-2403.

MAY 24, 1976

Time	*Topic*
9 a.m.	Remarks by the Chairman (Purpose: To review the recommendations and endorsement of the Advisory Board for the technology programs identified in the Task Force Report on Aircraft Fuel Conservation Technology.)
9:10 a.m.	Remarks by the Associate Administrator for Aeronautics and Space Technology (Purpose: To outline the actions taken since the last Board meeting on the Aircraft Fuel Conseravtion Technology Plan and its incorporation into NASA's Aircraft Energy Efficiency Program.)
9:20 a.m.	Report by the Executive Secretary (Purpose: To present the budgetary status of the Aircraft Energy Efficiency Program with the Office of Management and Budget and with the Congress.)
9:40 a.m.	Report by the Lewis Research Center (Purpose: To present project plans and implementation status on the propulsion elements of the Aircraft Energy Efficiency Program.)
10:45 a.m.	Report by the Langley Research Center (Purpose: To present project plans and implementation status on the composite structures, aerodynamics, and active controls elements of the Aircraft Energy Efficiency Program.)
1:00 p.m.	Report by the Executive Secretary (Purpose: To present NASA's plans for follow-on and new programs in the area of Aircraft Energy Efficiency/Conventional Takeoff and Landing.)
2 p.m.	Advisory Board Discussion (Purpose: To evaluate the implementation plans for the Aircraft Energy Efficiency Program and to review NASA's plans for follow-on and new programs in the area of Aircraft Energy Efficiency/Conventional Takeoff and Landing.)
3:30 p.m.	Chairman's Report (Purpose: To present the consensus views and recommendations of the Board on NASA's current and future programs in the area of Aircraft Energy Efficiency/Conventional Takeoff and Landing.)
4:30 p.m.	Adjournment

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

APRIL 27, 1976.

[FR Doc.76-12868 Filed 5-3-76;8:45 am]

[6] While the Board recognizes that denial of the application will not necessarily affect immediately the control of Bank, the Board cannot sanction the use of a holding company structure that, because of limited financial resources, could impair the financial condition of the bank to be acquired; nor would the public interest be served by such Board action.

[7] Voting for this action: Chairman Burns and Governors Gardner, Holland, Wallich, Coldwell, Jackson, and Partee.

NATIONAL SCIENCE FOUNDATION

ADVISORY GROUP REPORTS

Availability

The National Science Foundation has filed with the Library of Congress reports of those advisory groups which held any closed or partially closed meetings in 1975. The reports were filed in accordance with the Federal Advisory Committee Act, P.L. 92–463, and are available for public inspection and use at the Library of Congress, Rare Book Division, Rm. 256, Washington, D.C. In addition, copies of the reports may be obtained by writing the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Washington, D.C. 20550. The names of the groups submitting reports are:

Ad Hoc Advisory Committee on the Sacramento Peak Observatory
Ad Hoc Advisory Group on Science Programs
Advisory Committee on Ethical & Human Value Implications in Science and Technology
Advisory Committee for Research
Advisory Panel for Anthropology
Advisory Panel for Chemistry
Advisory Panel for Developmental Biology
Advisory Panel for Earth Sciences
Advisory Panel for Economics
Advisory Panel for Environmental Biology
Advisory Panel Genetic Biology
Advisory Panel History & Philosophy of Science
Advisory Panel for Human Cell Biology
Advisory Panel for Metalobic Biology
Advisory Panel for Molecular Biology
Advisory Panel for Neurobiology
Advisory Panel for Oceanography
Advisory Panel for Physics
Advisory Panel for Political Science
Advisory Panel for Psychobiology
Advisory Panel for Regulatory Biology
Advisory Panel for Science Education Projects (12 Subpanel Reports)
Advisory Panel for Social Psychology
Advisory Panel for Sociology
Advisory Panel for Systematic Biology
Advisory Panel for Weather Modification
Advisory Panel on the Materials Research Laboratories
IDOE Proposal Review Panel
National Magnet Laboratory Visiting Committee
Joint Advisory Panel for Neurobiology and Psychobiology

FRED K. MURAKAMI,
Committee Management Officer.

APRIL 29, 1976.

[FR Doc.76–12895 Filed 5–3–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12381; SR–AMEX–76–3]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

APRIL 27, 1976.

In the Matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006 (SR–AMEX–76–3).

On January 26, 1975, the American Stock Exchange, Inc. (the "AMEX") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975 (the "Act"), and Rule 19b–4 thereunder, copies of a proposed rule change. The AMEX proposal would amend Rule 205 to prohibit the imposition of any differential on the following types of odd-lot orders: buy on offer, sell on bid, limited order to buy on offer, limited order to sell on bid, and orders filled at the opening.

Notice of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 12047 (January 27, 1976)), and notice of the proposed rule change together with the terms of substance of the rule change was given by publication in the FEDERAL REGISTER (40 FR 5161 (February 4, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 27, 1976.

[FR Doc.76–12873 Filed 5–3–76;8:45 am]

[Rel. No. 9265, 811–1237]

CHECCHI-PACIFIC CORP.

Filing of Application

APRIL 28, 1976.

In the matter of Checchi-Pacific Corporation, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036 (811–1237).

Notice is hereby given that Checchi and Company ("Checchi"), a Delaware Corporation primarily engaged, directly and through a wholly-owned subsidiary, in the consulting and tire business, filed an application on April 20, 1976, pursuant to Section 8(f) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission declaring that Checchi-Pacific Corporation ("Checchi-Pacific"), a registered closed-end, non-diversified, management investment company and a former wholly-owned subsidiary of Checchi that has been merged into Checchi, has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Checchi-Pacific, a Delaware corporation, registered under the Act on October 16, 1963. The shareholders of Checchi, at a special meeting held on October 30, 1975, approved the merger of Checchi-Pacific into Checchi. On December 24, 1975, Checchi filed a Certificate of Merger with the Secretary of State of Delaware and on December 28, 1975. Checchi-Pacific's existence was terminated by consummation of the merger transaction, and without formal dissolution, pursuant to the General Corporation Law of Delaware.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect 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 May 24, 1976, 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 reasons 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 shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Checchi at the address 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 O–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following May 24, 1976, 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76–12908 Filed 5–3–76;8:45 am]

[Release No. 12380; SR–MSE–76–2]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

APRIL 27, 1976.

In the Matter of Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Illinois 60603 (SR–MSE–76–2).

On January 26, 1976, the Midwest Stock Exchange, Inc. (the "MSE") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934, as amended by the Securities Acts Amendments of 1975 (the "Act"), and Rule 19b–4 thereunder, copies of a proposed rule change. The MSE proposal would amend Rule 1 of

Article XXV of the MSE Rules to prohibit the imposition of any odd-lot differential on odd-lot market orders received before the opening of trading for execution at the opening of trading.

Notice of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 12051 (January 27, 1976)), and notice of the proposed rule change together with the terms of substance of the rule change was given by publication in the FEDERAL REGISTER (40 FR 4986 (February 3, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 27, 1976.

[FR Doc.76-12874 Filed 5-3-76;8:45 am]

[Release No. 34-12365; File No. SR-MSE-76-4]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations

In the matter of Margin Rules Proposed Rule Change By Midwest Stock Exchange, Incorporated.

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 March 22, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

TEXT OF RULE AMENDMENTS

ARTICLE XIX

MARGINS

Meeting Margin Calls by Liquidation Prohibited

Rule 1. No [member or] member organization shall permit a customer to make a practice of effecting transactions requiring initial or additional margin or full cash payment and then furnishing such margin or making such full cash payment by liquidation of the same or other commitments, except that the provisions of this Rule shall not apply to any account maintained for another broker or dealer in which are carried only the commitments of customers of such other broker or dealer, exclusive of the partners, *stockholders,* officers and directors of such other broker or dealer, provided such other broker or dealer (1) is a [member or] member organization of the Exchange, or (2) has agreed in good faith with the [member or] member organization carrying the account that he will maintain a record equivalent to that referred to hereinafter in this Article, or (3) is not subject to the regulations of the Board of Governors of the Federal Reserve System.

Record of Margin Calls and Receipt of Margin

Rule 2. Each [member or] member organization carrying margin accounts for customers shall make each day a record of every case in which, pursuant to the Rules of the Exchange or regulations of the Board of Governors of the Federal Reserve System, initial or additional margin must be obtained in a customer's account because of the transactions effected in such account on such day. Such record shall be preserved for at least 12 months and shall show for each account the amount of margin so required and the time and manner in which such margin is furnished or obtained. Such record shall be in a form approved by the Exchange and shall contain such additional information as the Exchange may from time-to-time prescribe. The Exchange may exempt any [member or] member organization who is a [member or] member organization of another national securities exchange having a comparable rule with which such [member or] member organization complies.

Initial Margin Rule

Rule 3. (a) *For the purpose of effecting new securities transactions and commitments, the margin required shall be an amount equivalent to the requirements of paragraph (b) of this Rule, or such greater amount as the Exchange may from time-to-time require for specific securities, with a minimum equity in the account of at least $2,000 except that cash need not be deposited in excess of the cost of any security purchased. The foregoing minimum equity and cost of purchase provisions shall not apply to "when distributed" securities in cash accounts and the exercise of rights to subscribe.*

For the purpose of this Rule, the term customer shall include any person or entity for whom securities are purchased or sold or to whom securities are sold or from whom securities are purchased whether on a regular way, when issued, delayed or future delivery basis. It will also include any person or entity for whom securities are held or carried. The term will not include a broker or dealer from whom a security has been purchased or to whom a security has been sold for the account of the member organization or its customers.

Withdrawals of cash or securities may be made from any account which has a debit balance, "short" position, or commitments, provided that after such withdrawal the equity in the account is at least the greater of $2,000 or the amount required by the maintenance requirement of this Rule.

Maintenance Margin Rule

(b) The margin which must be maintained in margin accounts of customers, whether members, member organizations or non-members, shall be as follows:

(1) 25% of the market value of all securities "long" in the account; plus

(2) $2.50 per share or 100% of the market value in cash, whichever amount is greater, of each stock "short" in the acount selling at less than $5.00 per share; plus

(3) $5.00 per share or 30% of the market value, in cash, whichever amount is greater, of each stock "short" in the account selling at $5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the market value, in cash, whichever amount is greater, of each bond "short" in the account.

Exceptions to rule

(c) The foregoing requirements of this Rule are subject to the following exceptions:

(1) "Long" and "Short" Postions in Exchangeable or Convertible Securities.—When a security in a "long" position is exchangeable or convertible within a reasonable time, without restriction other than the payment of money, into a security carried in a "short" position for the same customer, the minimum margin on such positions shall be 10% of the market value of the "long" securities. In determining such margin requirement "short" positions shall be marked to the market.

(2) Exempted Securities.

(A) Positions in United States Government Obligations.—The minimum margin on any positions in obligations issued or unconditionally guaranteed as to principal or interest by the United States Government shall be 5% of the principal amount of such obligations, unless the Exchange, upon written application to the Department of Member Firms, grants a lower requirement in the case of a particular issue.

(B) Positions in "Exempted Securities" Other Than Obligations of the United States Government.—The minimum margin on any positions in such obligations shall be 15% of the principal amount of such obligations or 25% of the market value, whichever amount is lower, unless the Exchange, upon written application to the Department of Member Firms, grants a lower requirement in the case of a particular issue.

(The term "exempted securities" has the meaning given it in section 2(g) of Regulation T of the Board of Directors of the Federal Reserve System.)

(C) Cash Transactions with Customers.—Special Provisions.—When a customer purchases an issued "exempted" security from or through a member organization, in a cash account, full payment shall be made promptly. If, however, delivery or payment therefor is not made promptly after the trade date, a deposit shall be required as if it were a margin transaction, unless it is a transaction with a bank, trust company, insurance company, investment trust or charitable or non-profit educational institution.

In connection with any net position resulting from any transaction issued "exempted" securities made for a member organization, or a non-member broker/dealer, or made for or with a bank, trust company, insurance company, investment trust or charitable or non-profit educational institution, no margin need be required and such net position need not be marked to market. However, where such net position is not marked to the market, an amount equal to the loss at the market in such position shall be considered as cash required to provide margin in the computation of the Net Capital of the member organization under the Exchange's Capital Requirements.

(3) Joint Accounts in which the Carrying Organization or a Partner or Stockholder Therein Has an Interest.—In the case of a joint account carried by a member organization, in which such organization, or any partner, member, or any stockholder (other than a holder of freely transferable stock only) of such member organization participate with others, the interest of each participant other than the carrying member organization shall be margined by each such participant pursuant to the provisions of the Rule as if such interest were in a separate account.

The Exchange will consider requests for exemption from the provisions of this paragraph provided

(A) the account is confined exclusively to transactions and positions in exempted securities, as defined in Section 2(g) of Regula-

tion T of the Board of Directors of the Federal Reserve System; or

(B) the account is maintained as a Special Miscellaneous Account conforming to the conditions of Section 4(f)(4) of Regulation T of the Board of Directors of the Federal Reserve System; or

In the case of an account conforming to the conditions described in clause (C), the application should also include the following information as of the date of the request:

(a) Complete description of the security;

(b) Cost price, offering price and principal amount of obligations which have been purchased or may be required to be purchased;

(c) Date on which the security is to be purchased or on which there will be a contingent commitment to purchase the security;

(d) approximate aggregate indebtedness;

(e) approximate net capital; and

(f) approximate total market value of all readily marketable securities (i) exempted, and (ii) non-exempted, held in organization accounts, partners' capital accounts, partners' individual accounts covered by approved agreements providing for their inclusion as partnership property, accounts covered by subordination agreements approved by the Exchange and customers' accounts in deficit.

(C) the account is maintained as a Special Miscellaneous Account conforming to the conditions of Section 4(f)(5) of Regulation T of the Board of Directors of the Federal Reserve System and is confined exclusively to transactions and positions in (i) serial equipment trust certificates, or (ii) interest-bearing obligations which are the subject of a primary distribution and which are covered by the first four ratings of any nationally known statistical service and each other participant margins his share of such account on such basis as the Exchange may prescribe.

Requests for exemption from the provisions of this section should be submitted in writing to the Department of Member Firms and, in addition to indicating the names and interests of the respective participants in the joint account, should contain a statement that the conditions in Paragraphs (A), (B), (C)(i) or (C)(ii) actually obtain.

(4) Offsetting "Long" and "Short" Positions in the Same Security.—No margin shall be required on either position if delivery has been made by the use of the "long" securities. Otherwise the minimum margin shall be 10% of the market value of the "long" securities. In determining such margin requirement "short" positions shall be marked to the market.

(5) International Arbitrage Accounts.—International arbitrage accounts for non-member foreign correspondents who are registered with and approved by the Exchange shall not be subject to this Rule. In computing, under the Exchange's Capital Requirements, the Net Capital of any member organization carrying such an account which is not margined in accordance with the maintenance requirements hereof, the Exchange will consider as a debit item any difference between the minimum amount of margin computed in accordance with those requirements and the margin in such account.

(6) Specialists' Accounts.—(A) The account of a member in which are effected only transactions in securities in which he is registered and acts as a specialist may be carried upon a margin basis which is satisfactory to the specialist and the member organization. The amount of any deficiency between the margin deposited by the specialist and the margin required by the other provisions of this Rule shall be considered as a debit item in the computation of the Net Capital of the member organization under the Exchange's Capital Requirements.

(B) In the case of joint accounts carried by member organizations for specialists, in which the member organizations participate, the margin deposited by the other participants may be in any amount which is mutually satisfactory. The amount of any deficiency between the amount deposited by the other participant, or participants, based upon their proportionate share of the margin required by the other provisions of this Rule, shall be considered as a debit item in the computation of the Net Capital of the member organization under the Exchange's Capital Requirements.

(d) (1) Determination of Value for Margin Purposes.—Active securities dealt in on a recognized exchange shall, for margin purposes, be valued at current market prices. Other securities shall be valued conservatively in the light of current market prices and the amount which might be realized upon liquidation. Substantial additional margin must be required in all cases where the securities carried are subject to unusually rapid or violent changes in value, or do not have an active market on a recognized exchange, or where the amount carried is such that it cannot be liquidated promptly.

(2) Puts, Calls and Other Options.—(A) Except as provided below, no put or call carried for a customer shall be considered of any value for the purpose of computing the margin required in the account of such customer.

(B) The issuance, guarantee or sale (other than a "long" sale) for a customer of a put or a call shall be considered as a security transaction subject to paragraph (d) of this Rule.

(C) The minimum margin on any put or call issued, guaranteed or carried "short" in a customer's account shall be:

(i) In the case of puts and calls traded in the over-the-counter market, 50% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market price of the underlying security, in the case of a call, or any excess of the current market price of the underlying security over the exercise price, in the case of a put; or

(ii) In the case of puts and calls listed or traded on a registered national securities exchange, 30% of the market value of the equivalent number of shares of the underlying security, increased by any unrealized loss or reduced by any excess of the exercise price over the current market price of the underlying security, in the case of a call, or any excess of the current market price of the underlying security over the exercise price, in the case of a put.

Notwithstanding the foregoing, the minimum margin on any and each put or call issued, guaranteed or carried "short" in a customer's account shall be not less than $250.

(D) Each such put or call shall be margined separately and any difference between the market price of the underlying security and the exercise price of a put or call shall be considered to be of value only in providing the amount of margin required on that particular put or call. Substantial additional margin must be required on options issued, guaranteed or carried "short" with an unusually long period of time to expiration (generally, more than six months and ten days) or written on securities which are subject to unusually rapid or violent changes in value, or which do not have an active market, or which the securities subject to the option cannot be liquidated promptly.

(E) If both a put and call for the same number of shares of the same security are issued, guaranteed or carried "short" for a customer, the amount of margin required shall be the margin on the put or call whichever is greater except that (i) both the put and the call shall each be subject to a minimum requirement of $250 and (ii) if there is unrealized loss on both the put and the call, the amount of margin required shall be not less than the combined unrealized loss of both the put and the call.

(F) Where a call that is listed or traded on a registered national securities exchange is carried "long" for a customer's account and the account is also "short" a call listed or traded on a registered national securities exchange, expiring on or before the date of expiration of the "long" listed call and, written on the same number of shares of the same security, the margin required on the "short" call shall be the lower of (i) the margin required pursuant to (c)(ii) above or (ii) the amount, if any, by which the exercise price of the "long" call exceeds the exercise price of the "short" call.

(G) Where a call is issued, guaranteed or carried "short" against an existing net "long" position in the security under option or in any security exchangeable or convertible within a reasonable time without restriction other than the payment of money into the security under option, no margin need be required on the call, provided such net "long" position is adequately margined in accordance with this rule except that where a call is issued, guaranteed or carried "short" against a net "long" position in an exchangeable or convertible security, as outlined above, margin shall be required on the call equal to any amount by which the conversion price of the "long" security exceeds the exercise price of the call. Where a put is issued, guaranteed or carried "short" against an existing net "short" position in the security under option, no margin need be required on the put, provided such net "short" position is adequately margined in accordance with this Rule. In determining net "long" and net "short" positions, offsetting "long" and "short" positions in exchangeable or convertable securities or in the same security, as discussed in Paragraphs (c)(1) and (c)(4) of this Rule, shall be deducted. In computing margin on such an existing net stock position carried against a put or call, the current market price to be used shall not be greater than the call price in the case of a call or less than the put price in the case of a put.

(H) When a member, or member organization issues or guarantees an option to receive or deliver securities for a customer, such option shall be margined as if it were a put or call.

(I) Notwithstanding the other provisions of this Paragraph (d)(2), a member organization may clear and carry the listed option transactions of one or more registered specialist(s), registered market-marker(s) or registered trader(s) in options, subject to the requirements prescribed by another national securities exchange of which it is a member and on which such registered specialist(s), registered market-maker(s) or registered trader(s) is so registered, provided the prior written approval of the Exchange is obtained.

No member organization may, however, clear and carry the listed option transactions of such registered specialists, registered market-makers or registered traders subject to the requirements of such other exchange if application of the other provisions of paragraph (d)(2) creates, in the aggregate for all such business cleared and carried, a "cash margin deficiency" which exceeds a percentage of such member organization's excess net capital as prescribed from time-to-time by the Exchange.

The Exchange may at any time and, from time-to-time, require proof of compliance with this provision.

(3) *"When Issued" and "When Distributed" Securities.*

(A) *Margin Accounts.*

The minimum amount of margin on any transaction or net position in each "when issued" security shall be the same as if such security were issued.

Each position in a "when issued" security shall be margined separately and any unrealized profit shall be of value only in providing the amount of margin on that particular position.

When an account has a "short" position in a "when issued" security and there are held in the account securities in respect of which the "when issued" security may be issued, such "short" position shall be marked to the market and the balance in the account shall for the purpose of this Rule be adjusted for any unrealized loss in such "short" position.

(B) *Cash Acounts.*

In connection with any transaction or net position resulting from contracts for a "when issued" security in an account other than that of a member organization, nonmember broker or dealer, bank, trust company, insurance company, investment trust, or charitable or non-profit educational institution, deposits shall be required equal to the margin required were such transaction or position in a margin account.

In connection with any net position resulting from contracts for a "when issued" security made for or with a non-member broker or dealer, no margin need be required, but such net position must be marked to the market.

In connection with any net position resulting from contracts for "when issued" security made for a member organization or for or with a bank, trust company, insurance company, investment trust, or charitable or non-profit educational institution, no margin need be required and such net position need not be marked to the market. However, where such net position is not marked to the market, an amount equal to the loss at the market in such position shall be considered as cash required to provide margin in the computation of the Net Capital of the member organization under the Exchange's Capital Requirements.

The provisions of this sub-paragraph shall not apply to any position resulting from contracts on a "when issued" basis in a security.

(i) *which is the subject of a primary distribution in connection with a bona fide offering by the issuer to the general public for "cash", or*

(ii) *which is exempt by the Exchange as involving a primary distribution.*

The term "when issued" as used herein also means "when distributed."

(4) *Transactions and positions in "conditional rights to subscribe."—For the purposes of the initial and maintenance margin requirements of this Rule, no value shall be given to any "long" position in "conditional rights to subscribe," until such time as the conditions relating to the effectiveness of the rights to subscribe are met.*

The proceeds of sales of "conditional rights to subscribe" in margin accounts may not be given consideration in computing the margin required by the Rule, nor may the proceeds of the sale be withdrawn, until the conditions relating to th effectiveness of the rights to subscribe are met. (Note: A subsequent withdrawal may be made only if the withdrawal is permissible at the time of the withdrawal.)

The proceeds of sales of "conditional rights to subscribe" in cash accounts may not be withdrawn, or given consideration for other transactions, until the conditions relating to the effectiveness of the rights to subscribe are met.

A member organization shall obtain from a customer additional funds or collateral to "mark to the market" any loss resulting from a sale of "conditional rights to subscribe" when the securities, on which the "conditional rights to subscribe" accrue, are not registered in the name of the organization carrying the account, or its nominee, and the "conditional rights to subscribe" are not in the organization's possession.

Funds or securities deposited as "marks to market" are not to be considered when determining the status of a customer's margin or cash account from the standpoint of this Rule.

(5) *Guaranteed Accounts.—Any account guaranteed by another account may be consolidated with such other account and the required margin may be determined on the net position of both accounts, provided the guarantee is in writing and permits the member organization carrying the account, without restriction, to use the money and securities in the guaranteeing account to carry the guaranteed account or to pay any deficit therein; and provided further that such guaranteeing account is not owned directly or indirectly by (a) a partner, member, or any stockholder (other than a holder of freely transferable stock only) in the organization carrying such account or (b) a member, member organization, a partner, or any stockholder (other than a holder of freely transferable stock only) therein having a definite arrangement for participating in the commissions earned on the guaranteed account. However, the guarantee of a limited partner or of a holder of non-voting stock, if based upon his resources other than his capital contribution to or other than his interest in a member organization, is not affected by the foregoing prohibition, and such a guarantee may be taken into consideration in computing margin in the guaranteed account.*

(6) *Consolidation of Accounts.—When two or more accounts are carried for any person or entity, the required margin may be determined on the net position of said accounts, provided the customer has consented that the money and securities in each of such accounts may be used to carry, or pay any deficit in, all such accounts.*

(7) *Time Within Which Margin, Deposit or "Mark to Market" Must be Obtained.—The amount of margin, deposit or "mark to market" required by any provision of this Rule shall be obtained as promptly as possible and in any event within a reasonable time.*

(8) *Practice of Meeting Margin Calls by Liquidation Prohibited.—No member organization shall permit a customer to make a practice of effecting transactions requiring margin and then either deferring the furnishing of margin beyond the time when such transactions would ordinarily be settled or cleared, or meeting such demand for margin by the liquidation of the same or other commitments in his account.*

(9) *Special Initial Margin Requirements.—Unless the Exchange otherwise determines, either generally or in particular instances—*

If in any week, a 100 share unit common stock listed on a national securities exchange has a round lot reported volume on any one such national securities exchange of more than 200,000 shares and a price variation of more than 10%, after the beginning of the next calendar week the initial margin which must be in the account before any new order is accepted in that security shall be as follows: 50% if the weekly volume in that security was 20 times the average weekly volume for the preceding calendar year, or more than 15% of total shares outstanding, 75% if the weekly volume in that security was 40 times the average weekly volume for the preceding calendar year, or more than 25% of total shares outstanding, 100% if the weekly volume in that security was 100 times the average weekly volume for the preceding calendar year, or more than 35% of total shares outstanding.

Thereafter, if the weekly volume in that security drops below these standards for three consecutive weeks, the special margin requirement shall at the beginning of the next calendar week be removed or reduced to such lower requirements as then indicated.

This requirement shall apply only to customers whose trading shows a pattern of purchasing and selling the same listed stock on the same day. However, the Exchange may, in the event a security is deemed volatile, either at the time of establishing the special initial margin or subsequent thereto, require the special initial margin of up to 100% to be deposited in all margin accounts on new transactions within five days of the trade date.

"Weekly volume" is the sum of round lot reported trades from Friday's opening to Thursday's close, less blocks exceeding 100,000 shares or 10% of shares outstanding, whichever is smaller. In weeks of less than five business days, average daily volume will be projected to a five day basis. Average volume for the preceding year will be the reported annual round lot volume divided by 52 and adjusted for splits. Price variation is the percentage change between the Thursday closing prices of the preceding and current weeks. In the case of foreign issues, "total shares outstanding" for purposes of this Rule will be holdings in the U.S. evidenced either by American shares or American depository receipts.

In the case of new company admissions to dealings as well as mergers, combinations, etc. or new incorporations or presently listed companies where either the previous year trading volume is unrepresentative of the new company or no previous trading volume is available, the special margin requirements shall be as determined by the Exchange.

For customers whose trading shows a pattern of purchasing and selling the same listed security on the same day, the margin required to be in a margin account within five days following a day trade in any listed security shall be that amount prescribed by the Exchange.

(10) *Free Riding in Cash Accounts Prohibited.—No member or member organization shall permit a customer (other than a broker/dealer or bank, trust company, insurance company, investment trust, or charitable or non-profit educational institution) to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. No member organization shall permit such a customer to make a practice of selling securities which were purchased in a cash account at another member organization and are not yet paid for. A customer shall not be deemed to be continuing this practice if for a period of 90 days (or less with the approval of the Exchange) no such transactions have taken place. A member organization transferring an account which is under restraint to another member organization shall inform the receiving member organization of the restraint.*

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to transform our treatment

of purchases of securities on margin into formal Exchange rules.

The proposed rule change prevents fraudulent and manipulative acts and practices; promotes just and equitable principles of trade; removes impediments to and perfection of the mechanism of a free and open market and protects investors and the public interest.

No comments were received or solicited concerning the proposed rule change.

The Midwest Stock Exchange, Incorporated believes that no burdens have been placed on competition.

On or before June 8, 1976, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before May 25, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 23, 1976.

[FR Doc.76-12869 Filed 5-3-76;8:45 am]

[File No. 7-4823]

PBW STOCK EXCHANGE, INC. AND REYNOLDS SECURITIES INTERNATIONAL, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

APRIL 27, 1976.

In the matter of Application of the PWB Stock Exchange, Inc. For Unlisted Trading Privileges in a Certain Security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Reynolds Securities International, Inc., File No. 7-4823. Common Stock, $1 Par Value.

Upon receipt of a request, on or before May 12, 1976 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, a Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-12875 Filed 5-3-76;8:45 am]

[Release No. 34-12379; File No. SR-PBW-76-5]

PBW STOCK EXCHANGE, INC.

Self-Regulatory Organizations

In the Matter of Proposed Rule Change by PBW Stock Exchange, Inc.

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 March 19, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

EXCHANGE STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The PBW Stock Exchange Inc. ("PBW"), pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 (the "Act") hereby proposes to amend Options Rules 1008(a) and 1013 and to add commentary .04 to Rule 1052. Italics indicate words to be added.

RULE 1008(a)

(i) The stock must be duly registered and listed on a national securities exchange *or shall be eligible to be an authorized security for Automated Systems ("NASDAQ") trading.*

RULE 1013(c)

(c) Bidding no more than $1 lower and/or offering no more than $1 higher than last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share, *reported either as a last sale transaction or bid/ask quotation,* of the underlying stock has changed by more than $1 since the last preceding transaction for the particular option contract.

RULE 1052 COMMENTARY

.04 *If the underlying security is traded in the over-the-counter market only and no last sale information is available, the closing bid price available will constitute the closing price as referred to in paragraph (a) of this Rule.*

EXCHANGE STATEMENT OF PURPOSE OF THE PROPOSED RULE CHANGES

"The purpose of the Rule changes is to permit the trading of options whose underlying security is traded in the over-the-counter (OTC) market but meets all of the stated criteria for the approval of underlying stocks."

EXCHANGE STATEMENT OF BASIS OF THE PROPOSED RULE CHANGES

"On May 15, 1975, the Securities and Exchange Commission declared effective the PBW Plan regulating transactions in options on the PBW. The Rule changes proposed would not in any way hinder our capacity to carry out the purposes of the act and to comply with our members and persons associated with our members.

"The PBW Plan under its surveillance section described a computerized method of coordinating an option trade with the last sale in the underlying security. With the cooperation of the National Association of Securities Dealers as well as OTC market-makers, the PBW will be able to adequately monitor on a manual basis unusual options activity in such classes as that activity may relate to the OTC market.

"Because of the qualifications required, it is our opinion that the addition of these classes to the clearance system will not in any way hamper the capacity of the Options Clearing Corporation.

"The PBW has sought oral comments regarding these Rule changes and besides the pro-business reasons, some commentators felt that discrimination currently exists against those quality OTC companies whose options cannot be traded on the PBW merely due to the fact that they are not listed or registered on a national securities exchange.

"No burden on competition could be construed by this action."

Within 35 days of the date of publication of this notice, 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 six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, 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 June 3, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

APRIL 27, 1976.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-12876 Filed 5-3-76;8:45 am]

[File No. 500-1]

PRESLEY COMPANIES

Suspension of Trading

APRIL 23, 1976.

The common stock of Presley Companies, being traded on the American Stock Exchange, the Pacific Stock Exchange, the Boston Stock Exchange, and the PBW Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Presley Companies being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange 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 the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from April 24, 1976 through May 3, 1976.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.76-12909 Filed 5-3-76;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

FEDERAL COMMITTEE ON APPRENTICESHIP

Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct an open meeting on Wednesday, May 26, from 9:00 a.m.-4:30 p.m.; Thursday, May 27, 1976, from 9:00 a.m.-12:00 noon in the Galway Room, Milwaukee/Marriott Inn, 375 South Moorland Road, Brookfield, Wisconsin.

The agenda for the meeting on May 26 will include:

1. "The Sky's the Limit" (Employment and Training Administration's BAT Film on Women Apprentices).
2. State-Federal Operational Problems (Joint discussion by members of the Federal Committee on Apprenticeship (FCA) and National Association of State Territorial Apprenticeship Directors (NASTAD)).
3. Report of FCA Subcommittee on Federal-State Relations.
4. Report of FCA Subcommittee on Trainees.
5. Presentation on: "The Apprenticeship Outreach Program: A Summary Review".

The agenda for the meeting on May 27 will include:

1. Presentation on: "Awarding Post Secondary Educational Credit for Apprenticeship Training".
2. Age Limitation on Entry to Apprentice Programs.
3. Report of FCA Subcommittee on Goals of the FCA.
4. Report of FCA Subcommittee on Equal Apprenticeship Opportunity.

Depending on time required for the FCA-NASTAD discussion, some agenda items may be moved up from the May 27 schedule.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in such a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D St., N.W. (Rm. 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 29th day of April 1976.

WILLIAM H. KOLBERG,
Acting Assistant Secretary for Employment and Training Administration.

[FR Doc.76-12932 Filed 5-3-76;8:45 am]

FEDERAL ADVISORY COUNCIL ON UNEMPLOYMENT INSURANCE

Meeting

A meeting of the Federal Advisory Council on Unemployment Insurance will be held May 18-19, 1976, beginning each day at 9:00 A.M., and adjourning at approximately 5:000 P.M. The meeting will be held in Room N-3437 A-B in the New Department of Labor Building which is located at 200 Constitution Avenue NW., in Washington, D.C.

The agenda is as follows:

MAY 18, 1976

9:00 a.m.	Opening of the Meeting, Status of Federal UI Legislation, HR 10210, "Unemployment Compensation Amendments of 1975," Extension of "Special Unemployment Assistance" and "Federal Supplemental Benefits."
9:30 a.m.	Program Financing Issues, Proposals for Reinsurance or Cost Equalization, Deferral of Loan Repayment by the States to the Federal Unemployment Account.
12:00	Lunch.
1:30 p.m.	Services to the Long Term Unemployed.
4:30 p.m.	Adjournment.

MAY 19, 1976

9:00 a.m.	Current Program Developments, UI Research Concerns, Public Information and Unemployment Insurance.
12:00	Lunch.
1:30 p.m.	Council Recommendations.
4:30 p.m.	Adjournment.

Members of the public are invited to attend the proceedings. Written data, views, or arguments pertaining to the agenda must be received by the Council's Executive Secretary prior to the meeting date. Twenty duplicate copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to:

Mrs. Sally Ehrle, Executive Secretary, Federal Advisory Council on Unemployment Insurance, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

Mrs. Ehrle's telephone number is Area Code 202-376-7034.

Signed at Washington, D.C. this 27th day of April 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for Employment and Training.

[FR Doc.76-12797 Filed 5-3-76;8:45 am]

Occupational Safety and Health Administration

MICHIGAN STATE STANDARDS

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 Administrators 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 October 3, 1973, notice was published in the FEDERAL REGISTER, 38 FR 27338, of the approval of the Michigan plan and the adoption of Subpart T to Part 1952 containing the decision.

The Michigan plan provides for the adoption of Federal standards as State standards by reference. Section 1952.263

of Subpart T sets forth the State's schedule for the adoption of Federal standards. By a letter dated March 19, 1975, from Keith Molin, Director, Michigan Department of Labor, and Maurice S. Reizen, M.D., Director, Michigan Department of Public Health, to Edward E. Estkowski, Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted State safety standards identical to those in 29 CFR §§ 1910.166 through 1910.169, Subpart M. These standards, which are contained in the Michigan Administrative Code, §§ 1910.166 through 1910.169, were adopted by reference according to the provisions of Michigan Act 154 of the Public Acts of 1974.

The Michigan plan also provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1952.263 of Subpart T sets forth the State's schedule for the adoption of at least as effective State standards. By two letters, one dated March 19, 1975, and the other dated February 12, 1976, both from Keith Molin, Director, Michigan Department of Labor, and Maurice S. Reizen, M.D., Director, Michigan Department of Public Health, to Edward E. Estkowski, Regional Administrator, Occupational Safety and Health Administration, and incorporated as part of the plan, the State submitted State safety standards at least as effective as 29 CFR §§ 1910.35 through 1910.40, Subpart E, and 29 CFR §§ 1910.132 through 1910.137, Subpart I. These standards, contained in the Michigan Administrative Code, Parts 6, 31, 32 and 35, respectively, were promulgated as prescribed by Michigan Act 306 of the Public Acts of 1969, as amended, and Michigan Act 282 of Public Acts of 1967, and adopted as provided by Michigan Act 154 of the Public Acts of 1974. Public hearings on Part 6 were held on August 22, 1973; public hearings on Part 31 were held on October 10, 1973; public hearings on Part 32 were held on November 27, 1971; and public hearings on Part 35 were held on November 17, 1969.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to or at least as effective as the comparable Federal standards in 29 CFR Part 1910, Subpart M. Compressed Gas and Compressed Air Equipment; 29 CFR Part 1910, Subpart E. Means of Egress; and 29 CFR Part 1910, Subpart I, Personal Protective Equipment. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 230 South Dearborn Street, Chicago, Illinois 60604; State of Michigan, Department of Labor, State Secondary Complex, 7150 Harris Drive, Lansing, Michigan 48926; and Office of the Associate Assistant Secretary for Regional Programs, Room N3603, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public participation.* Under Section 1953.2(c) of this chapter 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 that good cause exists for not publishing the supplement to the Michigan State plan as a proposed change and making the Regional Administrator's approved effective upon publication for the following reasons:

1. Some standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. These identical standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

3. The non-identical standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective May 4, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Chicago, Illinois this 30th day of March 1976.

EDWARD E. ESTKOWSKI,
Regional Administrator.

[FR Doc.76-12933 Filed 5-3-76;8:45 am]

WASHINGTON STATE STANDARDS

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 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called 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 January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated December 19, 1975 from John E. Hillier, Supervisor, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, subpart R1910.268. These standards, which are contained in the State of Washington's Chapter 296-32 WAC, Safety Standards for Telecommunications, were promulgated following a legal notice published in various newspapers throughout the State and a public hearing relative to adoption held in Olympia, Washington on November 25, 1975. These standards were adopted by the Department of Labor & Industries on November 25, 1975 pursuant to Chapter 34.04 Revised Codes of Washington and Chapter 1-12 WAC.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504 and Office of the Associate Assistant Secretary for Regional Programs, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) of this chapter, 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 that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

1. The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective May 4, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 4th day of March 1976.

JAMES W. LAKE,
Regional Administrator—Occupational Safety and Health Administration.

[FR Doc.76-12934 Filed 5-3-76;8:45 am]

WASHINGTON STATE STANDARDS

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 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called 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 January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act.

Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of at least as effective State standards. By letter dated February 26, 1976 from John E. Hillier, Supervisor, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR Part 1910, Subpart R 1910.266. These standards, which are contained in WAC 296-54-450, 1 through 6, part of the Safety Standards for Logging Operations, were promulgated after due notice and a public hearing held at Olympia, Washington on April 23, 1974, pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW (1971 ex.s. c 250). On its own initiative, the State adopted a revised standard for foot protection at a hearing held in Olympia, Washington on February 20, 1976.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the comparable Federal standards and accordingly should be approved. The Region's review and evaluation indicates the State standards are more effective than OSHA by requiring roll-over protection on certain mobile logging equipment, more explicit inspections, and more definitive instructions to equipment operators. In addition, the State places the responsibility on the employer to ensure that employees exposed to foot injuries shall wear foot protection. The detailed standards comparison is available at the locations specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administrative Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) of this chapter, 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 that good cause exists for not publishing the supplement to the Washington plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective May 4, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Seattle, Washington this 18th day of March 1976.

JOHN A. GRANCHI,
Acting Regional Administrator—Occupational Safety and Health Administration.

[FR Doc.76-12935 Filed 5-3-76;8:45 am]

WASHINGTON STATE STANDARDS

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 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called 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 January 26, 1973, notice was published in the FEDERAL REGISTER (38 FR 2421) of the approval of the Washington plan and the adoption of Subpart F to Part 1952 containing the decision.

The Washington State plan provides for the adoption of State standards which are at least as effective as the Federal standards after comments and/or public hearing. Section 1952.123 of Subpart F sets forth the State's schedule for the adoption of Federal standards. By letter dated February 27, 1976 from John E. Hillier, Supervisor, Department of Labor and Industries, to James W. Lake, Regional Administrator, U.S. Department of Labor, and incorporated as part of the plan, the State submitted State standards comparable to 29 CFR 1910.184, Materials Handling and Storage, as published in the FEDERAL REGISTER 40 FR 27369 dated June 27, 1975. These standards, which are contained in WAC 296-24-29415 through 296-24-29431 of Washington's General Safety and Health Standards, were promulgated on February 19, 1976 following a hearing on that same date pursuant to 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Department of Labor and Industries, General Administration Building, Olympia, Washington 98504; and the Technical Data Center, Room N3620, 200 Constitution Avenue, 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 that good cause exists for not publishing the supplement to the Washington 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 which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation would be unnecessary.

This decision is effective May 4, 1976.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667.)

Signed at Seattle, Washington this 12th day of March 1976.

JOHN A. GRANCHI,
Acting Rgional Administrator, Occupational Safety and Health Administration.

[FR Doc.76-12936 Filed 5-3-76;8:45 am]

Office of the Secretary

CERTAIN GLOVES

Import Relief

On March 8, 1976, the International Trade Commission determined that increased imports of certain gloves (mainly work gloves) are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (41 FR 10965).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on certain gloves. The report found as follows:

1. As of March 18, 1976, the Department of Labor had not received any petitions for certification of eligibility to apply for worker adjustment assistance from the industry producing "certain gloves" covered by the ITC investigation since April 3, 1975, the effective date of the adjustment assistance program.

2. Over the next twelve months some of the more than 1,000 former employees on layoff status since 1975 may apply for certification of eligibility to apply for adjustment assistance and may be certified by the Department of Labor. If the present recovery of our economy falters, it is likely that additional workers may apply for certification of eligibility, and that none of the workers previously laid off will be recalled.

3. The unemployed workers are located primarily in North Carolina, New Jersey, Mississippi, and Ohio. Local or state unemployment rates in nearly all of the impacted areas were above 7 percent with the exception of Mississippi, where the rate fluctuated around 6 percent. Since most of these workers have a high school education or less, and their skills are not easily transferable to other industries, their immediate reemployment prospects are not good. The majority of these unemployed workers live in small towns where there are few alternative sources of employment. Many of them would not consider relocating because they work merely to supplement family incomes.

4. The Comprehensive Employment and Training Act (CETA) programs in the impacted areas are not capable of meeting the needs of the displaced workers, with the possible exception of Mississippi. The actual levels of enrollment in many of these programs are very close to the expected levels, indicating few current vacancies. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 26th day of April 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary, International Affairs.

[FR Doc.76-12799 Filed 5-3-76;8:45 am]

[TA-W-775]

CRUCIBLE STEEL, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On March 29, 1976 the Department of Labor received a petition dated March 20, 1976 which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, on behalf of the workers and former workers of Crucible Steel, Inc., Trent Tube Division, East Troy, Wisconsin, a subsidiary of Colt Industries, Pittsburgh, Pa. (TA-W-775).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with stainless steel tubing of all sizes produced by Crucible Steel, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of March 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-12938 Filed 5-3-76;8:45 am]

[TA-W-776]

CRUCIBLE STEEL, INC.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On March 29, 1976, the Department of Labor received a petition dated March 20, 1976, which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, on behalf of the workers and former workers of Crucible Steel, Inc., Trent Tube Division, Carrollton, Georgia, a subsidiary of Colt Industries, Pittsburgh, Pa. (TA-W-776).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with stainless steel tube—large diameter produced by Crucible Steel, Inc., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a publice hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1976.

The petition filed inthis case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St., and Constitution Ave., NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of March 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-12939 Filed 5-3-76;8:45 am]

[TA-W-738]

EXCELLO SHIRT CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of former workers producing men's dress shirts at the Excello Shirt Company's Middlesboro, Kentucky plant.

Notice of the investigation was published in the FEDERAL REGISTER on April 20, 1976 (41 FR 16621). No public

hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at the Excello Shirt Company's Middlesboro, Kentucky plant occurred on or before February 28, 1975. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is March 11, 1976 and, thus, workers laid off prior to March 11, 1975 could not be eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 21st day of April 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-12940 Filed 5-3-76;8:45 am]

[TA-W-409, 410, 469-475]

GENERAL MOTORS CORP.

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-409, 410, 469-475: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 18, 1975 in response to worker petitions (TA-W-409-482, 563, 593) received on the same date which were filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) and the International Union of Electrical, Radio and Machine Workers (IUE) on behalf of workers and former workers engaged in the production of full size cars, subcompact cars and components for such cars at seventy-seven (77) plants of the General Motors Corporation, Detroit, Michigan. This determination applies only to workers at the nine assembly plants among those seventy-seven plants.

The Notice of Investigation was published in the FEDERAL REGISTER (41 FR 1342-3) on January 7, 1976. A public hearing was properly requested by the UAW and was held on January 26, 1976.

The information upon which the determination was made was obtained principally from officials of General Motors Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, the Motor Vehicle Manufacturers Association, Automotive News, Ward's Automotive Reports, 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 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 contibuted importantly to the separations, or threat thereof, and to the decrease in sales of production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Significant Total or Partial Separations. The average number of hourly workers employed in the production of full size and subcompact cars declined from model year 1974 to model year 1975 by the following percentages at the assembly plants listed below: Wilmington, Delaware—15.3 percent; Janesville, Wisconsin—15.2 percent; St. Louis, Missouri—14.7 percent; Lansing, Michigan—11.6 percent; and Lordstown, Ohio—22.5 percent. The average number of workers employed in the production of full size cars at the Flint, Michigan assembly plant increased 10.8 percent from model year 1974 to model year 1975 but decreased 14.4 percent in the first quarter of model year 1975 compared to the like quarter in the previous model year.

The average number of hourly workers employed in the production of full size cars at the Fairfax, Kansas assembly plant increased 17.1 percent from NY 1974 to MY 1975 and increased in every quarter of MY 1975 compared to like quarters of MY 1974. Total hourly employment at the South Gate, California assembly plant, which manufactured full size cars in MY 1974 and subcompact cars in MY 1975, increased 29.0 percent from MY 1974 to MY 1975.

Sales or Production, or Both, Have Decreased Absolutely. Production of full size cars declined from model year 1974 to model year 1975 by the following percentages at the assembly plants listed below: Wilmington, Delaware—11.0 percent; Janesville, Wisconsin—13.4 percent; St. Louis, Missouri—13.2 percent; Lansing, Michigan—3.2 percent; and Pontiac, Michigan—19.7 percent. Production of subcompact cars at the Lordstown, Ohio assembly plant declined 25.0 percent from MY 1974 to MY 1975.

The second criterion is not met with respect to the Flint, Michigan; Fairfax, Kansas; and South Gate, California assembly plants. Production of full size cars at the Flint and Fairfax plants rose 54.4 percent and 26.7 percent, respectively, from MY 1974 to MY 1975. Full size car production increased at both plants in every quarter of MY 1975 compared to like quarters in MY 1974. The South Gate plant produced full size cars through April 1974, subcompact cars from August 1974 through December 1974 and luxury small cars from March 1975 through December 1975. There was no production at the plant during the interim months of May-July 1974 and January-February 1975. Because of the brief periods during which the South Gate plant produced subcompact and luxury small cars, it is impossible to find that production of such cars decreased.

Increased Imports. Retail sales of new automobiles in the U.S. declined 18.3 percent from MY 1973 to MY 1974 and declined 14.4 percent from MY 1974 to MY 1975. Sales of domestically built cars declined more rapidly, falling 19.6 percent from MY 1973 to MY 1974 and 20.4 percent from MY 1974 to MY 1975. Imports of new cars declined 14.0 percent from MY 1973 to MY 1974 and then increased 4.6 percent from MY 1974 to MY 1975. Imports increased their share of domestic consumption from 22.8 percent in MY 1973 to 24.0 percent in MY 1974 and to 29.3 percent in MY 1975.

The decline in retail sales of full size cars was more pronounced than the decline in the market as a whole. Sales of full size cars fell by 1.5 million units or 39.6 percent from MY 1973 to MY 1974 and fell by 0.7 million units or 32.4 percent from MY 1974 to MY 1975. Sales of domestically produced full size cars fell even more sharply, decreasing 39.7 percent from MY 1973 to MY 1974 and 39.9 percent from MY 1974 to MY 1975. Sales of imported full size cars, which are produced only in Canada, decreased from 26 thousand units comprising 0.7 percent of the market in MY 1973 to 21 thousand units comprising 0.9 percent of the market in MY 1974. In MY 1975, import sales rose abruptly to 182 thousand units comprising 12.0 percent of the domestic full size car market.

The decline in retail sales of subcompact cars was less pronounced than the decline in the market as a whole. Sales of subcompact cars fell by 365 thousand units or 15.0 percent from MY 1973 to MY 1974 and fell by 188 thousand units or 9.1 percent from MY 1974 to MY 1975. Sales of domestically produced subcompact cars declined 11.8 percent from MY 1973 to MY 1974 and 25.0 percent from MY 1974 to MY 1975. Sales of imported subcompact cars decreased from 1,630 thousand units comprising 67.0 percent of the U.S. subcompact market in MY 1973 to 1,360 thousand units comprising 65.7 percent of the market in MY 1974. In MY 1975, import sales declined slightly in absolute terms to 1,349 thousand units but rose to 71.7 percent of domestic sales.

In contrast to the full size and subcompact markets, domestic sales of luxury small cars rose sharply during the same period, increasing 30.8 percent from MY 1973 to MY 1974 and 64.6 percent from MY 1974 to MY 1975. Sales of domestically produced luxury small cars increased 91.8 percent from MY 1973 to MY 1974 and 71.0 percent from MY 1974 to MY 1975. Sales of imported luxury

small cars decreased 10.2 percent from MY 1973 to MY 1974 and then increased 55.3 percent from MY 1974 to MY 1975. The market share held by imports declined steadily from 59.8 percent in MY 1973 to 41.0 percent in MY 1974 and to 38.7 percent in MY 1975.

Sales of imported intermediate cars declined 19.1 percent from MY 1973 to MY 1974 and 6.9 percent from MY 1974 to MY 1975. Sales of imported compact cars increased 8.7 percent from MY 1973 to MY 1974 and then decreased 58.2 percent from MY 1974 to MY 1975.

Contributed Importantly. Subcompact, compact and intermediate imports declined in absolute terms in MY 1975 compared to the two previous model years while full size, luxury and luxury small car imports increased in MY 1975 compared to MY 1973 and MY 1974. Imports of full size cars from Canada increased by 161 thousand units from MY 1974 to MY 1975 while luxury small care imports rose by 126 thousand units and luxury car imports increased by only 7 thousand units during the same period.

From MY 1974 to MY 1975, General Motors and Ford intermediate car imports declined sharply and Chrysler intermediate car imports increased. Chrysler's intermediate imports displaced Chrysler's domestic intermediate production and were not substantial enough to have been an important factor in the decline of General Motors' full size car production.

Imported compact cars, produced in Canada by Ford, Chrysler and American Motors, declined sharply from MY 1974 to MY 1975 and did not have an adverse effect on domestic General Motors production.

The luxury small car class was the only class to experience increasing sales during the 1973–1975 model year period. Significantly, sales of domestically built models increased at a considerably faster rate than sales of imported models. The popularity of luxury small cars was enhanced by the rapid rise in gasoline prices. Assuming a continuum of competitiveness ranging from luxury small cars to full size cars, it is reasonable to expect the greatest degree of competitiveness of imports of luxury small cars to be with domestically produced luxury small cars and substantially diminishing degrees of competitiveness vis-a-vis compact, intermediate and full size cars. To the extent that luxury small cars compete with cars in other classes, that competition emanated largely from domestically produced luxury small cars in the MY 1974–1975 period. Declines in total sales of full size, intermediate and compact cars taken separately ranged from 300 percent to over 550 percent of the increase in luxury small car imports. In the aggregate, sales of full size cars, intermediates and compacts declined by more than 1.5 million units from MY 1974 to MY 1975 while sales of imported luxury small cars increased by only 126 thousand units. It is evident that other factors significantly affected sales of full size, intermediate and compact cars and that luxury small car imports played an unimportant role. Luxury small car imports do not compete to a significant degree with domestically built subcompact cars because of substantial differences in price, and therefore were not an important factor in the decline in sales of U.S. built subcompacts.

Imports of full size cars from Canada, which are indistinguishable from the same make and model cars produced domestically have had their greatest impact on sales of domestically built full size cars. The adverse effect of imported full size cars on domestic subcompact and luxury small car production has been negligible.

It is therefore concluded that sales and production of domestically built full size, subcompact and luxury small cars have been little affected by increased imports of autos outside of their respective classes.

All full size car imports are from Canadian plants of General Motors and Ford. The cars produced in Canada and sold in the United States are indistinguishable from the same make and model cars produced at U.S. plants. Nearly all full size Canadian imports are Fords and Chevrolets.

Because the different makes and models of full size cars are not perfect substitutes for each other, sales of some domestically built full size cars—and the workers employed in the production of those cars—have been adversely affected to a greater degree by increased imports than have sales of other full size cars.

General Motors' share, excluding company imports, of domestic sales of full size cars declined from 58.9 percent in MY 1974 to 58.7 percent in MY 1975, a decrease of only 0.3 percent. Ford's share supplied from domestic production fell sharply from 26.6 percent in MY 1974 to 17.5 percent in MY 1975, a decrease of 34 percent. Chrysler's share declined from 13.6 percent in MY 1974 to 11.8 percent in MY 1975, a decrease of 13 percent.

If Ford imports of full size cars replaced Ford domestic production of full size cars on a one for one basis, imports of Fords could account for only 28 percent of the decline in Ford's sales of domestically produced cars. It seems reasonable to conclude that Ford imports had a negligible effect on General Motors production of full size cars.

The only full size cars that General Motors imported from Canada were Chevrolets. From MY 1974 to MY 1975, the decline in domestic Chevrolet production was 3.4 times greater than the increase in imports of Canadian built Chevrolets. Domestic Pontiac production also declined during that period, while Oldsmobile and Buick production increased slightly. Because Canadian produced Chevrolets are perfect substitutes for domestically produced Chevrolets, it is likely that the imported Chevrolets primarily displaced domestic Chevrolet production and had little effect on domestic Pontiac production.

From MY 1974 to MY 1975, Chevrolet production declined at the Janesville and St. Louis plants as well as at other domestic non-petitioning plants. The decline at the non-petitioning plants was six times that of the Janesville-St. Louis decline. Chevrolet production increased at the Wilmington plant from MY 1974 to MY 1975. Near the end of MY 1975, General Motors consolidated domestic full size Chevrolet production into the Janesville and St. Louis plants after replacing such production in Wilmington with small car production. At the time the Wilmington phaseout of full size Chevrolet production commenced, such production for the 1975 model year was more than double what it had been for the like period in the previous model year. It is apparent that the former Wilmington Chevrolet production was absorbed by the Janesville and St. Louis plants in MY 1976 and not transferred to the Canadian facility. Chevrolet production at the Janesville and St. Louis plants increased 15.4 percent in the first four months of MY 1976 compared to the like period in MY 1975 while imports of Chevrolets from Canada fell 35.7 percent during the same period.

It is concluded that increased imports contributed importantly to decreased sales and production of full size Chevrolet autos at the Janesville and St. Louis plants of General Motors Corp. and to the total or partial separation of workers producing those autos. Increased imports did not contribute importantly to decreased sales or production of other General Motors full size cars or to related worker separations.

Subcompact car imports are produced by American-based companies, primarily in Canada, and by foreign-based companies in countries other than Canada. In MY 1975, 8 percent of subcompact imports were built in Canada and 93 percent were built overseas. The cars produced in Canada are indistinguishable from the same make and model cars produced at U.S. plants.

General Motors' share, excluding company imports, of domestic sales of subcompact cars declined from 15.2 percent in MY 1974 to 14.6 percent in MY 1975. The company's total share, including imports from Canada, of domestic subcompact sales fell from 19.4 percent in MY 1974 to 14.6 percent in MY 1975. Ford's and American Motors' shares of the U.S. subcompact market supplied from domestic production fell significantly during the same period. Imported subcompacts increased their share of the U.S. market at the expense of domestic producers from 65.7 percent in MY 1974 to 71.7 percent in MY 1975. Overseas imports of subcompacts rose absolutely and relatively, increasing from 1,129 thousand units comprising 54.6 percent of U.S. subcompact sales in MY 1974 to 1,240 thousand units comprising 65.9 percent of sales in MY 1975.

It is concluded that increased imports contributed importantly to decreased sales and production of subcompact cars at the Lordstown plant of General Motors Corp., and to the total or partial separation of workers producing those cars.

Increased imports did not contribute importantly to decreased sales or production and to the total or partial separation of workers at the St. Louis assembly plant after January 1, 1975 nor at the Janesville and Lordstown assembly plants after October 1, 1975. Production of full size Chevrolets at the St. Louis plant increased significantly beginning in January 1975 and continuing in subsequent months compared to the like period of the previous year. With respect to the Janesville and Lordstown plants, the impact of imported autos abated considerably in the fourth quarter of 1975. In that quarter, total automobile imports fell to the lowest quarterly level, in both absolute and relative terms, of the 1974–1975 period. Imports fell to 475 thousand units comprising 21.5 percent of domestic consumption in the fourth quarter of 1975, compared to levels of 600 to 661 thousand units comprising 28.3 percent to 31.3 percent of domestic consumption in the three previous quarters.

Conclusion. After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with full size Chevrolets and subcompact cars produced at the Janesville, Wisconsin; St. Louis, Missouri and Lordstown, Ohio assembly plants of the General Motors Corporation contributed importantly to the total or partial separation of the workers at such plants. I further conclude that increases if imports like or directly competitive with other full size, subcompact and luxury small cars produced at the Wilmington, Delaware; Flint, Michigan; Fairfax, Kansas; Lansing, Michigan; Pontiac, Michigan and South Gate, California assembly plants of the General Motors Corporation did not contribute importantly to the total or partial separation of the workers at such plants.

In accordance with the provisions of the Act, I make the following certifications:

"All hourly and salaried workers of the General Motors Corporation, Janesville, Wisconsin assembly plant (TA–W–474), engaged in employment related to the production of full size Chevrolet cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

"All hourly and salaried workers of the General Motors Corporation, St. Louis, Missouri assembly plant (TA–W–472), engaged in employment related to the production of full size Chevrolet cars who became totally or partially separated on or after November 18, 1974 and before January 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974; and

All hourly and salaried workers of the General Motors Corporation, Lordstown, Ohio assemply plant (TA–W–40), engaged in employment related to the production of subcompact cars who became totally or partially separated on or after November 18, 1974 and before October 1, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of April 1976.

JOEL SEGALL,
Deputy Under Secretary
International Affairs.

[FR Doc.76–12941 Filed 5–3–76;8:45 am]

[TA–W–769]

JONES & LAUGHLIN STEEL CORP.

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On March 29, 1976, the Department of Labor received a petition dated March 20, 1976, which was filed under Section 221 (a) of the Trade Act of 1974 ("the Act") by the United Steelworkers of America, on behalf of the workers and former workers of Jones & Laughlin Steel Corp., Indianapolis, Indiana (TA–W–769).

Accordingly, the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with stainless steel strip produced by Jones & Laughlin Steel Corp., or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligibile to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of March 1976.

MARVIN M. FOOKS,
Acting Director, Office of
Trade Adjustment Assistance.

[FR Doc.76–12942 Filed 5–3–76;8:45 am]

[TA–W–741]

MANHATTAN SHIRT CO.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of former workers of the Manhattan Shirt Company, Lexington, North Carolina.

Notice of the investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15490). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers of the Lexington plant were separated on or before February 15, 1975. Section 223(b)(1) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is March 10, 1976 and, thus, workers terminated prior to March 10, 1975 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 21st day of April 1976.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[Fr Doc.76–12943 Filed 5–3–76;8:45 am]

[TA–W–718]

MISERENDINO, INC.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 26, 1976 in response to a worker petition received on that date which was filed by the Amalgamated Clothing Workers of America on behalf of former workers producing men's trousers at Miserendino, Inc., Philadelphia, Pennsylvania.

Notice of the investigation was published in the FEDERAL REGISTER on April 13, 1976 (41 FR 15491). No public hearing was requested and none was held.

During the course of the investigation it was established that the most recent involuntary separations at Miserendino, Inc. occurred in November, 1974. Section 223(b) of the Trade Act of 1974 provides, in substance, that a certification shall not apply to any worker in whose last total or partial separation from the firm or an appropriate subdivision of the firm occurred more than one year before the date of the petition on which such certification is granted.

The date of the petition in this case is March 16, 1976 and, thus, workers laid off prior to March 16, 1975 could not be

eligible to program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974. Therefore, this investigation has been terminated.

Signed at Washington, D.C., this 22nd day of April 1976.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc.76-12944 Filed 5-3-76;8:45 am]

[TA-W-789]

SINGER BUSINESS MACHINES DIVISION

Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

On April 9, 1976, the Department of Labor received a petition dated March 26, 1976 which was filed under Section 221(a) of the Trade Act of 1974 ("the Act") on behalf of the workers and former workers of Singer Business Machines Division, San Leandro, Calif., a division of Singer Co., New York, New York (TA-W-789).

Accordingly, the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted an investigation as provided in Section 221(a) of the Act and 29 CFR 90.12.

The purpose of the investigation is to determine whether absolute or relative increases of imports of articles like or directly competitive with data processing equipment produced by Singer Business Machines Division, or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision. The investigation will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved. A group meeting the eligibility requirements of Section 222 of the Act will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90.

Pursuant to 29 CFR 90.13, the petitioner or any other person showing a substantial interest in the subject matter of the investigation may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 14, 1976.

The petition filed in this case is available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 3rd St. and Constitution Ave., N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 9th day of April 1976.

MARVIN M. FOOKS,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.76-12945 Filed 5-3-76;8:45 am]

STAINLESS STEEL FLATWARE

Import Relief

On March 1, 1976, the International Trade Commission determined that increased imports of stainless steel flatware are a substantial cause of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (41 FR 9628).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on stainless steel flatware. The report found as follows:

1. As of March 6, 1976, the Department of Labor had received three petitions for certification of eligibility to apply for worker adjustment assistance from the stainless steel flatware industry since April 3, 1975, the effective date of the adjustment assistance program. The Department has certified all three of these petitions. As of January 31, 1976, 1,275 workers had applied for adjustment assistance benefits, 580 workers had been determined eligible for benefits and $578,174 had been paid out.

2. Over the next twelve months, two groups totaling about 180 workers may apply for certification of eligibility to apply for adjustment assistance and may be certified by the Department of Labor.

3. The unemployed workers are located primarily in New York. Local unemployment rates in the impacted areas were above the December 1975 national average of 8.3 percent.

4. The Comprehensive Employment and Training Act (CETA) programs in the impacted areas are not capable of meeting the needs of the displaced workers, in view of the high local rates of general unemployment. The actual levels of enrollment in many of these programs are very close to the expected levels, indicating few current vacancies. The Employment and Training Administration through the State Employment Service has the authority to purchase additional training when CETA funds are not available.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 3rd St. and Constitution Ave. NW., Washington, D.C. 20210 (phone 202-523-7665).

Signed at Washington, D.C. this 26th day of April 1976.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary, International Affairs.

[FR Doc.76-12798 Filed 5-3-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 38]

ASSIGNMENT OF HEARINGS

APRIL 29, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 102520 Sub-5, Ric's Transfer Co., Inc., now assigned May 18, 1976, at Olympia, Wash. is cancelled and reassigned for May 18, 1976, at Seattle, Wash. (4 days) in room 846, Federal Building, 915 2nd Avenue and May 24, 1976 (1 week), Room 514, Federal Building, 915 2nd Avenue.

MC 98327 Sub-17, System 99, now assigned July 17, 1976, at Medford, Oreg. will be held at the Holiday Inn, Interstate 5 and Crater Lake Highway instead of Red Lion Motor Inn, 200 North Riverside.

MC 7166 and MC 7166 Sub-17, Wilson Transportation Service, Inc., now assigned May 24, 1976, at Columbus, Ohio, will be held in Room 235, Federal Bldg. and U.S. Courthouse, 85 Marconi Blvd.

F.D. 26115, Boston and Maine Corporation Trustees' Plan of Reorganization, now being assigned for continued hearing on May 3, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136511 Sub-5, Virginia Appalachian Lumber Corporation, now being asigned for continued hearing on May 17, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 37918 (Sub-13), Direct Winters Transport Limited, now being assigned July 26, 1976 (1 week) at Lansing, Michigan in a hearing room to be later designated.

No. 36288, Colorado Intrastate Freight Rates and Charges—1976, now being assigned August 9, 1976, (3 days) at Denver, Colo., in a hearing room to be later designated.

MC 40915 Sub-49, Boat Transit, Inc., now being assigned August 16, 1976, (1 week), at Los Angeles, Calif., in a hearing room to be later designated.

MC 111170 (Sub-226), Wheeling Pipe Line, Inc. now, being assigned June 10, 1976 (2 days) at Memphis, Tennessee in a hearing room to be later designated.

No. 36316, Georgia Intrastate Freight Rates and Charges—1976, now being assigned July 19, 1976, at Atlanta, Ga., (1 week), in a hearing room to be later designated.

MC 111729 Sub-519, Purolator Courier Corp., now being assigned for continued hearing on June 8, 1976, at Chicago, Ill. (2 days) in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 94201 (Sub-135), Bowman Transportation, Inc. now being assigned July 13, 1976 (4 days) at Atlanta, Georgia in a hearing room to be later designated.

MC 94265 (Sub-245), Bonney Motor Express, Inc. and MC 115841 (Sub-512), Colonial Refrigerated Transportation, Inc. now being assigned July 15, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12931 Filed 5-3-76;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

APRIL 29, 1976.

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 May 19, 1976.

FSA No. 43152—*Cement from East Stroudsburg, Pennsylvania.* Filed by Traffic Executive Association-Eastern Railroads, Agent, (E.R. No. 3050), for interested rail carriers. Rates on cement and related articles, in carloads, as described in the application, from East Stroudsburg, Pennsylvania, to points in southern territory.

Grounds for relief—Market competition.

FSA No. 43153—*Joint Rail-Water Container Rates—Lykes Bros. Steamship Co., Inc.* Filed by Lykes Bros. Steamship Co., Inc., (No. 3), for itself and interested rail carriers. Rates on general commodities, between railroad terminals at U.S. Pacific Coast ports, and ports in south, southwest and east Africa.

Grounds for relief—Water competition.

Tariffs—Lykes Bros. Steamship Co., Inc., Eastbound joint container freight tariff No. 7, I.C.C. No. 7, F.M.C. No. 96, and Westbound joint container freight tariff No. 8, I.C.C. No. 8, F.M.C. No. 97. Rates are published to become effective on May 28, 1976.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12929 Filed 5-3-76;8:45 am]

[Section 5a Application No. 10, (Amendment No. 7)]

WATERWAYS FREIGHT BUREAU

APRIL 29, 1976.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed: April 15, 1976 by: Wesley A. Rogers, Chairman, Waterways Freight Bureau, 1334 G Street, NW., Suite 402, Washington, D.C. 20005.

The amendments involve: Changes to comply with Ex Parte No. 297, 349 I.C.C. 811 and 351 I.C.C. 437, relating to 120-day period for final disposition of proposals, require that reasons be stated for action taken in the disposition notice, and provide public notice of the broadening of proposals and of initiation of independent actions.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission on its discretion, may proceed to investigate and determine the matters involved without public hearing.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.76-12930 Filed 5-3-76;8:45 am]

federal register

TUESDAY, MAY 4, 1976

PART II:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit

■

LOW-INCOME PUBLIC HOUSING

Income Limits

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit

[24 CFR Part 860]

[Docket No. R-76-345]

LOW-INCOME PUBLIC HOUSING

Income Limits

Notice is hereby given that the Secretary of Housing and Urban Development proposes to amend Chapter VIII of Title 24 by adding a new Subpart A to Part 860, published at 40 F.R. 33445, 8/8/75 and 40 F.R. 44323, 9/26/76.

The proposed rule would prescribe (1) criteria for HUD approval of maximum income limits for admission and standards and criteria for occupancy of low-income housing projects to be established by Public Housing Agencies (PHA's for all dwelling units assisted under the United States Housing Act of 1937 in projects owned by or leased to PHA's and leased or subleased by PHA's to tenants and (2) reporting requirements with respect thereto. The rule does not apply to the Section 8 Housing Assistance Payments Program, the Mutual Help Homeownership Opportunities Program or to Indian Housing Authorities.

The rule reflects the changes made in the United States Housing Act of 1937 (the Act) by the Housing and Community Development Act of 1974 (the Amendment) that affect the maximum income limits for admission and the standards and criteria for occupancy in low-income housing projects:

1. The Amendment repeals the provision that required PHA's to demonstrate that a gap of at least 20 percent has been left between the upper rental limits for admission to the proposed low-income housing project and the lowest rents at which private enterprise unaided by public subsidy is providing (through new construction and available existing structures) a substantial supply of decent, safe, and sanitary housing. In accordance with the Amendment, the rule modifies the definition of "low-income families" by omitting the language which referred to eligible families as those families who are "in the lowest income group" and uses the definition in section 3(2) of the Amendment, i.e., "families of low-income who cannot afford to pay enough to cause private enterprise in their locality or metropolitan area to build an adequate supply of decent, safe, and sanitary dwellings for their use."

2. Under the Amendment, the provision relating to reexamination of the income of families in occupancy and the eviction of families whose income exceeds the maximum income limit for continued occupancy is modified. The Amendment repeals that part of the provision which required PHA's to require overincome families to move from the project unless the PHA determines that, due to special circumstances, the family is unable to find decent, safe, and sanitary housing within its financial reach although making every reasonable effort to do so. The rule reflects the foregoing changes in the statute by (1) prohibiting the eviction of families on account of their income unless the PHA determines that the family is not a "low income family" within the statutory limit of section 3(2) quoted above, or is required to do so under local law, and (2) by providing for standards and criteria to be established by PHA's for occupancy under which the PHA may use the statutory limit in section 3(2) as its standard with respect to family income.

3. The Amendment adds two provisions which relate to this rule but which are reflected in other regulations referred to below:

(a) A requirement that annual contributions contracts provide that PHAs shall comply with such provisions and requirements as the Secretary may prescribe to assure, within a reasonable period of time, admission to the projects by families with a broad range of incomes and the avoidance of concentrations of low-income and deprived families with serious social problems (see Sections 860.204 and 899.102); and

(b) A requirement (see § 860.406) that at least 20 percent of the dwelling units in any project placed under annual contributions contract after fiscal year 1976 be occupied by "very low-income families."

4. The Amendment reenacts and continues:

(a) The declaration that it is the policy of the United States to assist the several States and their political subdivisions to remedy the acute shortage of decent, safe, and sanitary dwellings "for families of low income."

(b) The restriction of the grant of authority to HUD to make "annual contributions to public housing agencies to assist in achieving and maintaining the low-income character of their projects."

(c) The requirement that income limits "for occupancy * * * be fixed by the public housing agency and approved by the Secretary."

(d) The requirement that annual contributions contracts include a provision that the Secretary may require PHA's to review and revise maximum income limits if the Secretary determines that changed conditions in the locality make such revisions necessary in achieving the purposes of the Act.

(e) The requirement that PHA's shall determine and so certify to HUD that each family in its projects was admitted in accordance with duly adopted regulations and approved income limits.

The rule requires PHA's to adopt regulations establishing (a) maximum income limits for admission and (b) standards and criteria for occupancy in conformance with the Amendment. Under the rule PHA's are not required to submit the documentation upon which they relied in establishing maximum income limits for admission if the limits are within a range of (a) 90 percent of HUD approved section 8 maximum income limits for the locality, and (b) the income required to pay published Fair Market Rents for Existing Housing at a 25 percent rent to income ratio for appropriate size families and dwelling units.

The proposed rule calls for annual reexamination of the income of all families except "elderly families", whose income must be reexamined every two years. It also requires that the PHA provide an annual certification that each family (1) is eligible for occupancy under the provisions of Subpart A and (2) was admitted in accordance with duly adopted PHA regulations and income limits. PHA's must reexamine and, if necessary, revise income limits at two-year intervals to keep maximum income levels current.

The proposed rule restricts the eviction of over-income families. Experience indicates that over income families will probably seek other housing. Eviction of an over-income tenant family which has not in fact obtained other housing would not be permitted unless the PHA has identified for the tenant family a unit of decent, safe and sanitary housing of suitable size available for rental at approximately the same rent-income ratio which obtained before the family was determined by the PHA to be over-income.

Interested persons may participate in this rule making by submitting written data, views, or arguments to the Rules Docket Clerk, Office of the Secretary, Room 10245, Department of Housing and Urban Development, 451 7th St. SW., Washington, D.C. 20410. Each person submitting a comment should include his name and address, the docket number and reasons for any recommendations. Comments received by June 2, 1976, will be considered before final action is taken on this proposal. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk at the address listed above. The proposal may be changed in the light of comments received.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection at the above address.

It is hereby certified that the economic and inflationary impacts of this proposed rule have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, the Secretary proposes to amend Part 860 of Chapter VIII of 24 CFR by adding a new subpart A to read as follows:

Subpart A—Income Limits

Sec.

AUTHORITY: United States Housing Act of 1937, 42 U.S.C. 1437, et seq.; (Section 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Subpart A—Income Limits

§ 860.1 Purpose and scope.

The purpose of this Subpart is to prescribe criteria for HUD approval of proposed maximum income limits for admission to low-income housing projects to be fixed by Public Housing Agencies (PHAs); to require reexamination of the incomes of families in occupancy in PHA projects at least annually; to require a certification that each family was admitted in accordance with the PHA's duly adopted regulations and approved income limits and is a "low-income family"; to provide for the revision of maximum income limits; and to establish standards and criteria for occupancy in relation to the availability of other unsubsidized housing within the means of public housing occupants. The Subpart applies to all dwelling units assisted under the United States Housing Act of 1937, as amended, in projects owned by or leased to PHAs and leased or subleased by PHAs to tenants. The Subpart does not apply to the section 8 Housing Assistance Payments Program, to the Mutual Help Homeownership Opportunities Program, or to the Indian Housing Authorities.

§ 860.2 Criteria for approval of proposed maximum income limits for admission and standards and criteria for continued occupancy.

Each PHA shall adopt a regulation establishing maximum income limits for admission and standards and criteria for occupancy. The regulations shall:

(a) Be in conformity with applicable State law;

(b) Define "income" for purposes of admission and occupancy of low-income housing projects;

(c) Provide, within the limitations contained in the United States Housing Act of 1937,

(1) maximum income limits for admission and

(2) standards and criteria for occupancy based on the availability of unsubsidized decent, safe, and sanitary dwellings within the means of the public housing occupants;

(d) Achieve and maintain the low-income character of the projects; and

(e) Permit admission of families with a broad range of incomes.

(1) within a reasonable period of time in projects in occupancy on the effective date of this Subpart, and

(2) immediately in projects initially occupied after the effective date of this Subpart.

§ 860.3 Supporting documentation required.

The PHA regulation shall be submitted to the appropriate HUD office for review and approval supported by such documentation as may be required by HUD; provided that no documentation shall be required where the PHA submits maximum income limits for admission that are within a range of (a) 90 percent of HUD approved section 8 maximum income limits for the locality and (b) the income required to pay the rents under the section 8 Existing Housing Program (Part 888 of this chapter) at a 25 percent rent to income ratio for appropriate size families and dwelling units.

§ 860.4 Certification of eligibility of families.

Each PHA shall reexamine the income of each family (other than an "elderly family") in occupancy in its projects at least annually except that the reexamination interval may be extended to eighteen months in the case of the first reexamination of a family's income following admission to the project. The income of an elderly family shall be reexamined at least at two year intervals. Each PHA shall submit a certification annually to the appropriate HUD office on a form prescribed by HUD that each family in occupancy in its projects was admitted in accordance with the PHA's duly adopted regulations and approved income limits and that each family in occupancy is either a "low-income family" or one which is not subject to eviction pursuant to § 860.6 of this Subpart.

§ 860.5 Revisions of maximum income limits.

Each PHA shall adopt the regulation required under § 860.2 of this Subpart no later than at the commencement of the PHA's fiscal year beginning six months after the effective date of this Subpart. At two year intervals thereafter, each PHA shall reexamine and, if necessary, revise the income limits and the standards and criteria to reflect changed conditions. The biennial regulation revising the maximum income limits and the standards and criteria, or finding that a revision is unnecessary, shall be submitted to the appropriate HUD office for review and approval.

§ 860.6 Restriction on eviction of families based upon income.

After the effective date of this Subpart, no PHA shall commence eviction proceedings, or refuse to renew a lease, based upon the income of the tenant family unless (i) it has identified, for possible rental by the family, a unit of decent, safe and sanitary housing of suitable size available for rental at approximately the same rent-income ratio which obtained before the family was determined by the PHA to be over-income or (ii) it is required to do so by local law.

Issued at Washington, D.C., April 28, 1976.

DAVID S. COOK,
Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Commissioner.

[FR Doc.76-12881 Filed 5-3-76;8:45 am]

federal register

TUESDAY, MAY 4, 1976

PART III:

ENVIRONMENTAL PROTECTION AGENCY

■

FERROALLOY PRODUCTION FACILITIES

Air Programs; Standards of Performance for New Stationary Sources

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 509-3]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Ferroalloy Production Facilities

On October 21, 1974 (39 FR 37470), under section 111 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) proposed standards of performance for new and modified ferroalloy production facilities. Interested persons participated in the rulemaking by submitting comments to EPA. The comments have been carefully considered, and where determined by the Administrator to be appropriate, changes have been made to the regulations as promulgated.

The standards limit emissions of particulate matter and carbon monoxide from ferroalloy electric submerged arc furnaces. The purpose of the standards is to require effective capture and control of emissions from the furnace and tapping station by application of best systems of emission reduction. For ferroalloy furnaces the best system of emission reduction for particulate matter is a well-designed hood in combination with a fabric filter collector or venturi scrubber. For some alloys the best system is an electrostatic precipitator preceded by wet gas conditioning or a venturi scrubber. The standard for carbon monoxide requires only that the gas stream be flared or combusted in some other manner.

The environmental impact of these standards is beneficial since the increase in emissions due to growth of the industry will be minimized. Also, the standards will remove the incentive for plants to locate in areas with less stringent regulations.

Upon evaluation of the costs associated with the standards and their economic impact, EPA concluded that the costs are reasonable and should not bar entry into the market or expansion of facilities. In addition, the standards will require at most a minimal increase in power consumption over that required to comply with the restrictions of most State regulations.

SUMMARY OF REGULATION

The promulgated standards limit particulate matter and carbon monoxide emissions from the electric submerged arc furnace and limit particulate matter emissions from dust-handling equipment. Emissions of particulate matter from the control device are limited to less than 0.45 kg/MW-hr (0.99 lb/MW-hr) for furnaces producing high-silicon alloys (in general) and to less than 0.23 kg/MW-hr (0.51 lb/MW-hr) for furnaces producing chrome and manganese alloys. For both product groups, emissions from the control device must be less than 15 percent opacity. The regulation requires that the collection hoods capture all emissions generated within the furnace and capture all tapping emissions for at least 60 percent of the tapping time. The concentration of carbon monoxide in any gas stream discharged to the atmosphere must be less than 20 volume percent. Emissions from dust-handling equipment may not equal or exceed 10 percent opacity. Any owner or operator of a facility subject to this regulation must continuously monitor volumetric flow rates through the collection system and must continuously monitor the opacity of emissions from the control device.

SUMMARY OF COMMENTS

Eighteen comment letters were received on the proposed standards of performance. Copies of the comment letters and a report which contains a summary of the issues and EPA's responses are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street, S.W., Washington, D.C. Copies of the report also may be obtained upon written request from the EPA Public Information Center (PM-215), 401 M Street, S.W., Washington, D.C. 20460 (specify—Supplemental Information on Standards of Performance for Ferroalloy Production Facilities). In addition to the summary of the issues and EPA's responses, the report contains a reevaluation of the opacity standard in light of revisions to Reference Method 9 which were published in the FEDERAL REGISTER November 12, 1974 (39 FR 39872).

The bases for the proposed standards are presented in "Background Information for Standards of Performance: Electric Submerged Arc Furnaces for Production of Ferroalloys" (EPA 450/2-74-018a, b). Copies of this document are available on request from the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin.

SIGNIFICANT COMMENTS AND CHANGES TO THE PROPOSED REGULATION

Most of the comment letters contained multiple comments. The more significant comments and the differences between the proposed and the final regulations are discussed below. In addition to the discussed changes, several paragraphs were reworded and some sections were reorganized.

(1) *Mass standard.* Several commenters questioned the representatives of the data used to demonstrate the achievability of the 0.23 kg/MW-hr (0.51 lb/MW-hr) standard proposed for facilities producing chrome and manganese alloys. Specifically, the commenters were concerned that sampling only a limited number of compartments or control devices serving a furnace, nonisokinetic sampling of some facilities, and the procedures used to determine the total gas volume flow from open fabric filter collectors would bias the data low. For these reasons, the commenters argued that the standard should be 0.45 kg/MW-hr (0.99 lb/MW-hr) for all alloys. As additional support for their position, they claimed that control equipment vendors will not guarantee that their equipment will achieve 0.23 kg/MW-hr (0.51 lb/MW-hr).

Because of these comments, EPA thoroughly reevaluated the bases for the two mass standards of performance and concluded that the standards are achievable by best systems of emission reduction. For open ferroalloy electric submerged arc furnaces, the best system of emission reduction is a well-designed canopy hood that minimizes the volume of induced air and a well-designed and properly operated fabric filter collector or high-energy venturi scrubber. In a few cases, an electrostatic precipitator preceded by a venturi scrubber or wet gas conditioning is a best system. In EPA's opinion, revising the standard upward to 0.45 kg/MW-hr (0.99 lb/MW-hr) would allow installation of systems other than the best. Therefore, the promulgated standard of performance for furnaces producing chrome and manganese alloys is 0.23 kg/MW-hr (0.51 lb/MW-hr). The standard for furnaces producing the specified high-silicon alloys is 0.45 kg/MW-hr (0.99 lb/MW-hr). The rationale for establishing the standards at these levels is summarized below.

The reevaluation of the data bases for the standards showed that the emission test procedures used did not significantly bias the results. Therefore, contrary to the commenter's concerns, the procedures did not result in emission limitations lower than those achievable by best systems of emission reduction. The deviations and assumptions made in the test procedures were based on consideration of the particle size of the emissions, an evaluation of the performance of the control systems, and factors affecting the induction of air into open fabric filter collectors.

EPA tests, and allows testing of, a representative number of stacks or compartments in a control device because subsections of a well-designed and properly operating control device will perform equivalently. Evaluation of the control system and the condition of the control device by EPA engineers at the time of the emission test showed that sections not tested were of equivalent design and in operating condition equivalent to or better than the tested sections. Thus, the performance of the non-tested portions of the control device are considered to be equivalent to or better than the performance of the sections emission tested. In addition, the particle size of emissions from well-controlled ferroalloy furnaces was investigated by EPA and was found to consist of particles of less than two micrometers aerodynamic diameter for all alloys. The mass and, hence, inertia of these particles are negligible; therefore, they follow the motion of the gas stream. For emissions of this size distribution, concentrations determined by nonisokinetic sampling would not be significantly different than those measured by isokinetic sampling.

EPA determined the total gas volume flow rate from the open fabric filter collectors by measuring the inlet volume flow rate and the volume of air induced into the collector. The inlet gas volumes

to the collectors were measured during each run of each test; but the volume of air induced into the collector was determined once during the emission test. The total gas volume flow from the collector was calculated as the sum of the inlet gas volume and the induced air volume. Although the procedures used were not ideal, the reported gas volumes are considered to be reasonably representative of the total gas volumes from the facility. This conclusion is based on the fact that the quantity of air induced around the bags in an open collector is primarily dependent on the open area and the temperature of the inlet gas stream and the ambient air. Therefore, equivalent air volumes are drawn into the collector under similar meteorological and inlet gas conditions. During the periods of emission testing at the facilities, meteorological conditions were uniform and the volume of induced air was expected to be constant. Consequently, measurement of the induced air volume once during the emission test was expected to be sufficient for calculating the total gas volume flow from the collector.

Since conducting the test in question, EPA has gained additional experience and has concluded that in general it is preferable to measure the total gas volume flow during each run of a performance test. This conclusion, however, does not invalidate the use of the test data obtained by the less optimum procedure of a single determination of induced air volume. EPA evaluated possible variations in the amount of air induced into the collector by performing enthalpy balances using reported temperature data. The induced air volumes were calculated assuming adiabatic mixing (no heat transfer by inlet gases to collector) and, hence, are conservatively high estimates. The calculated induced air volumes did differ from the single measured values; however, the effect on the mass emission rate for the collectors was not significant. EPA, therefore, concluded that the use of single measurements of the induced air volume did not affect the level of the standards.

Another issue of concern to commenters is the reluctance of control equipment vendors to guarantee reduction of emissions to less than 0.23 kg/MW-hr (0.51 lb/MW-hr). It is EPA's opinion that this reluctance does not demonstrate the unachievability of the standard. The vendors' reluctance to guarantee this level is not surprising considering the variables which are beyond their control. Specifically, they rarely have any control over the design of the fume collection systems for the furnace and tapping station. Fabric filter collectors tend to control the concentration of particiulate matter in the effluent. The mass rate of emissions from the collector is determined by the total volumetric flow rate from the control device, which is not determined by vendors. Further, because of limited experience with emission testing to evaluate the performance of open fabric filter collectors, vendors cannot effectively evaluate the performance of these systems over the guarantee period. For vendors, establishment of the performance guarantee level is also complicated by the fact that the performance of the collector is contingent upon its being properly operated and maintained.

Standards of performance are necessarily based on data from a limited number of best-controlled facilities and on engineering judgments regarding performance of the control systems. For this reason, there is a possibility of arriving at different conclusions regarding the performance capabilities of these systems. Consequently, the question of vendors' reluctance to guarantee their equipment to achieve 0.23 kg/MW-hr (0.51 lb/MW-hr) was considered along with the results of additional recent emission tests on fabric filter collectors. Recognizing that the data base for the standards was limited and that a number of well-controlled facilities had started operation since completion of the original study, EPA obtained additional data to better evaluate the performance of emission control systems of interest. Under the authority of section 114 of the Clean Air Act, EPA requested copies of all emission data for well-controlled furnaces operated by 10 ferroalloy producers. Data were received for five well-controlled facilities. In general, these facilities had close fitting water cooled canopy hoods, and tapping fumes were collected and sent to the control device along with the furnace emissions.

The emission data submitted by the industry show that properly operating compartments of open fabric filter collectors have effluent concentrations of less than 0.009 g/dscm (0.004 gr/dscf). For these recently constructed facilities, the reported mass emission rates were less than 0.12 kg/MW-hr (0.24 lb/Mw-hr) for 15 MW capacity silicon metal furnaces. Evaluation of possible errors in the data and uncertainties in the test procedures showed that emissions may have been as high as 0.20 kg/MW-hr (0.45 lb/MW-hr) in some cases. These emission rates were achieved by design of the collection hood to minimize the quantity of induced air. The data submitted by the industry showed that gas volumes from well-hooded large silicon metal furnaces can be reduced to 50 percent of the volumes from typically hooded large silicon furnaces. Based on the data obtained from the industry, a large well-hooded and well-controlled silicon metal furnace is expected to have an emission rate of less than 0.45 kg/MW-hr (0.99 lb/MW-hr).

In EPA's study of the ferroalloy industry, it was determined that emissions from production of high-silicon alloys would be more difficult to control than chrome and manganese emissions due to the finer size distribution of the particles and significantly larger gas volumes from the furnace. Comparison of the gas volumes reported by the industry from silicon metal production with gas volumes from typically hooded furnaces producing chrome and manganese alloys shows that the original conclusion is still valid. Due to the lower gas volumes associated with their production, a lower mass emission rate is still expected for chrome and manganese alloys. In addition, EPA emission tests in the original study on a number of tightly hooded open furnaces demonstrated emissions can be controlled to less than 0.23 kg/MW-hr (0.51 lb/MW-hr). Emissions were reduced to these levels by control of induced air volumes and by use of a well-designed and properly operated fabric filter collector or venturi scrubber.

Just before promulgation of the standards, members of the Ferroalloy Association informed EPA that future supplies of chrome and manganese ores will be finer and more friable than those in use during development of the standard. The industry representatives claimed that use of finer ores will affect furnace operations and prevent new furnaces from complying with the 0.23 kg/MW-hr (0.51 lb/MW-hr) standard. Although the representatives submitted statements concerning the effect of finer ores on furnace operating conditions, no data were provided to show the effect of ore size on emissions. EPA evaluated the material submitted and concluded that furnace operating problems associated with use of fine ores can be controlled by operation and maintenance procedures. With proper operation of the furnace, use of finer ores should not affect the achievability of the standard, and relaxation of the 0.23 kg/MW-hr (0.51 lb/MW-hr) standard is not justified. This evaluation is discussed in detail in Chapter II of the supplemental information document. If and when factual information is presented to EPA which clearly demonstrates that use of finer chrome and manganese ores does prevent a properly operated new furnace, which is equipped with the best demonstrated system of emission reduction (considering costs), from meeting the 0.23 kg/MW-hr (0.51 lb/MW-hr) standard, EPA will propose a revision to the standard. The best system of emission reduction (considering costs) is considered to be a well-designed collection hood in combination with a well-designed fabric filter collector or high-energy venturi scrubber.

The emission data obtained by EPA and the data provided by the industry show that the standards of performance for both product groups are achievable and the required control system clearly is adequately demonstrated. The question of the achievability of and the validity of the data basis for both the 0.23 kg/MW-hr (0.51 lb/MW-hr) and 0.45 kg/MW-hr (0.99 lb/MW-hr) standards is discussed in more detail in Chapter II of the supplemental information document.

(2) *Control device opacity standard.* On November 12, 1974 (39 FR 39872), after proposal of the standards for ferroalloy facilities, Method 9 was revised to require that compliance with opacity standards be determined by averaging sets of 24 consecutive observations taken at 15-second intervals (six-minute averages). The proposed opacity standard which limited emissions from the control

device to less than 20 percent has been revised in the regulation promulgated herein to require that emissions be less than 15 percent opacity in order to retain the intended level of control.

(3) *Control system capture requirements.* Ten commenters criticized fume capture requirements for the furnace and tapping station control systems on two basic points. The arguments were: (1) EPA lacks the statutory authority to regulate emissions within the building, and (2) the standards are not technically feasible at all times.

EPA has the statutory authority under section 111 of the Act to regulate any new stationary source which "emits or may emit any air pollutant." EPA does not agree with the opinion of the commenters that section 111 of the Act expressly or implicitly limits the Agency to regulation only of pollutants which are emitted directly into the atmosphere. Particulate matter emissions escaping capture by the furnace control system ultimately will be discharged to the atmosphere outside of the shop; therefore, they may be regulated under section 111 of the Act. Standards which regulate pollutants at the point of emission inside the building allow assessment of the control system without interference from nonregulated sources located in the same building. In addition, by requiring evaluation of emissions before their dilution, the standards will result in better control of the furnace emissions and will regulate affected ferroalloy facilities more uniformly than would standards limiting emissions from the shop.

EPA believes the standards on the furnace and tapping station collection hoods are achievable because the standards are based on observations of normal operations at well-controlled facilities. The commenters who argued that the standards are not technically feasible at all times cited examples of abnormal operations which would preclude achieving the standards. For example, several commenters cited the fact that violent reactions due to imbalances in the alloy chemistry occasionally can generate more emissions than the hood was designed to capture. If the capture system is well-designed, well-maintained, and properly operated, only failures of the process to operate in the normal or usual manner would cause the capacity of the system to be exceeded. Such operating periods are malfunctions, and, therefore, compliance with the standards of performance would not be determined during these periods. Performance tests under 40 CFR 60.8(c) are conducted only during representative conditions, and periods of start-up, shutdown, and malfunctions are not considered representative conditions.

Five commenters discussed other operating conditions which they believed would preclude a source from complying with the tapping station standard. These conditions included blowing taps, period of poling the taphole, and periods of removal of metal and slag from the spout. The commenters argued that blowing taps should be exempted from the standard and the tapping station standard should be replaced with an opacity standard or emissions from the shop. The comments were reviewed and EPA concluded that exemption of blowing taps is justified. The regulation promulgated herein exempts blowing taps from the tapping station standard and includes a definition of blowing tap. EPA believes that conditions which result in plugging of the taphole and metal in the spout are malfunctions because they are unavoidable failures of the process to operate in the normal or usual manner. Discussions with experts in the ferroalloy industry, revealed that these conditions are not predictable conditions for which a preventative maintenance or operation program could be established. As malfunctions, these periods are not subject to the standards, and a performance test would not be conducted during such periods. Therefore, the suggested revision to the standard to exempt these periods is not necessary because of the existing provisions of 40 CFR 60.8(c) and 60.11. In EPA's judgment, both the furnace and tapping station standards are achievable for all normal process operations at facilities with well-designed, well-maintained, and properly operated emission collection systems.

The promulgated regulation retains the proposed fume capture requirements, but the regulation has been revised to be more enforceable than the proposed capture requirements, which could have been enforced only on an infrequent basis. The regulation has been reorganized to clarify that unlike the opacity standards, the collection system capture requirements (visible emission limitations) are subject to demonstration of compliance during the performance test. To provide a means for routine enforcement of the capture requirements, continuous monitoring of the volumetric flow rate(s) through the collection system is required for each affected furnace. An owner or operator may comply with this requirement either by installing a flow rate monitoring device in an appropriate location in the exhaust duct or by calculating the flow rate through the system from fan operating data. During the performance test, the baseline operating flow rate(s) will be established for the affected electric submerged arc furnace. The regulation establishes emission capture standards which are applicable only during the performance test of the affected facility. At all other times, the operating volumetric flow rate(s) shall be maintained at or greater than the established baseline values for the furnace load. Use of lower volumetric flow rates than the established values constitutes unacceptable operation and maintenance of the affected facility. These provisions of the promulgated regulation will ensure continuous monitoring of the operations of the emission capture system and will simplify enforcement of the emission capture requirements.

The requirements for monitoring volumetric flow rates will add negligible additional costs to the total costs of complying with the standards of performance. Flow rate monitoring devices of sufficient accuracy to meet the requirements of § 60.265(c) can be installed for $600–$4000 depending on the flow profile of the area being monitored and the complexity of the monitoring device. A suitable strip chart recorder can be installed for less than $600. The alternative provisions allowing calculation of the volumetric flow rate(s) through the control system from continuous monitoring of fan operations will result in no additional costs because the industry presently monitors fan operations.

(4) *Monitoring of operations.* The promulgated regulation requires reporting to the Administrator any product changes that will result in a change in the applicable standard of performance for the affected electric submerged arc furnace. This requirement is necessary because electric submerged arc furnaces may be converted to production of alloys other than the original design alloys by physical alterations to the furnace, changes to the electrode spacing, changes in the transformer capacity, and changes in the materials charged to the furnace. Thus, the emission rate from the electric submerged arc furnace and the standard of performance (which is dependent on the alloy produced) may change during the lifetime of the facility. Conversion of the furnace to production of alloys with significantly different emission rates, such as changes between the product groups for the two standards, may result in the facility exceeding the applicable standard. Consequently, the reporting requirement was added to ensure continued compliance with the applicable standards of performance. These reports of product changes will afford the Administrator an opportunity to determine whether a performance test should be conducted and will simplify enforcement of the regulation. As with the requirements applicable under the proposed regulation, the performance test still must be conducted while the electric submerged arc furnace is producing the design alloy whose emissions are the most difficult to control of the product family. Subsequent product changes within the product family will not cause the facility to exceed the standard.

(5) *Test methods and procedures.* Section 60.266(d) of the promulgated regulation requires the owner or operator to design and construct the control device to allow measurement of emissions and flow rates using applicable test methods and procedures. This provision permits the use of open pressurized fabric filter collectors (and other control devices) whose emissions cannot be measured by reference methods currently in Appendix A to this part, if compliance with the promulgated standard can be demonstrated by an alternative procedure. EPA has not specified a single test procedure for emission testing of open pressurized fabric filter collectors because of the large variations in the design of these collectors. Test procedures can be developed on a case-by-case basis, however. Provisions in 40 CFR 60.8(b) allow the owner or operator upon approval by the Administrator to use an "alternative" or

"equivalent" test procedure to show compliance with the standards. EPA would like to emphasize that development of the "alternative" or "equivalent" test procedure is the responsibility of any owner or operator who elects to use a control device not amenable to testing by Method 5 of Appendix A to this part. The procedures of an "alternative" test method for demonstration of compliance are dependent on specific design features and condition of the collector and the capabilities of the sampling equipment. Consequently, procedures acceptable for demonstration of compliance will vary with specific situations. General guidance on possible approaches to sampling of emissions from pressurized fabric filter collectors is provided in Chapter IV of the supplemental information document.

Due to the costs of testing, the owner or operator should obtain EPA approval for a specific test procedure or other means for determining compliance before construction of a new source. Under the provisions of § 60.6, the owner or operator of a new facility may request review of the acceptability of proposed plans for construction and testing of control systems which are not amenable to sampling by Reference Method 5. If an acceptable "alternative" test procedure is not developed by the owner or operator, then total enclosure of the pressurized fabric filter collector and testing by Method 5 is required.

Effective date. In accordance with section 111 of the Act, these regulations prescribing standards of performance for ferroalloy production facilities are effective May 4, 1976, and apply to electric submerged arc furnaces and their associated dust-handling equipment, the construction or modification of which was commenced after October 21, 1974.

(Secs. 111 and 114 of the Clean Air Act, amended by Sec. 4(a) of Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9).)

Dated: April 23, 1976.

RUSSELL E. TRAIN,
Administrator.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The table of sections is amended by adding subpart Z as follows:

Subpart Z—Standards of Performance for Ferroalloy Production Facilities

Sec.
60.260 Applicability and designation of affected facility.
60.261 Definitions.
60.262 Standard for particulate matter.
60.263 Standard for carbon monoxide.
60.264 Emission monitoring.
60.265 Monitoring of operations.
60.266 Test methods and procedures.

2. Part 60 is amended by adding subpart Z as follows:

Subpart Z—Standards of Performance for Ferroalloy Production

§ 60.260 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities: Electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome standard ferromanganese, silimanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment.

§ 60.261 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Electric submerged arc furnace" means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

(b) "Furnace charge" means any material introduced into the electric submerged arc furnace and may consist of, but is not limited to, ores, slag, carbonaceous material, and limestone.

(c) "Product change" means any change in the composition of the furnace charge that would cause the electric submerged arc furnace to become subject to a different mass standard applicable under this subpart.

(d) "Slag" means the more or less completely fused and vitrified matter separated during the reduction of a metal from its ore.

(e) "Tapping" means the removal of slag or product from the electric submerged arc furnace under normal operating conditions such as removal of metal under normal pressure and movement by gravity down the spout into the ladle.

(f) "Tapping period" means the time duration from initiation of the process of opening the tap hole until plugging of the tap hole is complete.

(g) "Furnace cycle" means the time period from completion of a furnace product tap to the completion of the next consecutive product tap.

(h) "Tapping station" means that general area where molten product or slag is removed from the electric submerged arc furnace.

(i) "Blowing tap" means any tap in which an evaluation of gas forces or projects jets of flame or metal sparks beyond the ladle, runner, or collection hood.

(j) "Furnace power input" means the resistive electrical power consumption of an electric submerged arc furnace as measured in kilowatts.

(k) "Dust-handling equipment" means any equipment used to handle particulate matter collected by the air pollution control device (and located at or near such device) serving any electric submerged arc furnace subject to this subpart.

(l) "Control device" means the air pollution control equipment used to remove particulate matter generated by an electric submerged arc furnace from an effluent gas stream.

(m) "Capture system" means the equipment (including hoods, ducts, fans, dampers, etc.) used to capture or transport particulate matter generated by an affected electric submerged arc furnace to the control device.

(n) "Standard ferromanganese" means that alloy as defined by A.S.T.M. designation A99-66.

(o) "Silicomanganese" means that alloy as defined by A.S.T.M. designation A483-66.

(p) "Calcium carbide" means material containing 70 to 85 percent calcium carbide by weight.

(q) "High-carbon ferrochrome" means that alloy as defined by A.S.T.M. designation A101-66 grades HC1 through HC6.

(r) "Charge chrome" means that alloy containing 52 to 70 percent by weight chromium, 5 to 8 percent by weight carbon, and 3 to 6 percent by weight silicon.

(s) "Silvery iron" means any ferrosilicon, as defined by A.S.T.M. designation 100-69, which contains less than 30 percent silicon.

(t) "Ferrochrome silicon" means that alloy as defined by A.S.T.M. designation A482-66.

(u) "Silicomanganese zirconium" means that alloy containing 60 to 65 percent by weight silicon, 1.5 to 2.5 percent by weight calcium, 5 to 7 percent by weight zirconium, 0.75 to 1.25 percent by weight aluminum, 5 to 7 percent by weight manganese, and 2 to 3 percent by weight barium.

(v) "Calcium silicon" means that alloy as defined by A.S.T.M. designation A495-64.

(w) "Ferrosilicon" means that alloy as defined by A.S.T.M. designation A100-69 grades A, B, C, D, and E which contains 50 or more percent by weight silicon.

(x) "Silicon metal" means any silicon alloy containing more than 96 percent silicon by weight.

(y) "Ferromanganese silicon" means that alloy containing 63 to 66 percent by weight manganese, 28 to 32 percent by weight silicon, and a maximum of 0.08 percent by weight carbon.

§ 60.262 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which:

(1) Exit from a control device and contain particulate matter in excess of 0.45 kg/MW-hr (0.99 lb/MW-hr) while silicon metal, ferrosilicon, calcium silicon, or silicomanganese zirconium is being produced.

(2) Exit from a control device and contain particulate matter in excess of 0.23 kg/MW-hr (0.51 lb/MW-hr) while high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, calcium carbide, ferrochrome silicon, ferromanganese silicon, or silvery iron is being produced.

(3) Exit from a control device and exhibit 15 percent opacity or greater.

(4) Exit from an electric submerged arc furnace and escape the capture system and are visible without the aid of instruments. The requirements under this subparagraph apply only during periods when flow rates are being established under § 60.265(d).

(5) Escape the capture system at the tapping station and are visible without the aid of instruments for more than 40 percent of each tapping period. There are no limitations on visible emissions under this subparagraph when a blowing tap occurs. The requirements under this subparagraph apply only during periods when flow rates are being established under § 60.265(d).

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any dust-handling equipment any gases which exhibit 10 percent opacity or greater.

§ 60.263 Standard for carbon monoxide.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any electric submerged arc furnace any gases which contain, on a dry basis, 20 or greater volume percent of carbon monoxide. Combustion of such gases under conditions acceptable to the Administrator constitutes compliance with this section. Acceptable conditions include, but are not limited to, flaring of gases or use of gases as fuel for other processes.

§ 60.264 Emission monitoring.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device(s).

(b) For the purpose of reports required under § 60.7(c), the owner or operator shall report as excess emissions all six-minute periods in which the average opacity is 15 percent or greater.

(c) The owner or operator subject to the provisions of this subpart shall submit a written report of any product change to the Administrator. Reports of product changes must be postmarked not later than 30 days after implementation of the product change.

§ 60.265 Monitoring of operations.

(a) The owner or operator of any electric submerged arc furnace subject to the provisions of this subpart shall maintain daily records of the following information:

(1) Product being produced.

(2) Description of constituents of furnace charge, including the quantity, by weight.

(3) Time and duration of each tapping period and the identification of material tapped (slag or product.)

(4) All furnace power input data obtained under paragraph (b) of this section.

(5) All flow rate data obtained under paragraph (c) of this section or all fan motor power consumption and pressure drop data obtained under paragraph (e) of this section.

(b) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a device to measure and continuously record the furnace power input. The furnace power input may be measured at the output or input side of the transformer. The device must have an accuracy of ±5 percent over its operating range.

(c) The owner or operator subject to the provisions of this subpart shall install, calibrate, and maintain a monitoring device that continuously measures and records the volumetric flow rate through each separately ducted hood of the capture system, except as provided under paragraph (e) of this section. The owner or operator of an electric submerged arc furnace that is equipped with a water cooled cover which is designed to contain and prevent escape of the generated gas and particulate matter shall monitor only the volumetric flow rate through the capture system for control of emissions from the tapping station. The owner or operator may install the monitoring device(s) in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device must have an accuracy of ±10 percent over its normal operating range and must be calibrated according to the manufacturer's instructions. The Administrator may require the owner or operator to demonstrate the accuracy of the monitoring device relative to Methods 1 and 2 of Appendix A to this part.

(d) When performance tests are conducted under the provisions of § 60.8 of this part to demonstrate compliance with the standards under §§ 60.262(a)(4) and (5), the volumetric flow rate through each separately ducted hood of the capture system must be determined using the monitoring device required under paragraph (c) of this section. The volumetric flow rates must be determined for furnace power input levels at 50 and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the volumetric flow rate at or above the appropriate levels for that furnace power input level determined during the most recent performance test. If emissions due to tapping are captured and ducted separately from emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the exhaust flow rates through the capture system over the tapping station at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be reestablished by conducting new performance tests under § 60.8 of this part.

(e) The owner or operator may as an alternative to paragraph (c) of this section determine the volumetric flow rate through each fan of the capture system from the fan power consumption, pressure drop across the fan and the fan performance curve. Only data specific to the operation of the affected electric submerged arc furnace are acceptable for demonstration of compliance with the requirements of this paragraph. The owner or operator shall maintain on file a permanent record of the fan performance curve (prepared for a specific temperature) and shall:

(1) Install, calibrate, maintain, and operate a device to continuously measure and record the power consumption of the fan motor (measured in kilowatts), and

(2) Install, calibrate, maintain, and operate a device to continuously measure and record the pressure drop across the fan. The fan power consumption and pressure drop measurements must be synchronized to allow real time comparisons of the data. The monitoring devices must have an accuracy of ±5 percent over their normal operating ranges.

(f) The volumetric flow rate through each fan of the capture system must be determined from the fan power consumption, fan pressure drop, and fan performance curve specified under paragraph (e) of this section, during any performance test required under § 60.8 of this part to demonstrate compliance with the standards under §§ 60.262(a)(4) and (5). The owner or operator shall determine the volumetric flow rate at a representative temperature for furnace power input levels of 50 and 100 percent of the nominal rated capacity of the electric submerged arc furnace. At all times the electric submerged arc furnace is operated, the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the volumetric flow rate is at or above the levels established during the most recent performance test for that furnace power input level. If emissions due to tapping are captured and ducted separately from emissions of the electric submerged arc furnace, during each tapping period the owner or operator shall maintain the fan power consumption and fan pressure drop at levels such that the volumetric flow rate is at or above the levels established during the most recent performance test. Operation at lower flow rates may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility. The owner or operator may request that these flow rates be reestablished by conducting new performance tests under § 60.8 of this part. The Administrator may require the owner or operator to verify the fan performance curve by monitoring necessary fan operating parameters and determining the gas volume moved relative to Methods 1 and 2 of Appendix A to this part.

(g) All monitoring devices required under paragraphs (c) and (e) of this section are to be checked for calibration annually in accordance with the procedures under § 60.13(b).

§ 60.266 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.262 and § 60.263 as follows:

(1) Method 5 for the concentration of particulate matter and the associated moisture content except that the heating systems specified in paragraphs 2.1.2 and 2.1.4 of Method 5 are not to be used when the carbon monoxide content of the gas stream exceeds 10 percent by volume, dry basis.

(2) Method 1 for sample and velocity traverses.

(3) Method 2 for velocity and volumetric flow rate.

(4) Method 3 for gas analysis, including carbon monoxide.

(b) For Method 5, the sampling time for each run is to include an integral number of furnace cycles. The sampling time for each run must be at least 60 minutes and the minimum sample volume must be 1.8 dscm (64 dscf) when sampling emissions from open electric submerged arc furnaces with wet scrubber control devices, sealed electric submerged arc furnaces, or semi-enclosed electric submerged arc furnaces. When sampling emissions from other types of installations, the sampling time for each run must be at least 200 minutes and the minimum sample volume must be 5.7 dscm (200 dscf). Shorter sampling times or smaller sampling volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(c) During the performance test, the owner or operator shall record the maximum open hood area (in hoods with segmented or otherwise moveable sides) under which the process is expected to be operated and remain in compliance with all standards. Any future operation of the hooding system with open areas in excess of the maximum is not permitted.

(d) The owner or operator shall construct the control device so that volumetric flow rates and particulate matter emissions can be accurately determined by applicable test methods and procedures.

(e) During any performance test required under § 60.8 of this part, the owner or operator shall not allow gaseous diluents to be added to the effluent gas stream after the fabric in an open pressurized fabric filter collector unless the total gas volume flow from the collector is accurately determined and considered in the determination of emissions.

(f) When compliance with § 60.263 is to be attained by combusting the gas stream in a flare, the location of the sampling site for particulate matter is to be upstream of the flare.

(g) For each run, particulate matter emissions, expressed in kg/hr (lb/hr), must be determined for each exhaust stream at which emissions are quantified using the following equation:

$$E_n = C_s Q_s$$

where:

E_n = Emissions of particulate matter in kg/hr (lb/hr).

C_s = Concentration of particulate matter in kg/dscm (lb/dscf) as determined by Method 5.

Q_s = Volumetric flow rate of the effluent gas stream in dscm/hr (dscf/hr) as determined by Method 2.

(h) For Method 5, particulate matter emissions from the affected facility, expressed in kg/MW-hr (lb/MW-hr) must be determined for each run using the following equation:

$$E = \frac{\sum_{n=1}^{N} E_n}{p}$$

where:

E = Emissions of particulate from the affected facility, in kg/MW-hr (lb/MW-hr).

N = Total number of exhaust streams at which emissions are quantified.

E_n = Emission of particulate matter from each exhaust stream in kg/hr (lb/hr), as determined in paragraph (g) of this section.

p = Average furnace power input during the sampling period, in megawatts as determined according to § 60.265 (b).

(Secs. 111 and 114 of the Clean Air Act, as amended by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1678 (42 U.S.C. 1857c-6, 1857c-9))

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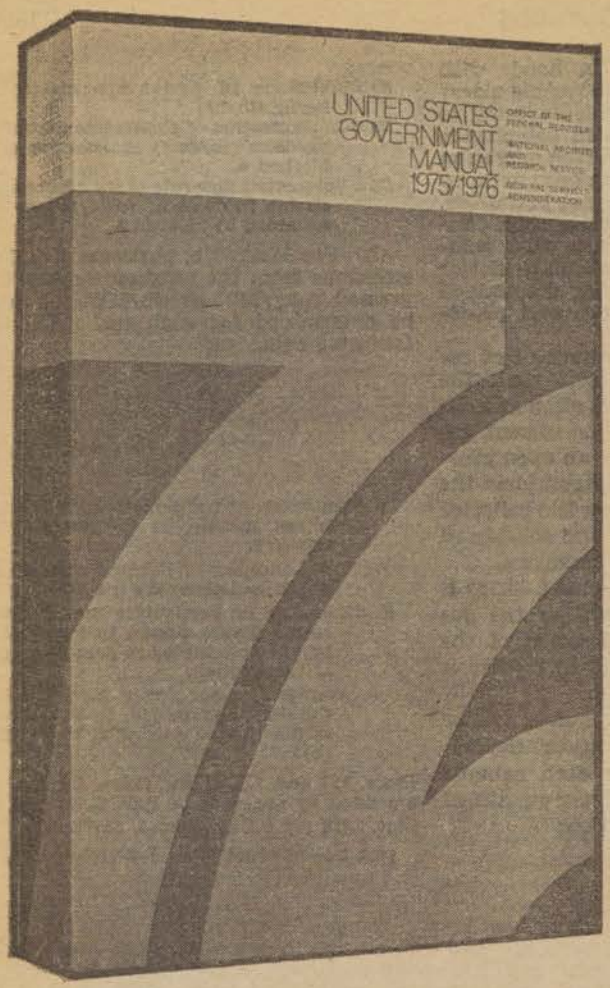

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