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federal register

TUESDAY, OCTOBER 25, 1977



highlights

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

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

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

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

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

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
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	HEW/HRA			HEW/HRA
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	HEW/PHS			HEW/PHS

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

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

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

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

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To establish within the Department of Justice the position of Associate Attorney General. (Oct. 19, 1977; 91 Stat. 1171.) Price: $.50.

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[3195-01]

Title 3—The President

PROCLAMATION 4533

National Farm-City Week, 1977

By the President of the United States of America

A Proclamation

One of our most important national objectives is the establishment of a national food policy. This is vital to our own welfare and security as well as to our search for world peace. It requires the mutual respect and intelligent cooperation of all our people.

Once each family's farm supplied almost all of the raw materials and finished products to feed, clothe and warm the family. As our means of production have progressed and farmers as well as factories and businesses have increasingly specialized, each family has come to depend on many others for the tools and equipment and materials to keep our complex system running and meet our individual daily needs.

Our production of food is the marvel of the world. It depends on not only our farmers, but also researchers, the makers and sellers of equipment and supplies and the providers of services to farms and farmers, and those who transport, process and sell our harvest. All are vital links in maintaining the wholesomeness, abundance and availability at reasonable cost of our varied food supply. Many of the links in this food chain are in distant cities. All of us, on farms, in cities and suburbs, are consumers of these vital products.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the period of November 18 through November 24, 1977, as National Farm-City Week and ask all Americans to observe that period with suitable activities.

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

Jimmy Carter

[FR Doc.77-31040 Filed 10-20-77;5:03 pm]

rules and regulations

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

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

[6325–01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant to the President and Chairman is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3342(u) is added as set out below:

§ 213.3342 Export-Import Bank of the United States.

* * * * *

(u) One Assistant to the President and Chairman.

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

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

[FR Doc.77–30850 Filed 10–21–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Executive Office of the President, Office of the Special Representative for Trade Negotiations

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One Secretary (Stenography) to the President's Special Representative for Trade Negotiations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(d)(5) is added as set out below:

§ 213.3303 Executive Office of the President.

* * * * *

(d) *Office of the Special Representative for Trade Negotiations.* * * *

(5) One Secretary (Steno) to the Special Representative.

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

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

[FR Doc.77–30914 Filed 10–21–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Attorney-Advisor (Special Assistant to the Deputy General Counsel) and one position of Confidential Assistant to the Deputy General Counsel are excepted under Schedule C because they are confidential in nature.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3316 (a)(40) and (a)(41) are added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

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

(40) One Attorney-Advisor (Special Assistant to the Deputy General Counsel).

(41) One Confidential Assistant to the Deputy General Counsel.

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

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

[FR Doc.77–30912 Filed 10–21–77;8:45 am]

[6325–01]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: Staff Assistant to the Assistant Secretary-Energy and Minerals and Special Assistant to the Assistant Secretary-Energy and Minerals (Environment).

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3312 (a)(49) and (a)(50) are added as set out below:

§ 213.3312 Department of the Interior.

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

(49) Staff Assistant to the Assistant Secretary-Energy and Minerals.

(50) Special Assistant to the Assistant Secretary-Energy and Minerals (Environment).

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

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

[FR Doc.77–30913 Filed 10–21–77;8:45 am]

[6690–01]

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 404—DISCLOSURE OF INFORMATION

Change in Officer Responsibility

AGENCY: Export-Import Bank of the United States (Eximbank).

ACTION: Amendment to regulations.

SUMMARY: The regulations governing the disclosure of information under the Freedom of Information Act (the Act) (12 CFR Part 404) are being amended to reflect changes in officer responsibility for matters arising under the Act.

EFFECTIVE DATE: November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Warren W. Glick, General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue NW., Washington, D.C. 20571, 202–566–8334.

SUPPLEMENTARY INFORMATION: The regulations currently designate the Senior Vice President—Public Affairs and Export Expansion as the officer to whom requests are to be addressed. The title of this officer has been changed to "Senior Vice President—Research and Communications." The regulations are therefore being amended to reflect this title change.

The regulations currently designate the Senior Vice President—Public Affairs

and Export Expansion as the officer with authority to deny requests and waive or reduce fees. The regulations are being amended to replace the existing references to the Senior Vice President—Public Affairs and Export Expansion, acting in this capacity, with references to the General Counsel or his designee.

The regulations currently provide that any Eximbank employee who is requested by a court, committee or other body to produce documents and/or testify with respect thereto shall ask for the instructions of the Executive Vice President. The regulations are being amended to replace the existing reference to the Executive Vice President, acting in this capacity, with a reference to the General Counsel or his designee.

The regulations currently provide that appeals from denials are to be addressed to the Executive President. The regulations are being amended to provide that such appeals are to be addressed to the President and Chairman.

The regulations currently provide that appeals from denials are to be decided by the Executive Vice President. The regulations also provide that any Eximbank employee shall decline to disclose information or produce files, documents and records demanded or requested by a court, committee or other body, if the Executive Vice President has not authorized disclosure. The regulations are being amended to replace the existing references to the Executive Vice President, acting in this capacity, with references to the President and Chairman or his designee.

These amendments concern only changes in officer responsibility and are not substantive. Therefore, notice of proposed amendments, opportunity for public comment and delay in effective date are not deemed necessary.

Accordingly, 12 CFR Part 404 is amended as follows:

§ 404.4 [Amended]

In § 404.4(c)(i), delete "Senior Vice President—Public Affairs and Export Expansion" wherever it appears and insert in lieu thereof "Senior Vice President—Research and Communications."

In § 404.4(c) (iii), (iv) and (vii), delete "Senior Vice President—Public Affairs and Export Expansion" wherever it appears and insert in lieu thereof "General Counsel or his designee."

§ 404.5 [Amended]

In § 404.5(c) and 404.5(d), delete "Executive Vice President" wherever it appears and insert in lieu thereof "President and Chairman."

In § 404.5(d), delete "Executive Vice President" wherever it appears and insert in lieu thereof "President and Chairman or his designee."

§ 404.8 [Amended]

In § 404.8, delete the first reference to "Executive Vice President" and insert in lieu thereof "General Counsel or his designee" and delete the second reference to "Executive Vice President" and insert in lieu thereof "President and Chairman or his designee."

WARREN W. GLICK,
General Counsel.

[FR Doc.77-30795 Filed 10-21-77;8:45 am]

[6720-01]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER A—GENERAL REGULATIONS

[No. 77-619]

PART 506—BONDS AND DEBENTURES

PART 506a—BOOK-ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES

Restriction on Use of Definitive Form of Federal Home Loan Bank Securities

OCTOBER 18, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The amendment changes the regulations governing issuance of and transactions in Federal home loan bank securities (with the exception of Federal home loan bank consolidated discount notes) to require such securities to be issued only in book-entry form. The change is needed because previous regulations allowed a choice of book-entry or definitive form, and the Board believes that elimination of the latter form will protect against losses, reduce costs, lessen paperwork, and conform to recent changes made by the Treasury with regard to issuance of Treasury bills.

EFFECTIVE DATE: November 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Nancy L. Feldman, Assistant General Counsel, Federal Home Loan Bank Board, Telephone number: Area code 202-376-3074.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board by Resolution No. 77-446 (42 FR 37980-37981; July 26, 1977) proposed to amend Parts 506 and 506a (12 CFR Parts 506, 506a) as described above. Public comments on the proposal were requested by August 11, 1977; none were received.

The Board believes that elimination of securities in the form of engraved certificates will provide substantial benefits to investors and the financial community, by protecting against losses due to theft, mishandling, and counterfeiting, by reducing costs of issuing, storing, and delivering securities in physical form, and by moderating the burden of paperwork created by the growing volume of public debt transactions.

The Board notes that, in addition to providing a public comment period upon issuance of its proposed change in this area (notice of proposed rulemaking published in the FEDERAL REGISTER, 41 FR 47959, November 1, 1976), the Department of the Treasury, in a series of public meetings and special briefings held in various parts of the country, also undertook directly to acquaint investors, financial institutions, securities dealers, and others with the new mandatory book-entry system, and to solicit their reactions.

It is further noted that, while under the proposal no certificate will be received, nevertheless customers will receive a confirmation, in the form of a written advice, of each transaction affecting their book-entry Federal home loan bank securities.

The regulations provide that Federal home loan bank securities will be maintained through book-entry accounts at Federal Reserve Banks. By their terms, these amendments do not apply to Federal home loan bank securities issued prior to November 25, 1977, or to Federal home loan bank consolidated discount notes.

The Board is also taking this opportunity to revise its consolidated-bond-form regulations by deleting an obsolete provision regarding issuance of interim certificates, and its book-entry-servicing regulation to reflect current practice.

Accordingly, the Board hereby amends Parts 506 and 506a, to read as set forth below, effective November 25, 1977.

1. Section 506.2 is amended by deleting the penultimate sentence thereof, to read as follows:

§ 506.2 Form of consolidated bonds.

Consolidated Federal Home Loan Bank bonds shall be issued in series and all consolidated bonds of the same series shall be of like date, tenor, and effect except as to denominations, which shall be in such amounts as may be authorized by the Board. The form of each consolidated bond shall be prescribed by the Board. Consolidated bonds issued with maturities of 1 year or less may be designated consolidated notes.

2. Section 506a.1 is amended by revising paragraph (c) thereof to read as follows:

§ 506a.1 Definition of terms.

In this part, unless the context otherwise requires or indicates:

* * * * *

(c) "Definitive Federal home loan bank security" means a Federal home loan bank security in engraved or printed form. Such forms will not be available with regard to securities issued on or after November 25, 1977, with the exception of Federal home loan bank consolidated discount notes.

* * * * *

3. Section 506a.2 is amended by revising paragraph (b) thereof to read as follows:

§ 506a.2 Authority of Reserve Banks.

Each Reserve Bank is hereby authorized, in accordance with the provisions of this part, to

* * * * *

(b) effect conversions between book-entry Federal home loan bank securities

and definitive Federal home loan bank securities, with regard to such securities issued prior to November 25, 1977;

* * * * *

4. Section 506a.4 is amended by revising paragraphs (d) and (f) thereof, and adding new paragraph (g) thereto, to read as follows:

§ 506a.4 Transfer or pledge.

* * * * *

(d) A Reserve Bank shall, upon receipt of appropriate instructions, convert book-entry Federal home loan bank securities issued prior to November 25, 1977, into definitive Federal home loan bank securities and deliver them in accordance with such instructions; no such conversion shall affect existing interests in such Federal home loan bank securities.

* * * * *

(f) All requests for transfer or any authorized transaction must be made prior to the maturity or date of call of the securities.

(g) A Reserve Bank will issue to each depositor following any transaction affecting book-entry securities maintained for such depositor under this part a confirmation thereof in the form of an advice (serially numbered or otherwise) which shall describe the amount and maturity date thereof, and include pertinent transaction data.

5. Section 506a.5 is amended by revising paragraph (a) thereof to read as follows:

§ 506a.5 Withdrawal of Federal home loan bank securities.

(a) A depositor of book-entry Federal home loan bank securities issued before November 25, 1977, may withdraw them from a Reserve Bank by requesting delivery of like definitive Federal home loan bank securities to itself or on its order to a transferee.

* * * * *

6. Section 506a.6 is amended to read as follows:

§ 506a.6 Delivery of Federal home loan bank securities.

A Reserve Bank which has received Federal home loan bank securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor, is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or to take other action in respect of the securities. A Reserve Bank shall be fully discharged of its obligations under this part by the transfer of book-entry Federal home loan bank securities upon the order of its depositor or delivery of securities issued before November 25, 1977, or Federal home loan bank consolidated discount notes, in definitive form to its depositor. Customers of a member bank or other depositary (other than a Reserve Bank) may obtain Federal home loan bank securities in definitive form only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank.

7. Section 506a.8 is amended to read as follows:

§ 506a.8 Servicing book-entry Federal home loan bank securities; payment of interest; payment at maturity or upon call.

Interest becoming due on book-entry Federal home loan bank securities shall be charged to the Federal home loan banks' Principal and Interest Account at the Federal Reserve Bank of New York on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged to the same account on the date of maturity, call, or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

(Sec. 11, 47 Stat. 733, as amended; 17, 47 Stat. 736, as amended, (12 U.S.C. 1431, 1437).)

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.77-30896 Filed 10-21-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 77-WA-18]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Rescission of Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment rescinds the domestic low altitude reporting point at Memphis, Tenn. The relocation of the Memphis VORTAC and associated airspace actions make the mandatory reporting at this location unnecessary for the control of air traffic below 18,000 feet MSL.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to rescind the compulsory requirement for all IFR flights over the Memphis VORTAC below 18,000 feet MSL to report that position to FAA. Effective December 1, 1977, all of the airways that now use the Memphis VORTAC will be realigned to bypass it. En route airway traffic will then be unable to use Memphis as a reporting point. Because the designation and rescission of reporting points is an administrative function to assist in the control of air traffic, this amendment is considered to be minor in nature and one on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) is amended, effective December 1, 1977, as follows:

In § 71.203 (42 FR 626) "Memphis, Tenn." is deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 17, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-30734 Filed 10-21-77;8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-255]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Entry and Clearance of Vessels

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for using internationally-developed cargo declaration forms in connection with the arrival or departure of a vessel. The United States agreed to use standardized international forms to the extent that they satisfied United States legal requirements when it ratified the Convention on Facilitation of International Maritime Traffic. The Customs Service expects that the use of these forms will simplify paperwork without reducing effective Customs control over vessel movements.

EFFECTIVE DATE: The Cargo Declaration, Customs Form 1302, and the Cargo

Declaration Outward with Commercial Forms, Customs Form 1302–A, may be used at any time after publication of this rule in the FEDERAL REGISTER, and their use will be mandatory as of September 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Don Reusch, Attorney, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202–566–5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Customs Service published a notice of proposed rulemaking in the FEDERAL REGISTER (40 FR 33038) on August 6, 1975, to amend various sections in Part 4 of the Customs Regulations (19 CFR Part 4) dealing with vessels in foreign and domestic trade. This notice proposed to replace current vessel manifest forms with new forms developed by the Intergovernmental Maritime Consultative Organization, as modified by the International Chamber of Shipping. The adoption of these new forms was recommended by the International Chamber of Shipping as part of a program to simplify paperwork in international commerce.

The Customs Service proposed to replace the U.S. Customs Inward Foreign Manifest (Customs Form 7527–A) and the Inward Foreign Manifest (Customs Form 7527–B) with an international Cargo Declaration (Customs Form 1302). Customs Form 7527–B has since been abolished. This new form is designed to be used for arrivals or departures of vessels.

In that same notice, it was also proposed to replace the Outward Foreign Manifest (Customs Form 1374) with an international form entitled "Cargo Declaration Outward With Commercial Forms" (Customs Form 1305).

REDESIGNATION OF THE FORM NUMBER OF THE CARGO DECLARATION OUTWARD WITH COMMERCIAL FORMS

The Cargo Declaration Outward With Commercial Forms was designated as Customs Form 1305 in the published notice. Subsequently, the Customs Service learned that this form number could be confused with the form number of an international crew list form. Accordingly, the number of this cargo declaration form has been redesignated Customs Form 1302–A. Changes have been made in §§ 4.63, 4.75, 4.82, 4.88, 4.89, and 4.99, Customs Regulations, to reflect the redesignated form number. All future references to this form will use the redesignated form number.

CHANGES TO THE PROPOSED CARGO DECLARATION FORMS AND PROPOSED REGULATIONS

In connection with publishing the notice of proposed rulemaking, copies of the cargo declaration forms (Customs Forms 1302 and 1302–A) were also filed with the FEDERAL REGISTER for public inspection and comment. Most of the comments received by the Customs Service as a result of the notice were concerned with the layout of the two forms.

A few commenters suggested that the bill of lading column be positioned as the first column on the far left side of the Cargo Declaration, Customs Form 1302. Each of those commenters mentioned the importance of the bill of lading number as a means of checking the shipments aboard a vessel. Another commenter opposed moving the column since it would destroy standardization of the form. After considering all the comments, it was decided not to change the position of the bill of lading column because realignment of the form would defeat the purpose of standardizing all international shipping forms.

WIDENING THE BILL OF LADING COLUMNS

Some commenters claimed that the bill of lading column on the Cargo Declaration forms was too narrow for use with computers. The Customs Service agrees with this claim and has widened these columns.

SIZE OF CUSTOMS FORM 1302

Two comments concerned the size of the Cargo Declaration, Customs Form 1302. One comment suggested that the form be reduced in size from 16½x11⅔ inches to 14x8½ inches to make it easier to copy and handle. The other comment expressed concern that privately printed forms could be different in size from the official Customs forms. Inasmuch as the size of the form was determined through international agreement, the United States cannot prescribe the use of any other size form. However, the Customs Service recognizes that a carrier may need a different size form for its own purposes and, in the amendments to § 4.99, Customs Regulations, permits the use of a privately printed form that deviates in size (within certain limits) from the official Customs form. This provision is a carryover from the present language in § 4.99. The Customs Service believes that a change to forbid deviations in the size of the new forms was beyond the scope of the proposal.

CONTAINER SEAL NUMBERS TO BE LISTED IN COLUMN NO. 6

Two commenters suggested that container seal numbers be shown in column No. 6 on the same line as the last mark indicated. The Customs Service agrees with this concept of listing the container seal numbers. Accordingly, the proposed Cargo declaration forms have been modified to require a carrier to enter a container seal number in column No. 6 of the forms.

INSTRUCTIONS FOR SUPPLYING MEASUREMENT INFORMATION IN COLUMN 9

A commenter suggested that a carrier be allowed to use column No. 9 on the Cargo Declaration for its own use since the United States does not require the information that would normally be set forth in that column. The Customs Service has modified both Cargo Declaration forms to make it clear that a carrier has the option to supply information on the weight of the cargo in column No. 8 or to supply information on the measurement of the cargo in column No. 9. Furthermore, proposed § 4.7a(c)(1), Customs Regulations, has been reworded to clarify the procedure for completing the Cargo Declaration.

Additionally, the Customs Service deleted the footnote to column No. 9 on both forms. The footnote had stated that the United States did not require the information on measurement to be shown on the form.

PROVISION FOR SUPPLYING INFORMATION ON FINAL DESTINATION

A commenter asked for an explanation on the purpose of the box labeled "Final destination (if on-carriage)." The original purpose of requiring this information was to determine where a ship's cargo would be delivered. The widespread and increasing use of shipboard containers has made this information no longer useful because each container could have a different final destination. Accordingly, Customs Form 1302 has been modified to make it clear that the United States does not require a carrier to supply this information on the Cargo Declaration.

INFORMATION CONTAINED IN A FOOTNOTE MOVED DIRECTLY TO INFORMATIONAL BLOCK

On its own initiative, the Customs Service moved the statement "not required by United States" that had been shown as a footnote to block No. 2 on the proposed forms directly to block No. 2. The Customs Service believes that moving the statement directly to the relevant informational block reduces the possibility for error when a carrier completes either Customs form.

DELETION OF BOXES MARKED "ARRIVAL" AND "DEPARTURE" FROM CUSTOMS FORM 1302–A

The boxes marked "arrival" and "departure" have been deleted from the Cargo Declaration Outward with Commercial Forms. Inasmuch as the form is for outward movements only, these boxes are unnecessary and misleading.

REQUIRED USE OF THE CARGO DECLARATION

Two commenters asked that carriers be allowed to continue to use their present manifest forms. The commenters cited the prior Customs approval of their manifest forms and the expense of reprograming automatic data processing equipment that is keyed to those forms. While the Customs Service believes that these comments are valid, the benefits of standardized forms outweigh these other considerations.

However, in an effort to reduce the impact of these new regulations, the effective date for the mandatory use of Customs Forms 1302 and 1302–A has been set for September 1, 1978. This date is sufficiently far in the future to enable

a carrier to use up its existing stock of old forms and to reprogram automatic data processing equipment with a minimum of added expense. Moreover, if the major trading nations require use of these standardized forms in international commerce, the changeover could enable a carrier to achieve substantial savings in administrative costs.

Further under § 4.99, Customs Regulations, the Customs Service can approve the use of a privately printed form that differs from the official Customs forms. This provision for a case by case approval of any deviation in forms is believed to be sufficiently flexible to meet specific needs of carriers without jeopardizing the effort to achieve as much standardization as possible. A blanket approvel of existing forms will not achieve that goal.

INSTRUCTIONS FOR PRESENTING THE CARGO DECLARATION TO THE BOARDING OFFICER

One commenter suggested that the proposed text of § 4.7(a), Customs Regulations, be amended to include an instruction for the master of the vessel to present the Cargo Declaration to the Customs boarding officer. Inasmuch as paragraph (b) of § 4.7, Customs Regulations, contains instructions on presentation of the manifest, it is believed that adding an instruction to § 4.7(a) does not serve any useful purpose.

ELIMINATION OF THE DECLARATION AND ENTRY OF CREW MEMBER FOR IMPORTED ARTICLES, FORMER CUSTOMS FORM 5123

Independently from the effort to standardize vessel cargo declaration forms, the Customs Service is attempting to simplify and reduce the number of forms needed to enter cargo into the United States. Following publication of the notice on these amendments, the Customs Service determined that the Declaration and Entry of Crew Member for Imported Articles, Customs Form 5123, served the same purposes as the Crewmember's Declaration, Customs Form 5129. Therefore, the Declaration and Entry of Crew Member for Imported Articles, Customs Form 5123, has been eliminated. The elimination of Customs Form 5123 has required the following changes in the Customs Regulations: (1) The reference to Customs Form 5123 in § 4.7a(b)(1) has been changed to read Customs Form 5129; (2) the phrase "If the crewmembers' declarations are on Customs Form 5129," has been deleted from § 4.7a(b)(2) as unnecessary inasmuch as Customs Form 5129 is now the only form for declarations by crewmembers; (3) the reference to Customs Form 5123 in § 4.7a(b)(3) has been deleted; and (4) the words "Customs Form 5123 or" have been deleted from the two places they appear in § 4.81(e).

BILL OF LADING CONTROL OVER CONTAINERIZED CARGO

Four comments were received that were opposed to proposed § 4.7a(c)(2), Customs Regulations. However, the objection of one commenter was later withdrawn. Those remaining opposed to proposed § 4.7a(c)(2) claimed that the proposed use of container numbers rather than bill of lading numbers for cargo control purposes was unwieldy. The Customs Service agrees. Accordingly, proposed § 4.7a(c)(2), Customs Regulations, has been rewritten and now requires bills of lading on cargo in a container to be listed in numerical sequence in the second column of the Cargo Declaration. The number of the container having the cargo covered by the bill of lading is to be listed in the third column of the Cargo Declaration, directly opposite the bill of lading number. The number of any container seal for the container is to be designated as a seal number and is to be listed in the third column under the container number. The numbers of any other bill of lading covering cargo in the container are also to be listed in the third column of the Cargo Declaration, under the container number and container seal number.

PLACEMENT OF THE STATEMENT CONCERNING THE QUANTITY AND DESCRIPTION OF CARGO THAT IS CARRIED IN A CONTAINER

Section 4.7a(c)(3)(iii), Customs Regulations, concerns the placement of statements that relate to the quantity and description of cargo in a container or on a pallet. This section requires these statements to be placed on the last page of the Cargo Declaration, Customs Form 1302. A comment was received suggesting that a vessel master be given the option of placing the statement on either the first or the last page of the Cargo Declaration. The Customs Service believes that uniform placement of these statements on the last page reduces the possibility of clerical error in preparing or verifying the Cargo Declaration. Accordingly, the suggestion was not adopted.

INSTRUCTION ON USE OF CARGO DECLARATION AS AN OUTWARD CARGO DECLARATION

Proposed § 4.63(a), Customs Regulations, has been modified by adding an instruction to check the box marked "departure" on Customs Form 1302 if that form is used as an outward cargo declaration. Inasmuch as Customs Form 1302 may be used to record inward or outward movements, the user must indicate the intended purpose to avoid confusion or clerical error.

REWORDING OF PROVISION ON COASTWISE TRANSPORTATION

Section 4.93(c), Customs Regulations, which deals with coastwise transportation by certain vessels was amended by T.D. 77-38, January 27, 1977 (42 FR 5040). Accordingly, proposed § 4.93(c), Customs Regulations, was reworded to reflect the changes made by T.D. 77-38.

VESSELS PROCEEDING FOREIGN VIA DOMESTIC PORTS

It was discovered that the phrase "an oath on Customs Form 1300" had inadvertently been omitted from proposed § 4.87(g), Customs Regulations. This phrase has been added back into the section.

CORRECTION OF TYPOGRAPHICAL AND OTHER CLERICAL ERRORS IN THE PROPOSED AMENDMENT

Several typographical errors in the proposed amendment have been corrected. The word "bath" in proposed § 4.87(d), Customs Regulations, was corrected to read as "oath". The number "118" in § 4.87(g), Customs Regulations, was corrected to be shown as a footnote reference.

PROPOSAL TO REQUIRE THE COMPANY NAME, AND VESSEL INFORMATION ON THE CARGO DECLARATION

One commenter suggested requiring the vessel information that had been required on former Customs Form 7527-A and the company name to also be shown on the Cargo Declaration. This suggestion was not adopted inasmuch as the Customs Service is obligated to use the internationally agreed upon Cargo Declaration form to the greatest extent possible.

SPACES BETWEEN BILL OF LADING NUMBERS

One commenter suggested that the Customs Service require at least three-space separation between the bill of lading numbers on the Cargo Declaration. This suggestion was not adopted because the listing of bill of lading numbers is sufficiently clear as is. The present procedure for listing bill of lading numbers has not presented any problem in checking shipment information.

CORRECTION OF COASTWISE MANIFESTS

One commenter suggested that § 4.93(c), Customs Regulations, be amended to provide for the correction of coastwise manifests. This suggestion is beyond the scope of the proposed amendment which simply involves substituting the new cargo declaration forms for the term "manifest" in that section.

DRAFTING INFORMATION

The principal author of this document was John Roth, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

AMENDMENTS TO THE REGULATIONS

Accordingly, in order to reflect the new procedure concerning the documents used in connection with the arrival and departure of vessels in foreign trade, to provide for standardized model cargo declaration forms, and to reflect the various changes in certain Customs forms, Part 4 of the Customs Regulations (19 CFR Part 4) is amended as set forth below.

1. Paragraph (a) of § 4.7 is amended to read as follows:

§ 4.7 Inward manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section

431, Tariff Act of 1930, as amended (19 U.S.C. 1431),[14] and by this section. The manifest shall be legible and complete. If it is in a foreign language, an English translation shall be furnished with the original and with any required copies. The manifest shall consist of a Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, a General Declaration, Customs Form 1301, and the following documents: (1) Cargo Declaration, Customs Form 1302, (2) Ship's Stores, Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I–418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I–418, and (5) Passenger List, Customs and Immigration Form I–418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 17–22 of the General Declaration, as appropriate. If a vessel arrives in ballast and therefore the Cargo Declaration is omitted, the legend "No merchandise on board" shall be inserted in item 13 of the General Declaration.

* * * * *

2. The section heading, the first sentence, paragraph (b)(1), the first sentence of paragraph (b)(2), paragraph (b)(3), and paragraph (c) of § 4.7a are amended to read as follows:

§ 4.7a Inward manifest; information required; alternative forms.

The forms designated by § 4.7(a) as comprising the inward manifest shall be completed as follows:

* * * * *

(b) *Crew's Effects Declaration (Customs Form 1304).* (1) The declaration number of the Crew Member's Declaration, Customs Form 5129, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None", shall be shown in item No. 7 on the Crew's Effects Declaration, Customs Form 1304, opposite the respective crewmember's name.

(2) In lieu of describing the articles on Customs Form 1304, the master may furnish a Crew List, Customs and Immigration Form I–418, endorsed as follows: * * *

(3) For requirements concerning the preparation of Customs Form 5129, see Subpart G of Part 148 of this chapter.

* * * * *

(c) *Cargo Declaration.* (1) The Cargo Declaration, Customs Form 1302, shall list all the inward foreign cargo on board regardless of the port of discharge. The block designated "Arrival" at the top of the form shall be checked. The goods described in column numbers 6 and 7, and either 8 or 9 shall refer to the respective bills of lading. Either column 8 or column 9 shall be used, as appropriate. The gross weight in column 8 shall be expressed in either pounds or kilograms. The measurement in column 9 shall be expressed according to the unit of measure specified in the Tariff Schedules of the United States (19 U.S.C. 1202).

(2) When inward foreign cargo is being shipped by container, all bills of lading shall be listed in the appropriate column in numerical sequence according to the bill of lading number. The number of the container which contains the cargo covered by that bill of lading and the number of the container seal shall be listed in column number 6 opposite the bill of lading number. The number of any other bill of lading for cargo in that container shall also be listed in column number 6 immediately under the container and seal numbers. A description of cargo shall be set forth in column No. 7 only where the covering bill of lading is listed in the column headed "B/L Nr.".

(3) For shipments of containerized or palletized cargo, Customs officers shall accept a Cargo Declaration which indicates that it has been prepared on the basis of information furnished by the shipper. The use of words of qualification shall not limit the responsibility of a master to submit accurate Cargo Declarations or qualify the oath taken by the master as to the accuracy of his declaration.

(i) If the Cargo Declaration covers only containerized or palletized cargo, the following statement may be placed on the declaration:

> The information appearing on the declaration relating to the quantity and description of the cargo is in each instance based on the shipper's load and count. I have no knowledge or information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(ii) If the Cargo Declaration covers conventional cargo and containerized or palletized cargo, or both, the use of the abbreviation "SLAC" for "shipper's load and count," or an appropriate abbreviation if similar words are used, is approved: *Provided,* That abbreviation is placed next to each containerized or palletized shipment on the declaration and the following statement is placed on the declaration:

> The information appearing on this declaration relating to the quantity and description of cargo preceded by the abbreviation "SLAC" is in each instance based on the shipper's load and count. I have no information which would lead me to believe or to suspect that the information furnished by the shipper is incomplete, inaccurate, or false in any way.

(iii) The statements specified in subparagraphs (3)(i) and (3)(ii) of this paragraph shall be placed on the last page of the Cargo Declaration. Words similar to "the shipper's load and count" may be substituted for those words in the statements. Vague expressions such as "said to contain" or "accepted as containing" are not acceptable. The use of an asterisk or other character instead of appropriate abbreviations, such as "SLAC", is not acceptable.

3. Section 4.33 is amended to read as follows:

§ 4.33 Diversion of cargo.

(a) *Unlading at other than original port of destination.* A vessel may unlade cargo or baggage at an alternative port of entry to the port of original destination if:

(1) It is compelled by any cause to put into the alternative port and the district director of the port issues a permit for the unlading of cargo or baggage; or

(2) As a result of an emergency existing at the port of destination, the district director authorizes the vessel to proceed in accordance with the residue cargo bond procedure to the alternative port. The owner or agent of the vessel shall apply for such authorization in writing, stating the reasons and agreeing to hold the district director and the Government harmless for the diversion.

(b) *Disposition of cargo or baggage at emergency port.* Cargo and baggage unladen at the alternative port under the circumstances set forth in paragraph (a) of this section may be:

(1) Entered in the same manner as other imported cargo or baggage;

(2) Treated as unclaimed and stored at the risk and expense of its owner; or

(3) Reladen upon the same vessel without entry, for transportation to its original destination.

(c) *Substitution of ports of discharge on manifest.* After entry, the Cargo Declaration, Customs Form 1302, of a vessel may be changed at any time to permit discharge of manifested cargo at any domestic port in lieu of any other port shown on the Cargo Declaration, if:

(1) A written application for the diversion is made on the amended Cargo Declaration by the master, owner, or agent of the vessel to the district director of the port where the vessel is located, after entry of the vessel at that port;

(2) An amended Cargo Declaration, under oath, covering the cargo which it is desired to divert, is furnished in support of the application and is filed in such number of copies as the district director shall require for local Customs purposes; and

(3) The certified traveling manifest is not altered or added to in any way by the master, owner, or agent of the vessel. When an application under paragraph (c)(1) of this section is approved, the district director shall securely attach an approved copy of the amended manifest to the traveling manifest and shall send one copy of the amended Cargo Declaration to the district director at the port where the vessel's bond was filed.

(d) *Retention of cargo on board for later return to the United States.* If, as the result of a strike or other emergency at a United States port for which inward foreign cargo is manifested, it is desired to retain the cargo on board the vessel for discharge at a foreign port but with the purpose of having the cargo returned to the United States, an application may be made by the master, owner, or agent of the vessel to amend the vessel's Cargo Declaration, Customs Form 1302, under a procedure similar to that described in paragraph (c) of this section, except

that a foreign port shall be substituted for the domestic port of discharge. If the application is approved, it shall be handled in the same manner as an application filed under paragraph (c) of this section. However, before approving the application, the district director is authorized to require such bond as he deems necessary to insure that export control laws and regulations are not circumvented.

4. Paragraphs (a)–(g) of § 4.34 are amended to read as follows:

§ 4.34 Prematurely landed, overcarried, and undelivered cargo.

(a) *Prematurely landed cargo.* Upon receipt of a satisfactory written application from the owner or agent of a vessel establishing that cargo was prematurely landed and left behind by the importing vessel through error or emergency, the district director may permit inward foreign cargo remaining on the dock to be reladen on the next available vessel owned or chartered by the owner of the importing vessel for transportation to the destination shown on the Cargo Declaration, Customs Form 1302, of the first vessel, provided the importing vessel actually entered the port of destination of the prematurely landed cargo. Unless so forwarded within 30 days from the date of landing, the cargo shall be appropriately entered for Customs clearance or for forwarding in bond; otherwise, it shall be sent to general order as unclaimed. If the merchandise is so entered for Customs clearance at the port of unlading, or if it is so forwarded in bond, other than by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel, representatives of the importing vessel shall file at the port of unlading a Cargo Declaration in duplicate listing the cargo. The district director shall retain the original and forward the duplicate to the district director at the originally intended port of discharge.

(b) *Overcarried cargo.* Upon receipt of a satisfactory written application by the owner or agent of a vessel establishing that cargo was not landed at its destination and was overcarried to another domestic port through error or emergency, the district director may permit the cargo to be returned in the importing vessel, or in another vessel owned or chartered by the owner of the importing vessel, to the destination shown on the Cargo Declaration, Customs Form 1302, of the importing vessel, provided the importing vessel actually entered the port of destination.[67a]

(c) *Inaccessibly-stowed cargo.* Cargo so stowed as to be inaccessible upon arrival at destination may be retained on board, carried forward to another domestic port or ports, and returned to the port of destination in the importing vessel or in another vessel owned or chartered by the owner of the importing vessel in the same manner as other overcarried cargo.

(d) *Application for forwarding cargo.* When it is desired that prematurely landed cargo, overcarried cargo, or cargo so stowed as to be inaccessible, be forwarded to its destination by the importing vessel or by another vessel owned or chartered by the owner of the importing vessel in accordance with paragraph (a), (b), or (c) of this section, the required application shall be filed with the local district director at the port of premature landing or overcarriage by the owner or agent of the vessel. The application shall be supported by a Cargo Declaration, Customs Form 1302, in such number of copies as the district director may require. Whenever practicable, the application shall be made on the face of the Cargo Declaration below the description of the merchandise. The application shall specify the vessel on which the cargo was imported, even though the forwarding to destination is by another vessel owned or chartered by the owner of the importing vessel, and all ports of departure and dates of sailing of the importing vessel. The application shall be stamped and signed to show that it has been approved.

(e) *Manifesting prematurely landed or overcarried cargo.* One copy of the Cargo Declaration, Customs Form 1302, shall be certified by Customs for use as a substitute traveling manifest for the prematurely landed or overcarried cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If the application for forwarding is made on the Cargo Declaration, the new substitute traveling manifest shall be stamped to show the approval of the application. If the application is on a separate document, a copy thereof, stamped to show its approval, shall be attached to the substitute traveling manifest. An appropriate cross-reference shall be placed on the original traveling manifest to show that the vessel has one or more substitute traveling manifests. A permit to proceed endorsed on a General Declaration, Customs Form 1301, issued to the vessel transporting the prematurely landed or overcarried cargo to its destination shall make reference to the nature of such cargo, identifying it with the importing vessel.

(f) *Residue cargo procedure.* A vessel with prematurely landed or overcarried cargo on board shall comply upon arrival at all domestic ports of call with all the requirements of Part 4 relating to foreign residue cargo for domestic ports. The substitute traveling manifest, carried forward from port to port by the oncarrying vessel, shall be finally surrendered at the port where the last portion of the prematurely landed or overcarried cargo is discharged.

(g) *Cargo undelivered at foreign port and returned to the United States.* Merchandise shipped from a domestic port, but undelivered at the foreign destination and returned, shall be manifested as "Undelivered—to be returned to original foreign destination," if such a return is intended. The district director may issue a permit to retain the merchandise on board, or he may, upon written application of the steamship company, issue a permit on a Delivery Ticket, Customs Form 6043, allowing the merchandise to be transferred to another vessel for return to the original foreign destination. No charge shall be made against the vessel bond. The items shall be remanifested outward and an explanatory reference of the attending circumstances and compliance with export requirements noted.

* * * * *

5. Paragraph (b) of § 4.38 is amended to read as follows:

§ 4.38 Release of cargo.

* * * * *

(b) When packages of merchandise bear marks or numbers which differ from those appearing on the Cargo Declaration, Customs Form 1302, of the importing vessel for the same packages and the importer or a receiving bonded carrier, with the concurrence of the importing carrier, makes application for their release under such marks or numbers, either for consumption or for transportation in bond under an entry filed therefor at the port of discharge from the importing vessel, the district director may approve the application upon condition that (1) the contents of the packages be identified with an invoice or transportation entry as set forth below, and (2) the applicant furnish at his own expense any bonded cartage or lighterage service which the granting of the application may require. The application shall be in writing in such number of copies as may be required for local Customs purposes. Before permitting delivery of packages under such an application, the district director shall cause such examination thereof to be made as will reasonably identify the contents with the invoice filed with the consumption entry. If the merchandise is entered for transportation in bond without the filing of an invoice, such examination shall be made as will reasonably identify the contents of the packages with the transportation entry.

* * * * *

6. Paragraph (a) of § 4.41 is amended to read as follows:

§ 4.41 Cargo of wrecked vessel.

(a) Any cargo landed from a vessel wrecked in the waters of the United States or on the high seas shall be subject at the port of entry to the same entry requirements and privileges as the cargo of a vessel regularly arriving in the foreign trade. In lieu of a Cargo Declaration, Customs Form 1302, to cover such cargo, the owner, underwriter (if the merchandise has been abandoned to him), or the salvor of the merchandise shall make written application for permission to enter the wrecked cargo, and any such applicant shall be regarded as the consignee of the merchandise for Customs purposes.[70]

* * * * *

7. Paragraph (b)(2) of § 4.61 is amended to read as follows:

§ 4.61 Requirements for clearance.

* * * * *

(b) * * *

(2) Outward Cargo Declarations; shippers' export declarations (§ 4.63).

* * * * *

8. Section 4.62 is amended to read as follows:

§ 4.62 Accounting for inward cargo.

Inward cargo discrepancies shall be accounted for and adjusted by correction of the Cargo Declaration, Customs Form 1302, but the vessel may be cleared and the adjustment deferred if the discharging officer's report has not been received. (See § 4.12)

9. Section 4.63 is amended to read as follows:

§ 4.63 Outward Cargo Declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless there has been filed with the district director at the port from which clearance is being obtained (1) a Cargo Declaration, Customs Form 1302, or, in lieu thereof, a Cargo Declaration Outward With Commercial Forms, Customs Form 1302–A, covering all the cargo laden aboard the vessel at that port, together with a properly executed Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, and such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or (2) an incompete Cargo Declaration as provided for in § 4.75. If Customs Form 1302 is used as an outward Cargo Declaration, the block designated "Departure" at the top of the form shall be checked. Only items numbered 1 through 7 must be completed on the Cargo Declaration.

(b) Except as hereinafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the Cargo Declaration, Customs Form 1302 or 1302–A, in the marginal column headed "B/L No." If an export declaration is not required for a shipment, a notation shall be made on the Cargo Declaration describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see §§ 30.39 and 30.50–30.57, title 15, Code of Federal Regulations) where the particular exemption is provided. Where shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required.

(c) The list of cargo may be shown on bills of lading, cargo lists, or other commercial forms, provided that:

(1) The Cargo Declaration, Customs Form 1302 or 1302–A, is completely executed except for particulars as to cargo;

(2) The commercial forms are securely attached to the Cargo Declaration in such manner as to constitute one document;

(3) The commercial forms are incorporated by a suitable reference on the face of the Cargo Declaration such as "Cargo as per attached commercial forms;" and

(4) There is shown on the face of each such commercial form the information required by the Cargo Declaration for the cargo covered by that form.

(d) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the Cargo Declaration, Customs Form 1302 or 1302–A, or commercial document attached to the Cargo Declaration and made a part thereof in accordance with paragraph (c) of this section shall clearly show for such shipment the number, date, and class of such Customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation.

(e) Customs officers shall accept a Cargo Declaration, Customs Form 1302 or 1302–A, covering containerized or palletized cargo which indicates by the use of appropriate words of qualification (see § 4.7a(c)(3)) that the declaration has been prepared on the basis of information furnished by the shipper.

10. Section 4.75 as amended to read as follows:

§ 4.75 Incomplete Cargo Declaration; incomplete export declarations; bond.

(a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the district director a complete Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63)[106] or all required shippers' export declarations,[107] the district director may accept in lieu thereof an incomplete manifest on the General Declaration, Customs Form 1301, if there is on file in his office a bond on Customs Form 7567 or Customs Form 7569 executed by the vessel owner or some other person as attorney in fact of the vessel owner. The legend, "This incomplete Cargo Declaration is filed in accordance with § 4.75, Customs Regulations," shall be inserted in item 16 of the General Declaration. The form shall be appropriately modified to indicate that it is an incomplete Cargo Declaration, and the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, (see § 4.63(a)) shall be executed.

(b) Not later than the fourth business day after clearance[108] from each port in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the district director at each port a complete Cargo Declaration, Customs Form 1302 or 1302–A, in accordance with § 4.63, of the cargo laden at such port together with duplicate copies of all required shippers' export declarations for such cargo and a General Declaration, Customs Form 1301. The oath of the master or agent on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63 (a)) shall be properly executed before acceptance.

(c) During any period covered by a finding by the President under section 1 of the Act of June 15, 1917, as amended (50 U.S.C. 191), that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbance or threatened disturbances of the international relations of the United States, no vessel shall be cleared for a foreign port until a complete Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63), and all required export declarations have been filed with the district director, unless clearance in accordance with paragraphs (a) and (b) of this section is authorized by the Commissioner of Customs.[109]

11. Paragraph (e) of § 4.81 is amended to read as follows:

§ 4.81 Reports of arrivals and departures in coastwise trade.

* * * * *

(e) Before any foreign vessel shall depart in ballast, or solely with articles to be transported in accordance with section 4.93, from any port in the United States for any other such port, the master shall apply to the district director for a permit to proceed by filing a General Declaration, Customs Form 1301, in duplicate. If a vessel is proceeding in ballast and therefore the Cargo Declaration, Customs Form 1302, is omitted, the word "None" shall be inserted in item 17 of the General Declaration and the words "No merchandise on board" shall be inserted in item 13 of the General Declaration. However, articles to be transported in accordance with § 4.93 shall be manifested on a Cargo Declaration, as required by § 4.93(c). Three copies of the Cargo Declaration shall be filed with the district director. The required master's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300, (see § 4.63(a)). When the district director grants the permit by making an appropriate endorsement on the General Declaration, (see § 4.85(b)), the duplicate copy, together with two copies of the Cargo Declaration covering articles to be transported in accordance with § 4.93, shall be returned to the master. The traveling Crew's Effects Declaration, Customs Form 1304, and all unused crewmembers' declarations on Customs Form 5129 shall be placed in a sealed envelope addressed to the Customs boarding officer at the next intended domestic port and returned to the master for delivery. The master shall execute a receipt for all unused crewmembers' declarations which are returned to him. Within 24 hours after arrival at the next United States port the master shall report his arrival to the district director. He shall make entry within 48 hours by filing with the district director the permit to proceed on the General Declaration received at the previous port, a newly executed General Declaration, a Crew's Effects Declaration of all unentered articles acquired abroad by crewmembers which are still on board, a Ship's Stores Declaration, Customs Form 1303, in duplicate, of the stores remaining on board, both copies of the Cargo Declara-

tion covering articles transported in accordance with § 4.93, and the document of the vessel. The required master's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade (see § 4.63(a)). The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5129 returned at the prior port to the master shall be delivered by him to the boarding officer.

12. Section 4.82 is amended to read as follows:

§ 4.82 Touching at foreign port while in coastwise trade.

(a) A vessel under unlimited register or frontier enrollment and license which, during a voyage between ports in the United States, touches at one or more foreign ports and there discharges or takes on merchandise, passengers, baggage, or mail [112] shall obtain a permit to proceed or clearance at each port of lading in the United States for the foreign port or ports at which it is intended to touch. The Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63), shall show only the cargo for foreign destination. (See §§ 4.61 and 4.87.)

(b) The master shall also present to the district director a coastwise Cargo Declaration, Customs Form 1302, in triplicate, of the merchandise to be transported via the foreign port or ports to the subsequent ports in the United States. It shall describe the merchandise and show the marks and numbers of the packages, the names of the shippers and consignees, and the destinations. The district director shall certify the two copies and return them to the master. Merchandise carried by the vessel in bond under a Transportation Entry and Manifest, Customs Form 7512, shall not be shown on the coastwise Cargo Declaration.

(c) Upon arrival from the foreign port or ports at the subsequent port in the United States, a report of arrival and entry of the vessel shall be made, and tonnage taxes shall be paid unless the vessel is under a frontier enrollment and license. The master shall present a Cargo Declaration in accordance with § 4.7 and the certified copies of the coastwise Cargo Declaration, Customs Form 1302.

(d) All merchandise on the vessel upon its arrival at the subsequent port in the United States is subject to such Customs examination and treatment as may be necessary to protect the revenue. Any article on board which is not identified to the satisfaction of the district director, by the Coastwise Cargo Declaration, Customs Form 1302, or otherwise, as part of the coastwise cargo, shall be treated as imported merchandise.[113]

13. Paragraphs (c) and (d) of § 4.84 are amended to read as follows:

§ 4.84 Trade with noncontiguous territory.

* * * * *

(c) A vessel which is not required to clear but which is transporting merchandise from a port in any State or the District of Columbia to any noncontiguous territory of the United States (including Puerto Rico), or from Puerto Rico to any State or the District of Columbia or any other noncontiguous territory of the United States, shall not be permitted to depart without filing a complete Cargo Declaration, Customs Form 1302, when required by regulations of the Bureau of the Census (15 CFR Part 30), and all required shipper's export declarations, unless before the vessel departs an approved bond is filed for the timely production of the required documents, as specified in § 30.24 of those regulations (15 CFR 30.24). Requests for permission to depart may be written or oral and permission to depart shall be granted orally by the appropriate Customs officer. However, if the request is to depart prior to the filing of the required manifest and export declarations, permission shall not be granted unless the appropriate bond is on file. In the latter case, the Customs officer shall keep a simplified record of the necessary information in order to assure that the manifest and export declarations are filed within the required time period. The Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)), required at the time of clearance is not required to be taken to obtain permission to depart.

(d) Upon arrival of a vessel of the United States at a port in any State, the District of Columbia, or Puerto Rico from a port in noncontiguous territory of the United States other than Puerto Rico, the master shall report its arrival within 24 hours and shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in §§ 4.7 and 4.9, but shall not be required to make entry. If the vessel proceeds directly to another port in any State, the District of Columbia, or Puerto Rico, the master shall prepare, produce, and file a Cargo Declaration in the form and manner and at the times specified in § 4.85, but no permit to proceed on the General Declaration, Customs Form 1301, shall be required for the purposes of this paragraph. No cargo shall be unladen from any such vessel until Cargo Declarations have been filed and a permit to unlade has been issued in accordance with the procedure specified in § 4.30.

* * * * *

14. Paragraph (c) of § 4.85 is amended to read as follows:

§ 4.85 Vessels with residue cargo for domestic ports.

* * * * *

(c) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master shall report arrival and make entry within 24 hours. To make such entry, he shall deliver to the district director the vessel's document, the permit to proceed (Customs Form 1301 endorsed in accordance with paragraph (b) of this section), the traveling manifest, and the traveling Crew's Effects Declaration, Customs Form 1304, together with the crewmembers' declarations received on departure from the previous port. The master shall also present an abstract manifest consisting of (1) a newly executed General Declaration, Customs Form 1301, (2) a Cargo Declaration, Customs Form 1302, and a Passenger List, Customs and Immigration Form I–418, in such number of copies as may be required for local Customs purposes, of any cargo or passengers on board manifested for discharge at that port, (3) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by officers and crewmembers which are still on board, (4) a Ship's Stores Declaration, Customs Form 1303, in duplicate, of the sea or ship's stores remaining on board, and (5) if applicable, the Cargo Declaration required by § 4.86(b). If no inward foreign cargo or passengers are to be discharged, the Cargo Declaration or Passenger List may be omitted from the abstract manifest, and the following legend shall be placed in item 12 of the General Declaration:

Vessel on an inward foreign voyage with residue cargo/passenger for _____. No cargo or passengers for discharge at this port.

The required master's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)). The traveling manifest, together with a copy of the newly executed General Declaration, shall serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered.

15. Section 4.86 is amended to read as follows:

§ 4.86 Intercoastal residue cargo procedure; optional ports.

(a) When a vessel arrives at an Atlantic or Pacific coast port from a foreign port or ports with residue cargo for delivery at a port or ports on the opposite coast or on the Great Lakes, or where such arrival is at a port on the Great Lakes, with residue cargo for delivery at a port or ports on the Atlantic or Pacific coast, or both, and the master, owner, or agent is unable at that time to designate the specific port or ports of discharge of the residue cargo, the Cargo Declaration, Customs Form 1302, filed on entry in accordance with § 4.7(b), shall show such cargo as destined for "optional ports, Atlantic coast," or, "optional ports, Pacific coast," or, "optional ports, Great Lakes coast," as the case may be. The traveling manifest shall be similarly noted.

(b) Upon arrival of the vessel at the first port on the next coast, the master, owner, or agent shall designate the port or ports of discharge of residue cargo, as required by section 431, Tariff Act of 1930, as amended (19 U.S.C. 1431). For this purpose, the master shall furnish with the other papers required upon entry a Cargo Declaration, Customs Form 1302, in an original only, of the inward foreign cargo remaining on board for discharge at optional ports on that coast, and the Cargo Declaration shall designate the specific ports of intended discharge for that cargo. The traveling

manifest shall be amended to agree with that Cargo Declaration so as to show the newly designated ports of discharge on that coast and shall be used to verify the abstract Cargo Declarations surrendered at subsequent ports on that coast.

16. Section 4.87 is amended to read as follows:

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

(b) When applying for a clearance from the first and each succeeding port of lading, the master shall present to the district director a General Declaration, Customs Form 1301, in duplicate, and a Cargo Declaration, Customs Form 1302 or 1302–A, in accordance with § 4.63(a), of all the cargo laden for export at that port. The General Declaration shall clearly indicate all previous ports of lading. The required mater's oath shall be executed on the Master's Oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63(a)).

(c) Upon compliance with the applicable provisions of § 4.61, the district director shall grant the permit to proceed by making the endorsement prescribed by § 4.85(b) on the General Declaration, Customs Form 1301. One copy shall be returned to the master, together with the vessel's document if on deposit. The traveling Crew's Effects Declaration, Customs Form 1304, together with any unused crewmembers' declarations, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next domestic port and returned to the master.

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the permit to proceed on the General Declaration, Customs Form 1301, received by him upon departure from the last port, a Crew's Effects Declaration, Customs Form 1304, in duplicate, listing all unentered articles acquired abroad by officers and crew of the vessel which are still retained on board, and a Ship's Stores Declaration, Customs Form 1303, in duplicate, of the stores remaining aboard. The master shall also execute a General Declaration. The required master's oath shall be on the Master's oath on Entry of Vessel in Foreign Trade, Customs Form 1300 (see § 4.63 (a)). The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations returned to the master at the prior port, shall be delivered by him to the district director.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63), and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on the General Declaration, Customs Form 1301 (Customs Form 1378 at the last port) may be granted in accordance with § 4.75, subject to the limitation specified in § 4.75(c).

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel shall deliver to the district director at that port within 4 business days after the vessel's clearance [118] a Cargo Declaration, Customs Form 1302 or 1302–A (see section 4.63), an oath on Customs Form 1300, and the export declarations to cover the cargo laden for export at that port.

17. Paragraph (c) of § 4.88 is amended to read as follows:

§ 4.88 Vessels with residue cargo for foreign ports.

* * * * *

(c) If the vessel clears directly foreign from the first port of arrival, cargo brought from foreign ports and retained on board may be declared on the Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63), by the insertion of the following statement:

All cargo declared on entry in this port as cargo for discharge at foreign ports and so shown on the Cargo Declaration filed upon entry has been and is retained on board.

If any such cargo has been landed, the Cargo Declaration shall describe each item of the cargo from a foreign port which has been retained on board (see § 4.63(a)).

* * * * *

18. Section 4.89 is amended to read as follows:

§ 4.89 Vessels in foreign trade proceeding via domestic ports and touching at intermediate foreign ports.

(a) A vessel proceeding from port to port in the United States in accordance with §§ 4.85, 4.86, or § 4.87 may touch at an intermediate foreign port or ports to lade or discharge cargo or passengers. In such a case the vessel shall obtain clearance from the last port of departure in the United States before proceeding to the intermediate foreign port or ports at which it is intended to touch. The Cargo Declaration, Customs Form 1302 or 1302–A (see § 4.63), shall show the cargo for such foreign destination in the manner provided in § 4.88(c).

(b) The master shall also present to the district director the Cargo Declaration or Cargo Declarations required by §§ 4.85, 4.86, or § 4.87, and obtain a permit to proceed on the General Declaration, Customs Form 1301, to the next port in the United States at which the vessel will touch.

(c) Upon arrival at the next port in the United States after touching at a foreign port or ports, a report of arrival and entry shall be made. The Cargo Declaration, Customs Form 1302, filed at time of entry shall list the cargo laden at the intermediate foreign port or ports.

(d) The master shall also present to the district director the permit to proceed on the General Declaration, Customs Form 1301, and the Cargo Declaration from the last previous port in the United States as provided for in §§ 4.85, 4.86, or § 4.87.

19. Paragraph (c) of § 4.91 is amended to read as follows:

§ 4.91 Diversion of vessel; transshipment of cargo.

* * * * *

(c) In a case of necessity, a district director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transship [123] all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or § 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest (Cargo Declaration, Customs Form 1302, or Passenger List, Customs and Immigration Form I–418) shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel.

20. Paragraph (c) of § 4.93 is amended to read as follows:

§ 4.93 Coastwise transportation by certain vessels of empty vans, tanks, and barges, equipment for use with vans and tanks; empty instruments of international traffic; stevedoring equipment and material; procedures.

* * * * *

(c) Any Cargo Declaration, Customs Form 1302, required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one United States port to another, giving its identifying number or symbol, if any, or such other identifying data as may be appropriate, the names of the shipper and consignee, and the destination. The Cargo Declaration shall also include a statement (1) that the articles specified in paragraph (a)(1) of this section are owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material specified in paragraph (a)(2) of this section is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade. If the district director at the port of lading is satisfied that there will be sufficient control over the coastwise transportation of

the article without identifying it by number or symbol or such other identifying data on the Cargo Declaration, he may permit the use of a Cargo Declaration that does not include such information provided the Cargo Declaration includes a statement that the district director at the port of unlading will be presented with a statement at the time of entry of the vessel that will list the identifying number or symbol or other appropriate identifying data for the article to be unladen at the port. Applicable penalties under section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), shall be assessed for violation of this paragraph.

21. Section 4.99 is amended to read as follows:

§ 4.99 Forms substitution.

Customs Forms 1300, 1301, 1302, 1302–A, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed conform to the official Customs forms in size (except that such forms may be up to 14 inches in length or may be reduced in size to not less than 11 inches by 8½ inches), wording, arrangement, style, size of type and paper specifications. Forms not complying with the requirements of this section are not acceptable without the specific approval of the Commissioner of Customs. If instructions are printed on the reverse of any of the official Customs forms, such instructions may be omitted (although such instructions must be followed).

Sample copies of Customs Forms 1302, "Cargo Declaration", and 1302–A, "Cargo Declaration Outward With Commercial Forms", have been filed with this document in the Office of the Federal Register and may be obtained from the office of any regional commissioner of Customs.

G. R. DICKERSON,
Actirg Commissioner of Customs.

Approved: September 28, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-30578 Filed 10-21-77;8:45 am]

[4810-22]

[T. D. 77-241]

PART 101—GENERAL PROVISIONS

Final Rule; Correction

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule—correction.

SUMMARY: This document corrects an error which appeared in the explanatory material accompanying the recent revision of the Customs Regulations setting forth the general provisions relating to the operation of the U.S. Customs Service.

FOR FURTHER INFORMATION CONTACT:

Marvin M. Amernick, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue, NW, Washington, D.C. 20229, 202-566-8237.

SUPPLEMENTARY INFORMATION: In a final rule published in the FEDERAL REGISTER on October 5, 1977 (42 FR 54272), and republished (to correct certain typesetting errors) on October 12, 1977 (42 FR 54936), Part 1 of the Customs Regulations (19 CFR Part 1), which sets forth general provisions relating to the operation of the United States Customs Service, was revised and reissued as new Part 101 (19 CFR Part 101).

Under the heading "Discussion of Comments" (page 54936), an explanation was set forth describing the changes which had been made in the revised provisions originally proposed (August 13, 1976; 41 FR 34261). Item 1 under that heading noted that the table in section 101.3 (19 CFR 101.3) had been updated to reflect certain changes in the organization of the Customs regions, districts, and ports. One such change was incorrectly described. The statement "Richmond County, N.J., has been transferred from Region III to Region II;" should have read "the County of Richmond (Staten Island, New York) has been transferred from the Newark Area to the New York Seaport Area;". Both the Newark Area and the New York Seaport Area are in Customs Region II.

This correction does not affect the list of Customs regions, districts, and ports of entry set forth in § 101.3 of the Customs Regulations, which was correct as published.

Dated: October 17, 1977.

LEONARD LEHMAN,
Assistant Commissioner, Regulations and Rulings.

[FR Doc.77-30852 Filed 10-21-77;8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc., providing for administrative waiver of the ministerial requirements of section 512 (m) of the Federal Food, Drug, and Cosmetic Act for complete swine feeds manufactured from premixes containing not more than 80 grams per pound of the anthelmintic pyrantel tartrate.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3410.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, N.Y. 10017, filed a supplemental NADA (43-290V) providing for a section 512(m) of the act waiver.

Pyrantel tartrate as the sole drug premix meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memoranda for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memoranda indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional generation of data in that this documentation is by definition a part of the new animal drug application (NADA).

4. The margin of safety to the animal and safety to the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints associated with it. Applications of this criterion require a review of the available Drug Experience Reports.

The memoranda make explicit that because waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of the drugs.

The foregoing criteria established in the 1971 memoranda constitute an interim agency policy that is under review. The Bureau of Veterinary Medicine is preparing a proposed regulation for publication in the FEDERAL REGISTER, based on the criteria listed above, governing waiver of the section 512(m) of the act requirements for the finished feed. In

waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds. Furthermore, this independent action does not require a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 558.485 is amended by revising the introductory text of paragraph (d)(2) to delete "finished" and insert in its place "complete" and adding new paragraph (d)(5) to read as follows:

§ 558.485 **Pyrantel tartrate.**

* * * * *

(d) * * *

(2) The manufacture of complete feeds processed from feed supplements does not require compliance with the provisions of section 512(m) of the act when they contain:

* * * * *

(5) Complete feeds processed from feed premixes that contain not more than 17.6 percent (80 grams per pound) pyrantel tartrate and comply with the provisions of paragraph (e)(1), (2), or (3) of this section are not required to comply with the provisions of section 512(m) of the act.

* * * * *

Effective date. This regulation becomes effective October 25, 1977.

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

Dated: October 17, 1977.

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

[FR Doc.77–30810 Filed 10–21–77;8:45 am]

[3710–08]

Title 32—Department of Defense

CHAPTER V—DEPARTMENT OF THE ARMY

SUBCHAPTER K—ENVIRONMENTAL QUALITY

[AR210–9]

PART 656—INSTALLATIONS, USE OF OFF-ROAD VEHICLES ON ARMY LAND

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: These regulations establish policies and procedures for the use of off-road vehicles on Army installations. The regulations implement a Department of Defense Directive on the use of off-road vehicles and are designed to provide recreational opportunities and protection of the environment on Army installations.

EFFECTIVE DATE: November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. McGough, Chief, Buildings and Grounds Division, Facilities Engineering Directorate, Office, Chief of Engineers, Washington, D.C. 20314, 202–693–6687.

SUPPLEMENTARY INFORMATION: The Secretary of the Army, acting through the Chief of Engineers, has developed a regulation prescribing policies, responsibilities, and procedures for the use of off-road vehicles on all Army installations. The regulation implements Department of Defense Directive 6050.2 and the policies and procedures of 32 CFR Part 650, "Environmental Protection and Enhancement." The regulation is being published pursuant to the following authorities: Executive Order 11644, Use of Off-Road Vehicles on the Public Land; Executive Order 11989, Off-Road Vehicles on Public Lands; Pub. L. 88–29, Outdoor Recreation, State-Federal Programs; Pub. L. 91–190, National Environmental Policy Act of 1969; and Pub. L. 93–452, Conservation and Rehabilitation Program on Military and Public Lands. This regulation provides guidance to installation commanders in control of off-road vehicular traffic for recreational purposes and supersedes AR 210–9 dated February 14, 1975. The proposed rules for use of off-road vehicles (ORV) on Army land were published in the FEDERAL REGISTER on April 28, 1977 (42 FR 21620), and interested persons were invited to submit comments on the proposal by May 28, 1977.

Several organizations representing specific ORV interest expressed the opinion that different types of ORV's should be considered separately when evaluating an area for use. Accordingly, two new subparagraphs (1) and (2) were added to § 656.5(b), § 656.5(c), § 656.8(b)(1), § 656.8(a)(2), and § 656.8(c) were revised to provide separate consideration for different types of ORV's.

It was pointed out that the proposed regulation did not set a date by which all ORV areas and trails will be designated as required by Executive Order 11644. The proposed regulation, as published in the FEDERAL REGISTER, was actually a revision of Army Regulation 210–9 which has been in effect since February 14, 1975 and required the designation of areas and trails prior to December 31, 1975. Since all existing areas have already been designated, a date for such a requirement is not needed in the revised regulation.

Several comments suggested inserting a requirement that ORV's be equipped with spark arresters. Accordingly § 656.8(d)(8) was added.

It was suggested by some that concerns for protection of cultural and environmental matters were not adequately covered and others commented that controls were too strict in favor of these matters. The environmental and related impacts of ORV use will be assessed in accordance with 32 CFR 650, "Environmental Protection and Enhancement." It is felt this is a reasonable way to conduct the ORV program while complying with the various laws, protecting the environment and related resources, and providing recreational opportunities.

The following changes were made to clarify or correct provisions in the proposed rules:

Section 656.2(a) is changed to show that ownership of the land resides with the United States and the Army controls it by administrative jurisdiction in accordance with public lands withdrawal.

Section 656.3(a) is revised to agree with the definition given for ORV in Executive Order 11989.

Section 656.8(d)(3) places a minimum age requirement of 10 years for operators of an ORV on Army land. The requirement for an operator's license is clarified.

The Office of the Chief of Engineers has determined that the document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

32 CFR Part 656 is adopted to read as follows:

Sec.
656.1 Purpose.
656.2 Applicability.
656.3 Definitions.
656.4 Objectives.
656.5 Policies.
656.6 Responsibilities.
656.7 Environmental considerations.
656.8 Guidelines and criteria for evaluation of Army lands for off-road vehicle use.

AUTHORITY: 10 U.S.C. 3012.

§ 656.1 Purpose.

The purpose of this regulation is to establish uniform policies, procedures, and criteria for controlling off-road travel by off-road vehicles, and to prescribe appropriate operating conditions for use of such vehicles. This regulation implements DOD Directive 6050.2, August 21, 1974, amended August 10, 1977.

§ 656.2 Applicability.

(a) This regulation applies to all installations and activities in the United States under management and control of the Department of the Army by administrative jurisdiction in accordance with a public lands withdrawal, lease, or similar instrument, under the following conditions of use:

(1) Installations and activities in active use by the Army, those held in an inactive or standby condition for future active use by the Army, and those in an excess category (see AR 405–90, for further guidance with respect to excess properties).

(2) Federally operated installations and activities, or portions thereof, which are in full-time or intermittent use by the National Guard, or which are being held by the Department of the Army for use by the National Guard.

(3) Installations and activities, or portions thereof, which are in full-time or intermittent use by the Army Reserve or ROTC.

(b) This regulation does not apply to:

(1) Civil Works functions of the Corps of Engineers.

(2) Facilities occupied by Army activities as tenants when real property accountability and control is vested in another military department or government agency, such as the General Services Administration.

§ 656.3 Definitions.

For the purpose of this regulation, the following definitions will apply:

(a) Off-road vehicles (ORV). Any motorized vehicle designed primarily for, or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain, except that such term excludes (1) any registered motorboat, (2) any military, fire, ambulance, or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (3) any vehicle whose use is authorized by the Secretary of Defense, or his properly designated representative, for official use under a permit, lease, license, or contract.

(b) Official use. Use by an employee, agency, or designated representative of the Department of Defense or one of its contractors in the course of his employment, or agency representation.

§ 656.4 Objectives.

The objectives of this regulation are to insure that:

(a) The national security requirements related to Army lands are not impaired.

(b) The natural resources and environmental values are protected.

(c) Safety and accident prevention is given a paramount consideration.

(d) Conflicts of land use within and adjacent to the facility are minimized by advance planning and by cooperation with local governments wherever necessary.

(e) Year-round outdoor recreational opportunities are maximized.

§ 656.5 Policies.

(a) As a trustee of public lands, the Army has a responsibility under Pub. L. 91–190 and Pub. L. 88–29 to protect and enhance environmental quality, conserve natural resources, and provide opportunities for outdoor recreation. However, it must be recognized that land under Army control was acquired solely for national defense purposes. Other uses are therefore secondary to mission needs.

(b) All land and water areas will be closed to off-road recreational use by ORV's except those areas and trails which are determined suitable and specifically designated for such under the procedures established int his regulation.

(1) In determining suitability of areas and trails for ORV use, each type of motorized vehicle, ORV, shall be considered separately, taking into account its potential environmental impact, the seasonal nature of its use and opportunities for counterseasonal use with other recreational users.

(2) The characteristics of use of one type of motorized recreational vehicle, ORV, shall not affect or govern regulations on the use of an area or trail by another type of ORV use.

(c) When ORV use is permitted, the intensity, timing, and distribution will be carefully regulated to protect the environmental values. In designating suitable sites, equitable treatment should be given to all forms of outdoor recreational activity and where possible, nonconflicting use shall be encouraged on existing trails. Prior to designating such areas or trails for ORV use, the environmental consequences must be assessed and environmental statements prepared and processed when such assessments indicate that the proposed use will create a significant environmental impact or be environmentally controversial (Pub. L. 91–190 and AR 200–1). This procedure applies to all areas, including areas under consideration which previously have been used by ORV's.

(d) If the installation commander or his designee determines that ORV use is causing or will cause considerable adverse effects on the soil, vegetation, wildlife, wildlife habitat, or cultural or historic resources, he shall immediately prohibit the type of ORV use causing such effects, and if necessary, close such designated sites. Restrictions on ORV use or closure of designated sites shall remain in effect until such adverse effects have been eliminated, including site restoration if necessary, and appropriate measures implemented to prevent any such recurrence.

(e) Persons abusing the ORV use privilege shall be barred, with their vehicles, from access to the Army installation for ORV use. Further action, as appropriate, may be taken under 18 U.S.C. section 1382. Violations of Federal or State laws applicable to Army installations under title 18 U.S.C. (Assimilative Crimes) may be referred to a U.S. Magistrate in accordance with AR 27–40 and AR 190–29.

(f) The limitations imposed by this regulation on off-road travel by ORV's do not apply to official use. It is Army policy to minimize environmental degradation of sensitive portions of facility sites which play a significant ecosystem support role.

§ 656.6 Responsibilities.

Commanders of Army installations and activities in the United States will:

(a) Develop policy and procedures prescribing operating conditions for ORV's which are designed to protect resource values, preserve public health, safety and welfare, and minimize use conflicts. These procedures will include as a minimum:

(1) Registration—ORV's used both on and off the traffic way will be registered in accordance with AR 190–5 and AR 190–5–1. ORV's operated solely off the traffic way may be registered at the discretion of the installation commander.

(2) Fees—Installation commanders are authorized to impose appropriate fees and charges for ORV activities in accordance with AR 28–1, as an element of the Outdoor Recreation Program. Such fees and charges are accounted for as income to nonappropriated funds in accordance with AR 230–65.

(b) Ensure that lands where off-road vehicle use will be permitted are designated in the natural resources management plan and where appropriate include as a part of the installation's master plan (AR 210–20 and AR 420–74).

(c) Provide opportunities for users to participate in the selection and designation of suitable sites and distribute information which identifies authorized sites and describes the conditions of use. Organized recreational activities involving off-road vehicles are within the scope of the Outdoor Recreation Program of Army Recreation Services and should be so established.

(d) Post appropriate signs at authorized areas and trails.

(e) Provide for the administration, enforcement, and policing of trails and areas to ensure that conditions of use are met on a continuing basis.

(f) Establish appropriate procedures to monitor the effects of the use of ORV's and provide for maintenance of the ORV areas of trails. This monitoring will be the basis for changes to installation policy to ensure adequate control of ORV use. amendment of area and trail designations, or conditions of use which are necessary to protect the environment, insure the public safety, and minimize conflict among users.

(g) Negotiate cooperative agreements, when appropriate, with state or local governments for the enforcement of laws and regulations relating to ORV use.

(h) Coordinate ORV use, projects, activities, designated ORV areas, and all related matters, with the installation environmental committee and environmental office.

§ 656.7 Environmental considerations.

The environmental and related impacts of ORV use will be assessed in accordance with AR 200–1. Coordination with adjacent private and public landowners and managers will be included in the assessment process.

§ 656.8 Guidelines and criteria for evaluation of Army lands for off-road vehicle use.

(a) Designation. (1) Army lands may be designated for one or more types of ORV use in response to a demonstrated need providing there is sufficient suitable area available.

(2) Lands which may not be designated for one or more types of ORV use are:

(i) Areas rsetricted for security or safety purposes, such as explosive ordnance impact areas.

(ii) Areas containing geological and soil conditions, flora or fauna or other natural characteristics of fragile or unique nature which would be subject to excessive or irreversible damage by use of ORV's.

(iii) Areas where the use by a type or types of ORV would cause unequivocal and irreversible damage or destruction as a result of such use; provided, however, that types of ORV not causing such damage or destruction may be permitted to use such areas.

(iv) Areas which are key fish and wildlife habitat as identified under environmental considerations § 656.8(c)(5) below.

(v) Areas which contain archeological, historical, petroglyphic, pictographic, or paleontological values; or which constitute de facto wilderness or scenic areas; or in which noise would adversely affect other uses and wildlife resources.

(vi) Areas in or adjacent to outdoor recreation areas where noise or vehicle emissions would be an irritant to users of the outdoor recreation area.

(vii) Noise sensitive areas such as housing, schools, churches or areas where noise or vehicular emissions would be an irritant to inhabitants.

(viii) Areas or trails set aside for horses and their recreational use.

(3) Site designation. Before designating such sites, the capabilities of the ecological factors should first be ascertained in order to determine carrying capacities.

(i) Area designation. Area designation offers a greater freedom of movement and is probably preferred by users over trail designation. However, area designation may result in greater environmental damage and cause conflicts with other uses. Therefore, great care must be exercised in designating suitable sites for area use.

(ii) Trail designation. Restrictions to designated trails probably constitute a compromise for most ORV users. However, this method is more compatible with the objective of this regulation. Therefore, when it is practicable to designate existing or proposed trails for use of ORV's without environmental despoilment, preference should be given to designating these sites. Trails currently used for hiking, bicycling, or horseback riding will not be designated for concurrent ORV use.

(iii) Use classification.

(A) Areas and trails should be classified as:

(1) Generally open to public with access controlled within manageable quotas, or

(2) Closed to the public.

(B) Where use of ORV's by installation personnel is permitted, exclusions of the public may not be justifiable except under the most compelling conditions.

(b) Zone of ORV's. Areas and trails shall be located to minimize:

(1) Damage to soil, watershed, vegetation, or other resources of the public lands.

(2) Harassment of wildlife or significant disruption of wildlife habitat.

(3) Conflicts between ORV use and other existing or proposed recreational uses on the same or neighboring lands.

(4) Damage to overhead or underground utility distribution lines.

(c) Environmental Consideration (AR 200–1). Prior to designating areas or trails for use by a type or types of ORV's, consideration will be given to the possible traumatic effects on the environment by each type of ORV. Such considerations should not be limited to the proposed sites to be designated for ORV use. Some factors to consider are the effects of:

(1) Dust from the use of ORV's and emissions from internal combustion engines or air quality.

(2) Siltation in streams or other bodies of water which may result from soil erosion created by ORV's.

(3) Soil erodability and soil compaction.

(4) Impact on native and desirable species of plants with special consideration given to those species listed as threatened or endangered.

(5) Impact of wildlife, their breeding and drumming grounds, winter feeding and yarding area, migration routes, and nesting areas. Also, the effects of such use on the spawning, migration, and feeding habits of fish and other aquatic organisms, with particular attention given to the effects on fish and wildlife species classified as threatened or endangered.

(6) Excessive noise on humans and wildlife.

(7) Potential despoilment of aesthetic values or visual characteristics of the sites.

(d) Operating criteria. (1) Off-road vehicles shall not be operated:

(i) In a reckless, careless or negligent manner;

(ii) In excess of established speed limits;

(iii) While the operator is under the influence of alcohol, harmful drugs, or narcotics. As a condition for the privilege of operating off-road vehicles on Army lands, owners and operators of such consent to submit to a test of their blood, breath, or urine for the purpose of determining the alcoholic content of their blood if cited or lawfully apprehended for any offense allegedly committed while driving or in actual physical control of an off-road vehicle on the installation while under the influence of intoxicating liquor. Failure to submit to or complete such test will result in revocation of the use permit for a period of 6 months (see AR 190–5).

(vi) In a manner likely to cause excessive damage or disturbance of the land, wildlife, or vegetative resources.

(v) From sunset to sunrise without lighted headlights and taillights.

(2) All off-road vehicles must conform to applicable state laws, including those with respect to pollutant emissions, noise and registration requirements.

(3) No persons may operate an ORV on Army lands without a valid operator's license or learner's permit where required by state or federal law. Unless contrary to state or federal law, persons under the age required for licensing may operate an ORV on Army lands providing they are at least 10 years of age and are under the direct supervision of an individual 18 years of age or older who has a valid operator's license when required by state or federal law, and who is responsible for the acts of that person.

(4) No ORV's may operate on Army land unless equipped with brakes in good working condition.

(5) Every ORV shall at all times be equipped with a muffler in good working order which cannot be removed or otherwise altered while the vehicle is being operated on Army lands. To prevent excessive or unusual noise, no person shall us a muffler cutout, bypass, or similar device upon a motor vehicle. A vehicle that produces unusual or excessive noise or visible pollutants is prohibited.

(6) The carrying of firearms or other hunting instruments on any ORV will be in accordance with applicable state or federal laws and regulations.

(7) All ORV operators and passengers will be encouraged to wear safety helmets with face shields affixed.

(8) ORV's when operating off established road and parking areas shall be equipped with a properly installed spark arrester that meets standard 5100–1a of the U.S. Forest Service, Department of Agriculture. This standard includes the requirements that such spark arrester shall have an efficiency to retain or destroy at least 80 percent of carbon particles, for all flow rates, and that such spark arrester has been warranted by its manufacturer as meeting these efficiency requirements for at least 1,000 hours, subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendations.

Dated: September 26, 1977.

LEWIS H. BLAKEY,
Deputy Director for Technology and Enginering, Facilities Engineering.

[FR Doc.77-30439 Filed 10-21-77;8:45 am]

[3710–92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 208—FLOOD CONTROL REGULATIONS

Use of Storage Allocated for Flood Control or Navigation at Reservoirs Constructed Wholly or in Part With Federal Funds

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This rule amends flood control regulations in 33 CFR Part 208 by deleting certain sections superseded by § 208.11 which was published in the FEDERAL REGISTER on May 18, 1976 (41 FR 20400). Section 208.11 simplified the processing procedures for publication of flood control/navigation regulations in the FEDERAL REGISTER, and clarified project regulation responsibilities of project

owners, operating agencies and the Corps of Engineers. Detailed documents for water control plans for the affected projects, including established memoranda of understanding, water control agreements and reservoir regulation manuals, are preserved and unaffected by the deletion made in this document.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Corps of Engineers, Washington, D.C. 20314, 202-693-7330.

SUPPLEMENTARY INFORMATION: Paragraph (d)(5)(iii) of 33 CFR 208.11 appearing at page 20402 in the FEDERAL REGISTER of May 18, 1976 states: "All flood control regulations published in the FEDERAL REGISTER under this section (Part 208) of the Code prior to the date of this publication and listed in § 208.11 (e) are hereby superseded." In accordance with that regulation the following sections of Part 208 are deleted: 33 CFR 208.16, 208.17, 208.23, 208.24, 208.30, 208.31, 208.35—208.53, 208.65, 208.66, 208.75, 208.77—208.81, 208.83—208.88, 208.90—208.95.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: September 20, 1977.

CHARLES I. MCGINNIS,
Major General, USA,
Director of Civil Works.

[FR Doc.77-30713 Filed 10-21-77;8:45 am]

[4310-10]

Title 41—Public Contracts and Property Management

CHAPTER 114—DEPARTMENT OF THE INTERIOR

PART 114-60—PERSONAL PROPERTY MANAGEMENT

Grants

AGENCY: Office of the Secretary, Interior.

ACTION: Final regulations.

SUMMARY: The Office of Management and Budget revised and reissued Federal Management Circular 74-7 as OMB Circular A-102 (42 FR 45827), and 114-60 is amended to implement the current property management standards promulgated by OMB.

DATE: This amendment is effective immediately.

FOR FURTHER INFORMATION CONTACT:

James O. Wyatt, Chief, Division of Property Management, Office of Administrative and Management Policy, Department of the Interior, Washington, D.C. 20240, telephone number 202-343-3185.

SUPPLEMENTARY INFORMATION: Because this amendment relates only to internal Departmental procedures, the proposed rulemaking procedures are inapplicable. The primary author of this document is Charles H. Young, Property Management Officer, Office of Administrative and Management Policy, telephone number 202-343-3185.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

OCTOBER 18, 1977.

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and 40 U.S.C. 486(c), Chapter 114, Title 41 of the Code of Federal Regulations is amended as set forth below.

Subpart 114-60.10—Property Management Standards for Grants

Sections 114-60.1000 and 114-60.1001 are revised to read as follows:

§ 114-60.1000 Scope of subpart.

This subpart implements, and provides reproductions of, the Property Management Standards prescribed by Office of Management and Budget Circular No. A-102 Revised August 24, 1977, and Office of Management and Budget Circular No. A-110.

§ 114-60.1001 State and local governments.

Under a grant-in-aid to any State or local government, property shall be managed in accordance with the standards and procedures prescribed in Attachment N of OMB Circular No. A-102 Revised August 24, 1977 (see Appendix A of this subpart).

Appendix A is revised to read as follows:

APPENDIX A—PROPERTY MANAGEMENT STANDARDS FOR GRANTS-IN-AID TO STATE AND LOCAL GOVERNMENTS

ATTACHMENT N—CIRCULAR NO. A-102

PROPERTY MANAGEMENT STANDARDS

1. This Attachment prescribes uniform standards governing the utilization and disposition of property furnished by the Federal Government or acquired in whole or in part with Federal funds or whose cost was charged to a project supported by a Federal grant. Federal grantor agencies shall require grantees to observe these standards under grants from the Federal Government and shall not impose additional requirements unless specifically required by Federal law. The grantees shall be authorized to use their own property management standards and procedures as long as the provisions of this Attachment are included.

2. The following definitions apply for the purpose of this Attachment:

(a) *Real property.* Real property means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

(b) *Personal property.* Personal property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

(c) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

(d) *Expendable personal property.* Expendable personal property refers to all tangible personal property other than nonexpendable property.

(e) *Excess property.* Excess property means property under the control of any Federal agency which, as determined by the head thereof, is no longer required for its needs or discharge of its responsibilities.

(f) *Acquisition cost of purchased nonexpendable personal property.* Acquisition cost of an item of purchased nonexpendable personal property means the net invoice unit price of the property including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

(g) *Exempt property.* Exempt property means tangible personal property acquired in whole or in part with Federal funds, and title to which is vested in the recipient without further obligation to the Federal Government except as provided in subparagraph 6a below. Such unconditional vesting of title will be pursuant to any Federal legislation that provides the Federal sponsoring agency with adequate authority.

3. *Real property.* Each Federal grantor agency shall prescribe requirements for grantees concerning the use and disposition of real property funded partly or wholly by the Federal Government. Unless otherwise provided by statute, such requirements, as a minimum, shall contain the following:

(a) Title to real property shall vest in the recipient subject to the condition that the grantee shall use the real property for the authorized purpose of the original grant as long as needed.

(b) The grantee shall obtain approval by the grantor agency for the use of the real property in other projects when the grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs, or programs that have purposes consistent with those authorized for support by the grantor.

(c) When the real property is no longer needed as provided in a and b above, the grantee shall request disposition instructions from the Federal agency or its successor Federal agency. The Federal agency shall observe the following rules in the disposition instructions:

(1) The grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(2) The grantee may be directed to sell the property under guidelines provided by the Federal agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the grantee is authorized or required to sell the

property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(3) The grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the grantee shall be entitled to compensation computed by applying the grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

4. *Federally owned nonexpendable personal property.* Title to federally owned property remains vested in the Federal Government. Recipients shall submit annually an inventory listing of federally owned property in their custody to the Federal agency. Upon completion of the agreement or when the property is no longer needed, the grantee shall report the property to the Federal agency for further agency utilization.

If the Federal agency has no further need for the property, it shall be declared excess and reported to the General Services Administration. Appropriate disposition instructions will be issued to the recipient after completion of the Federal agency review.

5. *Exempt property.* When statutory authority exists title to nonexpendable personal property acquired with project funds shall be vested in the recipient upon acquisition unless it is determined that to do so is not in the furtherance of the objectives of the Federal sponsoring agency. When title is vested in the recipient the recipient shall have no other obligation or accountability to the Federal Government for its use or disposition except as provided in 6a below.

6. *Other nonexpendable property.* When other nonexpendable tangible property is acquired by a grantee with project funds title shall not be taken by the Federal Government but shall vest in the grantee subject to the following conditions:

(a) *Right to transfer title.* For items of nonexpendable personal property having a unit acquisition cost of $1,000 or more, the Federal agency may reserve the right to transfer the title to the Federal Government or to a third party named by the Federal Government when such third party is otherwise eligible under existing statutes. Such reservation shall be subject to the following standards:

(1) The property shall be appropriately identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal agency shall issue disposition instructions within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal agency fails to issue disposition instructions within the 120 calendar-day period, the grantee shall apply the standards of subparagraph 6(b) and 6(c) as appropriate.

(3) When the Federal agency exercises its right to take title, the personal property shall be subject to the provisions for federally-owned nonexpendable property discussed in paragraph 4, above.

(4) When title is transferred either to the Federal Government or to a third party, the provisions of subparagraph 6(c)(2)(b) should be followed.

(b) *Use of other tangible nonexpendable property for which the grantee has title.*

(1) The grantee shall use the property in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original project or program, the grantee shall use the property in connection with its other federally sponsored activities, in the following order of priority:

(a) Activities sponsored by the same Federal agency.

(b) Activities sponsored by other Federal agencies.

(2) *Shared use.* During the time that nonexpendable personal property is held for use on the project or program for which it was acquired, the grantee shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the property was originally acquired. First preference for such other use shall be given to other projects or programs sponsored by the Federal agency that financed the property; second preference shall be given to projects or programs sponsored by other Federal agencies. If the property is owned by the Federal Government, use on other activities not sponsored by the Federal Government shall be permissible if authorized by the Federal agency. User charges should be considered if appropriate.

(c) *Disposition of other nonexpendable property.* When the grantee no longer needs the property as provided in 6b above, the property may be used for other activities in accordance with the following standards:

(1) Nonexpendable property with a unit acquisition cost of less than $1,000. The grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(2) Nonexpendable personal property with a unit acquisition cost of $1,000 or more. The grantee may retain the property for other uses provided that compensation is made to the original Federal agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of original project or program to the current fair market value of the property. If the grantee has no need for the property and the property has further use value, the grantee shall request disposition instructions from the original grantor agency.

The Federal agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within that agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Federal agency to determine whether a requirement for the property exists in other Federal agencies. The Federal agency shall issue instructions to the grantee no later than 120 days after the grantee request and the following procedures shall govern:

(a) If so instructed or if disposition instructions are not issued within 120 calendar days after the grantee's request, the grantee shall sell the property and reimburse the Federal agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the grantee's selling and handling expenses.

(b) If the grantee is instructed to ship the property elsewhere the grantee shall be reimbursed by the benefiting Federal agency with an amount which is computed by applying the percentage of the grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(c) If the grantee is instructed to otherwise dispose of the property, the grantee shall be reimbursed by the Federal agency for such costs incurred in its disposition.

(d) *Property management standards for nonexpendable property.* The grantee's property management standards for nonexpendable personal property shall include the following procedural requirements:

(1) Property records shall be maintained accurately and shall include:

(a) A description of the property.

(b) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(c) Source of the property including grant or other agreement number.

(d) Whether title vests in the grantee or the Federal Government.

(e) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(f) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(g) Location, use, and condition of the property and the date the information was reported.

(h) Unit acquisition cost.

(i) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a grantee compensates the Federal agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented; if the property was owned by the Federal Government, the grantee shall promptly notify the Federal agency.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

7. *Expendable personal property.* Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or completion of the grant and if the property is not needed for any other federally sponsored project or program, the grantee shall retain the property for use on nonfederally sponsored activities, or sell it, but must in either case, compensate the Federal Government for its share. The amount of compensation shall be computed in the same manner as nonexpendable personal property.

8. *Intangible property.*

(a) *Inventions and patents.* If any program produces patentable items, patent rights, processes, or inventions, in the course of work sponsored by the Federal Government,

such fact shall be promptly and fully reported to the Federal agency. Unless there is a prior agreement between the grantee and the Federal agency on disposition of such items, the Federal agency shall determine whether protection on the invention or discovery shall be sought. The Federal agency will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administrated in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).

(b) *Copyrights.* Except as otherwise provided in the terms and conditions of the agreement the author or the grantee organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal agency shall reserve a royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

9. *Excess personal property.* When title to excess property is vested in grantees such property shall be accounted for and disposed of in accordance with paragraphs 6(c) and 6(d) of this attachment.

[FR Doc.77-30853 Filed 10-21-77;8:45 am]

[4910-14]

Title 46—Shipping

[CGD 77-052]

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

MISCELLANEOUS AMENDMENTS

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The amendments in this document correct the regulations concerning international rules of the road by the substitution of references to the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) for the references to the International Regulations for Preventing Collisions at Sea, 1960 (60 COLREGS). The 72 COLREGS entered into force, as law, on and after July 15, 1977. The amendments in this document are needed by the public, and especially by mariners, to comply with the 72 COLREGS.

EFFECTIVE DATE: These amendments become effective on October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Certain regulations in Chapter I of Title 46, Code of Federal Regulations, concern the international "rules of the road" currently in effect. As published in Chapter I, those rules are the 60 COLREGS (16 UST 794, TIAS 5813), which are codified in 33 U.S.C. 1051-1094.

The 72 COLREGS were recently adopted by an international convention, and the United States deposited its Instrument of Acceptance on November 23, 1976. As proclaimed by the President on January 19, 1977, the convention entered into force, as law, in the United States on July 15, 1977. The 72 COLREGS must be followed by all public and private vessels of the United States while navigating outside the line dividing the high seas from inland waters. See 42 FR 35783.

The amendments in this document change the references in Chapter I from the 60 COLREGS to the 72 COLREGS. In addition, § 35.01-30 and § 167.65-3 are brought up to date by inserting Section 12(d) of the Federal Boat Safety Act of 1971 (46 U.S.C. 146(d)) in place of the repealed section 13 of the Act of April 25, 1940 (54 Stat. 166). Since these amendments are editorial, notice of proposed rulemaking is unnecessary and they may be made effective in less than 30 days.

Drafting Information

The principal persons involved in drafting these regulations are: Lieutenant Commander Paul K. Anderson, Project Manager, Office of Merchant Marine Safety, and Stanley M. Colby, Project Attorney, Office of Chief Counsel.

In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations, is amended as follows:

PART 2—VESSEL INSPECTIONS

1. By revising § 2.20-5(b) to read as follows:

§ 2.20-5 Rules of the road pamphlets.

(a) * * *

(b) *CG-169.* Each vessel navigating the harbors, rivers, and inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal, the Red River of the North, the Mississippi River and its tributaries above Huey P. Long Bridge, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternative waterway, must have onboard, in a place for ready reference, the Coast Guard publication, "Navigation Rules, International-Inland" (CG-169).

PART 24—GENERAL PROVISIONS

2. By revising § 24.10-25(a)(1) to read as follows:

§ 24.10-25 Rules of the road.

(a) * * *

(1) Navigation Rules, International-Inland (CG-169).

* * * * *

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

3. By amending § 32.15-1 by revising paragraph (a) and adding a note following the section to read as follows:

§ 32.15-1 Fog sound signal devices—TB/ALL.

(a) Each tankship and manned tank barge must have a bell that meets Annex III of the International Regulations for Preventing Collisions at Sea, 1972.

* * * * *

NOTE.—Appendix A in 33 CFR Subchapter DD, contains the International Regulations for Preventing Collisions at Sea, 1972.

§ 32.15-3 [Amended]

4. By striking in § 32.15-3(b) the word "glossy" and inserting the word "flat", in place thereof.

5. By amending § 32.15-5 by revising paragraph (a) and adding a note following the section to read as follows:

§ 32.15-5 Whistles—T/ALL.

a) Each tankship must have a whistle that meets Annex III of the International Regulations for Preventing Collisions at Sea, 1972.

* * * * *

NOTE.—Appendix A in 33 CFR Subchapter DD contains the International Regulations for Preventing Collisions at Sea, 1972.

PART 35—OPERATIONS

6. By revising § 35.01-30 to read as follows:

§ 35.01-30 Reckless or negligent operation prohibited by law—TB/ALL.

Section 12(d) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1461(d)) reads as follows:

No person may use a vessel, including one otherwise exempted by section 4(c) of this Act (46 U.S.C. 1453(c)), in a negligent manner so as to endanger the life, limb, or property of any person. Violations of this subsection involving use which is grossly negligent, subject the violator, in addition to any other penalties prescribed in this Act, to the criminal penalties prescribed in section 34 (46 U.S.C. 1483).

PART 77—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

§ 77.17-5 [Amended]

7. By striking in § 77.17-5(a) the word "glossy" and inserting the word "flat" in place thereof.

8. By revising § 77.20-1 and adding a note following the section to read as follows:

§ 77.20-1 Vessels other than sailing vessels and barges.

Each vessel under this subchapter, except sailing vessels and barges, must have a whistle that meets Annex III of the International Regulations for Preventing Collisions at Sea, 1972.

NOTE.—Appendix A in 33 CFR Subchapter DD contains the International Regulations for Preventing Collisions at Sea, 1972.

PART 110—GENERAL PROVISIONS

9. By revising § 110.15-177(a)(1) to read as follows:

§ 110.15-177 Rules of the Road.

(a) * * *

(1) Navigation Rules, International—Inland (CG-169).

* * * * *

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

10. By revising § 167.65–3 to read as follows:

§ 167.65–3 Reckless or negligent operation prohibited by law.

Section 12(d) of the Federal Boat Safety Act of 1971 (46 U.S.C. 1461(d)) reads as follows:

No person may use a vessel, including one otherwise exempted by section 4(c) of this Act (46 U.S.C. 1453(c)), in a negligent manner so as to endanger the life, limb, or property of any person. Violations of this subsection involving use which is grossly negligent, subject the violator, in addition to any other penalties prescribed in this Act, to the criminal penalties prescribed in section 34 (46 U.S.C. 1483).

PART 184—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

§§ 184.15–10—195.20–15 [Amended]

11. By striking in § 184.15–10 and in § 195.20–15 the designation "(a)" and striking the word "glossy" and inserting the word "flat" in place thereof.

(Convention on the International Regulations for Preventing Collisions at Sea, 1972 (as rectified); E.O. 11964 (42 FR 4327); Pub. L. 95–75, 91 Stat. 308; 49 CFR 1.46(b).)

Dated: October 12, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.77–30904 Filed 10–21–77;8:45 am]

[6712–01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21002; RM–2695; RM–2723; FCC 77–530]

PART 76—CABLE TELEVISION SERVICES

Applications for Certificates of Compliance and Federal-State/Local Regulatory Relationships

AGENCY: Federal Communications Commission.

ACTION: Report and Order—Rule amendment; Commissioner's statement.

SUMMARY: The Report and Order, FCC 77–530, adopted July 22, 1977 and released September 30, 1977, (42 FR 52404) indicated that Commissioner Hooks' statement would be released at a later date. He has now issued the attached statement.

DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Stephen Ross, 202–632–7480; Robert Jacobs, 202–254–3407; James Albert, 202–254–3430; or Gary Hurvitz, 202–254–3440; Certificates of Compliance Division, Cable Television Bureau.

In the matter of amendment of Subparts B and C of Part 76 of the Commission's rules pertaining to applications for certificates of compliance and Federal-State/local regulatory relationships.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Acting Secretary.

STATEMENT OF COMMISSIONER BENJAMIN L. HOOKS

CONCURRING IN PART; DISSENTING IN PART

In Re: Application for certificates of compliance and Federal/State/local regulatory relationships.

I concur with the Commission's action in retaining the franchise fee limitations of § 76.31(b). However, I must vigorously dissent to the deletion of other franchise requirements, specifically § 76.31(a)(1) regarding the requirement for a full public proceeding affording due process; § 76.31(a)(2) concerning construction timetables and § 76.31(a)(5) which required the establishment of procedures to respond to subscriber complaints.

Regarding § 76.31(a)(1), I agree with those commenters who urged that the public proceeding—due process requirement be retained. I agree that this requirement has had a beneficial effect on franchise proceedings and that it has prevented completely "closed-door franchise awards". The rule does, as one commenter pointed out, establish a common foundation for information gathering, a function for which many local laws do not provide a satisfactory substitute.

The affording of due process is a fundamental and precious right. By deleting § 76.31(a)(1), the majority departs from, and in fact, ignores its own precedent without providing a sufficient and compelling basis and rationale for doing so. "In Calvert Telecommunication's Corp.", 49 FCC 2d 200, (1974), the Commission quoted the Supreme Court on the issue of due process:

> An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections * * * But when notice is a person's due, process which is a mere gesture is not due process. "Mullane v. Central Hanover Bank & Trust Co." 339 U.S. 306 (1950).

49 FCC 2d supra at 212. The majority's action in deleting § 76.31(a)(1) and only continuing it as a "non-mandatory guideline" is truly a mere gesture. As a Federal regulatory agency, this Commission must jealously protect fundamental constitutional rights and guarantees in exercising its regulatory responsibility.

The U.S. Court of Appeals for the D.C. Circuit stated in "Greater Boston Television Corporation v. F.C.C.":

> An agency's view of what is in the public interest may change, either with or without a change in circumstances. *But an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored and if an agency glosses over or swerves from prior precedents without discussion it may cross the line from the tolerably terse to the intolerably mute.*

"Greater Boston Television Corporation v. F.C.C." 444 F. 2d 841, at 852 (1970). (Emphasis added.)

Concerning § 76.31(a)(2) regarding construction timetables and line extension, I have previously expressed the view that I considered this rule to be "especially important to the regulation of cable television and its development as a vital aspect of our communications system". "Applications for Certificate of Compliance", 63 FCC 2d 3, at 21 (1976).

I deem this rule to be important as a preventative measure against the concept of "cream-skimming" whereby operators wire the more economically lucrative areas of a community to the detriment of the poorer areas. As the Commission stated in the "Clarification of the Cable Television Rules and Notice of Proposed Rulemaking" only three years ago:

> * * * we want assurances in the application and from the franchisor, that the public, and particularly those citizens directly affected by the exclusions or conditional wiring provisions, are informed of the effect of such provisions before they are adopted. 46 FCC 2d 175, at 193 (1974).

I certainly would not eliminate this provision without firm and convincing evidence that to do so would not be against the best interests of potential cable subscribers, the public, and the full development of cable television. Reregulation as a concept of regulatory management should never favor the affluent and disfavor the less affluent which could occur in some instances as a result of deletion of the line extension requirement. I note that my concerns are shared in the comments of the citizens for cable awareness in Pennsylvania as well as other commenters in the proceeding. Here again, the majority has not provided a sufficient reasoned basis for its decisionmaking in the matter.

Equally lacking in basis in the record is any showing by the majority of a compelling reason to delete the complaint procedure requirements of § 76.31(a)(5). After stating that it considers these procedures to be an important aspect of the cable television industry, the majority turns around and indicates that we are ill equipped to resolve local disputes and that these procedures are inherently matters of local resolution. Such reasoning does not fully justify the majority's complete change in course from 1972 when the rule was first promulgated. See "Cable Television Report and Order" 36 FCC 2d 143 (1972). These procedures were a right afforded to subscribers by this Commission. To take it away and merely require such procedures on a "non-mandatory basis", requires greater justification than the majority provides.

In conclusion, the majority actions in deleting the above rules casts ominous shadows over the uninformed, unserved, public's right to participate at the most critical stage of the cable selection process. When this Commission takes away, in a rather arbitrary and capricious manner, the requirement of basic and fundamental due process, complaint

mechanisms and construction timetable as a federal mandate, it leaves unprotected the very persons that our jurisdiction, supplemented by our rules, and regulations, are designed to protect without any rational basis for so doing. (See, "U.S. v. Southwest Cable Co.") 392 U.S. 157, 13 R.R. 2d 2045 (1968), "U.S. v. Midwest Video Corp." 408 U.S. 649, 24 R.R. 2d 2072 (1972).

[FR Doc.77-28817 Filed 10-21-77;8:45 am]

[4910-59]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

[Docket No. 77-02; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration.

ACTION: Final rule.

SUMMARY STATEMENT: This amendment adds certain tire size designations to Standard No. 109, New Pneumatic Tires—Passenger Cars. This addition is made pursuant to a request from the Rubber Manufacturers Association (RMA) to permit the production of tires with the specified designation.

EFFECTIVE DATE: November 25, 1977, if objections are not received.

FOR FURTHER INFORMATION CONTACT:

John A. Diehl, Office of Crash Avoidance, Motor Vehicle Programs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1715.

SUPPLEMENTARY INFORMATION: According to agency practice, regular amendments are published modifying the Appendix of Standard No. 109. Guidelines were published in the FEDERAL REGISTER on October 5, 1968 (33 FR 14964), and amended August 31, 1974 (39 FR 28980), specifying procedures by which routine additions could be made effective 30 days from publication in the FEDERAL REGISTER, if no objections are received. If objections are received, rulemaking procedures for the issuance of motor vehicle safety standards (49 CFR Part 553) are followed. The RMA petitioned for this addition to the tire tables to permit production of tires with the specified designation. Their request is granted.

Accordingly, Appendix A of 49 CFR § 571.109 is amended subject to the 30 day provision indicated above, as specified below.

The principal authors of this document are John A. Diehl, Office of Crash Avoidance, and Roger Tilton, Office of Chief Counsel.

§ 571.109 (Appendix Amended)

In Table I-GG the following new tire size designation and corresponding values are added.

(Secs. 103, 119, 201, and 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 17, 1977.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Programs.

TABLE I-GG.—*Tire load rating, test rims, minimum size factors and section width for "P/80" series ISO type tires*

Tire size [1] designation	Maximum tire loads (kilograms) at various cold inflation pressures (kPa)									Test rim width (inches)	Minimum size factor (millimeters)	Section [2] width (millimeters)
	120	140	160	180	200	220	240	260	280			
P195/80R15	505	545	580	615	650	680	710	740	770	5½	874	196

[1] The letters "D" for diagonal and "B" for bias belted may be used in place of the "R."
[2] Actual section width and overall width shall not exceed the specified width by more than the amount specified in S4.2.2.2.

[FR Doc.77-30770 Filed 10-21-77;8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. MC-82 (Sub-No. 1)]

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

Subpart B—Intercity Bus Industry

FINAL RULE; CORRECTION

AGENCY: Interstate Commerce Commission.

ACTION: Correction to final rule.

SUMMARY: This action corrects an error in the final rules in Ex Parte No. MC-82 Sub No. 1 governing the type of evidence to be submitted in intercity bus motor carrier revenue proceedings.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: In the rules published at 42 FR 40861, Friday, August 12, 1977, (FR Doc. 77-23387) in the second column under § 1104.22, the "(a)" identifying the first (and only) paragraph should be deleted.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc.77-30847 Filed 10-21-77;8:45 am]

[7035-01]

[Ex Parte No. MC-111]

PART 1132—TRANSFER OF OPERATING RIGHTS

Transfers of Motor Carrier Operating Rights

Final regulations revising the conditions under which the cessation of operations by the transferor will lead to a denial of authorization under the Motor Carrier Transfer Rules.

AGENCY: Interstate Commerce Commission.

ACTION: Final regulations.

SUMMARY: The purpose of this document is to revise the motor carrier transfer rule relating to cessation of operations. The test in the rule for deciding when cessation of operations requires denial is more stringent than the standard applied in motor carrier consolidations not governed by the transfer rules. This rulemaking was instituted by the Commission on its own motion to provide for consistent treatment of dormancy (cessation of operations) whether involved in applications filed under section 212(b) and hence subject to the transfer rules promulgated thereunder, or involved in applications filed under section 5(2).

DATES: Notice of intent to comment must be received on or before November 9, 1977. Schedule for submission of comments and reply statements to be set by an order to be served concurrently with issuance of the service list of participants in the proceeding.

ADDRESSES: Send all comments and intention to comment to Office of the Acting Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

G. Marvin Bober, Assistant Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202-275-7564).

SUPPLEMENTARY INFORMATION: The particular transfer rule governing cessation of operations now modified is at 49 CFR 1132.5(b). Notice and public procedure prescribed by section 4 of the Administrative Procedure Act has been dispensed with as impracticable and unnecessary. As required by 5 U.S.C. 553 (b)(3)(B), the reasons for dispensing with the notice and public procedure have been incorporated in the discussion

which follows. However, as a matter of discretion we shall allow comments on the action taken herein.

DISCUSSION

This proceeding was instituted on our own motion pursuant to section 212(b) of the Interstate Commerce Act to revise the regulation set out at 49 CFR § 1132.5 (b). This regulation applies to transfers of operating authority not governed by section 5 or 210a(b) of the Act.

The present rule provides, in part, that "if . . . a cessation of operations has occurred . . . and operations have not been conducted under the considered rights for a substantial period of time, the proposed transfer will be denied unless the holder shows that such discontinuance was caused by circumstances over which he had no control." 49 CFR § 1132.5(b). This regulation places a heavier burden of proof on applicants filing under section 212(b) than is placed on applicants who file under section 5(2). In section 5 proceedings applicants are required to show that the transfer of inactive authority is consistent with the public interest. Under the public interest standard of section 5, where authority is inactive, applicants are only required to make an initial showing that the public would be benefited by transfer and reactivation of the authority. See No. MC-F-12377, *Central Transport, Incorporated — Purchase (Portion) — Piedmont Petroleum Products, Inc.*, 127 M.C.C. 1 (1977). Where this initial showing is made, the transfer will be approved under section 5, unless a protestant shows harm. A full explanation of the applicable analysis under section 5 is set out in the *Central* case.

The rule herein adopted will provide for a single standard regarding dormancy which will be used in cases arising under section 212(b) and section 5. That standard is set out in full in *Central*, supra.

The revisions contemplated herein are promulgated without prior notice and opportunity for comment. The Commission believes, however, that notice and public procedure in this proceeding are impracticable and unnecessary for the following reasons: (1) present Commission policy provides for a less stringent approach to dormancy that is exemplified in the regulations. Compare 49 CFR § 1132.5(b) with *Arrow Transportation Co. v. U.S.*, 300 F. Supp. 813 (D.R.I. 1969); *Roadway Express, Inc.—Control and Merger—Atlas*, 122 M.C.C. 333 (1976); and *Central Transport, Inc.—Purchase (Portion)—Piedmont Petroleum Products, Inc.*, 127 M.C.C. 1 (1977); (2) the delay that would result if notice and public procedure were followed would result in an excessive delay in implementation of the less stringent standard in section 212(b) proceedings; and (3) the new standard will be less restrictive than the present rule.

However, we will, as a matter of discretion, allow comments on the action taken herein.

The action taken herein is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, 49 CFR is amended by striking section 1132.5(b) thereof in its entirety and substituting, in lieu thereof, the following revised section 1132.5(b), which will become effective October 25, 1977.

§ 1132.5 General bases for disapproval.

* * * * *

(b) *Cessation of Operations.* Cessation of operations by the holder of an operating right shall not be deemed to require denial of the proposed transfer of such right unless the transfer would be denied under section 5(2) of the Interstate Commerce Act under the prevailing dormancy doctrine. It is the intent of this rule that the dormancy standard followed under section 5 shall be applicable to section 212(b) proceedings.

This notice of final rule making is promulgated under 49 U.S.C. 312(b) and 5 U.S.C. 553, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 7th day of September, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30865 Filed 10-21-77;8:45 am]

[3410-34]

Title 7—Agriculture

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

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Witchweed

EXEMPTED ARTICLES

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the exemption regulations supplemental to the Witchweed Quarantine by removing unshucked ear corn and root crops from the list of articles exempted from certificate or permit requirements; by removing the requirement for repainting used mechanized cultivating and soil-moving equipment; and by changing the conditions specified for movement of soybeans. Unshucked ear corn and root crops will require a certificate or permit when moved from witchweed regulated areas; equipment will be exempt if cleaned of all soil; and soybeans will be permitted to be moved only if the inspector determines that the soybeans were grown, harvested, and handled in a manner to prevent contamination from witchweed seed. Plant Protection and Quarantine Programs has concluded after a review of field procedures that these changes are needed to prevent the spread of witchweed.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION: Witchweed is a serious parasitic plant which causes a dangerous disease in corn and sorghum crops. Since it is impossible in many instances to determine whether corn was harvested without coming into contact with the soil, and since it is difficult to maintain control over the movement of root crops when they leave the infested farm, it has been determined these articles will require a certificate or permit when shipped from witchweed regulated areas. Used mechanized cultivating equipment and used mechanized soil-moving equipment can only be moved if they are cleaned free of soil. Since field personnel can determine upon inspection if used mechanized cultivating and soil-moving equipment is cleaned free of soil, the current requirement in the regulations for repainting such equipment is no longer necessary. Field studies have indicated that soybeans should only be exempt from the requirements of the regulations if it is determined by an inspector that the soybeans were grown, harvested, and handled in a manner to prevent contamination from witchweed seed.

Accordingly, the supplemental regulations exempting certain articles from specified requirements of the regulations, 7 CFR 301.80-2b, are hereby amended to read as follows:

§ 301.80-2b Exempted articles.[1]

(a) The following articles are exempt from the certification, permit, and other requirements of this subpart if they meet the applicable conditions prescribed in paragraph (a) (1) through (5) of this section and have not been exposed to infestation after cleaning or other handling as prescribed in said paragraph:

(1) Small grains, if harvested in bulk or into new or treated containers, and if the grains and containers for the grains have not come in contact with the soil or if they have been cleaned at a designated facility.[2]

(2) Soybeans, when determined by an inspector that the soybeans were grown, harvested, and handled in a manner to prevent contamination from witchweed seed.

(3) Pickling cucumbers, string beans, and field peas, if washed free of soil with running water.

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[1] The articles hereby exempted remain subject to applicable restrictions under other quarantines.

[2] Information as to designated facilities, gins, oil mills, and processing plants may be obtained from an inspector. Any facility, gin, oil mill, or processing plant is eligible for designation under this subpart if the operator thereof enters into a compliance agreement (as defined in § 301.80-1(b)).

(4) Used farm tools, if cleaned free of soil.

(5) Used mechanized cultivating equipment and used mechanized soil-moving equipment, if cleaned free of soil.

(b) The following article is exempt from the certification and permit requirements of §301.80–4 under the applicable conditions as prescribed in paragraph (b)(1):

(1) Seed cotton, if moving to a designated gin.[2]

(Secs. 8, 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141; 7 CFR 301.80–2, 41 FR 27371.)

The Deputy Administrator of Plant Protection and Quarantine Programs has found that facts exist as to the pest risk involved in the movement of certain articles which make it safe to relieve requirements or to make it necessary to impose requirements as provided therein.

The Deputy Administrator has also found that facts exist as to the pest risk involved in the movement of certain articles which make it necessary to impose requirements as provided herein.

To the extent that this amendment relieves certain restrictions presently imposed, it should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions which are being relieved. To the extent that this amendment imposes restrictions, they are necessary in order to prevent the spread of witchweed, and should be made effective promptly to accomplish their purpose in the public interest. Also, it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on this amendment.

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

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

Done at Washington, D.C., this 19th day of October 1977.

G. G. ROHWER,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc.77–30916 Filed 10–21–77;8:45 am]

[3410–37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 2853—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

Subpart A—Regulations

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: These regulations are being changed to reflect an increase in fees for the voluntary Federal meat grading service to cover increased program operating costs. The Agricultural Marketing Act of 1946 provides for the collection of fees approximately equal to the cost of Federal meat grading services rendered under its provisions. Salaries paid to Federal employees have been increased under the provisions of Pub. L. 92–210. Therefore, it has been determined that the hourly fee must be adjusted as provided herein because of the increased costs that will be incurred.

EFFECTIVE DATE: November 6, 1977.

FOR FURTHER INFORMATION CONTACT:

David K. Hallett, U.S. Department of Agriculture, Food Safety and Quality Service, Meat Quality Division, Meat Grading Branch, 202–447–2210.

SUPPLEMENTARY INFORMATION: The need for the increase and the amount thereby are dependent upon facts within the knowledge of the Food Safety and Quality Service. Therefore, under the provisions of 5 U.S.C. 553, it is found that notice and other public procedures with respect to this amendment are impractical and unnecessary and good cause is found to make the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

§ 2853.27 [Amended]

Accordingly, the provisions of 7 CFR 2853.27(a) prescribing fees for Federal meat grading services are hereby amended by changing the phrases "$19 per hour," "$23 per hour," and "$38 per hour" to "$20 per hour," "$24 per hour," and "$40 per hour," respectively.

(Agricultural Marketing Act, Sections 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624.)

Done at Washington, D.C., on this 18th day of October 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77–31042 Filed 10–21–77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410–02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would impose pack, container and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. The regulation, if issued, should promote orderly marketing of such lettuce by standardizing the pack of lettuce shipped to consumers.

DATE: Comments due November 9, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, Telephone: 202–447–3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971, both as amended, regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

This notice is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on October 11, 1977.

The recommendations of the committee reflect its appraisal of the 1977–78 lettuce crop and marketing prospects for the season.

The South Texas lettuce industry as well as other lettuce shipping areas are accustomed to operated on a six day shipping week. The experience has been that a six day shipping week is adequate for five days distribution in terminal markets. Therefore, proposed "packaging holidays" on Sundays would promote more orderly marketing.

The proposed pack and container requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and would prevent deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day would be exempt from such requirements.

Proposed provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers can utilize lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted, provided certain safeguard requirements are met.

The proposal is as follows:

§ 971.318 Handling regulation.

During the period November 21, 1977, through March 31, 1978, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraph (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraphs (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85–40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with insider dimensions of 10 inches x 14¼ inches x 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with insider dimensions of 10¾ inches x 16⅛ inches x 21½ inches (designated as carrier container No. 85–40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued with respect thereto, except when relieved of such requirement pursuant to paragraphs (e) or (f) of this section.

(2) No handler may transport, or cause the transportation of, any shipment of lettuce by motor vehicle for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the inspection service verifying that such shipment meets the current grade, pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements. This exception may not be applied to any shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* The pack, container, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if, prior to handling, the handler pursuant to §§ 971.120–971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 19, 1977.

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

[FR Doc.77-30893 Filed 10-21-77;8:45 am]

[3410-02]

[7 CFR Parts 1097, 1102, 1108]

[Docket Nos. AO-243-A32, AO-237-A28, AO-219-A34, AO-243-A32-RO1, AO-237-A28-RO1, AO-219-A34-RO1]

MILK IN THE CENTRAL ARKANSAS; FORT SMITH, ARKANSAS; AND MEMPHIS, TENNESSEE MARKETING AREAS

Termination of Proceeding on Proposed Amendments To Tentative Marketing Agreements and To Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rule.

SUMMARY: This action terminates the current proceeding on a proposed merger of the Central Arkansas, Fort Smith, and Memphis Federal milk orders and expansion of the marketing area to include additional areas in Arkansas, Tennessee and Mississippi. At the request of producers, a public hearing was held in December 1976 to consider their proposal to merge the three orders and expand the combined marketing area. In July 1977, the Department announced its recommendations, including a merger of the orders. Producers have since asked that the proceeding be halted.

DATES: This withdrawal is effective October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of hearing: Issued November 19, 1976, published November 24, 1976 (41 FR 51819); issued February 11, 1977, published February 17, 1977 (42 FR 9674); issued March 3, 1977, published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

Recommended Decision: Issued July 21, 1977, published July 26, 1977 (42 FR 38070).

Extensions of time for filing exceptions: Issued August 12, 1977, published August 19, 1977 (42 FR 41873); and issued August 25, 1977, published August 31, 1977 (42 FR 43859).

STATEMENT OF CONSIDERATION

A public hearing was held upon proposed amendments to the marketing agreements and to the orders regulating the handling of milk in the Central Arkansas, Fort Smith, Arkansas and Memphis, Tennessee marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Little Rock, Arkansas on December 14-16, 1976, pursuant to notice therof which was issued November 24, 1976 (41 FR 51819). A reopening of this hearing was conducted at Irvin, Texas, on April 5-8, 1977, pursuant to notices thereof which were issued February 11, 1977 (42 FR 9674), March 3, 1977 (42 FR 13024) and March 25, 1977 (42 FR 17130).

The December 1976 hearing session was requested by Associated Milk Producers, Inc. (AMPI), to consider merging the orders regulating the handling of milk in the Central Arkansas, Fort Smith, Arkansas and Memphis, Tennessee marketing areas under a single order and expanding the marketing area to include 16 Arkansas, 12 Mississippi and 3 Tennessee counties that presently are unregulated. The provisions of the proposed single order were patterned largely after those of the Central Arkansas order.

The December 1976 hearing was reopened in Irving, Texas, on April 5-7, 1977, for the limited purpose of considering the need for modifying the base-excess plans applicable in these three markets to make them conform with any common base-excess plan found appropriate for eight other southwestern Federal order markets. This termination of proceeding deals only with the issues considered at the December 1976 hearing session. The issue considered at the April 1977 hearing session relating to the adoption of uniform base-excess plans in 11 markets is reserved for a later decision.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator on July 21, 1977 (42 FR 38070) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The Acting Administrator recommended that the three orders be merged and that the marketing area be expanded to include 16 additional Arkansas counties and one Tennessee county. However, he denied that portion of the proponent cooperative's proposal to add 12 Mississippi and 2 Tennessee counties to the merged marketing area. The inclusion of these 14 counties in the marketing area would have resulted in the full regulation of distributing plants at Tupelo, New Albany, and Amory, Miss.

The proponent cooperative filed exceptions to the recommended decision, indicating that the Department erred in not including the 14 counties in the merged marketing area that was tentatively adopted. It requested that the recommended decision be revised to include these 14 counties. The cooperative stated that if this was not done the hearing should be reopened to receive additional testimony on matters relating to the marketing area or the proceeding should be terminated. It stated that termination of the proceeding and continuation of the separate orders would be preferable to implementation of the recommended decision in its present form.

The exclusion of this 14-county area from the proposed merged marketing area was also opposed in their exceptions by another cooperative association and a handler.

On the basis of the record evidence and the exceptions received, the proceeding with respect to the December 1976 hearing should be terminated. The concerns expressed in the exceptions raise serious questions as to whether the continuation of this proceeding can result in a modified regulatory plan that would provide orderly marketing conditions for producers and handlers. Of particular concern is the claim of the merger proponent that a merger of the three orders would cause a major plant now regulated under the St. Louis-Ozarks order to become regulated under the proposed merged order. The ramifications of such a change in regulation, which could be significant, were not explored at the merger hearing. It was the position of proponent that such a change in the plant's regulated status would result in disorderly marketing conditions not only in the marketing area of the proposed merged order but also in the St. Louis-Ozarks marketing area. Thus, it is questionable whether the marketing problems raised in the exceptions can be properly resolved within the scope of this proceeding.

The proponent cooperative represents the vast majority of the producers on each of the three separate markets. Its withdrawal of support for the merger decisions means that the decision has very limited support among producers. Inasmuch as there are no overriding or compelling reasons as to why the three orders should be merged, recognition should be given to the desire of the proponent cooperative that the proceeding be halted.

Other issues considered in the recommended decision were tied to the merger of the orders. Accordingly, these now become moot.

TERMINATION ORDER

In view of the foregoing, it is hereby determined that the aforesaid proceeding with respect to proposed amendments to the tentative marketing agreements and to the orders should be and is hereby terminated.

Signed at Washington, D.C. on October 17, 1977.

IRVING W. THOMAS,
Acting Deputy Administrator, Program Operations.

[FR Doc.77-30860 Filed 10-21-77;8:45 am]

[4810–33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 9]

FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed amendment.

SUMMARY: This proposed amendment would give regularly recognition to the established principle of law which prohibits the use of material inside information in connection with the purchase or sale of securities. Bank may not make trust department decisions or recommendations to purchase or sell securities on the basis of material inside information that is available to their commercial departments, directors or any other source. This proposed amendment modifies a 1974 proposal that would have required national banks to establish policies and practices to ensure that such information was not being used in this manner.

DATE: Comments must be received on or before November 25, 1977.

ADDRESSES: Written comments should be addressed to John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Dean E. Miller, Deputy Comptroller for Trust Operations, Comptroller of the Currency, Washington, D.C. 20219, 202–447–1731.

SUPPLEMENTARY INFORMATION:

I. History

Present 12 CFR 9.7(d), adopted November 15, 1972, provides:

> The trust department may utilize personnel and facilities of other departments of the bank, and other departments of the bank may utilize personnel and facilities of the trust department only to the extent not prohibited by law.

On April 24, 1974 (39 FR 14510), the Comptroller of the Currency proposed an amendment to § 9.7(d) as follows:

> The Trust Department may utilize personnel and facilities of other departments of the bank, and other departments of the bank may utilize the personnel and facilities of the Trust Department; however, the Trust Department shall establish appropriate policies and procedures to ensure that investment decisions of the Trust Department are not based upon non-public information, regardless of how that information may be obtained.

On August 5, 1974 (39 FR 28144), the Comptroller announced that final action on the proposal would be deferred pending further study. The deferral was precipitated by a decision of the United States District Court for the Southern District of New York in "Slade v. Shearson, Hammill & Co.," CCH Fed. Sec. L. Rep., ¶ 94,329 ('73–'74 Trans. Bind.). The Court denied summary judgment in favor of the defendant broker/dealer where a retail customer alleged that the broker/dealer had recommended securities at a time when its investment banking department had material inside information which was inconsistent with that recommendation.

The "Shearson, Hammill" case generated extensive discussion by legal commentators as to whether principles of fiduciary law might impute inside information across departmental lines of multi-department financial institutions, including banks. Concern was also expressed as to whether a so-called "Chinese Wall," a physical and operational barrier set up between a bank's commercial and trust departments, would be effective in insulating a bank from potential liability under Section 10(b) of the Securities Exchange Act of 1934, (15 U.S.C. 78(j)(b)) and Rule 10b–5 thereunder.

On September 8, 1976, the Comptroller republished for public comment, the 1974 proposed amendment to 12 CFR 9.7(d) (41 FR 37812). Comments were solicited specifically on the issue of whether the Comptroller should adopt an amendment to Part 9 to provide guidance in this area to national banks. Commentators were asked to submit suggested wording or comments on:

a. Whether a "wall" should be required;

b. Whether a lesser requirement would be preferable: that policies be established to insure that no investment decisions shall be made on the basis of significant non-public information;

c. Whether such a regulation, affecting as it would only national banks, would be effective;

d. Whether some other form of restriction or prohibition is necessary.

II. Discussion

The Comptroller of the Currency believes that the objective sought by the proposed amendment will be achieved best by a general and flexible approach, and not by a regulation mandating the estalishment of a "Chinese Wall." The amendment allows each bank, regardless of size, to choose appropriate written policies and procedures which would prohibit the use of material inside information in connection with decisions or recommendations to purchase or sell securities. Banks may decide after consultation with counsel to adopt a "Chinese Wall," or they may decide to adopt other appropriate measures. For contrasting views on the "Chinese Wall" issue, see Mendez-Penate, "The Bank 'Chinese Wall': Resolving and Contending With Conflicts of Duties," 93 *"The* Banking Law Journal" 674 (1976); Huck, ing With Conflicts of Duties," 93 "The Chinese Wall,'" 94 "The Banking Law Journal" 100 (1977); Carswell, "Construction of the Chinese Wall," "Trust Management Update," July 1977.

The Comptroller of the Currency recognizes that mere knowledge of material inside information is not necessarily illegal or improper. Rather, under the present state of law, it is primarily the intent to defraud and the actual use of such information in connection with the purchase or sale of securities which may lead to liability under Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder. "See Ernst & Ernst v. Hochfelder," 425 U.S. 185, 96 S. Ct. 1375 (1976). Therefore, the proposed amendment is concerned with the actual use of such information. The Comptroller notes, however, that the Court in "Hochfelder" did not adress whether in some circumstances reckless behavior is sufficient for civil liability under Rule 10b–5, and did not extend its ruling to injunction actions under that Rule.

Moreover, it is a basic principle of the law of trusts that a trustee has no duty to violate a law in order to benefit his beneficiaries. See Restatement (Second) of Trusts § 166 (1959); Scott, Trusts § 166 (3d ed. 1967). Therefore, beneficiaries cannot expect their trustee to use material inside information, whether actual or imputed, in connection with the purchase or sale of securities if that action would violate Section 10(b) and Rule 10b–5.

Sixty-six comments were received in response to the amendment proposed in 1976. The position of the commentators varied, with most expressing qualified approval of the amendment. A majority of commentators favored the proposed amendment as affording national banks the flexibility to establish such procedures as they consider appropriate to prevent the use of material inside information by a bank's trust department in connection with the purchase or sale of securities. A number of commentators suggested that the language of the proposed amendment be drafted more consistent with the language of the Federal securities laws.

In response to the Comptroller's specific inquiry as to whether a "Chinese Wall" should be required, a majority of the commentators believed that a "Chinese Wall" was desirable but should not be required. Three major reasons were argued for not requiring a "Chinese Wall": (1) It would be impractical to implement in a small bank; (2) it would be expensive and burdensome to administer; and (3) it would hinder the legitimate interchange of information and personnel between the commercial and trust departments of a bank.

In the 1976 proposal, interested parties were also asked whether they believed the regulation would be effective even though it would affect only national banks. The overwhelming consensus of the commentators was that the regulation would still be effective, and that it would probably become an industry standard and model for state legislatures and other regulatory authorities.

Some commentators opined that in view of potential future litigation and Congressional inaction in this area, it would not yet be appropriate for the Comptroller to adopt a regulation. The Comptroller believes, however, that since the law surrounding Section 10(b) and Rule 10b–5 is continually evolving and in view of the sentiment expressed

in favor of government regulation in this area, a current need for the proposed amendment exists.

Based upon the comments received, the following language changes have been made in the latest proposal. The first three were made in order to conform the language of the proposed amendment to the language of the Federal securities law.

(1) The word "material" has been added to the phrase "non-public information."

(2) The word "inside" has been substituted for "non-public" in the phrase "material non-public information."

(3) The phrase "purchase or sell securities" has been substituted for the phrase "investment decisions."

(4) The phrase "or recommendation" has been inserted after the word "decision" in order to address those circumstances where a trust department does not have full discretion over a trust account or acts solely as an investment advisor.

III. PUBLIC AVAILABILITY OF COMMENTS

All written comments will be available to the public for inspection and copy upon request.

IV. DRAFTING INFORMATION

The principal drafter of this document was Dean E. Miller, Deputy Comptroller for Trust Operations.

PROPOSED AMENDMENT

The Comptroller proposes to amend 12 CFR Part 9 by revising § 9.7(d) to read as follows:

§ 9.7 Administration of Fiduciary Powers.

* * * * *

(d) The trust department may utilize personnel and facilities of other departments of the bank, and other departments of the bank may utilize personnel and facilities of the trust department only to the extent not prohibited by law. Every national bank exercising fiduciary powers shall adopt appropriate written policies and procedures to ensure that the Federal securities laws are complied with in connection with any decision or recommendation to purchase or sell securities. Such policies and procedures, in particular, shall ensure that national bank trust departments shall not use material inside information in connection with any decision or recommendation to purchase or sell securities.

Dated: October 7, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-30796 Filed 10-21-77;8:45 am]

[4810-33]

[12 CFR Part 9]

FIDUCIARY POWER OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed amendment.

SUMMARY: The proposed amendment would require that when trust assets are invested collectively in variable amount notes, such notes must be on a demand basis. The amendment would also permit affiliated banks to pool trust funds in a note maintained by one of their number. This proposal would eliminate the use of the variant arrangement of the variable amount note with the so-called "A" and "B" components, an arrangement currently permitted by this Office. However, the prevalent usage of this arrangement has introduced an undesirable element of inflexibility into the notes.

EFFECTIVE DATE: Written comments must be received on or before November 25, 1977.

ADDRESSES: Comments should be addressed to Mr. Dean E. Miller, Deputy Comptroller for Trust Operations, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION: On December 22, 1976 the Comptroller of the Currency published for comment a proposal revising 12 CFR 9.18(c)(2)(ii), a section which authorizes the investment of trust funds on a short term basis in a variable amount note of a borrower of prime credit. That proposed revision would have established a limitation on the amount of the note equal to 10 percent of the bank's capital and surplus. The proposal would have also permitted affiliated banks to pool trust funds in a note maintained by one of their number.

In response to that 1976 proposal, over 100 comments were received with all but one being highly critical of the provision imposing a 10 percent limitation. In reviewing the comments, we have found persuasive arguments for the deletion of the 10 percent limitation and have thus eliminated that provision from this latest proposal.

In addition to the deletion of the 10 percent limitation, the amendment as reproposed includes one other variation from the earlier proposal. The latest proposal would require that when trust assets are invested collectively in variable amount notes, such notes must be maintained on a demand basis. The purpose of this requirement is to eliminate the use of the variant arrangement of the variable amount note with the so-called "A" and "B" components, an arrangement currently permitted by this Office.

Under the variant arrangement, the "A" component is a demand note with daily openings for admissions and withdrawals. The "B" component is for a fixed term and usually has to be approximately half of the total borrowing. The Comptroller's initial approval of this arrangement was based on the premise that a bank trust department could properly anticipate its average needs so that it would not require the funds in the "B" component of the note on any given day. However, the prevalent usage of the fixed term component has introduced an element of inflexibility into the notes and has forced banks occasionally to shift to interests of participating accounts in order to keep the minimum balance in the "B" component. In addition, it has raised the possibility that the borrower may assert an undesirable degree of influence upon the bank in order to obtain more favorable terms.

DRAFTING INFORMATION

The principal drafts of this document were Mr. Dean Miller, Deputy Comptroller for Trust Operations and Ms. Jessica J. Josephson, Staff Attorney.

PROPOSED AMENDMENT

The Comptroller proposes to amend 12 CFR Part 9 by revising § 9.18(c)(2)(ii) to read as follows:

§ 9.18 Collective investment.

* * * * *

(c) * * *

(2) * * *

(ii) On a short term basis on a variable amount demand note of a borrower of prime credit: *Provided,* That such demand note shall be maintained by the bank on its premises, and may be utilized by it only for investment of monies held in its trust department accounts, or the trust department accounts of banks which are affiliated with the bank; *Provided further,* That the bank or any other bank affiliated with it owns no participation in the loans or obligations authorized under paragraph (c)(2)(i) or (ii) of this section, and has no interest therein except in its capacity as fiduciary.

Dated: October 7, 1977.

JOHN G. HEIMANN,
Comptroller of the Currency.

[FR Doc.77-30902 Filed 10-21-77;8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket Nos. 76-SW-41 and 76-SW-52]

AIRWORTHINESS DIRECTIVES

Bell Models 206A, 206B, 206A-1, 206B-1, and 206L Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of certain tension-torsion straps, P/N 206-010-105-3, 206-010-105-5, and 206-011-127-1, every 600 hours on all Bell Model 206 series helicopters. The proposed AD is needed to prevent possible failure of the tension-torsion strap which could result in loss of the helicopter.

DATE: Comments must be received by November 25, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Regional Counsel, ASW-7, Attn. Dockets 76-SW-41 and 76-SW-52, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

Tom A. Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone 807-624-4911, extension 517.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the Rules Docket.

There have been three reported failures of main rotor blade tension-torsion straps on Bell Model 206B helicopters that resulted in the loss of the main rotor blade. The Models 206A, 206A-1, 206B-1, and 206L are also equipped with the same tension-torsion straps and are subject to similar operating conditions. Amendments 39-2773 (41 FR 53777) AD 76-24-07 and 39-3782 (41 FR 53778) AD 76-24-08 were issued to require replacement of the tension-torsion straps, P/N 206-010-105-3 and 206-011-127-1, every 1,200 hours. Since issuing these AD's, one strap failure occurred at 800 hours' total time in service. The National Transportation Safety Board has recommended that the agency issue an airworthiness directive to require a reduction in service life of the tension-torsion strap assembly from 1,200 hours to 600 hours until the cause of these failures can be determined and eliminated. Bell Helicopter and the FAA have determined that the cause of premature failure is due to the type of coating material being used. Accordingly, the manufacturer of the tension-torsion straps has reinstituted the use of the original coating material. There have been no failures of straps manufactured prior to October 22, 1973 (P/N 206-010-105-3, S/N 100 through 13335). In the interest of safety, the agency is proposing to issue an airworthiness directive to require replacement of certain tension-torsion straps every 600 hours on Bell Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters.

Drafting Information

The principal authors of this document are Tom A. Dragset, Aerospace Engineer, Flight Standards Division, and James O. Price, General Attorney, Southwest Region, FAA.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

BELL. Applies to Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters, equipped with main rotor blade tension-torsion straps, P/N 206-010-105-3 (S/N 13336 and subsequent), P/N 206-010-105-5 (all S/N's), or P/N 206-011-127-1 (all S/N's), certificated in all categories.

Compliance required as indicated.

(a) For straps with less than 550 hours' total time in service on the effective date of this AD, accomplish the following prior to attaining 600 hours' total time in service.

(1) Remove each strap having the applicable part numbers and serial numbers if installed.

(2) Replace the removed straps with P/N 206-011-147-1 (for the Models 206A, 206B, 206A-1, and 206B-1) or P/N 206-011-147-3 (for the Model 206L) in accordance with the applicable Model 206 Maintenance and Overhaul Instructions or in accordance with equivalent FAA approved instructions.

(b) For straps with 550 hours' or more total time in service on the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD within the next 50 hours' time in service unless already accomplished.

(c) The retirement time of the tension-torsion straps, P/N 206-010-105-3 (S/N 13336 and subs), P/N 206-010-105-3 (all S/N's), and P/N 206-011-127-1 (all S/N's), is reduced from 1,200 hours to 600 hours by this AD. The retirement time for tension-torsion straps, P/N 206-010-105-3 (S/N 100 through 13,335), P/N 206-011-147-1, and P/N 206-011-147-3, remains at 1,200 hours.

(Sections 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C 1354 (a), 1421, and 1423; Section 6(c)), Department of Transportation Act (49 U.S.C. 1655 (c); and 14 CFR 11.85).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Forth Worth, Tex., on October 7, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.77-30737 Filed 10-21-77;8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-AL-8]

ALTERATION OF CONTROL ZONE AND TRANSITION AREA

Iliamna, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Iliamna, Alaska, control zone and transition area to provide protected airspace for aircraft executing a new instrument approach procedure based on the relocation of the Iliamna nondirectional radio beacon (NDB).

DATE: Comments must be received on or before November 25, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 77-AL-8, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:

John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501, telephone 907-265-4271.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before November 25, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska, or by calling 907-265-4271. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes application procedures.

THE PROPOSAL

The FAA is considering amendments to Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to redescribe the Iliamna, Alaska, control zone and transition area. Revised instrument approach and departure procedures are based on a new NDB located 1,130 feet south of the runway 35 threshold. This proposal would redescribe the control zone extension to provide protected airspace for the proposed straight-in instrument approach procedure. It would also redescribe the transition area to provide protected airspace for aircraft conducting the procedure turn, missed approach, and departure procedures proposed. The amendments proposed herein would not designate additional controlled airspace but reconfigure the presently designated controlled airspace to encompass new instrument approach and departure procedures based on the relocation of the NDB.

DRAFTING INFORMATION

The principal authors of this document are John Costello, Air Traffic Division, and Donald H. Boberick, Esq., Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. By amending § 71.171 as republished (42 FR 355) to redescribe the Iliamna, Alaska, control zone, as follows:

ILIAMNA, ALASKA

Within a 5-mile radius of the Iliamna airport (latitude 59°45'12" N., longitude 154°-54'54" W.); and within 2.5 miles each side of the 189°T (167°M) bearing from the Iliamna NDB, extending from the 5-mile radius zone to 9.5 miles south of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U.S. Government Flight Information Publication, Supplement Alaska.

2. By amending § 71.181 as republished (42 FR 440) to redescribe the Iliamna, Alaska, transition area, as follows:

ILIAMNA, ALASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iliamna Airport (latitude 59°45'12" N., longitude 154°54'54" W.); and within 2.5 miles each side of the 189°T (167°M) bearing from the Iliamna NDB, extending from the 5-mile radius area to 9.5 miles south of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles west and 9.5 miles east of the Iliamna NDB 189°T (167°M) bearing from the Iliamna NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Anchorage, Alaska, on October 14, 1977.

LYLE K. BROWN,
Director, Alaskan Region.

[FR Doc.77-30735 Filed 10-21-77;8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-CE-18]

TRANSITION AREA, BOONE, IOWA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to alter the 700-foot transition area at Boone, Iowa, to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Boone Municipal Airport which is based on a non-directional radio beacon (NDB) navigational aid installed on the airport.

DATE: Comments must be received on or before November 28 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before November 28, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Mo. 64106, or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Boone, Iowa. To enhance airport usage by providing additional instrument approach capability to the Boone Municipal Airport, an NDB has been installed on the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this navigational aid entails alteration of the transition area at and above 700-feet Above Ground Level (AGL) within which aircraft will be provided additional controlled airspace protection. Section 71.181, pertaining to transition areas was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), by altering the following existing transition area:

BOONE, IOWA

That airspace extending upward from 700 feet above surface within a 5 mile radius of Boone Municipal Airport (latitude 42°03'00" N., longitude 93°50'45" W.) and within 3 miles each side of the 338° bearing from the Boone Municipal Airport, extending from the 5 mile radius area to 8 miles north of the airport, and within 3 miles each side of the 164° bearing from the Boone Municipal Airport extending from the 5 mile area to 8 miles south of the airport, excluding that portion which overlies the Ames, Iowa, transition area.

Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on October 11, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-30771 Filed 10-21-77;8:45 am]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 77–SW–51]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a transition area at Olney, Tex., to provide controlled airspace for aircraft executing a proposed instrument approach procedure to the Olney Municipal Airport, using the newly established NDB located on the airport.

DATES: Comments must be received on or before November 25, 1977.

ADDRESSES: Send comments on the proposal to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW–536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G 71.181 (42 FR 440) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of the transition area at Olney, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before November 25, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817–624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area at Olney, Tex. The FAA believes this action will enhance IFR operations at the Olney Municipal Airport by providing controlled airspace for aircraft executing a proposed instrument approach procedure using the newly established NDB on the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

Drafting Information

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by adding the Olney, Tex., transition area as follows:

Olney, Tex.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Olney Municipal Airport (latitude 33°21'00" N., longitude 98°49'00" W.) and within 4 miles each side of the 329° bearing from the Olney NDB (latitude 33°-21'15" N., longitude 98°48'57" W.) extending from the 6.5-mile radius area to 8.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Tex., on October 7, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77–30736 Filed 10–21–77;8:45 am]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 77–CE–21]

TRANSITION AREA, CUBA, MO.

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes to designate a 700–foot transition area at Cuba, Mo., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Cuba Municipal Airport which is based on a non-directional radio beacon (NDB) navigational aid being installed on the airport.

DATES: Comments must be received on or before November 28, 1977.

ADDRESSES: Send comments on the proposal to Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–530, 601 East 12th Street, Kansas City, Mo. 64106, Telephone 816–374–3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Mo.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE–537, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, Telephone 816–374–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before November 28, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch,

601 East 12th Street, Kansas City, Mo. 64106 or by calling 816-374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

THE PROPOSAL

The FAA is considering an amendment to Subpart G, section 71.181 of the Federal Aviation Regulations (14 CFR § 71.181) by designating a 700-foot transition area at Cuba, Mo. To enhance airport usage by providing instrument approach capability to the Cuba Municipal Airport, the city of Cuba, Mo., is installing an NDB on the airport. This radio facility provides new navigational guidance for aircraft utilizing the airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700-feet Above Ground Level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to insure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181, pertaining to transition areas was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), by adding the following new transition area:

CUBA, MO.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Cuba Municipal Airport (latitude 38°04'08" N., longitude 91°25'42" W.); and within 3 miles each side of the 358° bearing from the Cuba Municipal Airport, extending from the 5 mile radius area to 8½ miles north of the airport; and 3 miles each side of 196° bearing from the Cuba Municipal Airport extending from the 5 mile radius area to 8½ miles south of the airport.

(Section 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on October 11, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.77-30772 Filed 10-21-77;8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-GL-27]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Homer, Illinois, to accommodate a new VOR/DME instrument approach procedure into the Homer Airport, Homer, Ill.

DATES: Comments must be received on or before November 26, 1977.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7; Attention: Rules Docket Clerk, Docket No. 77-GL-27, 2300 East Devon Ave., Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Ave., Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Ave., Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions. The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The circumstance which created this action was a request from Homer Airport officials to provide that facility with instrument approach capability. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 77-GL-27, Federal Aviation Administration, 2300 East Devon Ave., Des Plaines, Ill. 60018. All communications received on or before November 26, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave., SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Homer, Illinois. Subpart C of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307).

DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR 71.181) as follows:

In § 71.181 (42 FR 440), the following transition area is added:

HOMER, ILLINOIS

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Homer Airport (latitude 40°01'35" N., longitude 87°57'10" W.); and within 3 miles each side of the 151° bearing from the Homer Airport, extending from the 5 mile radius area to 8.5 miles southeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.81 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Illinois, on October, 14, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

[FR Doc.77-30773 Filed 10-21-77;8:45 am]

[4910–13]

[14 CFR Part 71]

[Airspace Docket No. 77–SW–49]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Henderson, Tex., transition area to provide controlled airspace for aircraft executing the new NDB instrument approach procedure to the Rusk County Airport.

DATES: Comments must be received on or before November 25, 1977.

ADDRESSES: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Rd., Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW–536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817–624–4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G § 71.181 (42 FR 440) of FAR Part 71, the description of the Henderson, Tex., transition area reflects the controlled airspace provided for the present instrument approach procedure to the Rusk County Airport. The new NDB instrument approach procedure will require alteration of the transition area to provide the necessary controlled airspace for this procedure.

Comments Invited

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before November 25, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817–624–4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Henderson, Tex., transition area. The FAA believes this action will enhance IFR operations at the Rusk County Airport by providing controlled airspace for aircraft executing the instrument approach procedures established for the airport. Subpart G of Part 71 was republished in the Federal Register on January 3, 1977 (42 FR 440).

Draft Information

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the Henderson, Tex., transition area as follows:[1]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Rusk County Airport, Henderson, Tex., (latitude 32°08'30"N., longitude 94°51'15" W.); within 5 miles each side of the Gregg County, Texas VORTAC 197° radial extending from the 8.5-mile radius area to a 11.5 miles south of the VORTAC; and within 3.5 miles each side of a 350° bearing from the Henderson NDB (latitude 32°11'16"N., longitude 94°51'39"W.) extending from the 8.5-mile radious area to 11.5 miles northwest of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Fort Worth, Tex., on October 14, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77–30851 Filed 10–21–77;8:45 am]

[1] Map filed as part of the original document.

[6351–01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1, 166]

PROTECTION OF COMMODITY CUSTOMERS

Standards of Conduct for Commodity Trading Professionals; Public Hearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Public hearing.

SUMMARY: The Commodity Futures Trading Commission will hold public hearings on Thursday, November 3; Friday, November 11; and Wednesday, November 16, 1977; to received oral comments on its Customer Protection Rules.

DATE: November 3, 1977, 10 a.m.

ADDRESS: Federal Building, Room 113, 210 Walnut Street, Des Moines, Iowa.

DATE: November 11, 1977, 10 a.m.

ADDRESS: J. F. Kennedy Federal Building, Government Center, Room 2003–A, Boston, Mass.

DATE: November 16, 1977, 10 a.m.

ADDRESS: Earl Cabell Federal Building, Room 7–A23, 100 Commerce Street, Dallas, Tex.

FOR FURTHER INFORMATION CONTACT:

Jane Stuckey, Office of the Secretariat, 2033 K Street NW., Washington, D.C. 20581, 202–254–6314.

SUPPLEMENTARY INFORMATION: The Commission's proposed Customer Protection Rules were published in the Federal Register on September 6, 1977 (42 FR 44742). Persons wishing to appear at one of these hearings should notify Ms. Stuckey at least five days in advance of the hearnig date and forward an outline of their proposed statement to the Secretariat to be received five days before the hearing. It is requested that if possible each participant bring at least 30 copies of his outline or proposed testimony to the hearing.

Oral presentations will be limited to 15 minutes. During and subsequent to any person's oral presentation, questions may be asked either by members of the Commission or the Commission staff. The Commission recognizes that members of the public may have questions. Therefore, provision will be made for persons having questions to submit those questions in an informal written form to a member of the Commission staff who will have discretion whether or not to pose those questions to the person making the presentation.

Issued in Washington, D.C., on October 19, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.77–30838 Filed 10–21–77;8:45 am]

[4310–10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[41 CFR Parts 14–1, 14–7]

INDIAN PREFERENCE IN EMPLOYMENT, TRAINING, AND SUBCONTRACTING

Proposed Policies and Procedures; Extension of Comment Period

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Extension of time for comment on proposed rules.

SUMMARY: On August 30, 1977, the Department of the Interior published a proposed rule in the FEDERAL REGISTER (42 FR 43647) implementing Sec. 7(b) of the Indian Self-Determination and Education Assistance Act. The original closing date for comments was September 29, 1977. Requests to extend the date for comments have been received and evaluated and this notice extends the comment period to October 31, 1977.

DATE: Comments on the proposed rule must be received in writing on or before October 31, 1977.

ADDRESS: Division of Procurement and Grants, Office of Administrative and Management Policy, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

William Opdyke, 202–343–5914.

SUPPLEMENTARY INFORMATION: The primary author of this document is William Opdyke, Division of Procurement and Grants, Office of Administrative and Management Policy (202) 343–5914. The notice of proposed rulemaking was issued pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301.

Dated: October 18, 1977.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

[(FR Doc.77–30854 Filed 10–21–77;8:45 am]

[6820–27]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

[41 CFR Part 105–61]

PUBLIC USE OF RECORDS, DONATED HISTORICAL MATERIALS, AND FACILITIES IN THE NATIONAL ARCHIVES AND RECORDS SERVICE

Fees for Reproduction Services

AGENCY: General Services Administration, National Archives and Records Service (NARS).

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the fee schedule for reproduction services established by the National Archives and Records Service (NARS). The revised fee schedule will be in effect during fiscal year 1978.

DATES: Written comments must be received on or before November 25, 1977.

ADDRESSES: Address comments to: General Services Administration (NAA), Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Ross Buffington, Planning and Analysis Division, Office of the Executive Director, National Archives and Records Service, General Services Administration (NAA), Washington, D.C. 20408, 202–523–3214.

SUPPLEMENTARY INFORMATION: The table of contents for Part 105–61 is amended by revising the following entry:

Sec. 105–61.5204 Negative copies.

It is proposed to amend Subpart 105–61.52 as follows:

1. Section 105–61.5204 is revised as follows:

§ 105–61.5204 Negative copies.

(a) *Photographs.* Requests for photographs of materials for which no copy negative is on file are handled as follows:

(1) The cost of the negative shall be charged to the customer; except in cases where NARS wishes to retain the negative for its own use.

(2) When no fee is charged the negative becomes the property of NARS. When a fee is charged the negative becomes the property of the customer.

(b) *Microfilm.* When a customer requests microfilm copies of materials for which NARS desires a negative microfilm copy, the customer shall be charged for the cost of the negative and provided with a positive or duplicate negative microfilm copy. The camera negative microfilm copy shall be retained by NARS.

2. Section 105–61.5206 is revised as follows:

§ 105–61.5206 Fee schedule.

(a) *Authentication, $2.00.*

(b) *Still photography (minimum order, $3.00).*

	Black and white
(1) Copy negatives:	
4 in by 5 in	$3.25
8 in by 10 in	5.45
(2) Aerial prints:	
10 in by 10 in or smaller, contact	4.10
10 in by 10 in enlargement	4.10
14 in by 14 in	5.20
18 in by 18 in	7.55
20 in by 24 in	7.55
27 in by 28 in	14.25
40 in by 41 in	19.80
Photo—indexes (usually 20 in by 24 in)	7.55
(3) Photographic prints (includes from microfilm): prints	
8 in by 10 in or smaller	$4.65 / $11.50
11 in by 14 in	5.15 / 19.00
16 in by 20 in	9.50 / 34.00
20 in by 24 in	12.90 / 52.00
22 in by 28 in	12.90 / ------
24 in by 30 in	17.85 / 78.50
30 in by 40 in	17.85 / 90.25
Sepia, add	3.70 / ------
(4) Slides and transparencies:	
Black and white:	
2 in by 2 in from existing negative	$1.40
Additional fee when negative must be made	3.25
Color:	
2 in by 2 in	1.85
4 in by 5 in	8.70
8 in by 10 in	15.15
(5) Photostat:	
Paper (up to 17 in by 23 in)	4.20
Film (up to 17 in by 23 in)	6.60
(6) Diazo (per foot)	.85
(7) Drymounting (per square foot)	1.30
(8) Red line facsimile (for public laws)	5.15
(9) 105 mm microfilm prints:	
18 in by 24 in paper copy	1.50

(c) *Microfilm.*

	16 mm rotary	*16 mm planetary*	*35 mm planetary*
(1) Negative (per frame; minimum order, $10)	$0.06	$0.13	$0.13
(2) Positive (per foot; minimum $6 per roll)		.13	.14
(3) Duplicate negative (per foot; minimum order $6)		.15	.16

(d) *Electrostatic copying.*

(1) Paper to paper (up to 8½ in by 14 in):	
Customer tabs documents for copying	$0.15
NARS identifies documents for copying	.20
(2) Oversized electrostatic copies (per foot)	.75
(3) Microfilm to paper:	
From negative (Copyflo, per foot; minimum order, $10)	1.35
From positive (per frame):	
When work is done by customer (up to 8½ in by 14 in per frame)	.15
When work is done by NARS (minimum order $2)	
Nonconsecutive frames or 1st of consecutive frame, any size	.75
Consecutive or duplicate frames:	
Up to 8½ in by 14 in	.25
11 in by 17 in	.35
18 in by 24 in	.45

(e) *Motion pictures (minimum order $24.00).*

Per foot:	*35 mm*	*16 mm*	*16 mm from 35 mm*
Master positive	$0.19	$0.17	$0.26
Duplicate negative	.25	.20	.30
Projection print	.18	.17	.25
Work print	.16	.15	.20
Reversal		.22	.31
Sound track	.18	.17	.25
Composite, add	.02	.02	.04

(f) *Sound recordings.*

Reel to reel or cassette:	
7½ min	$6.40
15 min	7.60
22½ min	8.80
30 min	9.80
37½ min	11.75
45 min	12.90
52½ min	14.30
60 min	15.30

(g) *Video recordings.*

Cassettes:	
10 min	$28.40
20 min	36.70
30 min	41.40
40 min	50.90
50 min	56.80
60 min	62.70

(h) *Machine-readable records.*

Tape-to-tape copying (per reel)	$65.00
Tape-to-printout copying computer processing time per hour (minimum order $50)	150.00
Tape-to-printout extract computer processing time per hour (minimum order $250)	150.00
Tape-to-tape extract per output reel	65.00
Computer processing time per hour	150.00
Card-to-card (per card; minimum order $10)	.02
Tape-to-card (per card; minimum order $10)	.02

(i) *Technical services.*

	Regular	Overtime
Motion picture preparation (per hour)	$18.00	$23.00
(2) Photographer (per hour)	15.00	20.00
(3) Microfilm preparation (per hour)	15.00	*
(4) Sound and video recordings	22.00	19.00 29.00

(j) *Preservation of records.* In order to preserve certain records which are in poor physical condition, NARS may restrict customers to a choice of photostatic or microfilm copies instead of electrostatic copies.

(k) *Unlisted processes.* Fees for reproduction processes not listed in this section 105–61.5206 are computed upon request.

3. Section 105–61.5208 is revised as follows:

§ 105–61.5208 Effective date.

The fees in § 105–61.5206 are effective ing on September 30, 1978. Orders received after September 30, 1978, will be subject to the fees in effect at that time.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 105–61.000–2.)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

Dated: October 6, 1977.

JOHN J. LANDERS,
Acting Archivist of the United States.

[FR Doc.77–30719 Filed 10–21–77;8:45 am]

[6712–01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 97]

[Docket No. 21116; Docket No. 21117; FCC 77–681]

AMATEUR RADIO SERVICE

Prohibiting Marketing of External Radio Frequency Amplifiers Capable of Operation on Any Frequency From 24 to 35 MHz; and Requiring Type Acceptance of Equipment Marketed for Use

AGENCY: Federal Communications Commission.

ACTION: Order for Oral Argument.

SUMMARY: Because of the diversity of views presented in the Comments and Reply Comments in Dockets Nos. 21116 and 21117 relating to the illegal use of linear amplifiers and because of the impact of the proposals in these proceedings, the Commission has scheduled 3 hours of Oral Argument.

DATE: December 1, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Frank Rose or John Reed, Research and Standards Division, Office of Chief Engineer, 202–632–7093.

In the matters of amendment of Part 2 of the Commission's rules to prohibit the marketing of external radio frequency amplifiers capable of operation on any frequency from 24 to 35 MHz, Docket No. 21116; amendment of Parts 2 and 97 of the Commission's rules to require type acceptance of equipment marketed for use in the Amateur Radio Service, Docket No. 21117.

ORDER FOR ORAL ARGUMENT

Adopted: October 5, 1977.

Released: October 13, 1977.

1. On February 10, 1977, the Commission released notices of proposed rulemaking in the above-styled Dockets.[1] Both proposals represented significant steps in the Commission's continuing efforts to control the marketing and use of illegal linear amplifiers.

2. A large number of parties have filed comments and reply comments setting forth their positions on these proposals. In view of the importance of the questions involved in both proceedings, and the diversity of views presented in the written comments, the Commission has concluded that interested parties should be afforded the opportunity to present oral argument before the Commission en banc. We have, accordingly, set aside 3 hours on Thursday, December 1, 1977, to hear such oral presentations.

3. The Commission invites participation in the oral argument by all interested parties, particularly those who have already shown major interest in the proceedings. In order to make most effective use of the limited time available, interested parties are urged to coordinate their presentations and, to the extent feasible, to designate joint spokesmen for groups of parties wishing to present substantially similar views. The Commission will take the latter matters into consideration in allocating time for the oral argument.

4. *Accordingly, it is ordered,* That oral argument is scheduled to begin before the Commission en banc, at 10 a.m. on December 1, 1977, at the Commission's offices in Washington, D.C. Parties desiring to present argument shall file a written notice of intention to appear and participate within 10 days after release of this Order. Such notice should specify the party or parties represented, and the amount of time requested. After submission of such written notices, the Commission will issue an order allotting time to the parties who will present argument, and may allot time jointly to parties representing the same or similar interests.

FEDERAL COMMUNICATIONS COMMISSION,[2]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77–30812 Filed 10–21–77;8:45 am]

[1] See 42 FR 35663, July 11, 1977.

[2] Chairman Wiley not participating. Commissioner Lee absent.

[6712–01]

[47 CFR Part 73]

[Docket No. 21357; RM–2874; RM–2938]

FM BROADCAST STATIONS IN ANTIGO, WIS., AND HART, MICH.

Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding concerning the assignment of FM channels to Antigo, Wis., and Hart, Mich. Petitioner, John D. DeGroot, states that the additional time is needed so that he can study and reevaluate the proposals and work out a solution whereby both communities will receive a channel.

DATE: Reply comments must be received on or before October 25, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations (Antigo, Wis., and Hart, Mich.), Docket No. 21357, RM–2874, RM–2938.

ORDER EXTENDING TIME FOR FILING REPLY COMMENTS

Adopted: October 14, 1977.

Released: October 17, 1977.

1. Notice of Proposed Rule Making in this proceeding was adopted on August 4, 1977, 42 FR 41305. The date for filing comments has expired. The date for filing reply comments was October 11, 1977.

2. On October 7, 1977, John D. DeGroot, by counsel, requested that the time for filing reply comments be extended to and including October 25, 1977. Counsel states that DeGroot filed a petition requesting an FM channel for Hart, Mich., which is mutually exclusive with a petition filed by Antigo Broadcasting Co. ("Antigo") requesting an FM channel for Antigo, Wis. Counsel adds that in comments Antigo attempted to demonstrate that a site could be selected for the proposed channel to Hart that would meet spacing requirements and thus permit assignment of the requested channels to both communities. However, counsel points out that the site selected is so far removed as to be of doubtful economic vitality and accordingly the compromise proposal of Antigo could effectively negate the possibility of a first radio service to Hart. Counsel believes another solution may be effected that would result in adequate service to both communities and requests the additional time so that it can study and reevaluate both pro-

posals. Counsel for Antigo interposes no objection to the requested extension.

3. Section 1.46 of the rules states that extension requests must be filed seven days in advance but permits late-filed requests to be considered in cases of last-minute emergencies which could not have been anticipated by the party requesting the extension. Since there is a possibility that a workable solution could result in improved service for Antigo and a first FM service to Hart, and since counsel for Antigo does not object to the requested additional time, we believe the public interest would be served by extending the filing period in this proceeding even though the request was not filed on time.

4. *Accordingly, it is ordered,* That the date for filing reply comments in Docket 21357 is extended to and including October 25, 1977.

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 § 0.281 of the Commissioner's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-30806 Filed 10-21-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1201, 1240, 1241]

[No. 36730]

CLASS III RAILROADS FOR ACCOUNTING AND REPORTING PURPOSES

Proposed Designation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing the designation of a class III railroad classification for accounting and reporting purposes. The purpose of revision is to reduce the accounting and reporting burden of smaller railroads subject to Commission regulations.

Railroads with annual operating revenues of $1 million or less will be classified as class III railroads. Class III railroads will not be required to comply with the revised Uniformed System of Accounts for Railroads (USOA) to become effective January 1, 1978.

DATES: Effective January 1, 1977. Comments by November 21, 1977.

ADDRESSES: Send comments (15 copies) to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. 202-275-7448.

SUPPLEMENTARY INFORMATION: This proceeding is being instituted on our own motion and that of Delaware Otsego Corporation (Delaware), as developed in its Petition for Reconsideration of Docket No. 36367, Revision to the USOA, decided June 13, 1977, (49 FR 35016), to consider the designation of a class III railroad classification.

The Commission's Order in Docket No. 36367 implements a comprehensive revision to the USOA effective January 1, 1978. The Commission also recognizes that smaller railroads may not be capable of meeting the expanded accounting and reporting requirements imposed by the revised USOA. Therefore, the Commission is proposing to reduce accounting and reporting burden for railroads designated as class III railroads.

The Commission is continually attempting to minimize the accounting and reporting burden of all carriers. In the proceeding for which Delaware petitioned for reconsideration, the Commission raised the class I revenue classification from $10 million to $50 million. The purpose of this revision is to relieve smaller railroads from the burden of complying with the revised USOA for class II railroads.

In conjunction with the revision to the uniform system of accounts as prescribed in Docket No. 36367, we propose to designate all railroads with annual operating revenues of $1 million or less as class III railroads. Class III will be exempt from implementing the revised USOA which becomes effective January 1, 1978. Until a decision is reached on class III accounting and reporting requirements, carriers in this revenue category will continue to maintain accounts under the present class II railroad accounting system and will file Annual Report Form R-2 until such time the class III annual report is developed.

This proceeding is instituted under the authority of section 20 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Administrative Procedure Act.

This proceeding is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued at Washington, D.C., October 14, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

PART 1201—RAILROAD COMPANIES

Amend Part 1201—Uniform System of Accounts for Railroad Companies as follows:

General Instructions

Under "1-1 Classification of Carriers," the following revisions are made:

1-1 Classification of carriers. (a) * * *

Class I. * * *

Class II. Carriers having annual operating revenues less than $50 million but in excess of $1 million.

Class III. Carriers having annual operating revenues of $1 million or less.

* * * * *

(b)(1) * * *

(2) If at the end of any calendar year a carrier's annual operating revenue is less than the minimum revenue level for that class, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements for the next lowest class. Such adoption shall be effective as of January 1 of the following year.

* * * * *

(6) * * *

(c) Class I carriers shall keep all of the accounts of this system which are applicable to their operations. Class II carriers shall keep all of the accounts applicable to their operations except that their accounts for operating expenses may be kept under the accounts of the respective condensed groupings provided for herein. Class III are not required to keep any of the accounts of this system applicable to their operations.

* * * * *

PART 1240—CLASSES OF CARRIERS

Amend Part 1240—Classes of Carriers as follows:

Under "Subpart A—Railroads" the following revisions are made:

§ 1240.1 Classification of rail carriers.

(a) * * *

Class II. Carriers having annual operating revenues of less than $50 million but in excess of $1 million.

Class III. Carriers having annual operating revenue of $1 million or less.

* * * * *

(b)(1) * * *

(2) If at the end of any calendar year a carrier's annual operating revenue is less than the minimum revenue level for that class, and has been for three consecutive years, the carrier shall adopt the accounting and reporting requirements for the next lowest class. Such adoption shall be effective as of January 1 of the following year.

* * * * *

PART 1241—ANNUAL, SPECIAL OR PERIODIC REPORTS; CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

Amend Part 1241—Annual, Special or Periodic Reports; Carriers Subject to Part I of the Interstate Commerce Act as follows:

Under § 1241.12 "Annual reports of class II railroad companies," alphabetize

the existing paragraph and add paragraph (b).

§ 1241.12 Annual reports of Classes II and III railroad companies.

(a) Commencing with reports for the year ended December 31, 1974, and thereafter, until further order, all line-haul and switching and terminal companies of Class II, as defined in § 1240.1 of this chapter, subject to section 20, Part I of the Interstate Commerce Act, are required to file annual reports in accordance with Railroad Annual Report Form R–2. Such annual report shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year which is being reported.

(b) Commencing with reports for the year ending December 31, 1978, and thereafter, until further order, all line-haul and switching and terminal companies of Class III, as defined in § 1240.1 of this chapter, subject to section 20, Part I of the Interstate Commerce Act, are required to file an annual report in accordance with Railroad Annual Report Form R–3. Such report shall be filed in duplicate in the office of the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year which is being reported.

[FR Doc.77–30848 Filed 10–21–77;8:45 am]

[6325–01]

CIVIL SERVICE COMMISSION

[5 CFR Part 713]

EQUAL OPPORTUNITY

Prohibition Against Discrimination Because of a Physical or Mental Handicap; Extension of Comment Period

AGENCY: Civil Service Commission.

ACTION: Extend comment period for proposed rulemaking.

SUMMARY: On September 16, 1977, the Civil Service Commission published proposed regulations in the FEDERAL REGISTER (42 FR 46541) which would extend the coverage of Part 713 of the Commission's regulations to include complaints of discrimination based on physical or mental handicap. The Commission requested that comments on the proposed regulations be submitted on or before October 31, 1977.

At the request of various organizations, the Commission has decided to extend the comment period.

DATE: Comments must be received on or before December 15, 1977.

ADDRESS: Submit comments to: Hedwig Oswald, Chief, Office of Selective Placement Programs, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Lee Willis, 202–632–5687.

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

[FR Doc.77–31044 Filed 10–21–77;8:45 am]

[3128–01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

COMPUTATION OF LANDED COSTS: TIMING

Cancellation of Hearing

AGENCY: Economic Regulatory Administration (DOE).

ACTION: Cancellation of hearing.

SUMMARY: On September 30, 1977, the Federal Energy Administration issued a proposed amendment to the definition of landed costs, as stated at 10 CFR 212.82, to provide that with respect to arm's length transactions, the landed cost shall be conidered to be incurred when it is recognized as having been incurred by application of the refiner's customary accounting procedures (42 FR 54301, October 5, 1977). Due to a lack of interest, the public hearing scheduled for October 27, 1977, has been cancelled. In all other respects the notice remains the same.

DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Allan P. Weeks (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5119, Washington, D.C. 20461, 202–566–7541.

Issued in Washington, D.C., October 19, 1977.

HAZEL R. ROLLINS,
Acting Deputy Administrator.

[FR Doc.77–31005 Filed 10–21–77;8:45 am]

[4110–03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75N–0140]

[21 CFR Part 820]

CURRENT GOOD MANUFACTURING PRACTICES FOR MEDICAL DEVICES

Availability of Draft Final Regulations; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice of meeting on draft regulations.

SUMMARY: This document announces the availability of draft final regulations on current good manufacturing practices for medical devices.

DATES: Open meeting to discuss the draft regulations to be held on October 28 and 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Leonard J. Stauffer, Bureau of Medical Devices, Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910, 301–427–8120.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) has been developing regulations concerning good manufacturing practices (GMP's) for medical devices since December 1, 1973. A proposed umbrella GMP for medical devices was published in the FEDERAL REGISTER of March 1, 1977 (42 FR 11998).

Section 520(f)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 306j(f)(1)(B)) requires that the Commissioner of Food and Drugs afford a statutory Device Advisory Committee an opportunity to submit recommendations to him with respect to proposed GMP regulations.

Accordingly, on August 4, 1977, the agency's Device Advisory Committee met to discuss the proposed regulations and comments received on them. On August 5, 1977, the agency held a public hearing on the proposal and heard comments and views from representatives of interested persons. (Notices of the Committee meeting and of the hearing were published in the FEDERAL REGISTER of July 15, 1977 (42 FR 36551) and June 28, 1977 (42 FR 32805), respectively.)

After considering the comments of all interested persons, including the comments of members of the Device GMP Advisory Committee, FDA staff prepared a draft document for consideration as a final regulation. The Advisory Committee will hold an open meeting on October 27 and 28, 1977 (9 a.m. to 5 p.m., both days) at the HEW North Building, 330 Independence Ave. SW., Washington, D.C., Room 5051, to discuss and make recommendations on this document. (Notice of the meeting was published in the FEDERAL REGISTER of September 13, 1977 (42 FR 45955).)

Copies of the draft final regulation will be available to interested persons at the Advisory Committee meeting. In addition, the document will be on display in the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, on October 26, 1977, and may be seen during working hours, Monday through Friday.

The agency cautions that the regulation being made available is merely a draft that is still being reviewed within the agency. The draft is being made available solely to enable members of the public who attend the Advisory Committee meeting to understand the committee members' discussions and recommendations on the draft document.

Dated: October 21, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–31081 Filed 10–21–77;10:58 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-22]

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

COMMITTEE OF NINE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given of a meeting of the Committee of Nine at 8:30 a.m., December 8-9, 1977, in Room 226, Hotel Stewart, 351 Geary Street, San Francisco, Calif.

The purpose of the meeting is to evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations. The meeting is open to the public, and written statements can be filed with the Committee before or after the meeting.

The names of the members of the Committee, the agenda, minutes, and other information pertaining to the meeting may be obtained from the Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250, telephone 202-447-5260.

Dated: October 18, 1977.

R. J. ALDRICH,
Administrator.

[FR Doc.77-30894 Filed 10-21-77; 8:45 am]

[3410-15]

Rural Electrification Administration

ALLEGHENY ELECTRIC COOPERATIVE, INC.

Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration (REA) has prepared a Final Environmental Impact Statement for the 500 kV transmission facilities associated with the Susquehanna Steam Electric Station, Units No. 1 and No. 2, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969. This notice is given in connection with a conditional loan guarantee commitment to the Allegheny Electric Cooperative, Inc., 212 Locust Street, Harrisburg, Pennsylvania 17101, for the financing of a ten percent ownership interest by Allegheny Electric Cooperative, Inc., in the Susquehanna Steam Electric Station, Units No. 1 and No. 2, and for the financing of 42.3 miles of the 128 miles of 500 kV transmission facilities also associated with the station. The 500 kV transmission facilities are located in Luzerne, Lackawanna, Columbia, Montour, Northumberland, Snyder, Carbon and Northampton Counties in Pennsylvania.

Additional information may be secured upon request, if submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C., 20250. The REA Final Environmental Impact Statement on the 500kV facilities may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4310, or at the borrower's address indicated above. Final REA action with respect to this matter, including any release of funds, may be taken after thirty (30) days from the date of publication of this notice.

This loan guarantee commitment is subject to, and release of funds thereunder will be contingent upon, REA's reaching satisfactory conclusions with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969.

A separate Final Environmental Impact Statement has been prepared by REA for the Susquehanna Steam Electric Station, Units No. 1 and No. 2, and the associated 230 kV transmission facilities.

Dated at Washington, D.C., this 19th day of October, 1977.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.77-30903 Filed 10-21-77;8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE FOR OVERSIGHT OF THE SOLID STATE CHEMISTRY PROGRAM OF THE ADVISORY COMMITTEE FOR MATERIALS RESEARCH

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Ad Hoc Subcommittee for Oversight of the Solid State Chemistry Program of the Advisory Committee for Materials Research.

Date and time: November 9 and 10, 1977—8.30 a.m. to 5:00 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part open—Open, Nov. 9: 8:30 a.m. to 10:00 a.m.; closed, Nov. 9: 10:00 a.m. to 5:00 p.m., Nov. 10: 8:30 am. to 5:00 p.m.

Contact person: Dr. Ronald E. Kagarise, Division Director, Materials Research, Room 4, National Science Foundation, Washington, D.C. 20550, telephone: 202-632-7412.

Purpose of subcommittee: To provide program oversight concerning NSF support in Solid State Chemistry.

Agenda: November 9, 1977, 8:30 a.m. to 10:00 a.m., open. Presentations by NSF staff on NSF support of Solid State Chemistry. General discussion of topics of concern to the Division of Materials Research including grant duration, possible needs of the scientific community, and the Division's budget for fiscal year 1978.

November 9, 1977, 10:00 a.m. to 5:00 p.m., and November 10, 1977, 8:30 a.m. to 5:00 p.m., closed. Review of the peer review process, including grants, and declinations with all peer review documentation.

Reason for closing: This session will deal with a review of grants and declinations in which the subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting. This determination was made by the Acting Director, NSF, on October 14, 1977 pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

OCTOBER 19, 1977.

[FR Doc.77-30857 Filed 10-21-77;8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 29123; Agreement CAB 26918; Agreement CAB 26919; R-1 and R-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Agreements Adopted by the Traffic Conferences Relating to Passenger Fares and Currency Matters

OCTOBER 13, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). Agreement CAB 26918 was adopted by mail vote, and Agreement CAB 26919 was

adopted at the 76th meeting of the TC2 Passenger Traffic Conference held in Geneva during September 1977.

Agreement CAB 26918 would establish a currency adjustments factor for application on passenger fares from Portugal to TC3 (Asia/Pacific), in order to relate local-currency selling fares more closely to fluctuating foreign exchange values. The agreement would complete the intention of Agreements CAB 26895, CAB 26896, and CAB 26897—approved by Board Order 77–9–114 (September 23, 1977)—to establish adjustment factors for passenger and cargo air transportation from Portugal to all world points. Agreement CAB 26919 would amend currency-adjustment factors within TC2 (Europe/Africa/Middle East) and remove the applicability of such factors from individual inclusive-tour (IIT) and group inclusive-tour (GIT) fares. The agreements have application in air transportation within the meaning of the Act, insofar as they affect fares to United States points or fares which are combinable with fares to/from U.S. points, and will be approved.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolution, which has direct application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26918	022d	Adjustment Factors for Sales of Passenger Air Transportation (Amending).	2/3; 1/2/3.

2. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26919:			
R-1	022a	TC2 (Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Amending).	2.
R-2	022b	TC2 (Except Within Europe) Adjustment Factors for Sales of Passenger Air Transportation (Amending).	2.

Accordingly, *it is ordered*, That:

Agreements C.A.B. 26918 and CAB 26919, set forth in finding paragraphs 1 and 2 above, are approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division Bureau of Fares and Rates.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77–30866 Filed 10–21–77;8:45 am]

[3510–25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, November 8, 1977, at 1:30 p.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pusuant 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 Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of report material submitted thus far.

(4) Discussion of areas still incomplete and assignments to complete report by year-end.

The meeting will be open for public observation and a limited number of seas will be available. To the extent time permits members of the public may present oral statements to the subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–4196.

Dated: October 19, 1977.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc. 77–30915 Filed 10–21–77;8:45 am]

[3510–25]

Domestic and International Business Administration

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, November 9, 1977, at 9 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec.

2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) Maintenance of the processor performance tables and further investigation of total systems performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of hardware characteristics for export control.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, 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: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: October 20, 1977.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-31038 Filed 10-21-77;8:45 am]

[3510-25]

TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, November 9, 1977, at 1:30 p.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has five parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Review of October 12 Subcommittee's report on the Transfer of Computer Software Technology.

(4) Develop a statement of purpose and scope for the Subcommittee's investigation of data services in the controlled countries.

EXECUTIVE SESSION

(5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under the Executive Order. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon

written request addressed to the Freedom of Information Officer, Room 3012, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202–377–4196.

The complete Notice of Determination to close meetings or portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: October 20, 1977.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77–31039 Filed 10–21–77;8:45 am]

[6170–01]

DEPARTMENT OF ENERGY

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Consumer Affairs/Special Impact Advisory Committee will meet Tuesday, November 15, 1977, at 9:00 a.m., Golden Gate Room, Jack Tar Hotel, Van Ness and Geary Streets, San Francisco, Calif.

The purpose of the Committee is to provide the Department of Energy with advice concerning the impact of DOE policies and programs on consumers and special impact groups.

The agenda for the meeting is as follows:

1. Old Business. Report on the Status of CA/SI Advisory Committee Recommendations and Requests.
2. Discussion. Department of Energy/Office of Consumer Affairs Organization; Pending Policy Issues.
3. Discussion. Recommendations for Reorganization of Consumer Advisory Committee (membership balance, program focus).
4. Subcommittee Reports:
   Energy Consumption Problems and Utilities.
   Transportation Programs.
   Energy Efficiency Standards, Conservation and Ecology.
   Energy Legislation and Regulations.
5. Public Comment.

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management (202) 566–9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Ave., NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on October 18, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc.77–30797 Filed 10–21–77;8:45 am]

[6170–01]

CONSUMER AFFAIRS/SPECIAL IMPACT ADVISORY COMMITTEE SUBCOMMITTEES

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that subcommittees of the Consumer Affairs/Special Impact Advisory Committee will meet Monday, November 14, 1977, at the location and time indicated below.

The objective of the subcommittees is to make recommendations to the parent Committee with respect to matters concerning consumer aspects of DOE policies and programs.

The agenda and schedule of meetings is as follows:

ENERGY CONSUMPTION PROBLEMS AND UTILITIES

Telegraph Room A, Jack Tar Hotel, Van Ness and Geary Streets, San Francisco, Calif., 9 a.m.

Agenda: Discussion and Development of Recommendations—Utility Issues.

TRANSPORTATION PROGRAMS

Telegraph Room B, Jack Tar Hotel, Van Ness and Geary Streets, San Francisco, Calif., 9 a.m.

Agenda: Discussion and Development of Recommendations — Transportation Issues—transportation energy from waste.

ENERGY EFFICIENCY STANDARDS, CONSERVATION & ECOLOGY

Telegraph Room A, Jack Tar Hotel, Van Ness and Geary Streets, San Francisco, Calif., 1 p.m.

Agenda: Discussion and Development of Recommendations—Conservation Issues.

ENERGY LEGISLATION AND REGULATIONS

Telegraph Room B, Jack Tar Hotel, Van Ness and Geary Streets, San Francisco,, Calif., 1 p.m.

Agenda: Discussion and Development of Recommendations—Energy Legislation, DOE Regulatory Process.

The subcommittee meetings are open to the public. The Chairman of each subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with a subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management (202) 566–9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

The transcript of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on October 18, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc.77–30799 Filed 10–21–77;8:45 am]

[6170–01]

OTHER STORAGE RESERVES

Availability of Report

AGENCY: Department of Energy (DOE).

ACTION: Notice of Availability of Report on Other Storage Reserves and request for comments thereon.

SUMMARY: Prior to its consolidation into DOE on October 1, 1977, the Federal Energy Administration (FEA) submitted a report to Congress analyzing the necessity for and feasibility of establishing other fuel reserves similar to the Strategic Petroleum Reserve. This report is now available to the public for review and comments.

ADDRESSES: Copies of the report may be obtained from the Department of Energy, Strategic Petroleum Reserve Office, 1726 M Street, NW., Room 440, Washington, D.C. 20461. A review copy is also available in the Department's Freedom of Information Office, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461. Comments on the report should be sent to the Strategic Petroleum Reserve Office in accordance with the procedures specified below.

FOR FURTHER INFORMATION CONTACT:

Carlyle E. Hystad, Acting Director, Strategic Petroleum Reserve, 1726 M Street, NW., Washington, D.C. 20461, 202–634–5525.

SUPPLEMENTARY INFORMATION: Section 158 of the Energy Policy and Conservation Act (Pub. L. 94–163), as amended, required that FEA submit to Congress a report setting forth FEA's recommendations concerning the necessity for, and feasibility of, establishing:

1. Utility Reserves containing coal, residual fuel oil, and refined petroleum products, to be established and maintained by major fossil-fuel-fired baseload electric power generating stations;

2. Coal Reserves to consist of (a) Federally-owned coal which is mined by or for the United States from Federal lands, and (b) Federal lands from which coal could be produced with minimum delay; and

3. Remote Crude Oil and Natural Gas Reserves consisting of crude oil and natural gas to be acquired and stored by the United States, in place, pursuant to a contract or other agreement or arrangement entered into between the United States and persons who discovered such oil or gas in remote areas.

This report, submitted to Congress on August 16, 1977, concluded that while neither the Coal Reserve nor the Remote Crude Oil and Natural Gas Reserve was necessary, there was a significant need for a Reserve that would enable utilities to operate on an uninterrupted basis.

The Report further concluded that additional study was required with respect to the levels of reserve actually needed by utilities, and the means of assuring that such levels are maintained.

On October 1, 1977, the functions of the FEA were transferred to the DOE pursuant to the Department of Energy Organization Act (Pub. L. 95–91). Accordingly, DOE is pursuing the study recommended by the report. In this connection, DOE is making the report available to the public, and is requesting the views of interested persons concerning those issues affecting implementation of the Utility Reserve.

COMMENT PROCEDURES

All comments should be submitted in triplicate to the address furnished above, and should be identified on the envelope and on documents submitted with the designation "Utility Reserves." Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued at Washington, D.C., on October 18, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration, Department of Energy.

[FR Doc.77-30798 Filed 10-21-77;8:45 am]

[6740–02]

[Docket No. CP77–662]

ARKANSAS LOUISIANA GAS CO.

Application

OCTOBER 17, 1977.

Take notice that on September 30, 1977, Arkansas Louisiana Gas Co. (Applicant), P.O. Box 21734, Shreveport, La. 71151, filed with the Federal Power Commission in Dock No CP77–662 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience an necessity authorizing the construction and operation of two 350 horsepower compressors located at or near the junction of Applicant's Line JM–23 from Trumann, Ark., and Line JM–24 from Parkin, Ark., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that its system is an intergrated operation with Applicant operating its own transmission lines and distribution lines. Applicant states that in its so-called West Memphis System in eastern Arkansas, the entire distribution system in Parkin, Ark., was lost to low pressure during the cold weather of the 1976–77 winter, and losing a distribution system presents many hazards because of all the pilot lights that have to be carefully turned back on when the system is placed in service.

Applicant indicates that the proposed installation of two 350 horsepower compressors at the strategic point where Line JM–23 and JM–24 intersect near Marion, Ark., would permit Applicant to maintain pressures at more satisfactory levels throughout the West Memphis System, and would avoid the type of dangerous situation that developed in Parkin, Ark., last winter. Applicant states that the cost of the proposed facilities would be $467,000, which cost would be financed out of funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notices before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77–30819 Filed 10–21–77;8:45 am]

[6740–02]

[Docket No. RP77–117]

CARNEGIE NATURAL GAS CO.

Extension of Procedural Date

OCTOBER 14, 1977.

On October 12, 1977, Staff Counsel filed a motion to extend the date set by order issued August 29, 1977, for service of Staff's Top Sheet in the above designated matter. The instant motion states that the response to Staff's data request was not available until Octbor 3, 1977; therefore, enough time has not been allotted for Staff's review and formulation of the Top Sheet.

Upon consideration, notice is hereby given that an extension of time is granted to and including November 11, 1977, within which Staff shall serve its Top Sheet.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–30817 Filed 10–21–77;8:45 am]

[6740–02]

[Docket Nos. CP73–184; CI73–485]

COLORADO INTERSTATE GAS CO. AND CIG EXPLORATION, INC.

Petition To Amend Order and Motion for the Initiation of a Settlement Conference

OCTOBER 17, 1977.

Take notice that on September 30, 1977, Colorado Interstate Gas Co. (CIG), P.O. Box 1087, Colorado Springs, Colo. 80944, and CIG Exploration, Inc. (Exploration), Five Greenway Plaza East, Houston, Tex. 77046, filed with the Federal Power Commission pursuant to section 1.7 of the Commission's rules of Practice and procedure (18 CFR 1.7) a petition to amend the Order Approving Settlement Proposal, Authorizing Sales of Natural Gas at Applicable Area Rates, and Terminating Proceedings issued January 7, 1974, in Docket Nos. CP73–184 and CI73–485. Also on September 30, 1977, CIG and Exploration filed with the Commission in said dockets a motion for an order initiating settlement conferences on said petition. Petitioners' proposals are more fully set forth in the petition to amend and motion, which are

on file with the Commission and open to public inspection.

It is stated that the order of January 7, 1974, authorized the transfer of CIG's then developed natural gas producing leases and related production facilities to Exploration and the abandonment of those properties by CIG. It is further stated that the same order permitted Exploration to acquire the properties and granted Exploration the authority for five years to sell gas produced therefrom to CIG at the applicable area rates (subject to certain conditions and limitations) instead of the cost of service basis on which such natural gas was priced by CIG to its customers prior to the issuance of the January 7, 1974, order. Petitioners state that the order also approved and accepted the Stipulation and Agreement of Settlement (the Settlement Agreement) which provided for Exploration to undertake a five-year exploration and development program aimed at discovering, developing and dedicating to CIG's system new gas reserves. It is asserted that said order and the Settlement Agreement placed certain conditions on the transfer of properties and the operation of the Program Fund, among which conditions the major ones were a minimum reserve/commitment of 275,000,000 Mcf of new gas reserves to be dedicated to CIG by Exploration within seven years after commencement of the Program and a refund obligation equal to 18.51 cents for each Mcf below the minimum reserve commitment.

By the subject petition CIG and Exploration request that an extension of the existing Gas Search Program be authorized by amending the order of January 7, 1974, to adopt certain additions to the existing Settlement Agreement. Petitioners believe that the extension of the Gas Search Program is necessary to assist CIG in the successful acquisition of additional gas supply to meet the long-term requirements of its present customers. Operations by Exploration have confirmed that while significant gas discoveries are still to be made in the areas proximate to CIG's pipeline system, such discoveries require increasingly larger investments to find, develop and produce, it is indicated. Petitioners state that under such circumstances independent producers in CIG's supply areas naturally seek to recover this investment as quickly as possible and that CIG often loses in its attempt to secure new supplies of gas to buyers who are able to offer the producers more than the regulated price ceilings.

Petitioners allege that the Gas Search Program affords CIG and its customers two major advantages, among other advantages, which would not be present were CIG required to rely solely on independent producers for its acquisition of new gas supply: First, any new gas discovered or developed as a result of expenditures from the Gas Search Program would be sold to CIG if the gas can be economically attached either directly or by exchange agreement to CIG's system, and second, such new gas must be sold to CIG under life-of-the-field contracts.

Petitioners assert that the Rocky Mountain and Mid-Continent areas, where a large portion of Exploration's gas search efforts have been directed, are presently among the most promising locations in the continental United States for the discovery of new gas supplies and that by ending Exploration's gas search efforts in 1979, CIG and Exploration feel that a major opportunity to acquire new gas supplies for CIG's customers would be missed. The extension would enable Exploration, CIG, and CIG's customers to participate in the significant Rocky Mountain and Mid-Continent gas development which is believed will occur during the next decade, it is said. Accordingly, in order to continue Exploration's successful efforts to obtain new gas supply for CIG and its customers without a prolonged period of uncertainty between now and March 1, 1979, Petitioners believe that this is the proper time to propose the extension of the Gas Search Program.

It is asserted that Petitioners do not propose any basic changes to the existing Gas Search Program and that while some modifications are proposed, the Gas Search Program remains a commitment by Petitioners to expend certain funds contributed by CIG's customers and certain corporate funds, for an exploration program the purpose of which is to discover and develop new gas reserves to be dedicated to CIG's system. The basis for the fund remains the additional revenues received by the corporation from the sale of gas produced from certain leases at a 25.0-cent per Mcf base price instead of on a cost of service basis. CIG and Exploration propose to maintain during the Extended Program both the 25.0 cent per Mcf base price ceiling and Old Gas and the contracts for sale of Old Gas dated March 1, 1974, between Petitioners. It is stated that by continuing these contracts and the fixed rate for the sale of Old Gas, it is believed that Exploration would continue to qualify, as to the Old Gas contract, for percentage depletion under the Internal Revenue Code and that percentage depletion is a major benefit to CIG's customers, since it allows the establishment of a viable Gas Search Program with a smaller customer contribution than would be required if Exploration were not permitted a percentage depletion deduction.

It is stated that the modifications to the Settlement Agreement as proposed fall in four basic groups and Petitioners summarize them as follows:

1. *Term of the Extended Program.* It is proposed that the present Gas Search Program be extended for a period of seven years from March 1, 1979, through February 28, 1986 (the Extended Period). An additional three years through February 1989 is proposed for completion of the exploration activities under the Extended Program. During the seven-year Extended Period, CIG's customers would continue to pay the present rate of 25.0 cents per Mcf for all old gas produced from leases in the West Panhandle and Keyes Fields and by the end of the Extended Period, the production from such old leases will be significantly declined.

2. *The Extended Fund.* The Program Fund during the Extended Period (the Extended Fund) will differ in several respects from the existing Program Fund.

(a) Instead of a specific total dollar obligation, comparable to the $50.9 million Base Program Fund in the current Program, in the Extended Program, the Extended Program Base Fund would be comprised of 15.77 cents per each Mcf of actual production of Old Gas subject to certain adjustments. The 15.77 cents is shown as customer contributed revenue and is the estimated difference between the per Mcf cost of service for production of Old Gas and the 25.0 cents per Mcf charged by Exploration. Since the volumes which would be produced from the West Panhandle and Keyes Fields are not capable of being forecasted accurately, especially due to the redrilling and recompletion program to be undertaken, the proposed manner of deriving the Extended Program Base Fund would permit more accurate reflection of actual customer contributed revenues received.

(b) In lieu of a corporate plowback obligation based on approximately 12.5 percent of the initial price times new gas reserves discovered, Exploration would commit to match dollar-for-dollar the customer contributions to the Extended Program Base Fund. Exploration's dollar-for-dollar matching would represent a significant increase over its current corporate plowback obligation, which would not be continued. Assuming minimum reserves of 275,000,000 Mcf are committed to CIG as a result of expenditures from the Program Fund, Exploration's contribution would amount to 46 percent of the total customer contribution. Exploration's contribution to the Extended Fund would be 100 percent of the customers: Because of this increase in the corporate obligation, CIG and Exploration propose not to continue during the Extended Program the $2.3 million annual exploration investment imposed on CIG.

(c) The modification to the Settlement Agreement also contains a proposal to transfer to the Extended Fund any balance remaining in the Program Fund at the end of the two year wind-up period, after any refunds to CIG's customers are made due to the failure by Exploration to meet the Minimum Reserve Commitment of 275,000,000 Mcf. CIG and Exploration believe that this change is appropriate since the balance left over in the Program Fund would be used in the Extended Fund for the same purpose—finding new gas for the CIG system. Therefore, the refunding of any Program Fund balance would not appear to be in the best interests of CIG's customers.

(d) The provisions of the Settlement Agreement pertaining to additions to the Extended Fund in respect of value of cer-

tain gas or oil discovered as a result of Extended Fund expenditures are continued in the Extended Program.

(e) In addition to its matching obligation in the Extended Fund, Exploration would be obligated to commit to the Extended Fund and expend no less than $7.6 million to redrill and rework existing wells on the Producing Properties transferred to it by CIG. Such redrilling activity, financed by corporate dollars, has a good chance of increasing the quantity of low-cost Old Gas which would be available to CIG and its customers.

3. *Minimum Reserve Commitment during the Extended Period.* Within ten years after commencement of the Extended Fund, Exploration would dedicate or cause to be dedicated to CIG one Mcf of New Gas reserves for every 68.77 cents contributed by the customers into the Extended Program Base Fund. If Exploration fails to dedicate the minimum reserves, it would refund to CIG and CIG would flow through to its Resale Customers the jurisdictional portion of 68.77 cents per Mcf of the deficiency. The 68.77 cents per Mcf represents the estimated national finding cost of new gas during the seven-year period of the Extended Fund. CIG and Exploration estimate that customer contributions to the Extended Fund. CIG and Exploration estimate that estimate prove correct, Exploration's minimum reserve commitment at the end of the three-year wind-up period would be 117,900,000 Mcf.

4. *Sale of New Gas.* In the event of deregulation, it is proposed that during the Extended Period, Exploration be permitted to enter into New Gas contracts with CIG with terms which permit it to collect a price reflecting the average of prices, and terms affecting price, contained in the three most recent contracts executed with producers for the sale in interstate commerce for resale of gas of comparable quality, quantity, delivery conditions and vintaging from delivery points within one hundred miles of the delivery points covered by the contract with Exploration. The program restrictions on deregulated pricing terms have severely hampered Exploration's efforts to obtain new gas supplies through equiptable farmouts. Independent producers are unwilling to make farmouts to Exploration if the gas purchase contract against which "pay-out" is measured has what the producers consider to be unduly restrictive pricing terms applicable in the event of deregulation.

It is also proposed that the restriction prohibiting Exploration from filing for special pricing relief allowed independent producers not be continued during the Extended Program. By such elimination, Exploration seeks only the right to file for above-area rates for the development of certain leases which are uneconomic to develop at area rates, it is stated. Exploration believes that such development is in the best interests of CIG's customers, since the leases may otherwise be lost.

Any person desiring to be heard or to make any protest with reference to said petition to amend and motion should on or before November 7, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30820 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-657]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Application

OCTOBER 17, 1977.

Take notice that on September 30, 1977, Columbia Gas Transmission Corp. (Columbia Transmission), 1700 MacCorkle Avenue, Southeast, Charleston, W. Va. 25314, and Columbia Gulf Transmission Co. (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027 (Applicants), filed in Docket No. CP77-657 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Northern Natural Gas Co. (Northern), at a point in Pecos County, Tex. and onshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Northern has acquired the right to purchase gas volumes produced in the offshore Louisiana area and is negotiating with producers for additional offshore volumes, Such gas acquisitions are remote from Northern's system and, therefore, necessitate various transportation and exchange arrangements with other pipeline companies in order to cause delivery of Northern's offshore gas to its system in the most economical and efficient manner, it is indicated. It is stated that a significant part of Northern's offshore gas would be delivered near Erath, Louisiana through the facilities of Sea Robin Pipeline Co. (Sea Robin) and near Egan, La., through the Blue Water Project.

It is further indicated that Columbia Transmission has entered into a gas purchase and sales agreement with Delhi Gas Pipeline Corp. (Delhi) which provides for a sale by Delhi to Columbia Transmission of up to 60,000 Mcf of gas per day during the period October 1, 1977, through November 1, 1979. It is stated that under this agreement, the volumes to be purchased by Columbia Transmission are to be made available by Delhi in Pecos County, Tex., and that since Columbia Transmission has no pipeline facilities in the Southwest, however, which would permit it to take deliveries of gas directly from Delhi, the company must enter into various transportation and exchange agreements with other pipeline companies to arrange the delivery of the Delhi volumes to Columbia Transmission's system or to Columbia Gulf for the account of Columbia Transmission.

It is indicated that pursuant to an exchange agreement dated September 16, 1977, among Applicants and Northern, Columbia Transmission would cause the delivery of gas to Northern at a point on Northern's pipeline facilities located in Pecos County, Tex. This delivery point to Northern would be used for the exchange of volumes of gas being purchased by Columbia Transmission under its gas purchase and sales agreement with Delhi and delivered by Delhi to Northern at said point, it is indicated. Applicants state that Northern would cause the delivery of natural gas volumes, equivalent to the exchange volumes received in Pecos County, Tex., to Columbia Gulf for the account of Columbia Transmission at the northern terminus of Sea Robin's offshore pipeline system near Erath, La., and at the northern terminus of the Blue Water Project near Egan, La.

It is indicated that if Columbia Transmission does not have gas available in Pecos County, Tex., to exchange for Northern's offshore gas, Columbia Gulf would receive for Columbia Transmission's account such gas as Northern has available for exchange at Erath, La., and Egan, La., and Columbia Transmission would cause Columbia Gulf to deliver equivalent volumes to Trunkline Gas Co. (Trunkline) for Northern's account at a point of interconnection that Northern proposes to construct and operate between the facilities of Columbia Gulf and Trunkline near Egan, La. It is indicated that Northern would make the necessary arrangement and appropriate and timely applications would be made for the further transportation or exchange of such gas.

It is asserted that this aspect of the exchange between Northern and Applicants is required in order for Northern to get certain offshore gas into its system and can operate independently, whether or not gas is available to Columbia Transmission for exchange at the Pecos County, Tex., delivery point.

Applicants state that the proposed exchange would be by mutual dispatching arrangements and on an Mcf-for-Mcf basis, and that no monetary consideration is to be paid by any party to another for services rendered under the exchange agreement. The exchange is for a term of 15 years, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a

protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30821 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. RP72-157; PGA77-10; R&D77-3]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in Gas Tariff

OCTOBER 13, 1977.

Take notice that Consolidated Gas Supply Corp. (Consolidated), on September 30, 1977, tendered for filing proposed changes in its Gas Tariff. Second Revised Volume No. 1 pursuant to its PGA clause and Federal Power Commission orders issued June 9, 1977, and June 28, 1977. The revised tariff sheets, Twenty-Sixth Revised Sheet Nos. 8 and 9 are proposed to be effective November 1, 1977.

Consolidated states the filing includes:

a. A decrease of $11.7 million in its cost of gas from pipeline suppliers;

b. An increase of $5.7 million in its cost of gas from producer suppliers;

c. A surcharge adjustment of 2.90¢ per Mcf to be in effect for the period November 1, 1977, through April 30, 1977; and,

d. A cumulative Research and Development adjustment of (0.01¢) per Mcf.

Consolidated requests a waiver of any of the Commission's rules and regulations as may be required.

Copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30816 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. ER78-16]

CONSUMERS POWER CO.

Filing

OCTOBER 17, 1977.

Take notice that Consumers Power Co. (Consumers Power), on October 12, 1977, tendered for filing a standard service agreement for wholesale for resale electric service to Northern Michigan Electric Cooperative, Inc. (Northern). Consumers Power states that electric energy sold to Northern pursuant to the agreement will be resold to Top O'Michigan Rural Electric Co., for ultimate sale to customers in Torch Lake and Milton Townships, Antrim County, Mich.

Consumers Power states that the rates to be charged under the agreement are those approved by the Federal Power Commission in its order of March 7, 1977, in Docket No. ER76-45, as they may be amended from time to time.

Consumers Power requests that the service agreement become effective on the date on which service under the agreement is first provided, thought to be on or about October 10, 1977, and Consumers Power therefore requests waiver of the Commission's notice requirements. Consumers Power states that copies of the filing were served on Northern and on Michigan Public Service Commission.

Any person desiring to be heard or to protest said agreement should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Copitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 31, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30822 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. RP77-17]

EASTERN SHORE NATURAL GAS CO.

Revised Tariff Sheets

OCTOBER 17, 1977.

Take notice that on September 28, 1977, Eastern Shore Natural Gas Co. (Eastern Shore), tendered for filing revised tariff sheets to its Gas Tariff, Original Volume No. 1. Eastern Shore states that these tariff sheets are filed in substitution for corresponding tariff sheets filed on September 15, 1977, and will operate to make adjustments under the curtailment credit provision, and under the surcharge to recover balances in its Unrecovered Purchased Gas Cost Account, effective on June 1, and December 1 of each year, consistent with past practices.

Eastern Shore states that copies of these tariff sheets have been mailed to all jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30823 Filed 10-21-77;8:45 am]

[6740-02]

[Docket Nos. C177-372; C177-373; C177-409, *et al.*]

ECEE, INC., ET AL.

Amendment to Application for Certificate of Public Convenience and Necessity and Petition for Special Relief

OCTOBER 17, 1977.

Take notice that on October 4, 1977, Ecee, Inc. (Ecee), Pinto, Inc. (Pinto), and TBP Offshore Co. (TBP) (Applicants) individually filed in their respective captioned docket, an amendment to each's application and petition. Ecee's and Pinto's address is 999 The Main

Building, Houston, Tex., and TBP's address is P.O. Box 2009, Amarillo, Tex. Ecee and Pinto individually in its original application and petition, filed March 29, 1977, noticed May 4, 1977, requested a special relief rate of $4.02/Mcf for sales of gas from W. Cameron 586 to Sea Robin Pipeline Co. (Sea Robin), pursuant to 18 CFR § 2.56a(g). TBP in its original application and petition filed April 14, 1977, noticed May 4, 1977, requested a special relief rate of $4.02/Mcf for sales of its W. Cameron 586 gas to Sea Robin.

Ecee, Pinto, and TBP each now request a special relief rate of $3.74/Mcf for the subject gas due to changes in each's respective cost study filed in this proceeding.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30824 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-664]

EL PASO NATURAL GAS CO.

Application

OCTOBER 17, 1977.

Take notice that on September 30, 1977, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed with the Federal Power Commission in Docket No. CP77-664 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap facilities and the sale and delivery of natural gas to Gas Company of New Mexico (Gas Company) for resale to 2 right-of-way grantors on Applicant's interstate system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that in the course of granting Applicant right-of-way easements for its interstate system facilities, certain grantors have been given the right to receive natural gas service, and that initiation of service of this nature is conditioned upon the availability of a qualified distribution company willing to serve the right-of-way grantor and willing to install the metering facilities and service lines necessary to do so. Given these arrangements, Applicant has agreed to install only a tap and valve assembly, it is said. Applicant states that such right-of-way grantors having the right to natural gas service may elect to have such service initiated (through a qualified distributor) at any time during the term of their easements, generally for domestic and irrigation purposes.

Applicant indicates that Delbert D. Tate, a right-of-way grantor, has requested natural gas service at a point on Applicant's 12¾-inch O.D. El Paso-to-Douglass pipeline in Dona Ana County, New Mexico. Applicant states that the sale and delivery of natural gas proposed herein would be made by Applicant to Gas Company for resale to Delbert D. Tate for Priority 1 residential purposes. Applicant proposes to install, on said pipeline a tap facility necessary to provide natural gas service to Delbert D. Tate, to be known as the Delbert D. Tate Tap. The estimated residential peak day requirement for the customer to be served from such delivery point is 5 Mcf and the estimated annual requirement for the first full year of operation is 560 Mcf.

Applicant states that it also has received a request from Wes Walker, a right-of-grantor, for natural gas service at a point on Applicant's 4¼-inch O.D. Alamogordo pipeline in Otero County, New Mexico. The sale and delivery of natural gas proposed herein would be made by Applicant to Gas Company for resale to Wes Walker for Priority 1 residential and Priority 2 irrigation pumping purposes. Applicant states that Gas Company has indicated to Applicant that Wes Walker is utilizing propane as a fuel source. Applicant proposes to install, on said pipeline, a tap facility necessary to provide natural gas service to Wes Walker, to be known as the Wes Walker Tap. The estimated peak day requirements for residential and irrigation pumping purposes are 1 Mcf and 24 Mcf, respectively, and the estimated annual requirements for the first full year of operation are 80 Mcf and 1,340 Mcf, respectively.

Applicant states that the sale and delivery of natural gas by Applicant to Gas Company for resale to Delbert D. Tate and Wes Walker, would be made at the rate in effect under the applicable rate schedule contained in Applicant's FPC Gas Tariff, Original Volume 1., or superseding tariff, and that such services would be rendered consistent with the priorities of service and curtailment provisions applicable to Applicant's system.

It is indicated that the cost of the proposed facilities is estimated to be $4,500, which cost would be financed by internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 31, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30825 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-648]

EQUITABLE GAS CO.

Application

OCTOBER 17, 1977.

Take notice that on September 29, 1977, Equitable Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed with the Federal Power Commission in Docket No. CP77-648 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon operation of its Drain Gas Storage Reservoir (Drain) located in Doddridge and Gilmer Counties, West Virginia and to transfer certain facilities from its gas storage operation to its gas production operation, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it owned and operated all the wells and other facilities necessary to operate Drain as a productive field or as a storage field through its predecessor Pittsburgh & West Virginia Gas Company, and that one well No. 7978, was purchased from the Carnegie Natural Gas Company on November 15, 1943. Applicant further states that it has operated the Drain field as a storage facility for approximately 20 years.

It is stated that Applicant's investigation indicates that although Drain was considered a safe gas storage pool, the expenditure of the additional capital, estimated at between $142,000 and $530,000, would not result in any improvement in the usefulness of Drain.

Applicant states that in 1972 it started its investigation of the feasibility of continuing operations of Drain, and that it injected gas into this reservoir until October 10, 1974. Applicant further states that since that time it has from time to time continued to withdraw gas from Drain, and that as of June 30, 1977, all storage gas had been withdrawn from the reservoir.

Applicant indicates that the abandonment of operations of Drain has not and would not result in any reduction in service to Applicant's customers. Applicant has been aware of the probability that operations at Drain would be abandoned and has continued to develop other storage facility and to make improvements in the delivery capacity of its general pipeline system in order to maintain its ability to render adequate service to its customers, it is said.

Applicant states that major facilities used in the operation of Drain consist of storage wells and well connecting lines as well as a 4-inch pipeline and appurtenances extending from the Drain Storage area to Applicant's Leeson Booster station in Doddridge County, West Virginia. This compressor unit was used to repressure Drain and as a field booster station, and would remain in service as a field booster, it is said. Applicant states that the 4-inch pipeline would also remain in utility service. Applicant proposes to continue to operate this pipeline as a part of its gathering pipeline system.

Applicant estimates that the total original cost of facilities to be transferred from underground storage to production plant accounts amounts to $86,928.78, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30826 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. E-8615]

LOUISIANA POWER & LIGHT CO.

Compliance Filing

OCTOBER 17, 1977.

Take notice that on September 28, 1977, Louisiana Power and Light Company (LP&L) tendered for filing pursuant to Ordering Paragraph (C) of the Commission's Opinion No. 813 issued July 21, 1977, its Rate Schedule REA-8A, which is applicable to wholesale service for resale rendered by LP&L to Cajun Electric Power Cooperative, Inc. (Cajun) on and after September 14, 1974.

LP&L states that based on the test year ending December 31, 1974, the Rate Schedule REA-8a would have produced revenues from service to Cajun of 9,448,500. LP&L further states that it will refund to Cajun all amounts collected since September 14, 1974 in excess of the revenues which would have been produced under its Rate Schedule REA-8A, with interest, on September 29, 1977.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before October 25, 1977. Comments will be considered by the Commission in determing the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30827 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. RP77-60]

MICHIGAN WISCONSIN PIPE LINE CO.

Proposed Changes in Gas Tariff

OCTOBER 17, 1977.

Take notice that on September 15, 1977 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing in its Gas Tariff, Second Revised Volume No. 1, Alternate Seventeenth Revised Sheet No. 27F to become effective November 1, 1977 in substitution of Seventeenth Revised Sheet No. 27F filed on April 29, 1977.

Michigan Wisconsin states that the Commission in its suspension order dated May 27, 1977 states that Michigan Wisconsin may be subject to undercollections if the Commission finds the Seaboard method of rate design to be improper.

Accordingly, since the possibility of undercollection is unacceptable, Michigan Wisconsin, while not waiving its right to continued support of the unmodified Seaboard rate design, is filing together with work papers which show the development of rates based on the so-called United method, Alternate Seventeenth Revised Sheet No. 27F.

Michigan Wisconsin further states that it requests waiver of Regulations as may be necessary in order to substitute Alternate Seventeenth Revised Sheet No. 27F for Seventeenth Revised Sheet No. 27F that is currently under suspension.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before October 25, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30829 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP76-285 et al.]

MOUNTAIN FUEL RESOURCES, INC.

Order Granting Rehearing and Reissuing Temporary Certificates

OCTOBER 14, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not

be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402 (a) (1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ____, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On October 4, 1977, El Paso Natural Gas Co. (El Paso) and Clay Basin Storage Co. (Clay Basin) filed a Joint Application for Immediate Clarification and/or Rehearing of the Commission's "Order Consolidating Application, Granting Temporary Certificates, Granting Interventions, Providing in Part for Formal Hearing and Prescribing Procedures", issued September 30, 1977, in the above-docketed proceeding. Said Joint Application was filed pursuant to Section 19(b) of the Natural Gas Act and Section 1.34 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (FERC). On October 6, 1977, El Paso and Clay Basin filed a First Supplement to their Joint Application of October 4, 1977.[1]

El Paso and Clay Basin jointly submit that the Commission erred in placing the following three conditions on the grant of temporary authorization to Clay Basin in Docket No. CP77-512, to wit:

(1) The facility fee on bank credit be eliminated.

(2) The interest rate of 13.87 percent on subordinated debentures be reduced to 9.71 percent as most recently allowed for overall return to El Paso in Docket No. RP77-18.

(3) The return on the $10,000 of common equity be set at the most recently allowed return of 14.75 percent in Docket No. RP77-18.[2]

The Joint Application generally argues that the Commission erred in attaching the three conditions enumerated above to the grant of temporary authorization to Clay Basin. The First Supplement specifically addresses the origin and alleged need for the "facility fee". El Paso and Clay Basin again request that the pleading be considered "as an emergency item to be acted upon with all possible expedition."[3]

The claimed error concerning the limitation on interest on debentures and return on common equity is stated to stem from "fundamental misapprehensions of fact"[4] as to the relationship between El Paso and Clay Basin. On further review, we find that a misunderstanding did exist concerning the ownership of the common equity and thus our treatment of the allowable return on the equity and debentures was affected. Based on the clarification that El Paso does not own the common equity as well as a breakdown by Clay Basin of the allocation of the monthly payment of $4,167, we now find that the return on common equity should be treated as proposed. Based on the misunderstanding, we had limited the interest rate on debentures to El Paso's most recently allowed "after tax" return. As third parties, and not El Paso, will be the common equity holders, a "before tax" overall return as originally submitted is acceptable.

Upon consideration of the First Supplement, further explanation by El Paso and Clay Basin, and independent staff investigation, we are now aware that the "facility fee" is a term used to cover a variety of circumstances which, as in this instance, could be employed in lieu of compensating balances. This unique financing proposal benefits the consumer in terms of capital costs notwithstanding the inclusion of the facility fee as well as allowing the increase in the interest rate on the debenture. Therefore, we must now find the "facility fee" is justified as advanced. In light of these conclusions, the remaining arguments presented in the Joint Application and First Supplement need not be addressed.

As noted by our Order of September 30, 1977, an emergency does exist concerning this project,[5] and we emphasize that the El Paso system is one of six systems that are currently of major concern to the Commission.[6] Additionally, as the project contemplates immediate injections for the winter of 1977-78, and the conditions challenged address the project financing without which the proposed project could not proceed; the requested rehearing should be granted and the temporary certification be reissued without condition.

The Commission finds: (1) The applications for rehearing filed in Docket Nos. CP76-285 et al. by El Paso Natural Gas Co., Clay Basin Storage Co., and Southern Union Co. provide good arguments for amending the previous granted authorization and should be granted.

(2) An emergency exists on the interstate pipeline system of El Paso Natural Gas Co. requiring the immediate issuance of the amended temporary authorization granted in Docket No. CP77-512.

The Commission orders: (A) The temporary certificate issued in Docket No. CP77-512 by Ordering Paragraph C of Commission Order in Docket Nos. CP76-285 et al. on September 30, 1977, shall thereby be amended to delete the following conditions:

1. The facility fee on bank credit be eliminated.

2. The interest rate of 13.87 percent on subordinated debentures be reduced to 9.71 percent as most recently allowed for overall return to El Paso in Docket No. RP77-18.

3. The return on the $10,000 of common equity be set at the most recently allowed return of 14.75 percent in Docket No. RP77-18.

The fourth condition remains effective.

(B) The Secretary shall cause prompt publication of the Order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30818 Filed 10-21-77;8:45 am]

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[1] On October 7, 1977, Southern Union Co. filed in support of the Joint Application.

[2] See order at 7-8.

[3] Joint Application at 5.

[4] Joint Application at 2.

[5] See order at 7 and 10.

[6] See Alabama-Tennessee Natural Gas Co., Docket Nos. RP77-65 et al., Order of May 11, 1977; also East Tennessee Natural Gas Co., Docket Nos. RP77-72, et al. Orders of September 14 and 20, 1977.

[6740-02]

[Docket No. CP76-369]

MOUNTAIN FUEL SUPPLY CO.

Petition To Amend

OCTOBER 17, 1977.

Take notice that on September 29, 1977, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed with the Federal Power Commission in Docket No. CP76-368 a petition to amend the order of February 15, 1977, issued in the instant (57 FPC ——) pursuant to section 7(c) of the Natural Gas Act so as to permit the transportation, purchase, and exchange of additional volumes of natural gas in the Salt Wells field area of Sweetwater County, Wyo., all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of February 15, 1977, issued in the above captioned docket, Applicant was authorized to transport, purchase, and exchange natural gas pursuant to an agreement between Applicant and Northwest Pipeline Corp. (Northwest) dated February 13, 1976. It is stated that under the subject agreement gas owned by Northwest in the Salt Wells field area of Sweetwater County, Wyo., is delivered to Applicant's facilities in the area. It is further stated that Applicant purchases 25 percent of the gas so delivered and transports the remainder through its facilities to the point of interconnection between the two companies near Granger, Wyo., where the remaining 75 percent of the gas is redelivered to Northwest. The subject volumes of gas are balanced monthly on a BTU basis, it is said.

Applicant indicates that Northwest has obtained additional supplies of gas in the Salt Wells area from King Resources Co. et al., and that Applicant and Northwest have amended the gas purchase transportation and exchange agreement dated February 13, 1976, by

an additional agreement dated June 8, 1977, which amendment provides for the addition of certain designated lands to those set forth in the basic agreement.

Applicant states that no additional facilities would be required by it to handle the additional volumes of gas.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30830 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-653]

PANHANDLE EASTERN PIPE LINE CO. ET AL.

Application

OCTOBER 14, 1977.

Take notice that on September 30, 1977, Panhandle Eastern Pipe Line Co. (Panhandle), Trunkline Gas Co. (Trunkline), P.O. Box 1642, Houston, Tex. 77001, and United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001 (Applicants) filed with the Federal Power Commission in Docket No. CP77-653 a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the implementation of certain limited term transportation arrangements among Applicants, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that United has made arrangements to purchase gas from Producers Gas Co. (Producers) in Ellis and Dewey Counties, Okla., and that United desires to have such volumes received, transported and redelivered at a proposed point of interconnection between the facilities of Trunkline and United in La Salle Parish, near Olla, La., and at the existing interconnection near Garden City, La.

Applicants request authorization for Panhandle and Trunkline to transport for United on a firm basis 24,000 Mcf of gas per day, and on a best efforts basis up to 17,000 Mcf of gas per day pursuant to a transportation agreement dated June 24, 1977, among Applicants, which gas would be received by Panhandle at the inlet of existing measuring stations in Ellis County, Okla. It is stated that Panhandle would transport and exchange equivalent volumes, less 6 percent reduction, for fuel usage with Trunkline at the existing interconnection between Panhandle and Trunkline at Tuscola, Ill., and that Trunkline, in turn, would deliver such volumes to United at the proposed point of interconnection of the facilities of United and Trunkline in La Salle Parish, near Olla, La., or that existing point of interconnection between Trunkline and United at Exxon's plant, Garden City, La.

Applicants indicate that United would pay to Panhandle a monthly transportation charge of $133,250 for the firm transportation service and 17.52 cents per Mcf for volumes transported on a best efforts basis. Due to the nature of the exchange arrangements between Panhandle and Trunkline, there is no charge by Trunkline for redelivery to United, it is said.

United proposes to construct and operate certain facilities required to receive and measure the volumes of gas transported by Panhandle and Trunkline, which facilities consist of a 12-inch ANSI Reverse Flow meter and a regulator station at the interconnection of Trunkline's and United's facilities in La Salle Parish, La., it is indicated. It is stated that United would finance this facility from funds on hand.

Applicants indicate that the gas proposed to be transported would be utilized by United as a part of its system supply to meet the requirements of its customers. On October 19, 1976, Natural Gas Pipeline Co. of America (Natural) was granted authorization in Docket No. CP76-511 to transport the gas volumes to be purchased by United from Producers. However, the transportation service is to be performed by Natural on a best efforts basis only, it is indicated. Applicants stated that Natural has advised United that it would be unable to transport this gas during the upcoming winter heating season.

Consequently, Applicant requests authorization to effectuate the proposed transportation arrangements.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30828 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-652]

PANHANDLE EASTERN PIPE LINE CO.

Application

OCTOBER 17, 1977.

Take notice that on September 30, 1977, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed with the Federal Power Commission in Docket No. CP77-652 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corp. (Columbia), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive, transport and redeliver to Columbia on a firm basis 16,000 Mcf of gas per day, and, on a best efforts basis, 11,000 Mcf of gas per day, all of which volumes would be less 11 percent reduction for fuel usage. Applicant states that it would receive such volumes from Northern Natural Gas Co. (Northern), for Columbia's account at the existing point of interconnection between Applicant and Northern in Mullinville, Kans., and that Applicant would transport and redeliver such volumes, less fuel usage, to Columbia at the existing Maumee measuring station in Lucas County, Ohio.

It is stated that Columbia would pay Panhandle a monthly charge of $109,120, subject to adjustment based on a firm transportation quantity of 16,000 Mcf per day at 14.73 psia saturated for the proposed transportation service. If Panhandle is unable to receive on any day or days 16,000 Mcf of gas, the monthly charge would be reduced 22.41 cents for each Mcf of deficiency on such day or days, it is said. Applicant indicates that if Panhandle receives more than 16,000 Mcf of gas on any day or days, the

monthly charge would be increased by a like amount on such day or days. It is indicated that the term of the subject agreement is from September 22, 1977, to November 1, 1979.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 4, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30831 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. ER78-15]

SOUTHWESTERN PUBLIC SERVICE CO.

Rate Filing

OCTOBER 17, 1977.

Take notice that on October 11, 1977, Southwestern Public Service Co. (Southwestern), of Amarillo, Tex., tendered for filing a new contract and rate schedules for electric power service to the city of Brownfield, Tex. (Brownfield). Southwestern indicates that this service would be rendered through Southwestern's 69 kV transmission system to its connection with Brownfield.

Southwestern states that Brownfield is a partial requirements customer nad the new contract provides for Firm Power Service, Emergency Service and Non-Firm Power Service to supplement Brownfield's generation of electricity.

Southwestern requests waiver of the Commission's notice requirements to allow for an effective date of June 1, 1978.

Any person desiring to be heard or to protest said filing shall file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before October 31, 1977. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the rules of practice and procedure. This filing is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30832 Filed 10-21-77;8:45 am]

[6740-02]

[Docket Nos. RP76-136 and RP77-26]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Settlement Conference

OCTOBER 17, 1977.

Take notice that on October 17, 1977, at 2 p.m. an informal conference will be convened of all interested persons with a view towards settling the issues in the captioned proceeding. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss the merits of all issues arising in this proceeding and any procedural matters preparatory to a full evidentiary hearing or to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30833 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP77-651]

TRUNKLINE GAS CO.

Application

OCTOBER 17, 1977.

Take notice that on September 30, 1977, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed with the Federal Power Commission in Docket No. CP77-651 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessary authorizing the transportation of natural gas for Amoco Production Co. (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport and redeliver natural gas to Amoco pursuant to a transportation agreement dated August 11, 1977, between the two parties, from the North Bon Air Field, Jefferson Davis Parish, La., in which Amoco has an interest. Applicant indicates that it would receive on a firm basis at the point of delivery of gas by Amoco to Applicant on Applicant's pipeline in North Bon Air Field (point of receipt) up to 2,900 Mcf per day, and that Applicant would redeliver to Amoco for further delivery by Amoco to Florida Gas Transmission Corp. (Florida), at a point near the connection between the facilities of Florida and Applicant in Calcasieu Parish, La., a daily volume of gas equal to the volume of gas received by Applicant at the point of receipt.

Applicant proposes to install and operate necessary measurement equipment and other related facilities at the point of receipt, and Amoco would reimburse Applicant for the actual cost of these facilities, it is said. Applicant states that it has requested authority in Docket No. CP77-579 to install a meter for gas measurement at the point of redelivery herein described. Amoco would install and operate a compressor and related facilities between the facilities of Applicant and Florida, it is said.

It is stated that the term of the subject agreement is for 10 years and that Applicant would receive a monthly payment of $359 for the proposed transportation service from Amoco.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a

grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30834 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. ER77-635]

TUCSON GAS & ELECTRIC CO.

Filing

OCTOBER 17, 1977.

Take notice that Tucson Gas & Electric Co. (Tucson), on September 2, 1977, tendered for filing an Amendment No. 1 to the Tucson-APS 1977 Energy Agreement between Tucson and Arizona Public Service Co. (APS). Tucson indicates that the purpose of the amendment is to extend the termination date of the agreement from August 31, 1977, to September 30, 1977. Tucson states that copies of the filing were served upon APS.

Any person desiring to be heard or to make any application with reference to said Amendment No. 1 should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests would be filed on or before October 24, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Amendment No. 1 are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30825 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. CP76-193]

UNITED GAS PIPE LINE CO.

Petition To Amend

OCTOBER 17, 1977.

Take notice that on September 30, 1977, United Gas Pipe Line Company (Petitioner), P.O. Box 1478, Houston, Texas 77001, filed with the Federal Power Commission a petition to amend the order of February 6, 1977, issued in the instant docket (57 FPC ——) pursuant to Section 7(c) of the Natural Gas Act so as to provide for an additional delivery point for the delivery of gas for Lithium Corporation of America (Lithium), all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of February 6, 1977, issued in the instant docket, Applicant was authorized to transport up to 1,500 Mcf of gas for Lithium for use at its Bessemer City, North Carolina plant. It is stated that Applicant receives gas purchased by Lithium from Glenda Petroleum Corporation (Glenda) in the Monroe Field, Ouachita, Union and Morehouse Parishes, Louisiana at a point of receipt on Applicant's 18-inch Sarepta-Sterlington line located in Union Parish, Louisiana and that Applicant delivers, pursuant to Rate Schedule X-63 of Applicant's FPC Gas Tariff, Original Volume No. 2, the subject volumes to Transcontinental Gas Pipe Line Corporation (Transco), for the account of Lithium, at various authorized points of interconnection with Transco. Transco, as authorized in the order of February 6, 1977 in Docket No. CP76-185, in turn transports the volumes of gas so delivered for the account of Lithium to Public Service Company of North Carolina, Inc., it is indicated.

Applicant states that due to decreasing deliverability in the Glenda production supplying Lithium, a supplemental supply of up to 500 Mcf of gas per day has been purchased by Lithium from Weiser-Brown-Oil Company, et al. (Weiser-Brown), in the Newport Field, Winn Parish, Louisiana, and that by an amendment dated June 6, 1977 to the transportation agreement between Applicant and Lithium dated November 11, 1976, an additional delivery point on Applicant's 30-inch South-North pipeline located in Caldwell Parish, Louisiana has been established wherein Applicant would receive the Weiser-Brown volumes for the account of Lithium.

Applicant indicates that in no event would the total quantity of gas transported by Applicant for Lithium exceed 1,500 Mcf of gas per day, the quantity originally certificated in Docket No. CP 76-193.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 28, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30836 Filed 10-21-77;8:45 am]

[6740-02]

[Docket No. OR78-2, Formerly ICC Docket No. 36611 (Sub No. 6)]

UNION ALASKA PIPELINE CO.

Order Setting Matter for Investigation and Consolidating Proceedings

OCTOBER 14, 1977.

On September 14, 1977, Union Alaska Pipeline Company filed a supplement to its tariff [1] which covers the rules and regulations for its service on the Trans-Alaska Pipeline System (TAPS).[2] This supplement which becomes effective October 14, 1977, contains new rules that make rates to a next more distant point applicable to an intermediate point when such rates are published through such intermediate point (Item 120); and provide that petroleum transported through the carrier's facilities may be received out of the pipeline at an established intermediate delivery station with the privilege of reforwarding all or a portion of such petroleum from said intermediate station to Valdez Marine Terminal, Alaska, provided that the applicable rate from the initial point of origin to Valdez is paid upon shipment to the intermediate point, and that certain other conditions are met (Item 125).

On October 3, 1977, the Energy Company of Alaska filed a petition asking that Item 125 (In Transit Shipments) of Union Alaska's proposed supplement be investigated.

The rates and charges to be applied under these rules are those currently under investigation in FERC Docket No. OR78-1 (formerly ICC Investigation and Suspension Docket No. 9164, Trans-Alaska Pipeline System (Rate Filings)).

Union Alaska's proposed rules are similar to those rules which have been proposed by other TAPS companies and which have been set for investigation by the Interstate Commerce Commission in what is now known as the TAPS proceeding (Docket No. OR78-1, formerly ICC Docket No. 9164 et al).

Upon review, the Commission believes that this proposed supplement involves issues that are closely related to those in No. 36611, Trans-Alaska Pipeline System (Rules and Regulations), and that they may result in the application of rates and charges that are unjust and unreasonable and otherwise unlawful in violation of the Interstate Commerce Act.

The Commission orders: An investigation into all issues relating to the lawfulness of the proposed supplement be instituted.

The carrier party to the proposed supplement is made respondent to this proceeding and is required to keep account of all amounts received, specifying by

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[1] Supplement No. 1 to I.C.C. No. 1.

[2] The above-referenced filing was originally made with the Interstate Comerce Commission on September 14, 1977. On October 1, 1977, the Department of Energy Organization Act (DOE Act) (Public Law 95-91) became effective. Pursuant to Section 402(b) of the DOE Act, the Federal Energy Regulatory Commission now has jurisdiction over this proceeding.

whom and in whose behalf the amounts resulting from the rules contained in the supplement subject to this investigation were paid.

The above-entitled proceeding is hereby referred to Administrative Law Judge Max L. Kane for hearing jointly with the proceedings embraced in Docket No. OR78–1 (formerly ICC Docket No. 9164, et al.).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77–30837 Filed 10–21–77;8:45 am]

[6560–01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 808–1; OPP–420 41B]

STATE OF MISSOURI

Extension of Contingent Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*), and 40 CFR Part 171, the Governor of the State of Missouri submitted a State Plan for Certification of Commercial and Private Applicators of restricted use pesticides (Missouri State Plan) to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingent Approval was requested by the State of Missouri pending enactment of proposed amendments to the Missouri Pesticide Act of 1974 and subsequent promulgation of regulations described in the Plan. On April 6, 1977, the Regional Administrator, EPA, Region VII, approved the Plan on a contingency basis until October 21, 1977. Notice of Contingent Approval was published on April 15, 1977 (42 FR 19926).

Amendments to the 1974 Missouri Pesticide Act will be effective September 28, 1977; however, promulgation of regulations cannot begin until these amendments are in effect. Because of this, the State of Missouri will be unable to meet the October 21 deadline. As a result, on September 2, 1977, the State of Missouri requested an extension of the Missouri Contingent Approval pending final implementation of regulations. The Agency finds that there is good cause for approving the request and as such has granted Missouri an extension which will expire January 10, 1978.

Dated: October 5, 1977.

KATHLEEN Q. CAMIN,
Regional Administrator.

[FR Doc.77–30917 Filed 10–21–77;8:45 am]

[6560–01]

[FRL 807–8; OPP–42052]

WISCONSIN

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 *et seq.*), and 40 CFR 171, the Governor of the State of Wisconsin has submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Contingent approval is being requested pending the Governor's signature to Assembly bill 556, and promulgation of implementing regulations. Assembly bill 556 passed the State legislature on September 20, 1977. A supplementary legal opinion and amendatory letter to the Wisconsin State Plan were submitted to EPA on September 2, 1977, to clarify some additional points on the proposed regulations and the State Plan. Copies of the supplementary legal opinion, amendatory letter, legislation, and proposed regulations are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region V, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together will all attachments (except written examinations), may be examined during normal business hours at the following locations:

1. 801 W. Badger Road, Madison, Wisc. 53713 (Wisconsin Department of Agriculture, Plant Industry Division), telephone (608) 266–7130.

2. Room 1147, 230 South Dearborn Street, Chicago, Ill. 60604 (Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V), telephone (312) 353–2192.

3. Room 401, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C. 20460 (Federal Register Section, Technical Services Division (WH–569), Office of Pesticide Programs, EPA), telephone (202) 755–4854.

SUMMARY OF STATE PLAN

The Wisconsin Department of Agriculture (WDA) has been designated as the State lead agency for the implementation and administration of the pesticide applicator certification program, including enforcement activities.

Cooperating agencies and organizations are the Wisconsin Department of Natural Resources (WDNR) and the University of Wisconsin Cooperative Extension Services (WCES). The WDNR, Division of Environmental Protection, under a cooperative enforcement agreement with WDA, will perform selected investigational activities with respect to State Plan maintenance. The WCES has the lead responsibility for the State-wide pesticide applicator certification training program, including preparation and administration of training courses, and preparation and distribution of training materials. The WDA will coordinate closely with the WCES to ensure that training and certification examinations are properly oriented.

The lead agency maintains close liaison with the cooperating agencies and others through the Pesticide Review Board and Pesticide Advisory Council. The Review Board and Advisory Council, both established by State Statute, develop and recommend legislation, and review and establish necessary pesticide regulations and policies for the State.

Legal authority for the certification program is contained in Chapter 93 of the Wisconsin Statutes, Administrative Code Chapter Ag 29, Assembly bill 556, and proposed regulations. Copies of these legal authorities are attached to the State Plan.

The Plan indicates that the State lead agency and cooperating agencies have sufficient qualified personnel and funds necessary to conduct the programs described in the State Plan. An EPA grant of $160,381 has been awarded to the WDA to support the certification program. Additionally, the University of Wisconsin Cooperative Extension Service has received EPA pesticide applicator training monies during FY 1976 and 1977.

The WDA will submit an annual report to EPA not later than March 31 of each year to include information specified in 40 CFR 171.7(d)(1)(i-vi). In addition, other reports as may be required by the Administrator will be submitted.

Wisconsin estimates that approximately 7,000 commercial applicators and 40,000 to 80,000 private applicators will need to be certified. All certified applicators will be issued wallet size credentials containing applicator's name, address, birthdate, identification number, and code number(s) corresponding to category(ies) or subcategory(ies) in which the applicator is certified. Private applicator and commercial applicator credentials will be distinguished by color. Credentials issued private applicators unable to read will restrict purchase and use to specific pesticide products for which the applicator has demonstrated competency.

The commercial applicator categories proposed in the Plan are the same as those in 40 CFR 171.3. No new categories are proposed. New subcategories are:

1. Agricultural Pest Control.
a. Field and Vegetable.
b. Fruit.
c. Livestock.
7. Industrial, Institutional, Structural, and Health Related Pest Control.
a. General.
b. Fumigation.
c. Wood Destroying Organisms.

Standards of competency for commercial applicators in Wisconsin are the same as those in 40 CFR 171.4 (b) and (c) and 171.6.

All commercial applicators will be required to pass written examinations prior to being certified. A minimum of two written examinations will be required: (1) A general examination covering the general standards in 40 CFR 171.4(b) and 171.6, and (2) a specific examination(s) covering the standards in 40 CFR 171.4(c) for the particular category(ies) or subcategory(ies) in which the applicator desires certification. All commercial applicators shall renew their certification every five years. As a condition for renewal, and to assure that applicators maintain an adequate level of competency, additional training coordinated by WCES, and approved by WDA, will be offered annually. If significant changes have occurred in the development of new pesticides, uses or labeling during the five year period, the applicator may be required to pass a written examination to renew certification.

The standards of competency for private applicators are the same as those listed in 40 CFR 171.5 and 171.6. Private applicators will be certified by one of the following procedures:

1. Successful completion of a WCES training session. An applicant may participate in a training program conducted by the WCES county agents throughout Wisconsin. The EPA Commercial Applicator Core Manual and supportive State reference material will be utilized in the training program. A representative of the WDA will be present at all training sessions to discuss applicable pesticide laws and regulations, and administer the completion of training procedure. Such procedure may include, but not be limited to, the use of a training workbook, evaluation or questionnaire. Upon determination by WDA that the applicant has successfully completed the training course, a certificate will be issued.

2. Passage of a written examination. An applicant may take and pass a written examination covering all the standards listed in 40 CFR 171.5 and 171.6. Written examinations will consist of multiple choice and true/false questions, and will be given at designated WDA offices, county extension offices, or other sites approved by WDA.

3. Nonreader certification. For private applicators unable to read, the lead agency intends to establish a certification procedure which allows competent applicators to use specific pesticide products. The WDA will conduct an oral evaluation to determine competency. Certification will be limited to those products in which the nonreader has demonstrated competency and the credential will identify those products covered by the applicator's certification. Certification under this option will be limited to one year.

4. Certification for emergency use. An applicator may be certified to purchase and use a restricted use pesticide under this option on a one time/specific use basis only. Under such emergency situations, the WDA will conduct a specific product evaluation of the applicant's ability to use and apply the pesticide safely and properly. Only one emergency use certification shall be granted to any one person; thereafter, certification by training or written examination will be required.

To renew a certaificate, all private applicators certified under the first and second procedure above will be required to complete one of the original certification procedures at five year intervals.

Sample examination questions for commercial and private applicators are attached to the Plan, as provided by 40 CFR 171.7(e)(1)(i)(D) and (ii)(C). Written examinations for commercial applicator categories and subcategories will be submitted by WDA to the EPA for approval as they are developed. In view of the need to preserve the confidentiality of these examinations, the State of Wisconsin has requested that the examinations not be made available for public inspection. The Agency agrees with this position, and has removed the examinations from the public inspection copies of the Plan.

The Plan provides for a statement concerning the Government Agency Plan (GAP) to be forwarded to EPA within 60 days after the approval of the GAP by EPA.

The WDA has not entered into any agreements with any Indian reservations. The plan provides that any cooperative agreements entered into by the WDA will be forwarded to EPA. The WDA has authority to consider reciprocity of other states, but has not at this time, entered into reciprocal agreements. However, in the event Wisconsin does, all such agreements will be forwarded to EPA as part of the State Plan.

Other regulatory authorities useful to implementation of the Plan include further restriction or limitation on pesticide uses, permits for use of experimental pesticides, registration and reporting requirements for persons selling restricted use pesticides, pesticide storage and disposal, and monitoring, inspection, and sampling activities.

Public Comments

Interested persons are invited to submit written comments on the proposed State Plan for the State of Wisconsin to the Regional Administrator, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604. The comments must be received on or before November 25, 1977, and should bear the identifying notation (OPP-42052). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: October 7, 1977.

Christopher M. Timm,
Acting Regional Administrator,
Region V.

[FR Doc.77-30918 Filed 10-21-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

NOTICE OF AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have 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 each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 14, 1977. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO. 2846-32.

FILING PARTY: Stanley O. Sher, Esq., Billig, Sher & Jones, P.C., 2033 K Street NW., Washington, D.C. 20006.

SUMMARY: Agreement No. 2846-32, among the members of the WINAC Conference, modifies the basic agreement by stipulating that when a member line exercises the right of independent action on a rate, such action automatically results in that rate being opened.

AGREEMENT NO. 10268-2.

FILING PARTY: David C. Jordan, Esq., Law Offices Billig, Sher & Jones, P.C., Suite 300, 2033 K Street NW., Washington, D.C. 20006.

SUMMARY: Agreement No. 10268-2, entered into among the member lines of the Australian-Eastern U.S.A. Shipping Conference, amends Article 12(g) of the approved basic conference agreement to provide that a party's agents, sub-agents and/or any of the subsidiary, associated, or affiliated companies over whom such agents and/or sub-agents exercise control will be referred to as "Agents" instead of "Committed Companies"; and to eliminate the requirement that each party furnish to the conference written commitments from their Committed Companies authorizing the neutral body to investigate, inspect, or copy any of their pertinent

records, wherever located, required for the proper carrying out of any investigation provided for in the agreement.

By Order of the Federal Maritime Commission.

Dated: October 19, 1977.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.77-30864 Filed 10-21-77;8:45 am]

[6730-01]

[No. 77-54]

ALLIED CHEMICAL INTERNATIONAL CORP. v. ATLANTIC LINES

Filing of Complaint

OCTOBER 18, 1977.

Notice is hereby given that a complaint filed by Allied Chemical International Corp. against Atlantic Lines was served October 18, 1977. The complaint alleges that respondent assessed ocean transportation charges in excess of lawful tariff rates in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before April 18, 1978. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.77-30861 Filed 10-21-77;8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vesels, pursuant to Part 542 of Title 46 CFR and Section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01011---	Aktieselskabet Det Ostasiatiske Kompagni: *Basra.*
01017---	Westfal-Larsen & Co. A/S: *Siranger.*
01052---	Concord Line A/S: *Margaret Cord.*
01068---	The Bowring Steamship Co., Ltd.: *London Bridge.*
01069---	Oglebay Norton Co.: *W. L. Richardson.*
01146---	Joklar H. F.: *Hofsjokull.*
01198---	A/S Dovrefjell and A/S Falkefjell: *Norefjell, Jotunfjell, Dovefjell.*
01278---	Leonhardt & Blumberg: *Albis.*
01340---	Compagnie Auxilianire de Navigation: *Fabiola.*
01361---	Transportacion Maritima Mexicana, S.A.: *Bibi.*
01423---	Charente Steamship Co. Ltd.: *Naturalist.*
01627---	Atlantic Oil Carriers Ltd.: *Southern Cross.*
01637---	Sidarma Societa Italiana di Armamento S.p.A.: *Andrea Gritti.*
01792---	Parthenon Shipping Corp.: *Zita.*
01890---	A/S Billabong: *Star Columbia.*
01905---	Ben Line Steamers Ltd.: *Bendoran.*
01910---	Deutsche Dampfschifffahrts-Gesellschaft Hansa: *Azenfels.*
01931---	Brigantine Transport Corp.: *Maren Maersk.*
01995---	Rederi AB Disa: *Nordic Wasa.*
02001---	Rederiaktiebolaget Transatlantic: *Vingaren, Hallaren, Cumulus, Arizona, Al Abama.*
02066---	Akron Shipping Co.: *World Beauty.*
02072---	Coburg Shipping Co.: *Evgenia Niarchos.*
02083---	Imogene Shipping Co.: *World Independence.*
02086---	Jubilee Shipping Co.: *World Inheritance.*
02087---	Kane Shipping Co.: *World Inspiration.*
02168---	D/S A/S Vestland: *Polarland.*
02198---	Peninsular & Oriental Steam Navigation Co.: *Strathairlie, Strathlairg.*
02320---	A/S Autotransport: *Wilfred.*
02374---	Minoutsi Shipping Ltd. of Nicosia: *Minoutsi.*
02453---	The Turnbull Scott Shipping Co. Ltd.: *Eskdalegate.*
02500---	Collier Carbona & Chemical Corp.: *Columbia.*
02602---	Fyffes Group Ltd.: *Turrialba.*
02980---	Rederi A/S Mimer and A/S Norfart: *Aniara.*
03219---	Whitwill, Cole & Co., Ltd.: *Cornish Wasa.*
03255---	Port Line Ltd.: *Port Launceston.*
03271---	Sealand Service, Inc.: *Arizpa.*
03276---	Universe Tankships, Inc.: *Universe Leader.*
03315---	Afran Transport Co.: *Arctic Sea, Tasman Sea.*
03389---	Shell Tankers, B. V.: *Katelysia.*
03422---	Diawa Kalun Kabushiki Kaisha: *Fiji Maru.*
03432---	Hinode Kisen, K.K.: *Atago Maru.*
03441---	Japan Line K.K.: *World Sovereign.*
03503---	Shofuku Kisen K.K.: *Sumida Maru.*
03517---	Tokyo Kaiji K.K.: *Sendan Maru.*
03518---	Tokyo Senpaku K.K.: *Djakarta Maru.*
03521---	Tokushima Kisen K.K.: *Sun Daimond.*
03695---	Wood River Harbor Service Inc.: *AOC No. 2, Bunker.*
03733---	Great Lakes Dredge & Dock Co.: *GL No. 62.*
03767---	Orpheus Marine Transport Corp.: *Orpheus.*
03790---	Alkes Shipping Corp., Monrovia: *Bariloche.*
03842---	Mediterranean Marine Lines, Inc.: *Defiance, Young America, Red Jacket, Great Republic.*
04013---	Compania Atlantica Pacifica, S.A.: *Vermont.*
04056---	Ugland Shipping Co. A/S Jorgensens Rederi A/S Skips A/S Kysten: *Norita.*
04218---	Zidell, Inc., Zidell Dismantling, Inc., and Zidell Explorations, Inc.: *ZB 107 A.*
04347---	Maroceano Compania Naviera, S.A.: *Lakmos.*
04398---	Hapag-Lloyd Aktiengesellschaft: *Blankenstein, Bartenstein.*
04404---	Lars Rej Johansen: *Jobella, Joselin.*
04424---	International Navigation Corp.: *Las Minas.*
04437---	Lebeouf Bros. Towing Co., Inc.: *LBT-50, MBL-51.*
04564---	Yamashita-Shinnihon Kisen Kaisha: *HO-O Maru.*
04601---	American Tunaboat Association: *Mary Lucille.*
04625---	American Commercial Lines, Inc.: *CHEM 56, CHEM 54, ATB-50, ATB-51, ATB-95, ATB-98.*
04642---	South African Marine Corp. Ltd.: *SA Drankenstein, SA Mexrivier, SA Langkloof, SA Letaba, SA Zebediela.*
05048---	F. Laeisz: *Pluvius, Plutos.*
05180---	Navigazione Arenella: *Punta Bianca.*
05260---	Harbor Trans-Oil: *Essex No. 4.*
05736---	Flota Cubana de Pesca: *Tiburon, Puerto Esperanza, Juragua, Arroyo de Mantua, Mar del Plata.*
06149---	Thomas Towing Corp.: *T-30.*
06185---	Enterprise Shipping Corp. S.A.: *Oswego Tarmac.*
06359---	Malaysian International Shipping Corp. Berhad: *Bunga Kenanga.*
06384---	Mercury Shipping Co., Ltd.: *Mercury River.*
06443---	Erjac Ocean Lines Ltd.: *Nordwoge.*
07003---	Santa Fe-Pomeroy International Ltd.: *Azteca.*
07011---	Pergamos Shipping Co. Ltd. (Cyprus): *Good Mariner.*
07366---	Compagnie Maritime des Chargeurs Reunis: *Medariana.*
07527---	Korea Line Corp.: *Jasmine.*
07544---	Gaviota Naviera Co., S.A.: *Long View.*
07565---	Bourne Shipping Co., Ltd.: *Panglobal Unity.*
07624---	Josef Roth Reederei: *Viktoria Roth, Anton Roth, Helene Roth.*
07736---	Buques Mercantes del Caribe, C.A.: *Gabrilea B.*
07824---	Swiftsure, Inc.: *Marlin.*
07911---	Seahold Shipping Co. Ltd.: *Eurobulker.*
07934---	Ship Operators of Florida, Inc.: *Martha.*
08133---	Good Commander Shipping Co. Ltd.: *Good Friend.*
08176---	Esso Italiana SpA.: *Esso Torino, Esso Milano, Esso Augusta.*
08341---	Ionia Shipping Corp.: *Irene G.*
08392---	Athenian Seatrade Co. S.A. of Panama: *Stolt Anna.*
08563---	Seven Seas Enterprise Corp. (Panama) S.A.: *Sea Adventure.*
08921---	Honorable Carriers, Inc.: *Lorana.*
08940---	Major Ned, Inc.: *Major Ned.*
09021---	Daeyang Shipping Corp. Ltd.: *Daeyang Royalty.*
09227---	Compania de Navegacion Athol S.A. Panama: *Efor.*
09284---	San Juan Tanker Corp., Liberia: *San Juan.*
09368---	Creta Maritime, Inc.: *Stolt Hera.*
09389---	Triangle Shifting & Fleeting Service Inc.: *WGH No. 9, Rebel 101 Rebel 102, Rebel 103, WGH No. 11.*
09454---	Partrederiet for Mercandian Transporter: *Mercandian Transporter.*
09469---	Stevedores, Inc.: *Agnes B.*
09483---	Powell Oil Co., Inc.: *LCT-18, L.S.C. 302.*

09538--- Interessentskapet Banya: *Banya.*
09885--- Imro Maritime S.A.: *Ibnu.*
09930--- Wisteria Shipping Corp., Inc.: *Unique Wisteria.*
09969--- White Sea Shipping Co., Ltd.: *Bermuda Sea.*
10120--- Sameiet Skaugen-Offshore Supply Ships: *Skaustream, Skaulake.*
10217--- Partenreederei M.V. Ilse Russ: *Ilse Russ.*
10254--- Hambro S.A.: *Raymar.*
10260--- Hollywood Marine, Inc.: *TCB 307.*
10333--- United River Lines, Inc.: *10, 25, 24, Orange*
10526--- Signal Compania Naviera S.A.: *Signto A.S.*
10735--- Glory Ocean Transport S.A.: *Glory Ocean.*
10772--- Flota Global S.A.: *Tokelau.*
10903--- Romen Inc.: *Irazu.*
10931--- Hansung Shipping Co., Ltd.: *Blue Uranus.*
10987--- Pescamaro, S.A.: *Pescamaro Uno.*
11005--- Reederei E. Jacob KG: *Vigrafjord.*
11052--- Southern Shipping Co.: *Santa Maria V.*
11054--- Sameiet Gorm: *Gorm.*
11272--- Corriente Navegacion Panama, S.A.: *Global Oath.*
11355--- LI-TA Shipping Co. (Pte.) Ltd.: *Pan Teck.*
11531--- Atlantic Fisheries Co., Ltd.: *Old Rock.*
11538--- Hall-Buck Marine Services Co., a joint venture of Leonard J. Buck Co., Inc., and Hall Marine Corp.: *Mid-River III.*
11600--- Duchess Shipping Co., Ltd.: *Irinio.*
11665--- Houston Oil & Minerals Corp.: *LBT No. 9.*
11715--- Windwards Steamships Corp.: *Enrus.*
11847--- Rigdale Shipping Co., S.A.: *Kato.*
12145--- Chevron U.S.A. Inc.: *J. H. Tuttle.*
12213--- Alden Shipping Co. Ltd. & Bibby Freighters Ltd.: *Volnay.*
12507--- Daewonsa Co., Ltd.: *Dae Soon.*
12508--- Hawk Navigation Inc.: *Stolt Boel.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-30863 Filed 10-21-77;8:45 am]

[6730-01]

[Docket No. 75-57]

MATSON NAVIGATION COMPANY—PROPOSED RATE INCREASES IN THE UNITED STATES PACIFIC COAST/HAWAII DOMESTIC TRADE

Environmental Negative Declaration

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis ("OEA") has determined that the environmental issues relative to the referenced docket do not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. 4321, *et seq.* and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(c) of NEPA.

This case is an investigation to determine whether the rate increases in the U.S. Pacific Coast/Hawaii trade requested by the Matson Navigation Company ("Matson") are just and reasonable or whether they are in violation of sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933. The rate increases affect 356 of the 386 commodity items for which Matson publishes rates in the U.S. Pacific Coast/Hawaii domestic trade. (Tariffs FMC-F Nos. 139, 143, 145 and 153). The increases in rates range up to 15 percent.

The OEA's Threshold Assessment Survey ("TAS") indicates that the FMC's final resolution should cause: (1) no significant increase in the use of energy; (2) no significant increase in the amounts of air, noise and water pollution produced; (3) no significant adverse impact on recyclables; (4) no significant change in routing patterns, sailing schedules and vessel use.

The TAS is available for inspection on request from the Public Information Office, Room 11413, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5764.

Any person disagreeing with the Negative Declaration shall have ten (10) days from publication of this Notice in the FEDERAL REGISTER within which to note exceptions to the Commission by filing such exceptions to the Negative Declaration with the Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573. No final Commission action shall be taken on or before November 25, 1977. If no exceptions are filed and if the Commission fails to otherwise act within twenty (20) days following the time provided for the filing of exceptions to the Negative Declaration, the determination of the Office of Environmental Analysis will be accepted by the Commission as its final determination of environmental issues.

It should be emphasized that the TAS represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the economic or legal merits of the case. Therefore, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives available.

Copies of the exceptions, if any, to the Negative Declaration and copies of all future correspondence, exhibits, and pleadings filed in this proceeding shall be served on Chief, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.77-30862 Filed 10-21-77;8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of December 1977:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

December 5-6, 9:30 a.m., Conference Rooms G and H, Parklawn Building, Rockville, Md. 20857. Open: December 5-6. Contact: Mrs. Zelia Diggs, Room 11-101, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4333.

Purpose. The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda. The entire meeting will be devoted to discussion of NIMH policy issues and will be open to the public. Discussions will include current administrative, legislative, and program developments.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish summaries of the meeting and rosters of the Council members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, National Institute of Mental Health, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3600.

Dated: October 18, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-30808 Filed 10-21-77;8:45 am]

[4110–03]

Food and Drug Administration

[Docket No. 77N–0239]

PROPOSED MODEL RETAIL FOOD STORE SANITATION ORDINANCE

Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that the Commissioner of Food and Drugs is making available for comment a proposed Model Retail Food Store Ordinance. The purpose of the ordinance is to provide the retail food store industry with sanitary standards and the State and local governments with a comprehensive model law with recommended enforcement procedures for the regulation of retail food stores.

DATE: Comments by January 24, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF–220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202–245–1511.

SUPPLEMENTARY INFORMATION: For many years the Public Health Service has provided assistance to State and local health agencies in the establishment and maintenance of food protection programs within their jurisdictions. This assistance has included the distribution of model ordinances for the regulation of food service establishments and the vending of food and beverages. A model ordinance for the retail food store industry has not previously been issued.

In June 1969, the responsibility to provide such assistance to State and local regulatory agencies was transferred to the Food and Drug Administration (FDA) (21 CFR 5.1) from another unit of the Public Health Service.

The Federal Food, Drug, and Cosmetic Act obligates FDA to regulate food held for sale after shipment in interstate commerce. The Food and Drug Administration has recognized the primary jurisdiction of State and local governments over retail food stores and has therefore concentrated its regulatory efforts on assuring the safety and sanitation of food prior to distribution to the retail food store industry.

There are about 200,000 retail food stores in the United States. It is apparent that FDA could inspect and regulate only an insignificant portion of these stores. The responsibility for regulation of retail food stores must therefore remain with State and local agencies.

Retail food store sanitation requirements established by the various State and local regulatory agencies have remained varied. It is evident that both the consumer and the retail food store industry would benefit if State and local regulatory agencies would adopt uniform requirements, known and understood by the retail food store industry, and carry out these requirements through education and appropriate enforcement.

In the past several years, State and local regulatory agencies, retail food store trade associations, food equipment manufacturers, and the U.S. Department of Agriculture have suggested that FDA issue sanitation guidelines or a model ordinance for the retail food store industry.

The Commissioner of Food and Drugs concluded that there is a need to provide State and local governments with a model ordinance that will enhance a goal of greater uniformity in regulations and promote consumer protection in the retail food store industry. Accordingly, FDA began preparation of a Model Retail Food Store Sanitation Ordinance in 1973.

Consultations were held with representatives of the retail food store industry, food equipment manufacturers, regulatory agencies, the U.S. Department of Agriculture, and other persons who have expressed an interest in a uniform document with enforceable and practical sanitary requirements.

In August 1974, the Association of Food and Drug Officials (AFDO) submitted proposed standards for the operation of retail food stores to FDA and requested publication of these standards in the FEDERAL REGISTER after appropriate review. The proposed standards submitted by AFDO were found to be compatible with the Federal Food, Drug, and Cosmetic Act; however, the standards were not in the format desired for a model ordinance for adoption by State and local regulatory agencies because they did not contain compliance procedures.

The proposed Model Retail Food Store Sanitation Ordinance incorporates much of the content of the AFDO proposed standards and includes appropriate suggestions from those other representatives with whom FDA consulted. An inspection report form and a compliance chapter were added.

The purpose of the FDA model ordinance is to provide the retail food store industry with sanitary standards and the State and local governments with a comprehensive model law with recommended enforcement procedures for the regulation of retail food stores.

Copies of the proposed ordinance are being distributed to the Federal, State, and industry groups who will be most directly affected to provide an opportunity for their comments.

Other persons interested in obtaining copies of the proposed ordinance should write to the Bureau of Foods (HFF–220), Food and Drug Administration, 200 C St. SW., Washington, D.C. 20204. A copy of the proposed ordinance is also on display in the office of the Hearing Clerk.

Written comments on the proposed ordinance should be sent on or before January 24, 1977 to the office of the Hearing Clerk (HFC–20), Room 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Dated: October 18, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77–30809 Filed 10–21–77;8:45 am]

[1505–01]

[Docket No. 77N–0244; DESI 12101]

COMBINATION DRUG CONTAINING SYROSINGOPINE AND HYDROCHLOROTHIAZIDE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

Correction

In FR Doc. 77–25408 appearing at page 44279 in the issue for Friday, September 2, 1977, in column two of page 44280, the 14th line of the first full paragraph now reading "* * * five studies. Specifically, the placebo in * * *" should be deleted and the following inserted: "* * * five studies. Specifically, the placebo patients in the * * *".

[1505–01]

[Docket No. 77N–0221]

SAFETY OF CERTAIN FOOD INGREDIENTS

Opportunity for Public Hearing

Correction

In FR Doc. 77–25405 appearing at page 44284 in the issue for Friday, September 2, 1977, in the second column, the 11th line from the top of the page reading "* * * hearing will provide an opportunity be- * * *" should be deleted entirely.

Also, in the table on page 44284, for the substance "Polymeric methyl acrylate", the number "5" should be inserted in the column for "Select committee tentative conclusion".

[4310–84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 13354 (Wash.)]

WASHINGTON

Order Providing for Opening of Public Lands

OCTOBER 14, 1977.

1. In an exchange of lands made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

WILLAMETTE MERIDIAN

T. 9 N., R. 26 E.,
Sec. 19, All of the vacated Plat of Yakitat, as recorded in Vol. 2 of plats, page 24, Records of Benton County, Washington, together with vacated street, lying within SE¼SW¼;
Sec. 21, NE¼.
T. 10 N., R. 32 E.,
Sec. 5, lots 1, 2, and 4, SW¼NW¼, SW¼SE¼NW¼, and N½NW¼SW¼.

The areas described aggregate 419.02 acres in Benton and Franklin Counties, Washington.

2. The United States did not acquire any mineral rights with the land in T. 9 N., R. 26 E.

3. The land in T. 9 N., R. 26 E. is located in Benton County, approximately 17 miles west of the community of Kennewick, Washington, in an area known as the Badger Slope. Elevation ranges from 800 to 1,465 feet above sea level and the topography is rolling to semi-mountainous. Vegetative cover is sparse and consists of scattered sagebrush and native grasses. The land has been used in the past for grazing purposes and remains chiefly valuable for that use. The land in T. 10 N., R. 32 E. is located in Franklin County, approximately 12 miles northeast of the community of Pasco, Washington, in an area known as the Juniper Forest. Elevation is about 1,000 feet above sea level and the topography is gently rolling. Vegetative cover is sparse and consists of sagebrush and native grasses. The land has been used for grazing purposes and also has value for public recreational purposes. The land in both of these areas will be managed, together with adjoining public lands, for multiple use.

4. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the the lands described in paragraph 1 hereof are hereby open (except as provided in paragraph 2 hereof) to operation of the public land laws, including the mining laws (Ch. 2, Title 30 U.S.C.) and the mineral leasing laws. All valid applications received at or prior to 10:00 a.m., November 19, 1977, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 2965, Portland, Oregon, 97208.

VIRGIL O. SEISER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-30855 Filed 10-21-77;8:45 am]

[4310-84]

[ES 17763, Survey Group 101]

WISCONSIN

Filing of Plats of Survey Official Filing Stayed in Part

OCTOBER 14, 1977.

In FR Document No. 77-26399 appearing in 42 FR 45718-45719 on September 12, 1977, the official filing date for the plats of dependent resurvey and survey of omitted lands in Sections 17 and 22, T. 33 N., R. 2 E., Fourth Principal Meridian, Wisconsin, was designated as October 12, 1977. Since a protest to the filing of the plat of Section 22 has been received, the official filing of the plat of lands in Section 22 is stayed until further notice.

The plat of Section 17 is not affected by this action; it is considered officially filed as of October 12, 1977. The subject notice remains in full force and effect as to the lands in Section 17.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-30856 Filed 10-21-77;8:45 am]

[4310-70]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Oct. 14, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 31, 1977.

WILLIAM J. MURTAGH,
Keeper of the National Register.

ALASKA

Cordova-McCarthy District

McCarthy, *McCarthy General Store*, Kennecott and Skolai Sts.

Seward District

Seward *Swetman House*, 325 5th Ave.

CALIFORNIA

Mariposa County

Mariposa vicinity, *El Portal Archeological District*, N of Mariposa

CONNECTICUT

Fairfield County

Norwalk, *South Main and Washington Streets Historic District*, 68-139 Washington St., 2-24 S Main St.

Windham County

Eastford, *Bosworth, Benjamin, House*, John Perry Rd.

GUAM

Umatac vicinity, *Creto Site*, SE of Umatac.

LOUISIANA

Orleans Parish

New Orleans, *Saenger Theater*, 1111 Canal St.

MISSOURI

Jackson County

Kansas City, *Ward, Seth E., Homestead*, 1032 W. 55th St.

St. Louis County

St. Louis vicinity, *Barretts Tunnels*, W of St. Louis at Barrett Station Rd.

NEW YORK

Broome County

Binghamton, *South Washington Street Parabolic Bridge*, S. Washington St.

Columbia County

Germantown vicinity, *Stone Jug*, S of Germantown at NY 9G and Jug Rd.

Rensselaer County

Troy, *Poesten Kill Gorge Historic District*, Poesten Kill between Spring Ave. and NY 2

NORTH CAROLINA

Dare County

Hatteras, *Hatteras Weather Bureau Station*, off NC 12

PENNSYLVANIA

Dauphin County

Hershey, *High Point (Milton S. Hershey Mansion)*, Mansion Rd.

Lehigh County

Emmaus, *Shelter House*, S. 4th St.

TEXAS

Harris County

Houston, *Houston Turn-Verein*, 5202 Alameda, Rd.

[FR Doc.77-30741 Filed 10-21-77;8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Bureau of Prisons

ADVISORY CORRECTIONS COUNCIL

Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Friday, November 11, 1977, starting at 9:00 a.m. in Conference Room B, Department of Justice, 10th and Constitution Avenue NW., Washington, D.C.

This meeting has two major purposes: (1) discussion of the proposed criminal code (particularly the Sentencing Title, Part 3 of S 1437) of the Criminal Code Reform Act of 1977; and (2) discussion of major correctional issues of national scope and concern.

Signed at Washington, D.C., this 19th day of October, 1977.

NORMAN A. CARLSON,
Director, Bureau of Prisons.

[FR Doc.77-30845 Filed 10-21-77;8:45 am]

[4410-01]

Drug Enforcement Administration

[Docket No. 77-21]

LYNN HOWARD POSSINGER, D.O.

Revocation of Registrations

On June 1, 1977, the Administrator of the Drug Enforcement Administration [DEA] issued to Lynn Howard Possinger, D.O. (hereinafter, "Respondent"), of

Philadelphia and Narberth, Pennsylvania, an Order to Show Cause as to why Respondent's DEA Certificates of Registration, AP7045594 and AP2475019, should not be revoked for reason that on April 19, 1977, in the Court of Common Pleas, Philadelphia, Pennsylvania, the Respondent was convicted of feloneously dispensing controlled substances. Simultaneously, the Administrator ordered that the aforementioned registrations be suspended during the pendency of these proceedings. On June 3, 1977, the Order to Show Cause was served on the Respondent and the suspension of his registrations was imposed.

On June 30, 1977, through counsel, the Respondent requested a hearing on the issues raised by the Order to Show Cause and the suspension of his registrations. On September 27, 1977, counsel for the DEA and the Respondent concluded and entered into a consent agreement and requested that the Administrative Law Judge accept that agreement as dispositive of all pending issues in this matter.

Subsequently, pursuant to Title 21, Code of Federal Regulations, § 1316.65, the Administrative Law Judge submitted his report and certified the record of these proceedings to the Administrator. Judge Young recommended that the Administrator issue a final order in this matter based upon the consent agreement. The consent agreement provides, in essence, that the Respondent's request for a hearing is withdrawn and that the Respondent consents to the revocation of his two certificates of registration. It further provides that on or after June 3, 1978, the DEA will accept and approve the Respondent's application for registration in Schedules III through V only, provided that the Respondent remains licensed to practice medicine (including Osteopathy), and handle controlled substances, under the laws of the State in which he practices, and provided that no new or independent grounds for revocation or denial shall then appear. The Administrator hereby accepts the Administrative Law Judge's recommendations with respect to the disposition of this matter.

Accordingly, pursuant to the authority vested in the Attorney General under Title 21, United States Code, Section 824, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the Certificates of Registration, AP7045594 and AP2475019, previously issued to Lynn Howard Possinger, D.O., be, and they hereby are, revoked, effective immediately.

Dated: October 18, 1977.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc.77-30846 Filed 10-21-77;8:45 am]

[4510-28]

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-1457]

ARMCO STEEL CORP., KANSAS CITY WORKS, KANSAS CITY, MISSOURI

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1457: 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 15, 1976, in response to a worker petition received on that date, which was filed by the United Steelworkers of America on behalf of workers and former workers producing hot rolled products, wire rods and wire products, reinforcing bars and fasteners at the Kansas City Works of Armco Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977, (42 FR 2370). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Armco Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met with regard to fasteners and criterion (4) has not been met for hot rolled products, wire rods, wire products and reinforcing bars.

Sales of all products at the Kansas City Works in terms of quantity increased by 6.4 percent from 1975 to 1976. Production of all products at the Kansas City Works in terms of quantity increased by 1.2 percent from 1975 to 1976. Sales of fasteners in terms of quantity increased by 20.6 percent from 1975 to 1976.

Customers of the Kansas City Works surveyed by the Department that purchase imported hot rolled products represent less than 2 percent of total sales of those customers surveyed. None of the customers surveyed that purchase wire products or reinforcing bars purchase imported wire products or reinforcing bars.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with hot rolled products, wire rods and wire products, reinforcing bars and fasteners produced at the Kansas City Works of Armco Steel Corp., Kansas City, Missouri did not contribute importantly to the total or partial separations of workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30875 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-2119]

DICTAPHONE CORP., BRIDGEPORT, CONN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2119: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 6, 1977 in response to a worker petition received on June 2, 1977 which was filed by the Directly Affiliated Labor Union No. 24760, AFL-CIO, on behalf of workers and former workers producing desktop cassette dictating machines at the Bridgeport, Connecticut plant of the Dictaphone Corporation.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Dictaphone Corporation, the U.S. Department of Commerce, the U.S. International

Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average weekly employment of production workers at the Bridegport factory decreased 12.6 percent in 1975 compared to 1974 and then increased 41.8 percent in 1976 compared to 1975. For the first half of 1977, employment increased 47.2 percent compared to the first half of 1976. Layoffs of production workers, which are related to the transfer of production to Japan, began on July 22, 1977. Average weekly hours worked decreased 1.2 percent in the first half of 1977 compared to the first half of 1976.

Average weekly employment of salaried workers at the Bridgeport factory decreased 3.5 percent in 1975 compared to 1974 and then increased 0.7 percent in 1976 compared to 1975. Employment of salaried workers increased 9.4 percent in the first half of 1977 compared to the first half of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of dictating equipment decreased in quantity 18.5 percent in 1975 compared to 1974 and then increased 29.6 percent in 1976 compared to 1975. Company sales increased 37.3 percent in quantity in the first half of 1977 compared to the same half of 1976.

Sales of desktop cassette dictating machines (Models 251, 254, and 261) have been increasing from May of 1976 through May of 1977, the period in which the Bridgeport plant has been producing these models.

Total production of dictating equipment at the Bridgeport plant decreased 35.4 percent in quantity in 1975 compared to 1974 and then increased 183.2 percent in 1976 compared to 1975. Total production during the first half of 1977 was ahead of total production of the first half of 1976.

Production of desktop cassette dictating machines (Models 251, 254, and 261) at the Bridgeport factory began in March of 1976. Production of these models in the second quarter of 1977 increased 288.6 percent in quantity compared to the second quarter of 1976. Production of these models of desktop cassette dictation machines declined in July of 1977 due to the shift in production to a Japanese facility.

INCREASED IMPORTS

Imports of dictating machines increased 195.7 percent from 1972 to 1974 and then decreased 20.9 percent from 1974 to 1975. Imports then increased 31.7 percent in 1976 compared to 1975 and 34.2 percent in the first half of 1976. The ratio of imports to domestic production increased from 67.7 percent in 1972 to 244.2 percent in 1976 and increased from 174.5 percent during the first half of 1976 to 209.0 percent during the first half of 1977.

CONTRIBUTED IMPORTANTLY

According to company officials, the Dictaphone Corporation made the decision to transfer the production of desktop cassette dictating machines (Models 251, 254 and 261) from its Bridgeport, Connecticut factory to a Japanese facility, with the transfer beginning during July of 1977. The company began importing these models from Japan during July and the first group of workers at the Bridgeport factory were laid off on July 22, 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with desktop cassette dictating machines produced by the Dictaphone Corporation at the Bridgeport, Connecticut plant contributed importantly to the total or partial separations of the workers and to the decrease in sales or production of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Bridgeport, Connecticut plant of the Dictaphone Corporation, engaged in the employment related to the production of desktop cassette dictating machines, who became totally or partially separated from employment on or after July 22, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30876 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-1716]

DUMAS AND CANEZ, PALMDALE, CALIFORNIA

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1716: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 1, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats and, subsequently, men's sportcoats at Dumas and Canez, Palmdale, California.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 1416[illegible]). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dumas and Canez, its customers, the National Cotton Council of America, the U.S. Department of Agriculture, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed, importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 19 percent in 1975 compared to 1974 and increased 27 percent in 1976 compared to 1975. Employment declined 57 percent in the second quarter of 1976 compared to the second quarter of 1975, then increased 44 percent and 62 percent, respectively, in the third and fourth quarters of 1976 compared to each like quarter in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of women's coats, and subsequently, men's sportcoats decreased in quantity and value 18 percent and 10 percent, respectively, in 1975 compared to 1974, and increased 15 percent and 23 percent respectively, in 1976 compared to 1975. Company sales declined 79 per-

cent and 77 percent, respectively, in the second quarter of 1976, increased 48 percent and 54 percent, respectively, in the third quarter of 1976 and 42 percent and 48 percent, respectively, in the fourth quarter of 1976 compared to each like quarter of 1975.

INCREASED IMPORTS

Imports of women's, misses' and children's coats and jackets increased in quantity in absolute terms from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 48 percent from 1975 to 1976 and increased 17 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976.

Imports of men's and boys' tailored dress coats and sportcoats increased in quantity in absolute terms from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 27 percent from 1975 to 1976 and decreased 31 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 28.2 percent and 22.0 percent, respectively, in 1975 to 32.4 percent and 24.5 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Prior to mid-May 1976 Dumas and Canez produced only women's coats, these exclusively for one manufacturer. This manufacturer neither contracts offshore nor purchases imported women's coats. Customers of the manufacturer were surveyed, and they indicated that they decreased purchases from this manufacturer and increased purchases of imported women's coats.

After mid-May Dumas and Canez produced only men's sportcoats, these exclusively for one manufacturer. This manufacturer neither contracts offshore (since 1974–1975) nor purchases imported men's sportcoats. Customers of the manufacturer were surveyed, and they indicated that they had not switched purchases from this manufacturer to imported men's sportcoats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced by Dumas and Canez, Palmdale, California contributed importantly to the separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Dumas and Canez, Palmdale, California, who became totally or partially separated from employment on or after February 14, 1976 and before July 31, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who became totally or partially separated on or after July 31, 1976 are denied certification.

Signed at Washington, D.C., this 17th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30877 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-2209]

DUNN AND MCCARTHY, INC., BINGHAMTON, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2209: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 18, 1977, in response to a worker petition received on July 18, 1977, which was filed by three workers on behalf of workers and former workers producing women's dress shoes at the Binghamton, New York plant of Dunn and McCarthy, Inc.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications of the U.S. Department of Commerce, the U.S. International Trade Commission, Dunn and McCarthy, Inc., and its customers, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibilty to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Binghamton plant of Dunn and McCarthy, Inc. decreased 12.1 percent in 1975 compared with 1974, decreased 0.4 percent in 1976 compared with 1975 and increaesd 3.1 percent in the first half of 1977 compared with the first half of 1976. Employment declined 0.8 percent in the second quarter of 1977 compared with the second quarter of 1976.

Average weekly hours worked decreased 13.5 percent in 1975 compared with 1974, increased 14.1 percent in 1976 compared with 1975 and decreased 5.3 percent in the first half of 1977 compared with the first half of 1976.

Officials of Dunn and McCarthy announced the permanent closing of all but two departments of the Binghamton plant beginning in August 1977 with the balance of production to be rescheduled in the company's Auburn, N.Y., plant.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of women's dress shoes in terms of quantity decreased 26.0 percent in 1975 compared with 1974, increased 10.8 percent in 1976 compared with 1975 and decreased 11.2 percent in the first half of 1977 compared with the first half of 1976. Production of women's shoes decreased 1.7 percent in the second half of 1976 compared with the second half of 1975.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear, except athletic, increased from 204.2 million pairs in 1972 to 218.4 million pairs in 1973, decreased to 187.6 million pairs in 1974, increased to 190.7 million pairs in 1975 before increasing 2.5 percent to 195.5 million pairs in 1976. Imports decreased from 110.4 million pairs in the first half of 1976 to 92.6 million pairs in the first half of 1977. The ratios of imports to domestic production and consumption increased from 101.7 percent and 50.4 percent, respectively, in the first half of 1976 to 119.6 percent and 54.5 percent, respectively, in the first half of 1977.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation revealed that customers had decreased purchases of women's dress shoes from Dunn and McCarthy while increasing their purchases of imported women's shoes. Customers indicated that they had increased purchases of imports because of the price advantage offered, further indicating that with recent improvements in the quality, styling and workmanship of imports, their shoes have become even more attractive to domestic consumers.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with women's dress shoes produced by the Binghamton, New York plant of Dunn and McCarthy, Inc. contributed importantly to the decline in production and to the total or partial separations of the workers of that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of women's dress shoes, at the Binghamton, New York plant of Dunn and McCarthy, Inc., who became totally or partially separated from employment on or after June 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of Trade Act of 1974.

Signed at Washington, D.C. this 13th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30878 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-2038, 2039]

ELDER MANUFACTURING CO., WEBB CITY AND CARL JUNCTION, MISSOURI

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2038, 2039: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 2, 1977 in response to a worker petition received on April 26, 1977 which was filed by three workers on behalf of workers and former workers producing men's and boys' woven dress and sport shirts at the Webb City and Carl Junction, Mo., plants of Elder Manufacturing Co.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Elder Manufacturing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Annual average employment of hourly production workers at the Webb City and Carl Junction, Mo., plants of Elder Manufacturing Co., decreased 33.4 percent from 1974 to 1975, 12.9 percent from 1975 to 1976, and 38.7 percent in the first four months of 1977 compared to the same period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's and boys' dress and sport shirts produced at the Webb City and Carl Junction plants declined 8.4 percent in quantity from 1974 to 1975, 20.2 percent from 1975 to 1976, and 32.6 percent in the first four months of 1977 compared to the same period in 1976.

Production at the Webb City and Carl Junction plants decreased 23.6 percent in quantity from 1974 to 1975, 10.8 percent from 1975 to 1976, and 67.6 percent in the first four months of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of men's and boys' woven dress and business shirts decreased from 70,666 thousand units in 1972 to 30,800 thousand units in 1975, and then increased to 64,283 thousand units in 1946. Imports increased from 11,099 thousand units in the first quarter of 1976 to 16,011 thousand units in the first quarter of 1977. The ratio of imports to domestic production decreased from 33.4 percent in 1972 to 27.3 percent in 1974 and then increased to 40.9 percent in 1976.

Imports of men's and boys' woven sport shirts decreased from 56,285 thousand units in 1972 to 41,600 thousand units in 1973 and then increased steadily to 79,820 thousand units in 1976. Imports decreased from 15,701 thousand units in the first quarter of 1976 to 14,852 thousand units in the same period of 1977. The imports to domestic consumption ratio decreased from 26.8 percent in 1972 to 22.3 percent in 1973 and then increased to 33.6 percent in 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed that most customers of Elder Manufacturing Co. that were surveyed indicated they either purchase imports directly or that a percentage of the shirts they buy from domestic sources are manufactured offshore. Some customers indicated they were increasing purchases of imports while decreasing their purchases from Elder.

Elder Manufacturing Co. increased its purchases of imported shirts similar to those produced at Webb City and Carl Junction by 40.2 percent from 1974 to 1976. Company imports increased 91.3 percent in the first four months of 1977 compared to the same period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' woven dress and sport shirts produced at the Webb City and Carl Junction, Mo., plants of Elder Manufacturing Co., contributed importantly to the total or partial separation of the workers at those plants and to the decrease in sales or production at the firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Elder Manufacturing Co., Webb City and Carl Junction, Mo., who became totally or partially separated from employment on or after April 21, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30879 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-1602]

INLAND STEEL CO., INDIANA HARBOR WORKS, EAST CHICAGO, IND.

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-1602: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 26, 1977, in response to a worker petition received on that date which was filed by the United Steelworks of America on behalf of workers and former workers engaged in employment related to the production of carbon steel plates, structural shapes, and hot rolled bars at the Indiana Harbor Works of the Inland Steel Co., in East Chicago, Ind.

The Notice of Investigation was published in the FEDERAL REGISTER on February 11, 1977 (42 FR 8732). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Inland Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are

threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for carbon steel plates and structural shapes. Furthermore, without regard as to whether any of the other criteria has been met, criteria (1) and (2) have not been met with regard to the production of carbon steel hot rolled bar.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

A. PLATES

Average employment declined 19.2 percent in 1975 as compared to 1974 and declined 2.1 percent in 1976 as compared to 1975.

STRUCTURAL SHAPES

Average employment declined 17.0 percent in 1975 as compared to 1974 and declined 22.1 percent in 1976 as compared to 1975. Average employment continued to decline 10.6 percent in the first six months of 1977 as compared to the like period of 1976.

C. HOT ROLLED BAR

Average employment declined 5.9 percent in 1975 as compared to 1974 before increasing 11.3 percent in 1976 as compared to 1975. Employment continued to increase 19.0 percent in the first six months of 1977 as compared to the like period of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

A. PLATES

Shipments in quantity of carbon steel plate declined 10.8 percent in 1976 as compared to 1975 and continued to decline 4.0 percent in quantity in the first six months of 1977 as compared to the like 1976 period.

B. STRUCTURAL SHAPES

Shipments of carbon steel structural shapes declined 18.3 percent in quantity in 1976 as compared to 1975 and continued to decline 7.5 percent in the first six months of 1977 as compared to the like 1976 period.

C. HOT ROLLED BAR

Shipments of hot rolled bar increased 16.2 percent in quantity in 1976 as compared to 1975 and continued to increase 5.1 percent in the first six months of 1977 as compared to the like period of 1976.

INCREASED IMPORTS

A. PLATES

Imports of carbon steel plate decreased from 1,699.0 thousand short tons in 1974 to 1,353.0 thousand shorts tons in 1975 and then increased 15.0 percent in 1976 to 1,555.4 thousand short tons. Imports increased to 793.0 thousand short tons in the first six months of 1977 compared with 690.3 thousand short tons in the like period of 1976.

The ratio of imports to domestic shipments of carbon steel plate increased from 18.8 percent in 1974 to 19.4 percent in 1975 and then to 27.7 percent in 1976. The ratio increased to 25.7 percent in the first six months of 1977 compared to 23.5 percent in the like period of 1976.

B. STRUCTURAL SHAPES

Imports of carbon steel structural shapes decreased from 1,142.7 thousand short tons in 1974 to 804.9 thousand short tons in 1975 an increase to 1,351.4 thousand short tons in 1976. Imports increased to 716.3 thousand short tons in the first six months of 1977 compared to 542.6 thousand short tons in the like period of 1976.

The ratio of imports to domestic shipments of carbon steel structural shapes decreased from 19.7 percent in 1974 to 19.5 percent in 1975, and then increased to 40.0 percent in 1976. The ratio increased to 40.2 percent in the first six months of 1977 compared with 30.2 percent in the like period of 1976.

CONTRIBUTED IMPORTANTLY

The Department's investigation revealed customers surveyed have reduced purchases of carbon steel plates and structural shapes from the Indiana Harbor Works and have increased purchases of imported carbon steel plates and structural shapes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel plates and structural shapes have contributed importantly to the total or partial separations of workers producing such products at the Indiana Harbor Works of the Inland Steel Co., in East Chicago, Ind. In accordance with the provisions of Trade Act of 1974, I make the following certification:

All workers engaged in employment related to the production of carbon steel plate and structural shapes at the Indiana Harbor Works of the Inland Steel Co., in East Chicago, Ind., who became totally or partially separated from employment on or after December 7, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increased imports of carbon steel hot rolled bars have not contributed importantly to the total or partial separations of workers producing steel bars at the Indiana Harbor Works of the Inland Steel Co., in East Chicago, Ind.

Signed at Washington, D.C., this 17th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-30880 Filed 10-21-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropirate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 5th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cypress Bruce Corp. (USWA).	Bagdad, Ariz.	Sept. 30, 1977	Sept. 20, 1977	TA-W-2,418	Mining and concentrating of copper.
Duval Corp., Esperanza property (USWA).	Tucson, Ariz.	do	do	TA-W-2,419	Do.
Phelps Dodge Corp., Douglas reduction (USWA).	Douglas, Ariz.	do	do	TA-W-2,420	The smeltering of copper.
Phelps Dodge Corp., New Cornelia branch, Ajo smelter (USWA).	Ajo, Ariz.	do	do	TA-W-2,421	Mining, concentrating, and smelting of copper.
Phelps Dodge Corp., Copper Queen branch (USWA).	Bisbee, Ariz.	do	do	TA-W-2,422	Mining and concentrating of copper.
Phelps Dodge Corp., Morenci branch (USWA).	Morenci, Ariz.	do	do	TA-W-2,423	Mining, concentrating, and smelting of copper.
Phelps Dodge Corp., Tyrone branch (USWA).	Tyrone, N. Mex.	do	do	TA-W-2,424	Mining, concentrating, crushing, and smelting of copper.
Solo Products Corp. (workers).	Juncos, Puerto Rico.	Sept. 28, 1977	Sept. 6, 1977	TA-W-2,425	Hair pins and accessories.

[FR Doc.77-30870 Filed 10-21-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C., this 6th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Armco Steel Corp., Middletown Works (workers).	Middletown, Ohio.	Oct. 5, 1977	Sept. 30, 1977	TA-W-2,426	Hot rolled, cold rolled, and coated steel coils and sheets.
Ametek, Inc., Ametek, Schutee & Koerting Division, Whitlock Plant (IUE).	West Hartford, Conn.	Sept. 30, 1977	Sept. 22, 1977	TA-W-2,427	Heat exchangers.
F/V Divine Creador (workers).	Provincetown, Mass.	do	Sept. 20, 1977	TA-W-2,428	Catching and selling of fish.
Jemy Sportswer, Inc. (workers).	New Bedford, Mass.	Oct. 3, 1977	Sept. 28, 1977	TA-W-2,429	Women's misses' and juniors' outerwear.
F/V Johnny O. (workers).	Provincetown, Mass.	Sept. 30, 1977	Sept. 20, 1977	TA-W-2,430	Catching and selling of fish.
F/V Memco (workers)	do	do	do	TA-W-2,431	Do.
Oahu Sugar Co., Ltd. (workers).	Waipahu, Hawaii	Sept. 19, 1977	Sept. 12, 1977	TA-W-2,432	Process sugar cane and raw sugar.
F/V Reneva (workers)	Provincetown, Mass.	Sept. 30, 1977	Sept. 20, 1977	TA-W-2,433	Catching and selling of fish.
Zi-Pep Coats Corp. (workers).	Brooklyn, N.Y.	do	Sept. 16, 1977	TA-W-2,434	Ladies' coats.

[FR Doc.77-30871 Filed 10-21-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitionstantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 11th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Colonial Wood Heel (workers).	Lynn, Mass.	Oct. 4, 1977	Sept. 28, 1977	TA-W-2,435	Finished heels for ladies' shoes.
Daniel Green Co. (workers.	Dolgeville, N.Y.	Oct. 5, 1977	Sept. 30, 1977	TA-W-2,436	Men and women's slippers and women's street shoes.
Gaynor-Stafford Industries, Inc. (company).	Stafford Springs, Conn.	Oct. 7, 1977	Oct. 3, 1977	TA-W-2,437	Knitting, dyeing, printing, and finishing of man-made textile fabrics.
Gaynor-Stafford Industries, Inc. (workers).	New York, N.Y.	Oct. 6, 1977	do	TA-W-2,438	Sales office.
Semi Conductor Circuits, Inc. (workers).	Haverhill, Mass.	Oct. 4, 1977	Sept. 29, 1977	TA-W-2,439	Power supplies for electronic equipment.
U.S. Stamping Co. (USWA).	Moundsville, W. Va.	do	Sept. 27, 1977	TA-W-2,440	Porcelain enamel cookwear.
Victor United, Inc. (company).	Chicago, Ill.	Oct. 5, 1977	Sept. 30, 1977	TA-W-2,441	Handheld, desk top and program calculators and cash registers.

[FR Doc.77-30872 Filed 10-21-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221 (a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Zenith Radio Corp. (workers).	Glenview, Ill.	Oct. 6, 1977	Sept. 28, 1977	TA-W-2,442	The researching and designing of TV sets.
Zenith Radio Corp. Franklin Park (IRWA).	Chicago, Ill.	Oct. 12, 1977	Oct. 3, 1977	TA-W-2,443	Parts and service.
Zenith Radio Corp.	do	do	do	TA-W-2,444	Warehousing of all Zenith's products.
Do	do	do	do	TA-W-2,445	Hearing aids.
Do	do	do	do	TA-W-2,446	Color television, subchassis and final assembly.
Do	do	do	do	TA-W-2,447	Components for color televisions.
Do	do	do	do	TA-W-2,448	Black and white television assembly.
Do	do	do	do	TA-W-2,449	Warehousing of all Zenith's products.
Do	Northlake, Ill.	do	do	TA-W-2,450	Distributor (warehouse) for Chicago area.
Zenith Radio Corp., Northlake (IRWA).	Chicago, Ill.	Oct. 6, 1977	do	TA-W-2,451	Distribution warehouse for Chicago area.
Zenith Radio Corp. (IRWA).	do	Oct. 12, 1977	do	TA-W-2,452	Color TV chassis, chromatic switch assembly, tuner bracket assembly, and module circuit board assembly.
Zenith Electronics Corp. of Iowa (IAMAW).	Sioux City, Iowa.	Oct. 6, 1977	Sept. 30, 1977	TA-W-2,453	TV's, stereo electronic components.
Zenith Electronics Corp. of Missouri (IBEW).	Springfield, Mo.	Oct. 12, 1977	Oct. 4, 1977	TA-W-2,454	Assembly and subassembly of chassis, tuners, and complete assembly of color TV sets for sales purposes.
Zenith Electronics Corp. of Indiana (company).	Evansville, Indiana (No. Fulton Ave.).	do	do	TA-W-2,455	Televisoin and stereo products and component parts thereof.
Do	Evansville, Indiana (Lynch Rd.).	do	do	TA-W-2,456	Do.
Zenith Electronics Corp. of Pennsylvania, Audio Division (company).	Watsontown, Pa.	do	do	TA-W-2,457	Do.
Zenith Electronics Corp. of Pennsylvania (company).	Lansdale, Pa.	do	do	TA-W-2,458	Do.
Zenith Radio Corp. (company).	Elk Grove, Ill.	do	do	TA-W-2,459	Do.
Zenith Radio Corp., Rauland Division (company).	Melrose Park, Ill.	do	do	TA-W-2,460	Do.
Central Electronics Co. (company), Paris Division.	Paris, Ill.	do	do	TA-W-2,461	Do.

[FR Doc.77-30873 Filed 10-21-77;8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total

or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the invesigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 4, 1977.

The petitions filed in this case are available for inspection at the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Classic Weaving Corp.	North Bergen, N.J.	Oct. 6, 1977	Sept. 27, 1977	TA-W-2,462	Textile weaving for furniture.
Heckett (USWA)	Seattle, Wash.	Oct. 4, 1977	do	TA-W-2,463	Removal of steel from slags and scales and other waste matters for Bethlehem Steel Corp., Seattle, Wash.
Richard Tanning Co., Inc.	Salem, Mass.	Oct. 6, 1977	Oct. 3, 1977	TA-W-2,464	Preparation of sheepskin suede garments.
U.S. Steel Corp., American Bridge Division, Shiffler Plant (USWA).	Pittsburgh, Pa.	Oct. 4, 1977	Sept. 1, 1977	TA-W-2,465	Transmission towers.

[FR Doc.77-30874 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-2160]

PASSAIC ENGRAVING CO., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2160: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 20, 1977, in response to a worker petition received on June 17, 1977, which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers manufacturing, engraving and repairing copper rollers at Passaic Engraving Company, Passaic, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Machine Printers and Engravers Association, officials of Passaic Engraving Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such form or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of engraved rotary screens.

Engraved copper rollers would be imported under TSUSA Item 668.3400, Print Blocks and Print Rollers. Industry sources report there are no known imports of engraved or unengraved rollers. Shipping costs of imported engraved screens are prohibitive due to the special packaging required to protect the surface of the screen, and quickly changing fashion trends make the time delays inherent in importation of engraved screens unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved by workers at Profile Industries, Inc., Passaic, N.J., have not increased as required in section 222 of the Trade Act of 1974. The petition is, therefore denied.

Signed at Washington, D.C., this 12th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30881 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-2194]

PROFILE INDUSTRIES, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2194: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 5, 1977 in response to a worker petition received on July 5, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving rotary screens at Profile Industries, Passaic, N.J.

The notice of investigation was published in the FEDERAL REGISTER on July 15, 1977 (42 FR 36513). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Profile Industries, the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of engraved rotary screens.

Engraved rotary screens would be imported under TSUSA Item 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of engraved rotary screens. Shipping costs of imported engraved screens are prohibitive due to the special packaging required to protect the surface of the screen, and quickly changing fashion trends make the time delays inherent in importation of engraved screens unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers manufactured, engraved, and repaired by workers at Passaic Engraving Co., Passaic, N.J., have not increased as required in section 222 of the Trade Act of 1974. The petition is, therefore denied.

Signed at Washington, D.C., this 12th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30882 Filed 10-21-77;8:45 am]

[4510-28]

[TA-W-1470]

WHEELING-PITTSBURGH STEEL CORP., YORKVILLE, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1470: 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 15, 1976 in response to a worker petition received on December 15, 1976 which was filed on behalf of workers at the Yorkville, Ohio, plant of Wheeling-Pittsburg Steel Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977, (42 FR 1544). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corp., its customers the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic productions; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important that any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) was not met.

The Department's investigation revealed that the Yorkville plant of Wheeling-Pittsburgh Steel Corp., produced tin plate, tin free steel, black plate, blued plate and cold rolled sheets.

Sales, in quantity, of these products decreased 19 percent in 1975 from 1974 and increased 8 percent in 1976 from 1975. Production, in quantity, of these products decreased 12 percent in 1975 from 1974 and increased 8 percent in 1976 from 1975.

CONCLUSION

After careful review of the facts obtained in the investigation. I conclude that sales or production of tin plate, tin free steel, cold rolled sheets, black plate and blued plate produced at the Yorkville, Ohio, plant of Wheeling-Pittsburgh Steel Corp., did not decline as required for certification under section 223 of the Trade Act of 1974.

Signed at Washington, D.C., this 17th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-30883 Filed 10-21-77;8:45 am]

[4510-29]

Pension and Welfare Benefit Programs

EMPLOYEE PENSION PLAN

Pendency of Proposed Exemption Relating to a Transaction Involving Heavy and General Laborers' Welfare Fund of New Jersey (Application No. L-684)

AGENCY: Department of Labor.

ACTION: Proposed exemption.

SUMMARY: This proposed exemption would exempt from the restrictions of sections 406(a)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) the purchase by Heavy and General Laborers' Welfare Fund of New Jersey (the Plan) of a parcel of property from the Heavy and General Laborers' Local No. 474 (the Union).

DATES: Written comments and requests for a public hearing must be received by the Department of Labor (the Department on or before November 30, 1977.

ADDRESS: All written comments and all requests for a hearing (preferably six copies) should be addressed to Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Exemption Application No. L-684. The application for exemption and all comments relating thereto will be available for public inspection at the Public Documents Room of Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Stephen Elkins, Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216; 202-523-8196. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of Labor (the Department) of an application for exemption from the restrictions of sections 406(a)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act). The pending exemption was requested in an application filed by the trustees of the Heavy and General Laborers' Welfare Fund of New Jersey (the Plan) pursuant to section 408(a) of the Act, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains representations with regard to the pending exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the trustees of the Plan.

The Plan seeks to purchase a parcel of real property located at 680–692 Raymond Boulevard in Newark, N.J. Title to the property has been held by the Union since 1957. The property, encompassing approximately 18,000 square feet, presently is used as a parking facility, and is adjacent to the building which houses Plan offices and a dental clinic which is sponsored by the Plan.

The participants and beneficiaries of the Plan visit Plan offices and the dental clinic in the ordinary course of their dealings with the Plan. Such visits are most often made by private automobile. The property in question affords the only available parking facilities near the offices and dental clinic.

The Union wishes to sell the property, having no present use for it. Although Plan participants and beneficiaries have been allowed to park upon the property by informal arrangement, the Union will seek a buyer for the property on the open market unless the Plan purchases the property. If the property were sold to a third party, the Plan would have to purchase the property from such third party so that access to Plan facilities by private automobile could continue. Any price paid to such third party would likely be higher than the price the Union has quoted the Plan.

The proposed purchase price is $45,000.00, which is based on an appraisal made by Leon Abramson, an MAI appraiser, who certifies to having no interest in the property or with the parties to the transaction. The proposed purchase would be for cash, with no installment payments or mortgage involved.

On or before November 1, 1977, notice of pendency of the proposed exemption will be posted for a period of not less than thirty days in conspicuous places at the Union Hall and in the lobby of the Plan offices.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to the plan to which the exemption is applicable from certain other provisions of the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act;

(2) The pending exemption, if granted, will not extend to transactions prohibited under section 406(b)(1) and 406(b)(3) of the Act;

(3) Before an exemption may be granted under section 408(a) of the Act, the Departmen must find that the exemption is administratively feasible, in the interests of the plan and of the participants and beneficiaries of the plan, and protective of the rights of such participants and beneficiaries; and

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) All interested persons are invited to submit written comments on the pending exemption contained herein. Such comments should be sent to the address above, within the time period set forth. In addition, any interested person may submit a written request that a hearing be held relating to the pending exemption. Such request should be sent to the address above, within the time period set forth, and should state the reasons for such person's interest in the pending exemption. All comments and requests will be made part of the record. The comments and the application for exemption will be available for public inspection at the address set forth above.

Pending Exemption

Based on the representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a)(1) and 406(b)(2) shall not apply to the purchase by the Plan of a parcel of property located at 680–692 Raymond Boulevard, Newark, from the Union, for $45,000, the fair market value of such property.

The pending exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 20th day of October 1977.

Ian D. Lanoff,
Administrator of Pension and Welfare, Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc.77–30981 Filed 10–21–77;8:45 am]

[4830–01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Proposal to Grant an Exemption Relating to a Transaction Involving the McCrone Employees Pension Plan (Application No. D–631)

AGENCIES: Department of the Treasury/Internal Revenue Service, Department of Labor.

ACTION: Proposal for an exemption.

SUMMARY: This notice contains a proposal for an exemption from the Prohibited Transactions Provisions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code (the Code). This exemption, if granted, would permit the McCrone Employees Pension Plan (the Plan) to sell certain plan assets to Walter C. McCrone Associates, Inc. (the Employer).

DATES: Written comments and requests for a public hearing must be received by the Internal Revenue Service (the Service) on or before November 24, 1977.

ADDRESS: All written comments and requests for a hearing (preferably six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 Attention: E:EP:PT (D–631).

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224, (Attention: E:EP:PT) (202–566–3045). This is not a toll free number.

SUPPLEMENTARY INFORMATION:

Requested Exemption

The Employer and the Plan have requested an exemption from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975 (c)(1)(A) through (E) of the Code and from the restrictions of section 406(a)(1) and 406(b)(1) and (2) of the Act. This application was filed pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act, and in accordance with the procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722 and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Summary of Representations

The application contains representations with regard to the pending exemption which are summarized below. In-

terested persons are referred to the application and supporting documents on file with the Service and the Department of Labor (the Department) for a complete statement of the representations of the Applicants.

1. The Employer, a Delaware corporation, operates a research laboratory in Chicago, Illinois providing analytical and consulting services to government and industry. The Employer adopted a qualified pension plan that had 35 participants on November 8, 1976.

2. A parcel of real estate located at 2820 South Michigan Avenue in Chicago was purchased by the Employer for the purpose of erecting new facilities. The Employer, unable to obtain outside financing, tuned to the Plan with an investment proposition. After consideration by the Plan trustees, a partnership, known as 2820 South Michigan Company (the Partnership), was formed as of July 1, 1972, with the Plan as a 75 percent partner and the Employer as a 25 percent partner. The Partnership's sole asset is the real estate and building located at 2820 South Michigan Avenue (the Property) which is currently leased to the Employer for a term ending July 31, 1882.

3. The Plan was terminated effective as of May 31, 1976. Proper notice of such termination was filed with the Pension Benefit Guaranty Corporation on May 19, 1976. The trustees of the trust funding the Plan desire to distribute all of the assets of the trust to Plan participants in accordance with section 4044 of the Act, as supplemented by the Plan's termination provisions.

4. The Employer's cash position had deteriorated and the trustees attempted to have the Partnership sell the Property. The Mutual Benefit Life Insurance Company (Mutual Benefit), which administers approximately one-half of the Plan assets, was contacted about purchasing the Property. In 1975, Mutual Benefit rejected the Partnership's offer because of the Employer's financial position as well as the existence of an excess of office space in the Chicago rental market which would make it difficult to lease the Property in the event something were to happen to the Employer. The Partnership then contacted several banks and a real estate syndicator, none of whom showed any interest in acquiring the Property.

5. The Plan proposes to sell its 75 percent interest in the Partnership to the Employer on the basis of the appraised value of the Partnership Property. Two independent appraisals have estimated the market value of the Property to be betweenn $630,000 and $660,000. The Employer, however, does not have the funds available for a cash purchase and has offered to pay an amount equal to the higher appraised value in installments over five years, to be evidenced by the Employer's 8 percent installment notes.

6. The proposed sale of the Property to the Employer would result in the Plan receiving $217,733.25 for the Plan's Partnership interest after deducting the balance due on the mortgage as of May 31, 1976. The Plan assets, in addition to the interest in the Partnership, consisted of an account at Mutual Benefit with a value of $145,707.79 and a savings account at Hyde Park Bank and Trust Company with a balance of $33,434.23. The Plan, as of May 31, 1976, also had an interest valued at $8,156.25 in the cash and escrow of the Partnership, making the total cash available to the Plan $187,298.27.

7. The present value of the accrued benefits of all participants in the Plan as of May 31, 1976, was $443,167, including $272,385 for Dr. McCrone, Chairman of the Board, Lucy B. McCrone, Secretary, and James S. Martin, Comptroller and former President of the Employer. The net fair market value of the Plan assets, including the Partnership interest on that date was $405,031.52.

8. The trustees, consisting of Dr. McCrone and James S. Martin, have determined that it would be in the best interests of Plan participants to distribute only cash to all participants except themselves and Lucy McCrone. The McCrones and Mr. Martin have consented to such a distribution. As a result of this proposed distribution, those participants who wish to do so may take advantage of the rollover provisions of the Act by paying the amounts received in the distribution into an individual retirement account. As of May 31, 1976, $170,782 in cash was necessary to fund such a distribution.

9. The notes received from the Employer, together with the remaining cash of the Plan, would be distributed to the McCrones and Mr. Martin. On the basis of the May 31, 1976 valuation, the McCrones and Mr. Martin will receive a total of 86 percent of their accrued benefit, while all other participants will receive a cash distribution equal to 100 percent of their accured benefit.

Notification of Interested Persons

Within 10 days after publication by the Service and the Department of this proposal for an exemption, all interested persons will be notified by mailing a copy of this notice of a proposal to grant the exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act. The proposed exemption does not affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption contained herein does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code or section 406(b)(3) of the Act;

(3) Before an exemption may be granted under section 4975(c)(2) of the Code and section 408(a) of the Act, the Internal Revenue Service and the Department of Labor must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries, and protective of the rights of such participants and beneficiaries; and

(4) The proposed exemption contained herein is supplemental to, and not in derogation of, any other provisions of the Code and Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

Pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act, the Agencies are required to offer an opportunity for a public hearing where a proposal for an exemption relates to section 4975(c)(1)(E) or (F) of the Code and section 406(b) of the Act. Any interested person may submit a written request that a hearing be held relating to the proposal for an exemption. Such a written request must be received by the Service on or before November 24, 1977, and should state the reasons for such person's request for a hearing and the nature of such person's interest in the proposal for an exemption. All interested persons also are invited to submit written comments on the proposal for an exemption set forth herein. In order to receive consideration, such comments must be received by the Service on or before November 24, 1977. All written comments (preferably six copies) and all requests for a hearing should be addressed to Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT (D-631). All such comments will be made part of the record, and will be available for public inspection at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. 20224, and at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

PROPOSED EXEMPTION

Based on the representations set forth in the application, the Agencies are considering granting the requested exemption under the authority of section 4975 (c) (2) of the Code and section 408(a) of the Act and in accordance with procedures set forth in Rev. Proc. 75–26, 1975–1 C.B. 722 and ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) (1) (A) through (E) of the Code and the restrictions of section 406(a) and 406(b) (1) and (2) of the Act shall not apply to the sale of the Plan's interest in the Partnership to the Employer in exchange for interest bearing notes of the Employer, pursuant to the terms, conditions, and representations set forth in the application.

The proposal for an exemption, if granted, will be subject to the express conditions that material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 18th day of October 1977.

FRED J. OCHS,
Director, Employee Plans Division, Internal Revenue Service.

IAN LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc.77–30815 Filed 10–19–77;10:52 am]

[7590–01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

BOSTON EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 26 to Facility Operating License No. DPR–35, issued to Boston Edison Co. (the licensee), which revised Technical Specifications for operation of Unit No. 1 of the Pilgrim Nuclear Power Station (the facility) located near Plymouth, Mass. The amendment is effective as of its date of issuance.

The amendment incorporated minimum qualifications for the Radiation Protection Supervisor, in response to the NRC letter dated March 15, 1977. The minimum qualifications are more stringent than those of the previous specification and are those set forth in Regulatory Guide 1.8, "Personnel Selection and Training".

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 23, 1977, (2) Amendment No. 26 to License No. DPR–35, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Mass. 02360. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of October, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–30692 Filed 10–21–77;8:45 am]

[7590–01]

[Docket No. 50–220]

NIAGARA MOHAWK POWER CORP.

Issuance of Facility License Amendment

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. DPR–63 to the Niagara Mohawk Power Corp. (the licensee) which revised Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to permit operation of the facility with one isolation condenser continuously inoperable until the end of Cycle 5.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commision has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated September 16, 1977, (2) Amendment No. 19 to License No. DPR–63, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. 13126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 14th day of October 1977.

For the Nuclear Regulatory Commission,

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–30693 Filed 10–21–77;8:45 am]

[7590–01]

[Docket Nos. 50–282 and 50–306]

NORTHERN STATES POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 23 and 17 to Facility Operating License Nos. DPR–42 and DPR–60, issued to the Northern States Power Co. (the licensee), which revised the licenses for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minn. The amendments are effective as of their date of issuance.

On August 16, 1977, the Commission issued Amendment Nos. 22 and 16 to the above-referenced licenses that permitted the licensee to modify the Prairie Island Unit Nos. 1 and 2 spent fuel storage pool (42 FR 42933, published August 25, 1977). This modification included replacing the old racks of the pool with new racks having a capacity for storage of a greater number of fuel assemblies. The August 16 amendments prohibited shipment of the old racks offsite, pursuant to the Commission Atomic Safety and Licensing Board's (ASLB) Initial Decision dated August 12, 1977.

The currently issued amendments authorized the licensee to crate intact and ship offsite the old racks from the spent fuel storage pool. This action is pursuant to an Order by the ASLB dated September 21, 1977.

The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration different from that considered at the time of publishing of the "Notice of Consideration of Modification to Facility Spent Fuel Storage Pool" in the FEDERAL REGISTER on January 10, 1977 (42 FR 2140).

The Commission has determined that the issuance of these amendments authorizing shipment of the old racks offsite will not result in any significant environmental impact different from that previously assessed in its environmental impact appraisal issued on April 18, 1977, entitled "Discussion and Conclusions by the Office of Nuclear Reactor Regulation Relating to Environmenal Considerations Association with Modifications to the Spent Fuel Pool of the Prairie Island Nuclear Generating Station Units 1 and 2". Therefore, an additional environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments for the shipment of the old racks.

For further details with respect to this action, see (1) the ASLB Order dated September 21, 1977, (2) Amendment Nos. 23 and 17 to License Nos. DPR–42 and DPR–60, respectively, (3) the Commission's Safety Evaluation dated April 15, 1977, (4) the Commission's Environmental Impact Appraisal dated April 18, 1977, and (5) the Initial Decision of the Atomic Safety and Licensing Board dated August 12, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A single copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of October, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc.77–30694 Filed 10–21–77;8:45 am]

[7590–01]

STATE LIAISON OFFICERS' MEETING

On October 26 and 27, 1977, the Nuclear Regulatory Commission is sponsoring a meeting with State Liaison Officers to discuss mutual regulatory interests. The participants will discuss NRC-State relations generally, as well as, memoranda of understanding, joint hearings, NRC organizational structure, waste management and early site reviews, common data bases and environmental reviews. The meeting will be conducted at the Nuclear Regulatory Commission Headquarters at 1717 "H" Street NW., Washington, D.C., in the Commissioners' Conference Room on the 11th floor. The meeting will take place from 1 p.m. until 5 p.m. on Wednesday, October 26 and from 9 a.m. until 5 p.m. on Thursday, October 27, 1977. Questions regarding this meeting should be directed to Sheldon A. Schwartz at 492–7794.

Dated at Bethesda, Md., this 14th day of October, 1976.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc.77–30691 Filed 10–21–77;8:45 am]

[7590–01]

[Docket No. 50–281]

VIRGINIA ELECTRIC & POWER CO. (SURRY POWER STATION, UNIT NO. 2)

Order for Modification of License

I

Virginia Electric & Power Co. (the licensee) is the holder of Facility Operating License No. DPR–37 which authorizes the operation of the nuclear power reactor known as Surry Power Station, Unit No. 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactor is a pressurized water reactor (PWR) located at the licensee's site in Surry County, Va.

II

On April 1, 1977, the staff issued an Order for Modification of License No. DPR–37 which addressed operation of Surry Power Station Unit No. 2 under conditions in which steam generator tubes have been plugged as a result of tube denting caused by corrosion of the tube support plate in the annular spaces between tube and the tube support plate. On August 17, 1977, an Order was issued to permit continued operation of Unit No. 2 to September 15, 1977, under the conditions of the April 1, 1977 Order. The licensee was required to perform an inspection after the September 15 shutdown. The licensee's fuel cycle for Surry Unit No. 2 ended before September 15, 1977, and during the resulting shutdown the licensee performed the required inspection and plugged 180 additional tubes. Twenty-one tubes were plugged because of wastage degradation; the remaining 159 tubes were plugged following the denting plugging criteria given in the licensee's September 30, 1977 submittal. The data derived from the inspection demonstrates that the denting has followed the pattern predicted by the prevention plugging criteria established by the licensee with the staff. The additional plugging performed as a result of the inspection using the preventive plugging criteria will provide adequate steam generator integrity under the conditions of this Order for continued operation for an additional six month period. Four tubes in generator C were inadvertently not plugged. The staff has evaluated the the potential effect that may be associated with these susceptible tubes. With the stringent limits under which this facility has been operating, leakage through these tubes would be detectable and the crack, if any, would be stable. Nevertheless, if the generator is inspected for any reason during the next six months, those four tubes are to be plugged, in addition to any other required corrective action. The NRC staff has evaluated the results of this inspection and repair program and has assessed continued safe operation of the facility. This evaluation is set forth in the staff's concurrently issued Safety Evaluation relating to steam generator tube integrity.

Continued growth of the tube support plate continues to impose stresses on the tubes and may result in the development of stress corrosion cracks in denting locations. The staff has considered the effect of the development of stress corrosion cracking during the course of operation of this facility, and has assessed the effect of such cracks in conjunction with the steam line break and loss of coolant accident events. The staff has concluded that under the limitations on the tube leakage set forth in this Order, the effect of continued denting on LOCA events or on the consequences of the steam line break event would continue to be within those considered in connection with the April 1, 1977, Order. The limitations set forth in this Order will provide reasonable assurance that the public health and safety will not be endangered.

The licensee has proposed in his September 30, 1977, and October 6, 1977, submittals and after discussions with the NRC staff to continue the limitations applicable to this facility in the manner set forth in this Order. The NRC staff believes that the licensee's actions, under the circumstances are appropriate and should be confirmed by NRC Order.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Va., (1) licensee's submittals of September 30, 1977, and October 6, 1977, (2) Orders for Modification of License dated April 1 and August 17, 1977, (3) this Order for Modification of License In the Matter of Virginia Electric and Power Company, Surry Power Station, Unit No. 2, Docket No. 50–281, and (4) the Com-

mission's concurrently issued Safety Evaluation supporting this Order.[1]

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, *It is ordered*, That, Facility Operating License No. DPR–37 is hereby amended by replacing in its entirety existing paragraph 3.E. of the license with the following:

E. *Steam Generator Inspection.* (1) Unit No. 2 shall be brought to the cold shutdown condition in order to perform an inspection of the steam generators within six months of equivalent operation from October 8, 1977.

Nuclear Regulatory Commission approval shall be obtained before resuming power operation following this inspection.

Equivalent operation is defined as operation with the reactor coolant at or above 350 ° F.

(2) Primary coolant leakage from the primary system to the secondary system through the steam generator tubes shall be limited to 0.3 gpm per steam generator, as described in the NRC Safety Evaluation of April 1, 1977. With any steam generator tube leakage greater than this limit the reactor shall be brought to the cold shutdown condition within 24 hours. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(3) Reactor operation will be terminated if primary to secondary leakage which is attributable to 2 or more tubes occurs during a 20-day period. Nuclear Regulatory Commission approval shall be obtained before resuming reactor operation.

(4) The concentration of radioiodine in the primary coolant shall be limited to 1 μCi/gram during normal operation and to 10 μCi/gram during power transients as defined in Appendix A–1 to the Technical Specifications of the license. Appendix A–1 was issued with the April 1, 1977, Order and shall remain in effect for six equivalent months from October 8, 1977.

(5) Should the steam generators require an inspection prior to the expiration of the six month equivalent operating period, the following four tubes R33C75, R33C77, R34C73, and R38C73 in steam generator 2C shall be plugged.

Dated in Bethesda, Md., this 8th day of October 1977.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulations.

[FR Doc.77–30695 Filed 10–21–77;8:45 am]

[1] A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

[7590–01]

[Docket No. 50–409]

DAIRYLAND POWER COOPERATIVE

Proposed Issuance of Amendment to Provisional Operating License

NOTE.—This document originally appeared in the FEDERAL REGISTER for Friday, October 21, 1977. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an amendment to Provisional Operating License No. DPR–45 issued to Dairyland Power Cooperative (the licensee) for operation of the La Crosse Boiling Water Reactor (the facility), located in Vernon County, Wis.

The amendment would revise provisions in the Technical Specifications related to the replacement of fuel assemblies in the facility core with fuel assemblies of a different design, constituting refueling of the core for operation during Cycle 5. On July 13, 1977, the Commission issued a "Notice of Proposed Issuance of Amendment to Provisional Operating License" (41 FR 30743, July 26, 1976), on this subject. The Notice stated that the amendment related to the replacement of 24 fuel assemblies in the facility core with fuel assemblies of a different design. Since then, due to fuel performance, the licensee has proposed to replace more than 24 fuel assemblies with fuel assemblies of a different design. The Commission is now considering issuance of an amendment with this change.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By November 21, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Fritz Schubert, Esquire, Staff Attorney, Dairyland Power Cooperative, 2615 East Avenue South, La Crosse, Wis. 54601, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's letter dated October 5, 1977, which transmitted Supplement No. 6 to the application for amendment dated May 18, 1976, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the La Crosse Public Library, 800 Main Street, La Crosse, Wis.

Dated at Bethesda, Maryland, this 19th day of October 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77–30934 Filed 10–20–77;8:45 am]

[7590–01]

COLUMBIA UNIVERSITY RESEARCH REACTOR

Request for Reconsideration of Issuance of Facility Operating License

Notice is hereby given by petition dated August 12, 1977, John G. Lipsett, Attorney for Morningside Renewal Council, Inc., filed a request for reconsideration of the issuance of a facility operating license for the Columbia University Research Reactor and a stay of reactor operation pending reconsideration. In accordance with the procedures specified in 10 CFR § 2.206 appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public

Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Public Health Library, New York City Department of Health, 125 Worth Street, New York, N.Y. 10013.

Dated at Bethesda, Maryland, this 14th day of October, 1977.

For the Nuclear Regulatory Commission,

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77-30884 Filed 10-21-77;8:45 am]

[7590-01]

[Docket No. 50-334]

DUQUESNE LIGHT COMPANY, ET AL.

Order for Modification of License

I

Duquesne Light Company (DLC), Ohio Edison Company, and Pennsylvania Power Company (the licensees), are the holders of Facility Operating License No. DPR-66 which authorizes the operation of a nuclear power reactor known as Beaver Valley Power Station, Unit No. 1 (the facility) at steady state reactor power levels not in excess of 2652 thermal megawatts (rated power). The facility is a pressurized water reactor (PWR) located at the licensees' site in Beaver County, Pa.

II

As a result of the operating license review of the North Anna Power Station, it appeared that the net positive suction head (NPSH) available to the containment recirculation spray (RS) and low head safety injection (LHSI) pumps might be insufficient for the post loss-of-coolant accident (LOCA) operation of the RS and LHSI systems. The NRC staff review of this matter for the North Anna Power Station is ongoing. Beaver Valley Power Station Unit No. 1 (BVPS-1) is an operating plant with a design similar to that at North Anna.

To determine whether a similar problem existed at BVPS-1, we requested DLC to meet with us on August 19, 1977. As a result of this meeting and subsequent conversations with DLC, it was determined that in the event of a major LOCA, the vapor pressure of the water in the containment sump supplying the RS and LHSI pumps may be closer to the containment pressure than previously indicated. This is due to a number of original assumptions which have been determined to be inappropriate for analysis purposes. This situation would occur for only a short period of time following a loss-of-coolant accident and could result in inadequate NPSH at the RS and LHSI pumps. DLC advised us that the assumptions made in the original analysis were based on assuring maximum containment pressure. However, these assumptions are not conservative when determining the available NPSH for the RS and LHSI spray pumps. They indicated that more conservative assumptions for the NPSH analysis in the following areas must be made:

(a) Mixing the emergency core cooling system (ECCS) water at the break to reduce the amount of energy to flash steam to the containment atmosphere and thereby increase the sump water temperature.

(b) Flashing of the break effluent at the total containment pressure (pressure flash) to reduce the fraction of effluent which becomes steam and thereby increase the sump water temperature.

(c) 100 percent spray efficiency to maximize the heat removed from the containment atmosphere and thereby increase the sump temperature.

Items a through c above will result in a lower containment pressure and higher sump water vapor pressure. In addition to the above, minimizing initial containment pressure and using the coldest service water temperature also result in a more conservative NPSH calculation. It was determined that a lower calculated NPSH for the RS and LSHI pumps would exist at specific times during the recirculation phase of long term cooling at BVPS-1. This could result in either damaging of the pumps or reducing pump flow.

By a letter dated August 25, 1977, DLC informed us that the BVPS-1 had shutdown to perform routine maintenance work which would require approximately three weeks. DLC also stated that prior to startup of the plant, they would provide us with the details of a proposed interim design modification supported by analyses which would demonstrate the capability of the RS and LHSI systems to function as required.

At a meeting held on September 9, 1977, DLC submitted a report entitled "Analysis and System Modification for Recirculation Spray and Low Head Safety Injection Pumps Net Positive Suction Head," which presented: (1) Proposed interim modification of the RS and LHSI systems; (2) RS pump performance curves of the minimum NPSH required to prevent cavitation as a function of flow rate (the above cited curves are based on tests performed on August 22, 1977, with a North Anna RS pump, which is the same model as that installed at BVPS-1); (3) LHSI pump performance curves of the minimum NPSH required to prevent cavitation as a function of flow rate (these curves are based on tests performed on August 30, 1977, with a North Anna LHSI pump which is identical to those at BVPS-1. The test method and procedures were essentially identical to those used to test the RS pump at North Anna on August 22, 1977); and (4) the containment pressure transient response analyses and associated NPSH available to the RS and LHSI pumps. The calculated pressure in the containment and the temperature of the water that accumulates in the containment sumps are important parameters in determining the RS and LHSI pump operability following a LOCA, in regard to available NPSH. These terms, in combination with the pump static head and associated line friction losses, establish the available NPSH during the transient. The required NPSH may be reduced by a reduction in the pump flow rate. Alternatively, the NPSH available at a given flow rate may be increased by the injection of cold water into the pump suction. The injection of cold water lowers the water temperature at the pump suction and, therefore, lowers the vapor pressure of the water entering the pump. DLC proposes to utilize both of the above methods to resolve this problem on an interim basis.

RECIRCULATION SPRAY PUMPS LOCATED INSIDE CONTAINMENT

Using the new modeling assumptions, a minimum available NPSH of greater than 11 feet is calculated for the two RS pumps located inside containment, except for a short time interval of about 10 to 20 minutes, depending on the break location and engineered safety feature equipment available. The initiation of the time interval varies from 350 seconds to 800 seconds after a postulated accident. This amount of available NPSH assures satisfactory pump operation. Sensitivity studies performed by DLC show that for a time interval of about 13 minutes, the available NPSH reaches a minimum of 8.3 feet during which the pump could potentially operate in a mild cavitating mode with a reduced flow rate of 3000 gpm. The design flow rate is 3600 gpm. The test results, as presented in the above cited topical report, demonstrate that the pump can be operated in a cavitating mode for periods of time well in excess of the 10 to 20 minute interval discussed above, at a lower efficiency, without damage to the pump. On this basis, DLC has not proposed any interim design modification to the RS pumps which are located inside the containment.

RECIRCULATION SPRAY PUMPS LOCATED OUTSIDE CONTAINMENT

For the two RS pumps located outside containment, the friction loss in the suction piping is substantially larger than that for the inside pump, and therefore results in a lower available NPSH. In order to assure an adequate amount of NPSH for the RS pumps located outside of the containment, DLC proposes to divert 250 gallons per minute (gpm) of cold quench spray (QS) water from each QS header to the sump area at that point where water is drawn to the outside RS pump suctions. The cold QS water injection will lower the water temperature at the pump suction, and therefore, lower the vapor pressure of the water entering the pump. This proposed modification will allow the pumps to perform as originally specified. No reduction in flow rate to increase the available NPSH is necessary.

LOW HEAD SAFETY INJECTION PUMPS

In order to assure an adequate amount of NPSH to the LHSI pumps, DLC proposes to limit the pump flow rate from 4200 gpm to approximately 3100 gpm

during the recirculation phase assuming a single pump failure. The ability to throttle the LHSI pump flow rate was demonstrated by a test at Surry Power Station, Unit 2, on September 16, 1977, and reported in a September 19, 1977, letter by DLC. The low head portion of the ECCS system for Surry Unit 2 is similar to that at BVPS–1. However, the pump discharge valves at Surry Unit 2 are Darling valves with 10 second closure times, magnetic brakes on the motor operators, and a rated pressure differential of 1750 pounds per square inch (psi). The discharge valves at BVPS–1 are Crane valves and have 120 second closure times, a rated differential pressure of 200 psi and do not have magnetic brakes on the motor operators.

To assure that a pump flow rate of 3100 gpm is not exceeded in the event one pump fails, DLC will partially close both pump discharge valves to allow a flow rate of 2100 gpm per pump. Test results at Surry, Unit 2 indicated a valve opening of 25 percent allowed a flow rate of approximately 2100 gpm. Although the discharge valves at BVPS–1 have a different design than those tested at Surry Unit 2, it is expected that the flow characteristics versus valve opening would be similar. The BVPS–1 discharge valves will require a longer throttling time. However, the valves will be throttled just prior to the recirculation stage of LHSI when time is no longer a critical parameter for maintaining adequate core cooling. Additionally, the slower operating speed of the BVPS–1 discharge valves should provide a finer adjustment capability. The rated valve differential pressure is greater than the pump differential pressure of 125 psi at 2100 gpm.

In addition to the provisions for throttling, the time of transfer will be delayed until an additional 10,000 gallons of water have been drawn into the containment from the refueling water storage tank (RWST). DLC proposes to increase the capacity of the RWST 17,000 gallons to 441,000 gallons to allow the delay in the transfer time. This time delay was selected to provide further assurance that adequate NPSH is available to support 3100 gpm flow without pump cavitation. Operation of the LHSI system during postulated accident conditions is affected by the proposed modification, since an additional 10,000 gallons of water from the RWST will be required for injection.

The proposed interim modifications assure that the LHSI pumps will be operable during long term core cooling following a LOCA by eliminating pump cavitation. The proposed modification does not cause LHSI flows to be less than the minimum flow rate required for emergency core cooling requirements in either the short term or the long term.

EFFECT OF THE SYSTEM MODIFICATIONS ON CONTAINMENT PEAK PRESSURE AND CONTAINMENT DEPRESSURIZATION TIME

Using the above containment spray flow rates which result from the proposed system modifications DLC performed a containment response analyses. The results show that the containment spray systems will function adequately. The peak containment pressure limit of 45 psia will not be exceeded and the pressure will return to subatmospheric conditions in less than 60 minutes, i.e., the depressurization time requirement for the design basis LOCA. The containment will remain in a negative pressure once it its brought to subatmospheric pressure.

CONCLUSION

Based on our review of the above cited topical report and on discussions with DLC, we find that in the unlikely event of a major LOCA, the containment spray and LHSI systems at BVPS–1 will operate satisfactorily to maintain adequate core cooling and assure that the containment design pressure is not exceeded and that the depressurization of time will remain under 60 minutes. We conclude that the continued operation of BVPS–1 with the proposed interim modifications is acceptable and will not pose an undue threat to the health and safety of the public.

However, we feel that operator action to partially close the LHSI pump discharge valves and the minor reduction in the inside RS pump performance for the 10 to 20 minute interval discussed above are acceptable solutions only for an interim period. Therefore, we will require DLC to propose a permanent solution and schedule of implementation by November 22, 1977. This permanent solution should provide that the containment spray and ECCS systems perform as originally designed without relying on the above operator action following a major LOCA.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Beaver Area Memorial Library, 100 College Ave., Beaver, Pa., (1) Letters from DLC dated August 20, 1977, August 25, 1977, September 8, 1977 and September 19, 1977, (2) Stone and Webster Report entitled "Analysis and System Modification for Recirculation Spray and Low Head Safety Injection Pumps Net Positive Suction Head", dated September 9, 1977, and (3) this Order for Modification of License, In the Matter of Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company, Beaver Valley Power Station Unit No. 1, Docket No. 50–334.

III

In view of the foregoing, and in accordance with provisions of the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is ordered*, That: Facility Operating License No. DPR–66 is hereby amended by adding the following new conditions:

1. Reactor operation shall be authorized only with the restrictions set forth below, until the permanent modifications are approved by the NRC and in place:

a. With piping installed to divert 250 gpm of water from each quench spray header to the sump area at that point where water is drawn to the outside recirculation spray pump suctions.

b. The volume of water in the RWST shall be maintained at equal to or greater than 441,000 gallons.

c. Operating procedures shall be maintained which require that in the event of a loss of coolant accident necessitating use of the low head safety injection (LHSI) system, plant operators will throttle the discharge of each LHSI pump just prior to initiating the recirculation phase of core cooling. The discharge shall be throttled such that the flow shall not exceed 3100 gpm in the event of single pump operation.

2. DLC shall submit by November 22, 1977, a proposed permanent design modification and a schedule for its implementation. The proposed modification shall be based on detailed supportive analyses which include consideration of containment total pressure, containment vapor pressure, available NPSH, sump water level, and sump water temperature for a spectrum of break sizes and break locations. For each analysis, the following shall be specified: the energy release rates as a function of time throughout the blowdown, reflood, and post blowdown phases, all the containment evaluation parameters, and the recirculation spray heat exchanger characteristics.

Dated at Bethesda, Maryland this September 30, 1977.

For the Nuclear Regulatory Commission.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.77–30885 Filed 10–21–77;8:45 am]

[7590–01]

[Docket No. 50–321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment To Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 47 to Facility Operating License No. DPR–57, issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Environmental Technical Specifications to delete monitoring programs relating to (1) Impingement of Fish, (2) Entrainment, (3) Periphyton, (4) Benthos, and (5) Special Surveillance, Fish.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required

since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1972.

For further details with respect to this action, see (1) the application for amendment dated November 30, 1977, (2) Amendment No. 47 to License No. DPR–57, (3) the Commission's letter dated October 18, 1977, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker St., Baxley, Ga. 31513. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 18 day of October 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77–30886 Filed 10–21–77;8:45 am]

[7590–01]

DR. HERBERT J. C. KOUTS

Certification Pursuant to 18 U.S.C. § 207

Dr. Herbert John Cecil Kouts has requested that the Nuclear Regulatory Commission (NRC) grant him an exemption from the statutory prohibition barring him from acting as an agent representing Brookhaven National Laboratory, before the NRC on certain particular matters in which he had previously participated personally and substantially as an employee of the NRC or its predecessor agency, the Atomic Energy Commission (AEC).

Dr. Kouts recently served as Director of the NRC Office of Nuclear Regulatory Research (1975–1976). Previously he had served as Director of the AEC's Reactor Safety Research Division (1973–1975). Presently, Dr. Kouts is Chairman of Brookhaven's Department of Nuclear Energy.

For the reasons stated below, we certify, pursuant to Section 207 of Title 18 of the United States Code, that the national interest would be served by Dr. Kouts' acting as agent or appearing personally before the Commission on behalf of Brookhaven National Laboratory in connection with the following particular scientific matters:

1. Development and use of computer codes and other analytical methods for analysis of safety of nuclear power plants and related plants.

2. Experimental research required for reactor safety considerations, such as that in support of development of analysis such as is included in 1. above, and research to support development of reactor standards, guides, and regulations.

3. Research on environmental and health effects of the nuclear fuel cycle.

4. Research on disposal of waste from the nuclear fuel cycle.

5. Research on safeguarding fissionable material from theft or diversion.

6. Research related to protection of nuclear installation from possible sabotage.

7. Risk analysis for the nuclear fuel cycle.

Brookhaven National Laboratory performs certain research work and other technical studies for the NRC. The Commission desires that the work performed for it by Brookhaven National Laboratory be of the highest possible caliber and fully responsive to the Commission's needs. Therefore it is granting this exemption.

This exemption does not authorize Dr. Kouts to act as Brookhaven's agent before the NRC with respect to the matters listed above if Brookhaven is acting for a private contractor on the matter in question.

Because of his outstanding technical and management abilities, Dr. Kouts is uniquely qualified to provide the necessary management of Brookhaven's work on behalf of the Commission.

Dated at Washington, D.C. this 19th day of October, 1977.

By the Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77–30905 Filed 10–21–77;8:45 am]

[7590–01]

[Docket No. 50–322]

LONG ISLAND LIGHTING CO.

Availability of Final Environmental Statement for the Shoreham Nuclear Power Station, Unit 1

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the proposed operation of the Shoreham Nuclear Power Station, Unit 1, located in Suffolk County, New York by the Long Island Lighting Company is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in the Comsewogue Public Library, 170 Terryville Rd., Port Jefferson, N.Y. The Final Environmental Statement is also being made available at the State Clearinghouse, New York State Division of the Budget, State Capitol, Albany, New York, and at the Tri-State Regional Planning Commission, 1 World Trade Center, 82nd floor, New York, N.Y.

The notice of availability of the Draft Environmental Statement for the Shoreham Nuclear Power Station, Unit 1 and requests for comments from interested persons was published in the FEDERAL REGISTER on March 24, 1977 (42 FR 15989). The comments received from Federal, State, and local agencies and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG 0285) may be purchased, at $9.25 for printed copies and $3.00 for microfiche, from the Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Maryland, this 18th day of October 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, JR.,
Chief, Environmental Projects Branch 2, Division of Site Safety and Environmental Analysis.

[FR Doc.77–30887 Filed 10–21–77;8:45 am]

[7590–01]

[Docket No. STN 50–546 and STN 50–547]

PUBLIC SERVICE COMPANY OF INDIANA, INC., ET AL.

Issuance of Revision To Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) (1) and (2) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Public Service Company of Indiana, Inc. on behalf of itself and the Wabash Valley Power Association to conduct further site activities in connection with the Marble Hill Nuclear Generating Station, Units 1 and 2, in addition to those activities previously authorized in the Commission's letter of authorization dated August 24, 1977, prior to a decision regarding the issuance of construction permits.

The additional activities authorized are within the scope of those authorized by 10 CFR Part 50.10 (e)(1) and the potential environmental impacts are within the scope of those considered by the Atomic Safety and Licensing Board in its Partial Initial Decision referenced below. The additional activities include storage of materials and construction and installation of electrical duct runs, station ground grid system, microwave communication system, and circulating water piping with the turbine building slab.

Any activities undertaken pursuant to this authorization are entirely at the risk of the applicants, and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and

rules, regulations or orders promulgated pursuant thereto.

A partial initial decision on matters relating to the National Environmental Policy Act and site suitability from the standpoint of radiological health and safety was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on August 22, 1977. A copy of (1) the Partial Initial Decision; (2) the applicants' Preliminary Safety Analysis Report and amendments thereto; (3) the applicants' Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated September 1976; (5) the staff's Site Suitability Report dated July 1976; (6) the Commission's letter of authorization dated August 24, 1977, and (7) the Commission's further letter of authorization dated October 14, 1977 are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and the Madison-Jefferson County Public Library, 420 West Main Street, Madison, Indiana.

Dated at Bethesda, Maryland this 14th day of October 1977.

For the Nuclear Regulatory Commission,

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-30888 Filed 10-21-77;8:45 am]

[7590-01]

[Docket No. 50-312]

SACRAMENTO MUNICIPAL UTILITY DISTRICT

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-54 issued to Sacramento Municipal Utility District, which revised Technical Specifications for operation of the Rancho Seco Nuclear Generating Station, located in Sacramento County, California. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications, as related to the Cycle 2 core reload, and reflects plant operating limits for the fuel loading to be used during Cycle 2. Added requirements in the qualifications of the Chemical-Radiation Supervisor are also included.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated June 24, 1977, and August 5, 1977, (2) Amendment No. 14 to License No. DPR-54, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Business & Municipal Department, Sacramento City-County Library, 828 I Street, Sacramento, California. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 7th day of October 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-30889 Filed 10-21-77;8:45 am]

[7590-01]

[Dockets Nos. 50-280; and 50-281]

VIRGINIA ELECTRIC AND POWER CO.; SURRY POWER STATION, UNITS NOS. 1 AND 2

Order for Modification of License

I

Virginia Electric and Power Company (the Licensee), is the holder of Facility Operating Licenses Nos. DPR-32 and DPR-37 which authorizes the operation of two nuclear power reactors known as Surry Power Station, Units Nos. 1 and 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactors are pressurized water reactors (PWR) located at the Licensee's site in Surry County, Virginia.

II

On August 24, 1977, the Commission authorized the installation of flow-limiting orifices in the discharge of the outside recirculation spray pumps for the facility and imposed limitations on certain operating parameters for the facility. These limitations were designed to assure adequate minimum flow of the containment recirculation spray pumps for design basis Loss of Coolant Accident (LOCA) conditions. One of these limitations was a minimum service water temperature of 55°F. The service water cools through heat exchangers, the recirculating containment spray water. Adequate service water cooling serves to limit the recirculating containment spray water temperature. The lower limit on temperature was intended to assure that containment depressurization rate did not result in an inadequate net positive suction head (NPSH).

By letter dated September 12, 1977, the licensee submitted the results of more complete analyses regarding the available net positive suction head for the low head safety injection pumps for interim operation of the plants. The methods used to calculate the containment pressure, containment sump temperature, and available NPSH have been reviewed for the North Anna plant and found to be acceptable. The same methods were used in the calculations for Surry. The licensee has shown acceptable NPSH to be available for the pumps, operating at a discharge flow rate of 3500 gpm, with a minimum service water temperature of 35°F. Based on our review of this information the staff concludes that there will be adequate NPSH available with a service water temperature of 35° F with the low head safety injection pumps limited to 3500 gpm discharge flow. The licensee's evaluation of long term operation is required to be submitted no later than November 22, 1977.

For the foregoing reason, it is concluded that a decrease in the minimum service water temperature from 55° F to 35° F will still provide adequate recirculation spray pump flow to assure that continued operation will not impose an undue threat to public health and safety.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Va.: (1) Letter from licensee dated September 12, 1977, and (2) This Order for Modification of License, In the Matter of Virginia Electric and Power Company, Surry Power Station Units Nos. 1 and 2, Dockets Nos. 50-280 and 50-281.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 50, *It is Ordered*, That: Facility Operating Licenses Nos. DPR-32 and DPR-37 are hereby amended by supplementing our August 24, 1977 Order for Modification of License to include the following limits on operation, effective immediately:

Service water temperature.	35°F to 85°F.
Containment temperature.	100°F to 125°F.
Containment air partial maximum pressure.	9.3 psia at 85°F, service water temperature and 45°F RWST temperature. This value will vary in a manner similar to existing Technical Specification 3.8.

Dated in Bethesda, Maryland this 17th day of October 1977.

For the Nuclear Regulatory Commission.

VICTOR STELLO,
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc.77-30890 Filed 10-21-77;8:45 am]

[7590-01]

[Dockets Nos. 50-280 and 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 33 and 32 to Facility Operating Licenses Nos. DPR-32 and DPR-37, issued to Virginia Electric & Power Company (the licensee), which revised Technical Specifications for operation of the Surry Power Stations, Units Nos. 1 and 2 (the facilities) located in Surry County, Virginia. The amendments are effective as of the date of issuance.

These amendments relate to the replacement of 81 of the 157 fuel assemblies in the reactor core of Surry Unit No. 2 constituting refueling of the core for fourth cycle operation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated September 9, 1977, as supplemented September 30 and October 6, 1977, (2) Amendments Nos. 33 and 32 to Licenses Nos. DPR-32 and DPR-37, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 8th day of October 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-30891 Filed 10-21-77;8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SITING EVALUATION SUBCOMMITTEE

Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Siting Evaluation Subcommittee will hold an open meeting on November 10, 1977 in Room 1046, 1717 H St. NW., Washington, D.C. 20555, to discuss general nuclear facility siting considerations and criteria.

The agenda for subject meeting shall be as follows:

THURSDAY, NOVEMBER 10, 1977

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee will meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding the current criteria used in the evaluation of potential nuclear facility sites and will establish plans for future activities of the Subcommittee.

Practical considerations may dictate alterations in the above agenda. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 3, 1977, to Mr. Thomas G McCreless, ACRS NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 9, 1977, to the Office of the Executive Director of the Committee (telephone 202-634-1374, Attn: Mr. Thomas G. McCreless) between 8:15 a.m. and 5:00 p.m. e.s.t.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 17, 1977, and February 10, 1978, respectively, at the NRC Public Document Room, 1717 H St. NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 20, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-31053 Filed 10-21-77;9:49 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE ZION GENERATING STATION, UNITS 1 AND 2

Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on the Zion Generating Station, Units 1 and 2, will hold an open meeting on November 10, 1977 in Room 1162, 1717 H St., NW., Washington, D.C. 20555 to review the status of items identified in the ACRS letter on the Zion Generating Station dated June 17, 1977.

The agenda for subject meeting shall be as follows:

THURSDAY, NOVEMBER 10, 1977

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Commonwealth Edison Company, and their consultants, pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Practical considerations may dictate alterations in the above agenda. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 3, 1977 to Mr. Elpidio Igne, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 N. County St., Waukegan, Ill. 60085.

(b) Those persons wishing to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 9, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1920, Attn: Mr. Elpidio Igne) between 8:15 a.m. and 5:00 p.m. est.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings of the proceedings will be permitted only during those sessions when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 17, 1977 and February 10, 1978, respectively, at the NRC Public Document Room, 1717 H St., NW., Washington, D.C. 20555, and at the Waukegan Public Library, 128 N. County St., Waukegan, Ill. 60085.

Copies may be obtained upon payment of appropriate charges.

Dated: October 20, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-31052 Filed 10-21-77;9:49 am]

[7590-01]

RISK ASSESSMENT REVIEW GROUP

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two-day meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 8:00 a.m., on November 10 and 11, 1977, at the Electric Power Research Institute, 3460 West Bayshore Road, Room 161, Palo Alto, California. The purpose of this meeting is to continue the review of the final report of the Reactor Safety Study (WASH-1400) and the peer comments thereon and to obtain information on developments in the field of risk assessment methodology.

On November 10, the Review Group will hear presentations by and hold discussions with representatives of the NRC staff and with individuals outside of NRC regarding the field of risk assessment methodology and regarding the final WASH-1400 report. It may be necessary for the Review Group to hold one brief closed session for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such a session be required, it is necessary to close a session to protect proprietary information (5 U.S.C. 552b(c)(4).

In open sessions on November 11, the Review Group will be reviewing the health effects analyses of WASH-1400 and the comments thereon. They will hear presentations by and hold discussions with a number of individuals regarding the WASH-1400 estimates of health effects that might result from certain postulated accidents at nuclear power reactors, alternative approaches to making such estimates, the appropriateness of applying these alternative models in analyses such as those in the WASH-1400 report, the ramifications of applying alternative models on the end results and other relevant topics.

At the conclusion of these presentations, the Review Group may caucus to determine whether the matters identified have been adequately covered. The Chairman of the Review Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted session from one day to the next. The Risk Assessment Review Group

is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH–1400 (NUREG–75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and courses of action which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the Reactor Safety Study. The Review Group will submit a report to the Commission on or before December 31, 1977. In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 10 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview. Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than November 3, 1977, to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Of course, comments not received in time for this meeting will be circulated to the members of the Review Group for consideration at a future meeting. Comments should pertain to the field of risk assessment methodology or should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.
2. The NRC's five Regional Offices of Inspection and Enforcement:

REGION I

631 Park Ave., King of Prussia, Pa. 19406.

REGION II

Suite 1217, 230 Peachtreet St., Atlanta, Ga. 30303.

REGION III

799 Roosevelt Rd., Glen Ellyn, Ill. 60137.

REGION IV

Suite 1000, 611 Ryan Plaza Dr., Arlington, Tex. 76012.

REGION V

Suite 202, 1990 N. California Blvd., Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from:

U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Probabilistic Analysis Branch; Attn: Melea S. Fogle, telephone 301–492–8377, 7735 Old Georgetown Rd., Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 8, 1977, to the Office of Policy Evaluation (telephone 202/254–5184, Attn: John Austin) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be asked only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to represent final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interference with the conduct 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.

(g) A copy of the minutes of the meeting will be available for inspection on or after January 16, 1978, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 20, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-31054 Filed 10-21-77;9:49 am]

[8010–01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 9958; 812-4151]

CMA MONEY TRUST

Filing of Application for an Order of Exemption From Pricing Provisions

OCTOBER 14, 1977.

Notice is hereby given that CMA Money Trust (the "Trust" or "Applicant"), One Liberty Plaza, 165 Broadway, New York, N.Y. 10006, which is registered under the Investment Company Act of 1940 (the "Act") as an open-end diversified management investment company, filed an application on July 1, 1977, and an amendment thereto on September 20, 1977, for an order of the Commission pursuant to Section 6(c) of the Act for relief from the requirements of Rule 22c–1 under the Act to permit the Trust to determine the net asset value of its shares for purposes of purchases and redemptions of its shares once on each day that the New York Stock Exchange is open, at 12 noon, New York City time. All interested persons are referred to the application which is on file with the Commission for a statement of the representations made therein which are summarized below.

Applicant states that the Trust was organized as a business trust under the laws of the Commonwealth of Massachusetts on June 17, 1977. On June 20, 1977, the Trust filed with the Commission a notification of registration on Form N–8A and a Registration Statement on Form N–8B–1 under the Act and a Registration Statement on Form S–5 under the Securities Act of 1933. The distributor of the Trust's shares is Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch" or the "Distributor"), a wholly-owned subsidiary of Merrill Lynch & Co., Inc.

Applicant states that the Trust is a special purpose, no-load, diversified open-end investment company which will invest in short-term money market securities and whose shares will be offered exclusively to participants in the Cash Management Account program ("CMA") of Merrill Lynch to provide a medium for the automatic investment of free credit cash balances held in CMA accounts. A CMA account will be an integrated financial services account offered by Merrill Lynch to its customers meeting specified criteria which is designed to provide a customer with use of a conventional securities account linked to a Visa/BankAmericard credit card account maintained by The City National Bank & Trust Co. of Columbus, Ohio ("Visa Card Account") and the Trust.

Applicant states that free credit cash balances held in a CMA account will automatically be invested by the Distributor in shares of the Trust at net asset value without sales charge on Monday of each week ("automatic purchases"). If Monday is a day on which the New York Stock Exchange is not open for trading, the automatic purchases shall take place on the next day on which the New York Stock Exchange is open for trading. CMA participants with sufficient free credit cash balances in their CMA account may effect purchases of $1,000 or more prior to a Monday ("manual purchases") by transmitting investment instructions to the Distributor.

Applicant asserts that the Trust will be required to redeem for cash at net asset value all full and fractional shares of the Trust. Redemptions will be automatically effected by the Distributor to satisfy debit balances in the customer's securities account created by activity therein or to satisfy debit balances in the Visa Card Account created by credit card purchases, cash advances or checks written against the Visa account with The City National Bank & Trust Co. of Columbus. Each CMA account will be automatically scanned for debits each business day and, after application of any free credit cash balances in the account to such debits, a sufficient number of shares of the Trust in such account will

be redeemed at the next pricing and the proceeds of such redemption applied to any remaining debits in either the securities account or the Visa Card Account. A shareholder may redeem shares of the Trust directly by submitting a written notice of redemption directly to the Trust's transfer agent.

Applicant states that the purchase and redemption price for shares will be the net asset value per share next determined after receipt by the transfer agent of a purchase or redemption order in proper form. Determination of net asset value per share for such purposes is referred to in the application as "pricing". Since the net income of the Trust (including realized and unrealized gains and losses on the portfolio securities) will be determined and declared as a dividend immediately prior to each time the net asset value per share of the Trust is determined, the net asset value per share of the Trust will remain at $1 per share at each pricing. Any increase in the value of a shareholder's investment in the Trust, representing the reinvestment of dividend income, will be reflected by an increase in the number of shares of the Trust in his account and any decrease in the value of a shareholder's investment will be reflected by a decrease in the number of shares in his account.

Applicant states that the operation and administration of the CMA program will be conducted pursuant to a computer system which has been designed by Merrill Lynch. It is asserted that the operational complexities of the computer system require that the net asset value be maintained at $1 at all times. It is also asserted that the system requires that the proceeds of redemption be available in Federal funds on the day of redemption to satisfy debits in the securities account or Visa Card Account to assure that Merrill Lynch will maintain compliance with credit regulations of the Federal Reserve Board's Regulation T (12 CFR Part 220).

Applicant submits that because of the need to effect same day settlement of redemptions, the Trust must price its shares at 12 noon, New York City time, on each day that the New York Stock Exchange is open for trading. Pricing later than 12 noon will not give the Trust enough time to make payment in Federal funds of the proceeds of redemption on the day of redemption.

Rule 22c–1 provides, in relevant part, that redeemable securities of registered investment companies may not be purchased or redeemed except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase such security. Rule 22c–1(b) provides that the "current net asset value of any such security shall be that computed on each day during which the New York Stock Exchange is open for trading, not less frequently than once daily as of the time of close of trading on such Exchange." Currently the New York Stock Exchange closes at 4 p.m., New York City time.

Applicant states that under Rule 22c–1(b), the Trust could price its shares at 12 noon and make same day redemption payments with respect to orders received prior to 12 noon, but it would also have to price a second time at 4 p.m., the time of the close of trading on the New York Stock Exchange. Applicant submits that with twice a day pricing, the Trust would be unable to maintain a constant net asset value, which can only be done if the Trust declares dividends immediately prior to each pricing. Applicant contends that declaring dividends twice a day before each pricing would be extremely impractical and perhaps impossible.

Applicant further contends that twice a day pricing would result in an added Trust expense that would serve little or no purpose given the special nature of the Trust. Therefore, because of the operational requirements of the CMA program, the Trust seeks permission to price its shares once each business day at 12 noon. Applicant submits that the order is justified because the pricing method proposed by the Trust is the most equitable to all concerned considering the CMA program.

Applicant also submits that because the Trust is a money market fund, pricing at 12 noon for money market securities is the equivalent of pricing as of the close of trading on the New York Stock Exchange for equity securities. The Trust invests exclusively in short-term money market securities which are traded over-the-counter in what is known as the "money market". The money market is a dealer market consisting of a number of participant dealer firms. Substantially all activity in the money market occurs before noon and in this sense the noon prices of money market securities are the equivalent of 4 p.m. prices for equity securities. Applicant states that many existing money market funds presently "marking to market" in effect price on the basis of noon prices since such prices represent the daily closing prices in the money market.

Applicant submits that the order will not result in any of the abuses that Rule 22c–1 is designed to prevent. Applicant states that the purpose of Rule 22c–1 is (1) to eliminate or reduce so far as reasonably practicable any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the sale, redemption or repurchase of such securities at prices other than their current net asset values, and (2) to minimize speculative trading practices in the securities of registered investment companies. Applicant states that neither abuse is likely to occur in the case of the Trust if the daily pricing is to take place at 12 noon. Applicant states that there will still be forward pricing for orders received prior to 12 noon at a current net asset value with no dilution of asset value and with no more opportunity for speculative abuses than would normally exist with a 4 p.m. pricing. Substantially all purchases and redemptions are expected to result from the automatic features of the CMA program described above. The Distributor will enter automatic purchase and redemption orders at 9 a.m., New York City time, and will receive the 12 noon pricing. In addition, to the extent possible, the Distributor will endeavor to enter manual purchases and redemptions prior to the 12 noon pricing.

Applicant, therefore, requests that an exemptive order be entered pursuant to Section 6(c) of the Act granting an exemption from Rule 22c–1(b) permitting the Trust to price its shares once daily at 12 noon. Applicant submits that the granting of this order is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 8, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–30800 Filed 10–21–77;8:45 am]

[8010–01]

[Release No. 20211; 70–6018, 31–760]

INTER-CITY GAS LTD., ET AL.

Application to Acquire Public Utility Companies and Request for Exemption

OCTOBER 14, 1977.

Notice is hereby given that Inter-City Gas Ltd. ("Inter-City"), 1500 Richardson Building, One Lombard Place, Winnipeg, Manitoba, Canada, an exempt holding company and a gas utility company, and its above-named subsidiary companies have filed a joint application with this Commission pursuant to the Public Utility Holding Company Act of

1935 ("Act"), designating sections 3(b), 9(a)(2) and 10 of the Act and rule 11(a) promulgated thereunder as applicable to the proposals. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposals.

Inter-City, a Canadian corporation, is a gas utility company, as defined in section 2(a)(4) of the Act. It distributes at retail natural gas in 39 communities in Northern Minnesota. It is also a holding company because, through a wholly-owned subsidiary, Inter-City Utilities Ltd., it is engaged in the retail distribution of natural gas in an adjoining area in Manitoba and Ontario, Canada. Inter-City purchases its natural gas supply under a long-term contract with Trans-Canada Pipe Lines Ltd., a nonaffiliated Canadian pipeline company. Through separate divisions and Inter-City Manufacturing Ltd. ("Manufacturing"), a 97.8 percent owned subsidiary, it is also engaged in exploration for and development of natural gas reserves in Canada and in manufacturing residential and commercial heating products and other equipment. For the year ended December 31, 1976, Inter-City reported consolidated operating revenues of $67,728,285, of which $43,415,006 were derived from its natural gas utility and pipeline operations. At that date, Inter-City reported consolidated assets, including investments in and advances to subsidiaries, of $118,078,549.

By order dated July 22, 1968 (HCAR No. 16121), the Commission granted Inter-City Utilities an exemption under section 3(b) of the Act from all provisions of the Act to which it would otherwise be subject as a subsidiary of Inter-City. As a result, Inter-City became an exempt holding company pursuant to rule 10 promulgated under the Act. Inter-City now has filed an application pursuant to sections 9(a)(2) and 10 of the Act to acquire, by an exchange offer, about 51 percent of the outstanding common stock of Canadian Hydrocarbons Limited ("Hydrocarbons"), a Canadian holding company which, through Canadian and United States subsidiaries, is engaged in the distribution of propane, gasoline and light and residual oils, refining of petroleum products, manufacture and sale of forest products and pipe and steel products, and exploration for and development of oil, natural gas and other minerals. It is Canada's largest distributor of propane fuel. Through four public utility subsidiaries, Hydrocarbons also distributes electricity and natural gas or a propane/butane air mixture in about 92 communities in Alberta, British Columbia and Manitoba, Canada. At December 31, 1976, and for the twelve month period then ended, their net utility plant and gross utility revenues, were as follows:

	Net plant	Gross revenues
Plains-Western Gas and Electric Co., Ltd.	$26,900,152	$8,850,059
Plains-Western Gas (Manitoba) Ltd.	7,119,054	11,354,170
Rockgas Utilities, Ltd.	125,655	128,640
Vancouver Island Gas Co.	977,797	661,344
Total	35,122,658	20,994,213

The first three subsidiaries listed are directly owned by Great Northern Gas Utilities, Ltd. ("Great Northern"), which is wholly owned by Hydrocarbons. The fourth subsidiary is indirectly owned by Great Northern through Fort St. John Petroleums Ltd., a 55.6 percent owned subsidiary of Great Northern.

Hydrocarbons has issued and outstanding 5,129,680 shares of common stock. Approximately 49.7 percent of these shares (2,550,256 shares) are owned by Elwill Development Ltd. ("Elwill"), a wholly-owned subsidiary of Manufacturing. About 0.1 percent (6,400 shares) are owned by Inter-City. If all the remaining shares of Hydrocarbons are exchanged pursuant to Inter-City's proposed tender offer. Inter-City Directly and through Elwill will own all the outstanding common stock of Hydrocarbons.

The common stock of Hydrocarbons is listed on the American, Toronto and Montreal Stock Exchanges. Hydrocarbons also has outstanding 207,755 shares of 5½ percent cumulative preferred stock, par value $20 per share, in the hands of approximately 500 shareholders, and 232,700 shares of 6 percent cumulative preferred stock, par value $25 per share, all of which are owned by Elwill. At December 31, 1976, Hydrocarbons had total consolidated assets, per book, of $217,725,701. For the year then ended, it reported net income of $5,340,857 on total revenues of $325,237,386. Approximately 9 percent of its total revenues were attributable to its public utility operations.

Manufacturing acquired all of the issued and outstanding common stock of Elwill in August 1976 for $34,254,000, including closing costs. The acquisition was financed in part by a $27,000,000 loan from The Toronto Dominion Bank ("Toronto Dominion"), $7,000,000 of which (in U.S. funds) is repayable as to $2,500,000 on or before December 31, 1977, and as to $4,500,000 on or before January 31, 1978. The balance of the loan (in Canadian funds) is repayable over a seven-year term ending December 31, 1983. The loan is secured by a pledge of all of the stock of Elwill and by the common stock and the 6 percent cumulative preferred stock of Hydrocarbons, which represent Elwill's principal assets. Manufacturing obtained the balance of the purchase price through Inter-City from short-term bank borrowings and new equity. Concurrently with the acquisitioin of Elwill's stock by Manufacturing, Elwill sold 205,000 shares or approximately 3.9 percent of Hydrocarbons' common stock to Toronto Dominion for $8.50 a share. These shares are subject to a put-back option at a price equal to the greater of $13 per share or the market value on the Toronto Stock Exchange at any time up to the earlier of December 31, 1983, or the date upon which the bank loans made by Toronto Dominion are repaid.

Inner-City now proposes to make a share exchange offer for all the outstanding shares of Hydrocarbons not owned by Elwill or Toronto Dominion on the basis of one and one half common shares of Inter-City for each common share of Hydrocarbons, conditional upon not less than 60 percent of the shares in Hydrocarbons being tendered. The exchange offer will be registered under the Securities Act of 1933. It is stated that Inter-City and Hydrocarbons are engaged in several compatible areas of the energy business, including the gas utility, propane, and oil and gas exploration and development businesses. It is anticipated that, upon consummation of the acquisition, the operations of Hydrocarbons and Inter-City will be consolidated. On a pro forma basis as of March 31, 1977, giving effect to the consolidation, Inter-City shows total assets of $288,343,000.

The four public utility companies (Plains-Western, P-W Manitoba, Rockgas, and Vancouver Island) request exemptions under section 3(b) from all provisions of the Act that would be applicable to them as subsidiaries of a holding company. If granted, Inter-City will qualify for an exemption as a holding company under rule 10 with respect ot these four companies, as it is now with respect to Inter-City Gas Utilities, Ltd. In support of the request, the applicants state that the four utility subsidiaries provide utility service solely in Canada; that three of these subsidiaries are wholly owned by Great Northern; and that there is a minor United States stockholder interest in the fourth (Vancouver Island) and in Great Northern and Fort St. John.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed acquisition of Hydrocarbons' shares. A statement of the fees, commissions and expenses incurred in connection with the acquisition of Hydrocarbons will be supplied by amendment to this application.

Of the 4,295,795 shares of Inter-City's common stock now outstanding, 1,037,250 shares, or approximately 24.1 percent, are owned by Traders Finance Corp (1976) Limited ("Traders 1976"), a

wholly owned subsidiary of Traders Group Ltd. ("Traders Group"), a diversified financial company organized under the laws of Canada. Traders Group, through subsidiaries, provides a broad range of financial, land development, insurance and trust company services, all in Canada. Its common and preferred stocks are traded on the Montreal and Vancouver stock exchanges and held almost entirely by Canadian shareholders.

Traders Group and Traders 1976 have each filed a joint application under section 2(a)(7) for a determination that such companies do not control Inter-City or exercise such a controlling influence over the management and policies of Inter-City as to make it necessary to subject them to the duties and obligations imposed under the Act upon a "holding company," as defined in section 2(a)(7)(A). (File No. 31). It is anticipated that, upon completion of the exchange offer by Inter-City for Hydrocarbon's publicly-held common stock, Traders 1976 interest in the common stock of Inter-City will be reduced to 12.7 percent.

Notice is further given that any interested person may, not later than November 11, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, and reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided and in the manner prescribed by rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-30801 Filed 10-21-77;8:45 am]

[8010-01]

[Release No. 34-14052; File No. SR-MSRB-77-14]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 12, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

BOARD'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Municipal Securities Rulemaking Board (the "Board") is filing herewith the following proposed amendment to rule G-8(g) (hereinafter referred to as the "proposed rule change"): Rule G-8.[1] Books and Records to be Made by Municipal Securities Brokers and Municipal Securities Dealers.

(g) Effective Date. The requirements of this rule shall become effective on April 25, 1977, and nothing herein contained shall be construed to require the making of the records specified in paragraph (a)(xi) shall be required only for curring prior to such effective date. The customer account records required by subparagraph (a)(ii) and customer account information required by subparagraph (a)(xi) shall be required only for customers for whom transactions in municipal securities are effective on or after such date. Notwithstanding the foregoing, subparagraphs (a)(xi)(G) and (a)(xi)(K) shall not become effective until [October 15, 1977] *November 15, 1972.*[2]

BOARD'S STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE CHANGE

The basis and purpose of the foregoing proposed rule change is as follows:

BOARD'S STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The Board has proposed certain substantive amendments to subparagraphs (a)(xi)(G) and (a)(xi)(K) as well as other provisions of rule G-8 (File No. SR-MSRB-77-5). The purpose of the proposed rule change is to provide municipal securities professionals a reasonable time to implement changes in their recordkeeping systems in order to comply with such amendments, if they are approved by the Commission on October 13, 1977, the date such amendments are scheduled to be considered by the Commission.

BOARD'S STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(G) of the Securities Exchange Act of 1934, as amended (the "Act"), which requires and empowers the Board to adopt rules prescribing the records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records are to be preserved.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

Comments were not solicited or received on the proposed rule change.

BOARD'S STATEMENT OF BURDEN ON COMPETITION

The Board is of the opinion that the proposed rule change will not impose any burden on competition.

On or before November 29, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so doing 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 proopsed rule change should be disapproved.

Interested persons are invited to submit written date, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 14, 1977.

[FR Doc.77-30804 Filed 10-21-77;8:45 am]

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[1] Italics indicate new language; brackets indicate deletions.

[2] If the Commission approves the proposed amendments in File No. SR-MSRB-77-5 effective on or before November 15, 1977, the last sentence of paragraph (g) shall be modified, as of November 15, 1977, to read as follows: "Notwithstanding the foregoing, subparagraph (a)(xi(J) shall not become effective until November 15, 1977."

[8010–01]

[Release No. 34–14051; File No. SR–MSRB–77–15]

MUNICIPAL SECURITIES RULEMAKING BOARD

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 13, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The amendment to rule A–13 filed by the Municipal Securities Rulemaking Board (the "Board") reduces the fee to be paid by a municipal securities broker or municipal securities dealer under rule A–13 from 0.002 percent ($0.02 per $1,000) to 0.001 percent ($0.01 per $1,000) of the face amount of all municipal securities which are purchased from an issuer as part of a new issue by or through such municipal securities broker or municipal securities dealer and which have a final stated maturity of not less than two years from the date of the securities.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to reduce the assessment rate under rule A–13. Rule A–13 provides a continuing source of revenue to defray the costs and expenses of operating and administering the Board.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The Board has adopted the proposed rule change pursuant to sections 15B(b)(2)(I) and 15B(2)(J) of the Securities Exchange Act of 1934, as amended (the Act). Section 15B(b)(2)(J) of the Act authorizes and directs the Board to adopt rules providing for the assessment of municipal securities brokers and municipal securities dealers to defray the costs and expenses of operating and administering the Board. Section 15B(b)(2)(I) authorizes and directs the Board to adopt rules providing for the operation and administration of the Board.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

Comments have not been solicited or received on the proposed rule change.

BURDEN ON COMPETITION

In the opinion of the Board, the proposed rule change does not constitute a burden on competition.

The foregoing rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 25, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77–30805 Filed 10–21–77;8:45 am]

[8010–01]

[Rel. 20210; 70–6063]

OHIO EDISON CO. AND PENNSYLVANIA POWER CO.

Proposed Revised Lease of Nuclear Fuel and Related Facilities

OCTOBER 14, 1977.

Notice is hereby given that Ohio Edison Co. ("Ohio Edison"), 47 North Main Street, Akron, Ohio 44308, a registered holding company, and its electric utility company subsidiary Pennsylvania Power Co. ("Penn Power"), 1 East Washington Street, New Castle, Pa. 16103, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

In September 1967, Ohio Edison, Penn Power, Duquesne Light Co. ("Duquesne"), the Cleveland Electric Illuminating Co. and the Toledo Edison Co. (collectively referred to as the "CAPCO companies") announced a program for joint development of power generation and transmission facilities. As part of that program Beaver Valley Unit No. 1 was constructed by Duquesne and is owned by Duquesne, Ohio Edison and Penn Power as tenants in common. At present the undivided interests as tenants in common of Ohio Edison and Penn Power in Beaver Valley Unit No. 1 are 35 percent and 17.5 percent respectively.

In 1971, Duquesne, Ohio Edison, and Penn Power made arrangements for the leasing of the nuclear material expected to be required for the operation of Beaver Valley Unit No. 1. These arrangements, originally with a different party, have evolved into a proposed Revised Nuclear Material Lease (the "Lease") between Duquesne, Ohio Edison and Penn Power, as lessees (the "Lessees") and Prulease, Inc., as lessor (the "Lessor"). Lessor is a subsidiary of Pruco, Inc., a holding company subsidiary of the Prudential Insurance Co. of America, and was the lessor under previously approved leases (the "Existing Leases") between the CAPCO companies and itself relating to nuclear material for other CAPCO nuclear units (HCAR No. 19612). The Lease will be substantially similar to the Existing Leases, taking into account certain proposed modifications of the Existing Leases. The obligations of the Lessees under the Lease will be several and not joint and will be based on their proportionate ownership interests in Beaver Valley Unit No. 1.

Under the Lease, the Lessees will lease certain nuclear fuel and nuclear fuel assemblies and component parts thereof (the "Nuclear Material") to be used in connection with the generation of electric power by Beaver Valley Unit No. 1 for approximately one year, generally from the date that Lessor first made a payment under the Lease toward the cost of the Nuclear Material, and thereafter from month-to-month until the Lease is terminated pursuant to its terms. Lessor is obligated to pay the cost of the Nuclear Material (the "Acquisition Cost"), and if any part of the Acquisition Cost is paid by the Lessees, Lessor will promptly reimburse Lessees. At the option of the Lessees, any rent paid by Lessee to Lessor with respect to any Nuclear Material prior to completion of the first 200 full power hours of burn of the Nuclear Material and closing costs payable by Lessees to Lessor with respect to the Lease, will be considered an Acquisition Cost under that Lease. The Lessees will assign to the Lessor all contracts relating to the purchase of or services to be performed with respect to Nuclear Material, and the Lessor will reimburse the Lessees for all payments theretofore made with respect to such contracts.

Under the Lease, the Lessees assume all risks of loss or damage to the Nuclear Material and are responsible for keeping the Nuclear Material in good operating condition and repair. If such insurance is available, the Lessees are obligated to procure physical damage insurance in an amount not less than the Lessor's unrecovered Acquisition Cost as it exists from time to time, and liability insurance to the extent required by applicable laws, rules, or regulations. The Lessees may self-insure to the extent permitted by applicable laws, rules or regulations and agreed to by the Lessor. The Lessor and

its affiliates are fully indemnified by the Lessees against all claims, demands, liabilities, costs and expenses arising as a result of the Lessor's having leased the Nuclear Material, except for certain costs and expenses which are the responsibility of the Lessor under the Lease. In general, the Lessees are obligated to pay all costs associated with the Nuclear Material and the leasing thereof which are not to be paid by Lessor as an Acquisition Cost or otherwise under the Lease.

Rental payments under the Lease differ depending on whether the Nuclear Material is "Basic" or "Supplemental" and whether it is carried on an Interim Leasing Record or a Final Leasing Record. Nuclear Material is carried on an Interim Leasing Record when it is not actually installed for operation in a nuclear reactor and thereafter until the first day of the month on or after which such Nuclear Material has completed its first 200 full power hours of burn. Nuclear Material not carried on an Interim Leasing Record is carried on a Final Leasing Record. All Nuclear Material is "Basic" Nuclear Material except to the extent that it is designated "Supplemental" Nuclear Material on a leasing record. At no time can the unrecovered Acquisition Cost of "Basic" Nuclear Material exceed $30,000,000.

The Lease requires periodic (usually monthly) rental payments. While the Nuclear Material is carried on an Interim Leasing Record the amount of any specific rental payment is determined by allocating Lessor's then unrecovered Acquisition Cost with respect to that Nuclear Material equally over a 360-day period and by multiplying a portion of the amount so allocated (the portion attributable to the number of days equal to the number of days covered by the rental payment) by a percentage equal to the sum of 1½ percent (in the case of "Basic" Nuclear Material) or 1¾ percent (in the case of "Supplemental" Nuclear Material, but such figure is 1½ percent in any month in which the prime rate of Morgan Guaranty Trust Company or the rate of interest paid by Lessor on its commercial paper, whichever is higher, is less than 8 percent) plus the higher of (i) the prime rate of Morgan Guaranty Trust Company or (ii) the rate of interest paid by Lessor on its commercial paper. For the first two full calendar months that Nuclear Material is carried on a Final Leasing Record, rental payments are the same as they would be under an Interim Leasing Record. Thereafter, the amount of any specific rental payment is the amount payable while the Nuclear Material is being carried on an Interim Leasing Record plus an amount designed to permit the Lessor to recover the Acquisition Cost associated with that Nuclear Material over the period during which such Nuclear Material is expected to be utilized in connection with the generation of electric power, taking into account any anticipated salvage value with respect thereto.

The Lease is subject to termination by notice or otherwise pursuant to its terms. Depending on the circumstances of the termination, the Lessor is entitled to receive the fair market value of the Nuclear Material or its unrecovered Acquisition Cost with respect thereto (the "Termination Price"). However, the Lessor shall never receive less than its unrecovered Acquisition Cost upon any termination of the Lease. In certain circumstances, the Lessees are entitled to take title to the Nuclear Material upon payment of the applicable Termination Price. In other events, the Lessor retains title while the Lessees (if it is a non-default situation) seek to sell the Nuclear Material on behalf of the Lessor. The Lessees are then obligated to pay the Lessor the unrecovered Acquisition Cost and are entitled to a reimbursement from the Lessor out of the proceeds of any sale up to the amount of the unrecovered Acquisition Cost so paid.

Specified events of default under the Lease can trigger termination of the Lease and/or other remedies, including the right to repossess the Nuclear Material. If one of the Lessees defaults, the non-defaulting companies have the right to cure any such default.

Under the Lease, unrecovered Acquisition Costs for Beaver Valley No. 1 may not exceed $70,000,000. The allocable percentages of Ohio Edison and Penn Power with respect thereto are 35 percent and 17.5 percent, respectively (i.e., $24,500,000 and $12,250,000, respectively).

Under certain conditions, the Lease permits Nuclear Material to be transferred for lease under any other lease of Nuclear Material between some or all of the CAPCO companies and the Lessor and permits Nuclear Material covered by any other such lease to be transferred for lease under the Lease. If any such transfers are made and the lease from which the Nuclear Material is taken or to which it is added relates to a unit in which the ownership interests of Ohio Edison and Penn Power differ from their ownership interests in Beaver Valley Unit No. 1, there may be a disposition or acquisition of a utility asset by Ohio Edison or Penn Power. In the event that such transfer adds Nuclear Material to the Lease and results in an increase in the dollar amount of the then remaining proportional obligation of either Ohio Edison or Penn Power under the Lease to an amount greater than that stated above, Ohio Edison or Penn Power, as the case may be, would notify the Commission and request authorization for such transfer.

Ohio Edison and Penn Power propose to charge the rent under the Lease to fuel expenses and to account for the transaction as a lease rather than as a purchase. The fees and expenses to be incurred in connection with the proposed transaction by Ohio Edison and Penn Power are estimated at $4,100 and $1,100, respectively, including legal fees of $2,400 for Ohio Edison and $600 for Penn Power. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction, except that the Nuclear Regulatory Commission has jurisdiction over the ownership, possession, storage, and handling of Nuclear Material.

Notice is further given that any interested person may, not later than November 10, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponments thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-30802 Filed 10-21-77;8:45 am]

[8010-01]

[Rel. No. 9959; 811-2382]

PEACHTREE EQUITY SECURITIES, INC.

Filing of Application for an Order Declaring That Peachtree Equity Securities, Inc. Has Ceased To Be an Investment Company

OCTOBER 14, 1977.

Notice is hereby given that Peachtree Equity Securities, Inc. ("Applicant"), 34 Peachtree Street, Atlanta, Georgia 30303, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on July 20, 1977, and an amendment thereto on September 1, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that it 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.

The Applicant, a Georgia corporation, registered under the Act on May 31, 1973. The application states that on April 15, 1977, the shareholders of the Applicant approved an Agreement and Plan

of Reorganization (the "Agreement") which provided for the sale by the Applicant of substantially all of its assets to Bullock Fund, Ltd. ("Bullock"), a Maryland corporation and a diversified, open-end management investment company registered under the Act, in exchange for shares of the voting stock of Bullock.

The Application further states that the above sale of Applicant's assets was consummated on April 26, 1977, and that pursuant to the Agreement, Bullock issued 499,248 shares of its common stock to the Applicant, which represented an exchange ratio of 1.54 shares of Bullock common stock for each share of the Applicant's common stock. These Bullock shares have been distributed to the shareholders of the Applicant on a pro-rata basis.

Furthermore, the application states that the Applicant on June 10, 1977, filed a Statement of Intent to Dissolve with the Secretary of State of the State of Georgia pursuant to the relevant provisions of the Georgia Business Corporation Law. The application specifically states that the Applicant has ceased all business activity, and currently has no assets, known liabilities, or pending claims outstanding.

Applicant finally represents that at the present time it has no shareholders, has no intention of selling shares in the future, and that upon the granting of its requested order pursuant to Section 8(f) of the Act will file Articles of Dissolution with the Georgia Secretary of State, thereby completing the process of its formal dissolution under the Georgia Business Corporation Law.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than November 7, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-30803 Filed 10-21-77;8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Application No. 06/06-5185]

KAR-MAL VENTURE CAPITAL, INC.

Application for a License to Operate as a Small Business Investment Co.

On April 1, 1977, notice of the filing of an application for license under Section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 et seq.) by Kar-Mal Venture Capital, Inc. (Applicant) was published on April 1, 1977 by the Small Business Administration pursuant to 13 CFR 107.102 (1977) in Volume 42 of the FEDERAL REGISTER, page 17555. At that time, the paid-in capital was to be $150,000 from the sale of 50 shares of stock to Kar-Mal, Inc.

Since that time, Kar-Mal, Inc. has borrowed $350,000 and will invest this additional amount in the applicant, thereby increasing the initial paid-in capital to $500,000.

Since that time, Max J. Probst, one of the original officers and directors of the applicant has withdrawn from the applicant. As a result of such withdrawal, the officers and directors of the applicant will be as follows:

Thomas A. Karam, President and Director, 3901 Cedar Hill Rd., Little Rock, Ark. 72202.
Raymond A. Pritchett, Treasurer and Director, No. 18 Hogan Loop, North Little Rock, Ark. 72209.
David L. Hale, Secretary and Director, 2823 North Pierce, Little Rock, Ark. 72207.

The Applicant, an Arkansas corporation, will maintain an office in the Park Plaza Shopping Center, University and Markham, Little Rock, Ark. 72205, and will begin operations with $500,000 of paid-in capital and paid-in surplus derived from the sale of common stock to Kar-Mal, Incorporated, a family-owned company engaged in the wholesale business of men's clothing. Thomas A. Karam is a board member and general manager of Kar-Mal, Incorporated and is paid a salary for his services.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management and the probability of successful operations of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA rules and regulations.

Any person may, not later than November 9, 1977 submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Little Rock, Arkansas.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 14, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-30811 Filed 10-21-77;8:45 am]

[4710-02]

DEPARTMENT OF STATE

Agency for International Development

BOLIVIA

Determination To Waive Certain Requirements With Respect to Provision of Pesticides

Background. To provide assistance to the Ministry of Rural Affairs and Agriculture of the Government of Bolivia within the context of the crop substitution program, the Agency for International Development ("AID") will make available three hundred fifty thousand dollars ($350,000) to assist in the rehabilitation of coffee plantations in Bolivia in the Yungas and Chapare areas which vary between 6,000 and 8,000 feet in elevation. Many farmers in the areas have in the past grown *Erthroxylon coca* and *E. truxillense*, the source of "coca" (cocaine). One of the most difficult aspects of the crop substitution program is to identify crops which provide the same economic returns to the farmers.

However, the recent increase in coffee prices on the world market now makes coffee a potential "substitutable crop" in Bolivia. Accordingly, the Government of Bolivia, in cooperation with the Agency for International Development, proposes to undertake the rehabilitation of existing coffee plantations which have been allowed to deteriorate over the years, as well as the establishment of new coffee plantations in appropriate areas. The re-

habilitation program will involve the pruning of coffee trees and their treatment with appropriate fungicides and insecticides. The same pesticides will be required to protect the new plantations. The program is scheduled to start in mid-September of 1977 at the end of the coffee picking season and AID is in the process of making arrangements for the air shipment of the required pesticides and equipment to arrive as soon as possible.

The proposed pesticides are not registered with the Environmental Protection Agency ("EPA") for the planned uses as required under AID's Interim Pesticide Procedures published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). The Current concept of use registration by EPA involves identification of the pesticide, the crop on which it will be used and the specific pest against which the pesticide will be used. Because coffee is not grown in the United States, EPA-registered labels of pesticide products do not provide for application to coffee. Therefore, the proposed pesticides are not considered to be registered in the United States under the provisions of AID's Interim Pesticide Procedures.

The following table sets forth the proposed pesticides and the primary pests and diseases of coffee for which they will be used in Bolivia:

Crop	Pesticide	Pests
Coffee..	Copper oxychloride and copper sulfate, (approximately 3,000 kg each). Fenitrothion, (approximately 3,000 kg).	*Myceria citricolor, Colletoteichium sp., Cercospora sp., Rhizoctonia sp.* Aphids, Grub worms, Crickets, Grasshoppers.

In addition AID will provide twenty (20) motorized backpack mist blowers and six (6) motorized trailer-mounted sprayers having a 300 gallon capacity.

Bases for determination. Both Copper Oxychloride and Copper Sulfate are registered for general use by EPA, i.e., use by the general public, and the environmental impact of their use in the United States is considered by EPA to be minimal. Furthermore, they are of a very low order of acute toxicity to humans and hence there are no significant problems associated with their use in the United States. Although the climate and sociological conditions under which these pesticides will be used in Bolivia differ radically from U.S. conditions, the fungicides have been widely used throughout coffee growing areas of Latin America for the control of coffee diseases, and there are no known instances of any toxicological or environmental problems associated with their use. This statement is supported by the ANACAFE in Guatemala, an institute which for many years has enjoyed a scientific reputation of the highest order among the coffee growers of Latin America.

Fenitrothion is currently registered with EPA only for forestry use on fir and spruce against the spruce budworm. However, it is widely used through the rest of the world for controlling chewing and sucking insects on rice, orchard fruits, vegetables, cereals, and cotton and in public health programs for controlling insect vectors of human disease. It has an acute oral LD_{50} (rat) of 500 mg./kg., and a dermal LD_{50} (rat) of 1300 mg./kg.

By EPA standards this places fenitrothion in the category of pesticides requiring the signal word "WARNING" on the label (in contrast to more hazardous compounds which require the signal words "DANGER" and "POISON"). Fenitrothion has been widely used under climate and sociological conditions similar to those obtained in Bolivia without evidence of significant adverse environmental or human health effects, e.g., in the Sahelian Zone of Africa. AID considered less toxic insecticides, but these would be ineffective or have long term residual effects.

Coffee trees in Bolivia are affected by a variety of fungi such as *Myceria citricolor, Colletotrichium sp.* and *Cercospora sp.*, pink disease caused by *Rhizoctomia sp.*, and chewing and sucking insects such as aphids, grub worms, crickets and grasshoppers. Experience in Bolivia and elsewhere in the coffee growing areas of Latin America indicates that unless these pests and disease are controlled with such insecticides and fungicides as are being proposed in this project, productivity remains marginal, and the use of such pesticides is therefore essential for the production of an economically profitable crop. Use of these pesticides can be expected to appreciably increase the income of small farmers producing coffee and in the long run hopefully demonstrate that coffee may be an economically substitutable crop for coca. Hence, the risks associated with the use of these pesticides can be considered to be negligible and are outweighed by the benefits of using them on coffee.

The Associate Director for Science of the EPA Registration Division has been consulted and concurs in this determination.

Because of the urgency of supplying the pesticides and pesticide equipment to the Government of Bolivia so that the program can be started soon after mid-September, the end of the coffee picking season, there was not sufficient time for the publication of a FEDERAL REGISTER Notice of intent to make this determination.

Determination. For the reasons set forth above, I hereby approve under Section (a) of AID's Interim Pesticide Procedures the financing by AID of Copper Oxychloride, Copper Sulfate, and Fenitrothion for the uses indicated above and determine that the benefits of using these pesticides for the purposes intended outweigh the potential adverse effects and that no preferable alternative is available. This determination has been made in consultation with the EPA as required under Section (b) of AID's Interim Pesticide Procedures.

Dated: September 23, 1977.

ROBERT H. NOOTER,
Deputy Administrator, Agency for International Development.

[FR Doc.77-30966 Filed 10-21-77;8:45 am]

[4910-60]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[Docket No. OPSO-37]

BOSTON GAS CO.

Denial of Petition for Reconsideration

By letter of August 2, 1977, the Boston Gas Co., petitioned for reconsideration of the final rulemaking action, Amendment 192-28 (42 FR 35653, July 11, 1977), which established a new § 192.455(f) governing corrosion control of metal allow fittings in plastic pipelines. After reviewing the petition and other relevant considerations, the Materials Transportation Bureau (MTB) finds that sufficient information or arguments have not been presented to justify granting the petition. Therefore, for the reasons set forth below, the petition is hereby denied.

Boston Gas made the following arguments in support of its petition:

1. The regulation should not require that a metal alloy fitting meet the provisions of both paragraph (f)(1) and paragraph (f)(2), as compliance with either one will provide safe service to the consumer.

2. The final rule is more restrictive than the Notice of Proposed Rulemaking (41 FR 42221, September 27, 1976), because paragraph (f)(3) was not included in the Notice for public comment.

3. The requirements of paragraph (f)(3) are not similar to § 192.491, which requires an operator to know the location of cathodically protected piping, since § 192.455(f) allows metal fittings to be installed without cathodic protection.

Boston Gas' first argument was the subject of comments on the Notice of Proposed Rulemaking and was considered by MTB in developing the final rule. As stated in the preamble to Amendment 192-28, MTB believes that in view of the lack of performance data available for the alloy fittings which might be used, the variable corrosivity conditions in which fittings might be installed, and the imprecise corrosivity measurement techniques available, an initial determination of protection afforded by alloyage under paragraph (f)(1) may not provide a sufficient long-term safeguard against corrosion. As an additional safety factor, MTB believes that as proposed the fitting must also be "designed" to prevent any leakage that may be caused by localized corrosion. The petition did not contain any new facts or arguments to counter this view.

To illustrate its point, Boston Gas referred to a brass curb valve, stating that it should be permitted in a plastic pipeline under paragraph (f) (1) but that it is not "designed to prevent leakage caused by localized corrosion pitting" as required by paragraph (f) (2). MTB does not necessarily agree that such a fitting could not qualify for use since the design of a metal fitting to prevent leakage caused by localized corrosion pitting requires an engineering judgment. A proper design may be accomplished in several ways, including selection of materials, wall thickness of the fitting, or separation of the structural housing of the fitting from the gas carrying parts. MTB does not believe that paragraph (f) (2) unreasonably restricts the type of fitting that can be used for compliance with § 192.455(f).

Regarding the second argument that the final rule is more restrictive than the Notice of Proposed Rulemaking, MTB is of the opinion that although the terms of paragraph (f) (3) were not included in the Notice, its adoption is nevertheless valid because the reason for adoption, the issue of long-term protection by alloyage alone, was discussed in the Notice. Also of importance is that the Notice proposed to relax an existing requirement, not to impose an additional one. Thus, even though § 192.455(f) may be more restrictive than proposed in terms of an operator's permissible activity, it is still fair to say that the final rule is not more restrictive in terms of imposing a greater regulatory burden on anyone than previously existed.

In light of the variety of ways which an operator might use to comply with paragraph (f) (3), such as adding notations to a pipeline map, review of work orders, or marking normally kept service cards, MTB does not believe that an operator should have difficulty in compliance. In addition, since the purpose of the requirement is to provide for possible future inspection or repair, an operator need not know the exact location of a fitting, but only the general location, so that it can be dug up if a problem arises in the future.

As to the third argument, although paragraph (f) (3) applies to fittings installed without cathodic protection, it is consistent with § 192.491 in that both requirements call for knowing the location of piping protected against corrosion. Also in the absence of § 192.455(f), an operator who installs a metal fitting in a plastic pipeline with cathodic protection as required by § 192.455(a) would have to record the fitting under § 192.491. Thus, paragraph (f) is no more onerous than § 192.491.

(49 U.S.C. 1672, 49 CFR 1.53(a).)

Issued in Washington, D.C., on October 17, 1977.

JOHN F. FEARNSIDES,
Acting Director,
Materials Transportation Bureau.

[FR Doc.77-30753 Filed 10-21-77;8:45 am]

[4910-60]

APPLICATION GRANTS AND DENIALS

Hazardous Materials Regulations; Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted September 1977. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
		RENEWALS		
1862-X	DOT-E 1862	Greer Hydraulics, Inc., Los Angeles, Calif.	49 CFR 173.302(a)(1), 175.3	To ship nitrogen in a single trip non-DOT hydraulic accumulator. (Modes 1, 2, 3, and 4.)
3305-X	DOT-E 3305	Reichhold Chemicals, Inc., White Plains, N.Y.	49 CFR 173.154(a)(14)	To ship certain oxidizers in DOT specification 12B fiberboard boxes. (Modes 1 and 2.)
3307-P	DOT-E 3307	Ireco Chemicals, Salt Lake City, Utah; R. L. Fortner, Inc., Denmark, Iowa.	49 CFR 173.154, 173.182	To become a party to exemption 3307. (See application No. 3307-X. (Modes 1, 4, and 3.)
3330-X	DOT-E 3330	Babcock and Wilcox Co., Lynchburg, Va.; Teledyne Wah Chang, Albany Corp., Albany, Oreg.; General Electric, Schenectady, N.Y.	49 CFR 173.214(d)	To ship flammable solids in insulated containers overpacked in a DOT specification 17C, 17H, or 37A metal drum. (Modes 1 and 2.)
3744-P	DOT-E 3744	McKesson Chemical, San Francisco, Calif.; Thompson-Hayward Chemical Co., Kansas City, Kans.	49 CFR 173.266(b)(7)	To become a party to exemption 3744. (See application No. 3744-X.) (Modes 1 and 2.)
3941-X	DOT-E 3941	Aerojet Solid Propulsion Co., Sacramento, Calif.; Kerr-McGee Chemical Corp., Oklahoma City, Okla.	49 CRF 173.289a(a)(2)	To ship ammonium perchlorate in non-DOT specification aluminum portable tanks. (Modes 1 and 2).
3992-P	DOT-E 3992	Diamond Shamrock Corp., Cleveland, Ohio.	49 CFR 173.314	To become a party to exemption 3992. (See application No. 3992-X.) (Mode 2.)
4052-X	DOT-E 4052	The Boeing Co., Seattle, Wash.; Northwest Airlines, Inc., St. Paul, Minn.	49 CFR 173.34(d), 173.205, 175.3.	To ship an aerosol formulation in DOT specification 39 seamless aluminum cylinders. (Modes 1, 2, 4, and 5.)
4108-P	DOT-E 4108	Purity Cylinder Gases, Inc., Grand Rapids, Mich.	49 CFR 173.315(a)	To become a party to exemption 4108. (See Application No. 4108-X.) (Mode 1.)
4338-X	DOT-E 4338	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.245(a), 173.247 (a), 173.247a.	To ship certain corrosive liquids in DOT specification 3E1800 and 3AA2015 cylinders, and DOT-51 portable tanks. (Modes 1, 2, and 3.)
4453-P	DOT-E 4453	Explosives Inc., Pittsfield, Ill.	49 CFR 173.182(c)	To become a party to exemption 4453. (See Application No. 4453-X.) (Mode 1.)
4459-P	DOT-E 4459	Dow Chemical Co., Midland, Mich.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.328(a)(2), 173.353(a)(3), 178.37.	To become a party to exemption 4459. (See application 4459-X.) (Modes 1, 2, and 4.)
4763-P	DOT-E 4763	Worth Chemical Corp., Greensboro, N.C.	49 CFR 173.234(a)(2)	To become a party to exemption 4763. (See application No. 4763-X.) (Modes 1, 2, and 3.)
5778-X	DOT-E 5778	Lif-O-Gen, Cambridge, Md.	49 CFR 173.302(a)(4), 173.304(a)(1)(i).	To ship certain flammable gases in DOT specification 39 steel cylinders. (Modes 1 and 2.)
5923-X	DOT-E 5923	Union Carbide Corp., Tarrytown, N.Y.	49 CFR 173.314	To ship certain flammable and nonflammable gases in DOT specification 106A500X and 110A500-W multiunit tank car tanks. (Modes 1 and 2.)
6007-X	DOT-E 6007	Nuclear Products Co., El Monte, Calif.; Pennwalt Corp., Holmdel, N.J.; National Warehouse, Inc., Minneapolis, Minn.	49 CFR 173.391(b)(5) to be applied as transport group III; 175.3.	To ship radioactive devices in accordance with 49 CFR 173.391. (Modes 1, 2, 3, 4, and 5.)
6016-P	DOT-E 6016	Greco Welding Supplies, Inc., Tarentum, Pa.; Livingston Oxygen Co., Modesto, Calif.	49 CFR 173.315(a)	To become a party to Exemption 6016. (See Application No. 6016-X). (mode 1).
6071-X	DOT-E 6071	Walter Kidde & Co., Inc., Belleville, N.J.; The Boeing Co., Seattle, Wash.; Northwest Airlines, Inc., St. Paul, Minn.	49 CFR 173.304, 173.305, 175.3.	To ship nonflammable compressed gases in non-DOT specification stainless steel pressure vessel complying with DOT Specification 4DA with certain exceptions. (modes 1, 2, 4, 5.)
6116-X	DOT-E 6116	AAI Corp., Baltimore, Md.; Federal Laboratories, Inc., Saltsburg, Pa.	49 CFR 173.385(b), 175.3	To ship tear gas grenades in compliance with 49 CFR 173.385(a)(1). (modes 1, 2, 3, 4.)
6228-X	DOT-E 6228	Airco Welding Products, Springfield, N.J.	49 CFR 173.301(d)(4)	To ship acetylene in a manifolded unit consisting of DOT Specification 8 or DOT Specification 8AL cylinders. (mode 1.)

RENEWALS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
6432-P	DOT-E 6432	Mass Oxygen Equipment Co., Inc., Westborough, Mass.	49 CFR 173.315(a)	To become a party to exemption 6432. (See application No. 6432-X.) (Mode 1.)
6530-P	DOT-E 6530	FIBA Leasing Co., Westborough, Mass.	49 CFR 173.302(c)	To become a party to exemption 6530. (See application No. 6530-X.) (Modes 1 and 2.)
6564-P	DOT-E 6564	Chem Lab Products, Inc., Anaheim, Calif.	49 CFR 173.119, 173.128	To become a party to exemption 6564. (See application No. 6564-X.) (Modes 1 and 3.)
6614-P	DOT-E 6614	Georgia-Pacific Corp., Los Angeles, Calif.	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to exemption 6614. (See application No. 6614-X.) (Mode 1.)
6632-X	DOT-E 6632	Roper Plastics, Inc., Norwalk, Calif.	49 CFR 173.217(a)	To manufacture, mark and sell polyethylene pails for shipments of dry oxidizing materials in non-DOT single-trip polyethylene container. (Modes 1, 2, and 3.)
6640-X	DOT-E 6640	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.34(e)	To ship sulfur hexafluoride in DOT specification 3A or 3AA cylinders having extended retest period. (Modes 1 and 2.)
6657-X	DOT-E 6657	Gases and Arc Supply Co., Pueblo, Colo.; Chemetron Corp., Chicago, Ill.	49 CFR 173.34(e)(15)(i), 175.3.	To ship certain nonliquefied compressed gases in DOT specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA over 35 yr old. (Modes 1, 2, 3, 4, and 5.)
6773-X	DOT-E 6773	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 173.314(c)	To ship flammable compressed gases in DOT 105A600W tank car. (Mode 2.)
6790-X	DOT-E 6790	Dow Chemical Co., Freeport, Tex.	49 CFR 173.249(a)(6), 173.263(a)(10).	To ship corrosive liquids in a non-DOT specification fiberglass reinforced plastic cargo tank built in compliance with DOT specification MC-312 with certain exceptions. (Mode 1.)
6806-P	DOT-E 6806	American Can Co., Union, N.J.	49 CFR 173.302(a), 175.3	To become a party to exemption 6806. (See application No. 6806-X). (Mode 5.)
6896-X	DOT-E 6896	Southern Agricultural Chemicals, Inc., Kingstree, S.C.	49 CFR 173.358, 173.359	To ship certain class B poisonous liquids in a non-DOT specification cargo tank constructed in accordance with the ASME code. (Mode 1.)
6909-P	DOT-E 6909	Edwin Cooper Inc., St. Louis, Mo.	49 CFR 173.253(a)(6)	To become a party to exemption 6909. (See application No. 6909-X.) (Mode 1.)
6931-X	DOT-E 6931	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.245(a)(32)	To ship certain corrosive liquids in insulated aluminum tank car tanks built to AAR201A80W, DOT 105A100W or 105A300W specifications. (Mode 2.)
6949-P	DOT-E 6949	Stauffer Chemical Co., Westport, Conn.	49 CFR 173.190(b)	To become a party to exemption 6949. (See application 6949-X). (Modes 1, 2, 3.)
6958-X	DOT-E 6958	Dow Chemical Co., Findlay, Ohio.	49 CFR 173.252(a)(5)	To ship bromine in a lead lined portable tank built in accordance with DOT specification MC 312 and ISO standards. (Modes 1 and 3.)
6994-X	DOT-E 6994	Apache Container Corp., St. Paul, Minn.	49 CFR 178.33-7	To manufacture, mark and sell non-DOT nonrefillable steel containers for the shipment of certain compressed gases. (Modes 1 and 2.)
7023-P	DOT-E 7023	Hi Pure Chemicals, Inc., Nazareth, Pa.	49 CFR 173.245(a), 173.264 (a), 173.266, 173.268(f)(5), 173.272(g)(i)(24).	To become a party to exemption 7023. (See application No. 7023-X). (Mode 1.)
7056-P	DOT-E 7056	Diamond Shamrock Corp., Morristown, N.J.	49 CFR 173.204(a)(4), 173.28(m).	To become a party to exemption 7056. (See application No. 7056-X). (Modes 1, 2, and 3.)
7060-X	DOT-E 7060	Baltimore Airways, Inc., Clarksville, Md.; Federal Express Corp., Memphis, Tenn.	49 CFR 175.75, 175.700	To ship radioactive materials in small aircraft with certain exceptions. (Mode 4.)
7072-X	DOT-E 7072	Container Corp., of America, Wilmington, Del.	49 CFR Part 173, 178.19	To manufacture, mark and sell non-DOT specification molded polyethylene containers for the shipment of certain corrosive liquids and oxidizers. (Modes 1, 2, and 3.)
7094-X	DOT-E 7094	Dow Chemical Co., Freeport, Tex.	49 CFR 172.101	To stow certain corrosive materials "under deck" on board vessel. (Mode 3.)
7098-X	DOT-E 7098	Rohm and Haas Co., Philadelphia, Pa.	49 CFR 173.204(a)	To ship sodium hydrosulfite in DOT 37A drums with certain exceptions. (Mode 3.)
7189-X	DOT-E 7189	Chugiak Aviation, Chugiak, Alaska; Northern Air Cargo, Anchorage, Alaska; Wein Air Alaska, Inc., Anchorage, Alaska.	49 CFR 172.101, 175.30	To transport propane in DOT specification 4BW240 cylinders or DOT specification 51 portable tanks. (Mode 4.)
7192-X	DOT-E 7192	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.316(a)	To ship liquefied hydrogen in a non-DOT specification cargo tank constructed in accordance with sec. VIII of the ASME Code. (Mode 1.)
7220-X	DOT-E 7220	Greif Bros. Corp., Union, N.J.	49 CFR pt. 173, 178.19	To manufacture, mark and sell non-DOT specification reusable, blow-molded, polyethylene containers for the shipment of corrosive liquids, flammable liquids and oxidizers. (Modes 1, 2, and 3.)
7234-X	DOT-E 7234	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	49 CFR 172.101(7)(a)	To ship corrosive liquids in DOT specification 17E metal drums. (Mode 3.)
7240-X	DOT-E 7240	The Dexter Corp., Olean, N.Y.; Thermoset Plastics, Inc., Indianapolis, Ind.; Applied Plastics Co., Inc., El Segundo, Calif.; Hardman Inc., Belleville, N.J.	49 CFR 173.249	To ship certain corrosive liquids in a DOT specification 12B fiberboard box. (Modes 1, 2, and 3.)
7266-P	DOT-E 7266	Coastal Industries, Inc., Carlstadt, N.J.	49 CFR 173.217(b)	To become a party to exemption 7266. (See application No. 7266-X.) (Modes 1, 2, and 3.)
7278-X	DOT-E 7278	ACF Industries, Inc., St. Charles, Mo.	49 CFR 179.201-7	To ship corrosive liquids in DOT specification 111A100W series tank cars. (Mode 2.)
7285-X	DOT-E 7285	Ugine Kuhlmann, Paris, France	49 CFR 173.315(a)	To ship certain nonflammable liquefied compressed gases in a non-DOT specification portable inter-modal tank. (Modes 1, 2, and 3.)
7286-X	DOT-E 7286	Liquid Carbonic Corp., Chicago, Ill.	49 CFR 173.34(e)(15)(i)	To ship certain nonliquefied compressed gases in DOT specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA over 35 yr old. (Modes 1, 2, 3, 4, and 5.)
7413-X	DOT-E 7413	Chilton Metal Products Division, Western Industries, Inc., Chilton, Wis.	49 CFR 173.304(a)(1), 175.3, 178.42.	To manufacture, mark and sell non-DOT specification brazed steel cylinders for shipment of liquefied carbon dioxide. (Modes 1, 2, and 4.)
7418-X	DOT-E 7418	Seatrain Lines, Inc., Weehawken, N.J.	49 CFR 173.125	To ship whiskey and distilled spirits in non-DOT specification portable tanks. (Modes 1, 2, and 3.)
7424-X	DOT-E 7424	Hercules Inc., Wilmington, Del.	49 CFR 173.63(b)(1)	To ship certain class A explosives in accordance with 49 CFR 173.63(d)(3). (Mode 1.)
7428-X	DOT-E 7428	United States Steel Corp., McKeesport, Pa.	49 CFR 173.302(a)(3)	To manufacture, mark and sell non-DOT specification seamless wire hoop wrapped steel cylinders for shipment of certain flammable and nonflammable compressed gases. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
7434-X	DOT-E 7434	Natico, Inc., Chicago, Ill.	49 CFR 173.1; Part 173, subpts D, E except organic peroxides, F and H; 177.854.	To manufacture, mark, and sell non-DOT recovery drums for shipment of certain hazardous materials. (Modes 1 and 2.)
7477-X	DOT-E 7477	Systron Donner Corp., Berkeley, Calif.	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To ship certain nonflammable—compressed gases in a non-DOT specification seamless aluminum cylinder. (Modes 1, 2, 3, and 4.)
7512-X	DOT-E 7512	Puerto Rico Maritime Shipping authority, Elizabeth, N.J.	49 CFR pt. 173; 46 CFR 90.05-35, 98.35-3.	To ship flammable and combustible liquids in non-DOT portable tanks complying with DOT Specification MC 306 with certain exceptions. (Modes 1, 2, and 3.)
7520-X	DOT-E 7520	Puerto Rico Maritime Shipping Authority, Elizabeth, N.J.	49 CFR pt. 173; 46 CFR 90.05-35.	To ship certain combustible—and flammable liquids in a non-DOT specification steel portable tank. (Modes 1 and 3.)
7620-X	DOT-E 7620	W. P. Butterfield (Engineers) Ltd., Shipley West Yorkshire, England.	49 CFR 173-346, 173.268, 173.247, 173.119, 173.245; 46 CFR 90.05-35.	To ship certain hazardous materials in a non-DOT specification stainless steel portable tank, designed and constructed in accordance with sec. VII of the ASME code. (Modes 1and 3.)
7628-X	DOT-E 7628	Chemetech Industries, Inc., St. Louis, Mo.	49 CFR 173.264(a)(11)	To ship hydrofluoric acid in DOT specification 111A100W-5 tank cars. (Mode 1.)
7671-X	DOT-X 7671	Hugonnet, S.A., Paris, France; Sea Containers Inc., New York, N.Y.	49 CFR pt. 173; 46 CFR 90.05-35.	To ship certain hazardous materals in a non-DOT specification IMCO type 2 insulated portable tank. (Modes 1, 2, and 3.)
7714-X	DOT-E 7714	Suttons International Ltd., London, England; W. R. Zanes and Co., New Orleans, La.	49 CFR 173.245, 173.119, 173.125, 173.630; 46 CFR 90.05-35	To ship certain corrosive, flammable and combustible liquids and ORM-A commodities in a non-DOT steel portable tank built in accordance with sec. VIII of the ASME code. (Modes 1, 2, and 3.)
7810-X	DOT-E 7810	Allied Chemical Corp., Morristown, N.J.	49 CFR 173.314(c)	To ship certain flammable or nonflammable gases in DOT specification 106A500X and 110A500W tank car tanks. (Mode 3.)

NEW EXEMPTIONS

7458-N	DOT-E 7458	Ekohwerks Co., Eastlake, Ohio	49 CFR 173.304(a)(2)	To manufacture, mark and sell seamless cylinders for the shipment of nonflammable gases. (Modes 1, 2, and 3)
7524-N	DOT-E 7524	E. I. du Pont de Nemours & Co., Inc., Wilmington, Del.	47 CFR 173.314(c), 173.315	To ship monobromotrifluoromethane in a DOT 51 portable tank, a MC 331 cargo tank, a DOT 105A500W tank car tank, and a non-DOT specification tank car tank complying with AAR specification 120A500W. (Modes 1, 2, and 3.)
7595-N	DOT-E 7595	American Cyanamide, Wayne, N.J.	49 CFR 173.358, 173.359	To ship poisonous B liquid in DOT specification MC 312 cargo tanks. (Mode 1.)
7597-N	DOT-E 7597	Riverside Chemical Co., Memphis, Tenn.	49 CFR 173.358, 173.359	To ship certain class B poisons in DOT specification 17E drums. (Mode 1.)
7598-N	DOT-E 7598	Pratt and Whitney Aircraft, East Hartford, Conn.	49 CFR Part 173, 178.255-1(a).	To ship certain corrosive materials, oxidizers and class B poisons in a portable tank complying with DOT 60 specification, with certain exceptions. (Mode 1.)
7606-N	DOT-E 7606	Matheson Gas Products, Lyndhurst, N.J.	49 CFR 173.230	To ship a certain flammable solid in DOT specification 4BW 240 cylinders. (Mode 1.)
7613-N	DOT-E 7613	Rexnord, Inc., Brookfield, Wis.	49 CFR 173.245(a)(17)	To ship corrosive liquids in an unlined metal container overpacked in a DOT specification 12B corrugated fiberborad box. (Modes 1 and 3.)
7625-N	DOT-E 7625	Milport Chemical Co., Milwaukee, Wis.; Hydrite Chemical Co., Milwaukee, Wis.	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To ship certain oxidizers and corrosive liquids in DOT specification 56 portable tanks. (Mode 1.)
7638-N	DOT-E 7638	Minnesota Valley Engineering, New Prague, Minn.	49 CFR 173.304(a), 175.3	To manufacture, mark and sell DOT specification 4L welded cylinders for shipment of nonflammable gases. (Modes 1, 2, 3, and 4.)
7640-N	DOT-E 7640	Mauser Packaging Ltd., New York, N.Y.	49 CFR 173.266(a), 178.19	To ship hydrogen peroxide solution in a DOT Specification 34 reusable molded polyethylene container. (Modes 1, 2, and 3.)
7647-N	DOT-E 7647	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.315	To ship vinyl chloride in DOT specification 51 portable tanks with certain exceptions. (Mode 1.)
7649-N	DOT-E 7649	Ford Motor Co., Dearborn, Mich.	49 CFR 173.306	To ship monochlorodifluoromethane in DOT specification 39 cylinders. (Modes 1, 2, and 3.)
7679-N	DOT-E 7679	PPG Industries, Inc., Pittsburgh, Pa.; Lonza, Inc., Fair Lawn, N.J.	49 CFR 173.375(a)	To ship certain class B poisonous solids in a DOT specification 21C-115 fiber drum. (Modes 1 and 2)
7682-N	DOT-E 7682	Igloo Corp., Houston, Tex.	49 CFR Part 173, 178.19	To manufacture, mark and sell non-DOT specification reusable molded polyethylene containers for the shipment of corrosive liquids. (Modes 1, 2, and 3.)
7728-N	DOT-E 7728	Brookhaven National Laboratory, Upton, N.Y.	49 CFR 173.206(a), 175.3	To ship a certain flammable solid in non-DOT specification aluminum boxes. (Modes 1, and 4.)
7740-N	DOT-E 7740	Anchem Products, Inc., Ambler, Pa.	49 CFR 173.245(a)(4)	To ship certain corrosive liquids in drums complying with DOT specification 5C except for markings. (Mode 1.)
7741-N	DOT-E 7741	Bell Aerospace, Buffalo, N.Y.	49 CFR 173.276(a), 173.302 (a), 173.34(d), 175.3, 175.30.	To ship flammable liquids and compressed gases in non-DOT specification packagings. (Modes 1, 3, and 4.)
7744-N	DOT-E 7744	Dow Corning Corp., Midland, Mich.	49 CFR 172.101, 173.315(a)	To ship nonflammable gases in a non-DOT specification, foam insulated cargo tank designed and fabricated in accordance with sec. VIII of the ASME code. (Mode 1.)
7754-N	DOT-E 7754	Hercules Inc., Wilmington, Del.	49 CFR 173.66, 173.103(a), 173.835(g)(2)(i).	To ship class C explosives in polyethylene plastic bags, overpacked in a DOT specification 12H65 fiberboard box. (Mode 1.)
7768-N	DOT-E 7768	Monsanto Co., St. Louis, Mo.	49 CFR 173.217, 178.19	To ship certain oxidizers in non-DOT specification blow-molded, high molecular weight polyethylene drums. (Modes 1, 2, and 3.)
7772-N	DOT-E 7772	Ugine Kuhlmann, Paris, France	49 CFR pt. 173, subpt. D	To ship certain flammable liquids in a non-DOT steel portable tank built in accordance to section VIII of the ASME code. (Modes 1 and 3.)
7774-N	DOT-E 7774	Weatherford/DMC, Houston, Tex.	49 CFR 173.246	To ship bromine trifluoride in non-DOT specification cylinders. (Mode 1.)
7777-N	DOT-E 7777	Saunders Petroleum Co., Evans, Colo.	49 CFR 173.248	To ship spent sulfuric acid in DOT specification 34 polyethylene container, DOT specification 12B corrugated fiberboard box, DOT specification 12P corrugated fiberboard box, or DOT specification 6D or 37M cylindrical steel overpacks. (Modes 1, 2, and 3.)
7792-N	DOT-E 7792	Dow Chemical U.S.A. Midland, Mich., Vistron Corp., Cleveland, Ohio.	49 CFR 172.204(a), (d), 173.29(f)(2).	To authorize the return shipment of empty tank cars without the shipper's certification on the shipping papers. (Mode 2.)
7796-N	DOT-E 7796	Dow Chemical Co., Midland, Mich.	49 CFR 173.357	To ship class B poison in a non-DOT specification metal can. (Modes 1, 2, and 3.)
7797-N	DOT-E 7797	Food Materials Corp., Chicago, Ill.	49 CFR 172.100(g)(3), 175.3, 175.75(a)(1).	To ship certain flammable liquids in 1-gal and 55-gal quantities on passenger and cargo carrying aircraft. (Modes 4 and 5.)
7798-N	DOT-E 7798	Ro-Go Chemical Co., Fresno, Calif.	49 CFR 173.248	To ship spent sulfuric acid in DOT specification 12B corrugated fiberboard boxes. (Mode 1.)
7799-N	DOT-E 7799	Chilean Nitrate Sales Corp., New York, N.Y.	49 CFR 172.300, 172.400(a), par. (1) app. B, pt. 107.	To ship certain oxidizers in unmarked and unlabeled bags. (Modes 1 and 2.)
7805-N	DOT-E 7805	Dow Chemical Co., Freeport, Tex.	49 CFR 173.119	To ship certain flammable liquids in a non-DOT specification stainless steel portable tank built in accordance with sec. VIII of the ASME code. (Modes 1 and 3.)
7809-N	DOT-E 7809	U.S. Rubber Reclaiming Co., Inc., Vicksburg, Miss.	49 CFR 173.201	To ship certain flammable solids in a non-DOT specification polyethylene 2-ply bag. (Modes 1 and 2.)

Application No.	Exemption No.	Applicant	Regulation(s) Affected	Nature of Exemption Thereof
7813-N	DOT-E 7813	Lithium Corp. of America, Gastonia, N.C.	49 CFR 173.245b(a)(5)	To ship corrosive materials in DOT specification 21C fiber drums. (Modes 1, 2, and 3.)
7815-N	DOT-E 7815	Miller Transporters, Inc., Jackson, Miss.	49 CFR 173.119(m)(10)	To ship acrylonitrile in MC 305 and MC 306 tank motor vehicles. (Mode 1.)
7819-N	DOT-E 7819	Hugonnet, S.A., Paris, France; Eurotainer, Paris, France.	49 CFR Part 173; 46 CFR 90.05-35.	To ship hazardous materials in non-DOT specification IMCO type 1 insulated portable tank. (Modes 1, 2, and 3.)
7826-N	DOT-E 7826	SRI International, Menlo Park, Calif.	49 CFR 172.101; 173.328	To ship selenium carbonyl in non-DOT sealed glass vials, overpacked in non-DOT hermetically sealed aluminum containers. (Mode 1.)

EMERGENCY EXEMPTION.—*Applications received and granted*

EE7723-X	DOT-E 7723	Farm and Industrial Chemical Co., Dalton, Ga.	49 CFR 173.245(a)(31)	To ship certain corrosive liquid in a DOT specification MC 306 tank motor vehicle. (Mode 1.)
EE7659-X	DOT-E 7659	Alaska Helicopter, Inc., Anchorage, Alaska.	49 CFR 172.101, 175.30, 175.320.	To transport liquefied petroleum gas or propane in DOT specification 51 portable tanks. (Mode 4.)

DENIALS

75-46—Request by Magna Corp., Houston, Tex.—To ship acrolein, inhibited in DOT Specification 51 portable tanks, denied September 20, 1977.

6517-X—Request by Amos B. Metz, Woodland, Calif.—To ship acetylene in non-DOT specification steel cylinders, denied September 19, 1977, as being unnecessary.

6687-X—Request by Cessna Aircraft Co., Wichita, Kans.—To transport Hi Flow Prist as aircraft equipment, aboard passenger carrying aircraft, denied September 30, 1977, as being unnecessary.

6725-X—Request by Shell Oil Co., Houston, Tex.—To ship insecticide liquids, classified as a flammable liquid, in a DOT Specification 12P/2U packaging, denied September 19, 1977, as being unnecessary. (Docket HM-139 obviates the need.)

6725-P—Request by F & H Electronic Materials Corp., Dearborn, Mich.—To become a party to Exemption 6725 for the shipment of insecticide liquids, classified as a flammable liquid, in a DOT Specification 12P/2U packaging, denied September 24, 1977, as being unnecessary. (Docket HM-139 obviates the need.)

6821-X—Request by Comet Manufacturing Corp., Atlanta, Ga.—To ship a corrosive material in a polyethylene container, denied September 21, 1977, as being unnecessary. (Docket HM-139 obviates the need.)

6825-X—Request by Lox Equipment Co., Livermore, Calif.—To extend the new construction date limitation, and to substantially increase the number of tank cars authorized, denied September 7, 1977.

6963-X—Request by I.S.C. Chemicals Ltd., Avonmouth, Bistol—To increase the gross weight limitation specified for the non-DOT portable tanks, denied September 7, 1977.

7005-X—Request by Phillips Petroleum Co., Bartlesville, Okla.—To ship ethyl mercaptan, cyclohexyl mercaptan, and flammable liquids n.o.s. in non-DOT specification portable tanks, denied September 19, 1977, as being unnecessary.

7097-X—Request by Fuller System, Inc., Woburn, Mass.—To eliminate the labeling requirement for certain limited quantities of Poison B liquids, denied September 21, 1977.

7213-X—Request by Union Carbide Corp., Bound Brook, N.J.—To ship materials classed as a corrosive solid, n.o.s. in Title 49, Code of Federal Regulations, in a certain non-DOT specification portable tank, denied September 26, 1977, as being unnecessary. (Docket HM-139 obviates the need.)

7555-N—Request by Provost Cartage, Inc., Ville D'Anjou, Quebec, Canada—To authorize shipment of corrosive materials in a non-DOT specification fiberglass reinforced plastic cargo tank using "balsa sandwich" type construction without stiffening rings, denied September 16, 1977.

7555-P—Request by Lonza, Inc., Fair Lawn, N.J.—To become a party to Exemption 7555-N to ship phosphorous acid in fiberglass cargo tanks, denied September 22, 1977.

7591-N—Request by Albright & Wilson Ltd., Norwood, N.J.—To ship phosphorus tribromide, a corrosive material, in non-DOT specification lead-lined metal drums, denied September 16, 1977.

7662-N—Request by Albright & Wilson Ltd., Norwood, N.J.—To authorize the use of foreign-made steel drums for importing various hazardous materials, for which the DOT Specification 17E drum is prescribed, denied September 23, 1977, as being unnecessary.

7664-N—Request by the Department of the Air Force, Washington, D.C.—To transport by air certain Class C explosive devices as a part of a personnel parachute, denied September 27, 1977.

7675-N—Request by Richmond Tank Car Co., Houston, Tex.—To authorize the use of AAR type "F" or type "E" top and bottom shelf couplers, denied September 30, 1977.

7681-N—Request by Prudential Lines, Inc., New York, N.Y.—To provide an alternate location for fire fighting equipment for cargo vessel holds containing motor vehicle, denied September 9, 1977.

7729-N—Request by Carleton Controls Corp., East Aurora, N.Y.—To ship nitrogen in a welded cylinder made from AM350 type steel, denied September 21, 1977.

7732-N—Request by Union Carbide Corp., Bound Brook, N.J.—To authorize the use of a non-DOT specification plastic container to ship hazardous materials for which the DOT Specification 2P or 2Q metal container is prescribed, denied September 24, 1977.

7758-N—Request by Arizona Agrochemical Co., Phoenix, Ariz.—To ship an insecticide, dry, in DOT Specification 44-D multi-wall paper bags, denied September 30, 1977.

7765-N—Request by Carleton Controls Corp., East Aurora, N.Y.—To ship nitrogen in a non-DOT specification cylinder patterned after the DOT specification 39 except for test and burst pressure requirements, denied September 7, 1977.

7779-N—Request by Lonza Inc., Fair Lawn, N.J.—To ship sodium azide in 15A wooden boxes with inside paper bags within a waterproof duplex bag, denied September 29, 1977, as being unnecessary.

7817-N—Request by Agfa-Gevaert Inc., Teterboro, N.J.—To authorize the use of shipping papers which do not show the hazard classification for certain n.o.s. descriptors, denied September 14, 1977.

7818-N—Request by Asiatic Petroleum Corp., New York, N.Y.—To ship hydrofluoric acid in portable steel tanks, denied September 7, 1977.

WITHDRAWALS

6584-X—Request by Pennwalt Corp., Philadelphia, Pa.—To ship certain corrosive liquids in a non-DOT specification metal/polyethylene drum of 15-gallon capacity, withdrawn September 2, 1977.

7254-X—Request by Dow Chemical Co., Freeport, Tex.—To ship ethylene dibromide in portable tanks built to the requirements of 46 CFR 98.35, withdrawn September 28, 1977.

7684-N—Request by Lea Manufacturing Co., Waterbury, Conn.—To ship packages of Class B poisons without the Class B poison label and in the same vehicle with foodstuffs, withdrawn (March 4, 1977).

J. H. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc.77-30813 Filed 10-21-77;8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. EX77-5; Notice 1]

AM GENERAL CORP.

Petition for Temporary Exemption From Motor Vehicle Safety Standards

AM General Corporation of Wayne, Michigan, has petitioned for a 2-year exemption from Federal motor vehicle safety standards on starter interlock, accelerator control systems, and fuel system integrity, on the basis that it would facilitate the development and field evaluation of a low emission motor vehicle.

Petitioner intends to build approximately 1,000 electric trucks, primarily for the United States Postal Service. The company has asked for an exemption from Federal Motor Vehicle Safety Standard No. 102, Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect. This Standard requires in pertinent part that the engine starter on trucks be in operative when the transmission shift lever is in a forward or reverse drive position. Although the direction control lever on AM General's truck has a locking device to prevent accidental shifting, nevertheless the vehicle can be started by turning the key switch to the ON position when the lever is in forward or reverse gear, as well as when it is in neutral. Standard No. 124, Accelerator Control Systems requires that a vehicle's throttle return to the idle position when the driver re-

moves his hand or foot from the accelerator, or if there is a disconnection in the accelerator control system. AM General says that though its vehicle could be equipped to return the motor speed controller automatically to a shutdown mode, the system could short and the only way to stop the vehicle would be to apply the brake. With respect to Standard No. 301–75, the company asks for an exemption to cover its gasoline-fueled heater system.

Petitioner to date has not provided its reasons why granting the exemptions would not unduly degrade vehicle safety, merely stating that Standards Nos. 102 and 124 have not really addressed the problems of electric vehicles, and that it has a "high level of confidence" that its gasoline-fueled heater will retain a high degree of integrity in a crash. Petitioner argues that an exemption would be in the public interest "as it reduces the vehicle cost to the U.S. Government Postal Service."

The notice of receipt of a petition for a temporary exemption is published in accordance with section 123 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1410), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition by AM General Corp. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: November 25, 1977.

(Sec. 3, Pub. L. 92–548, 86 Stat. 1159 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on: October 17, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77–30759 Filed 10–21–77;8:45 am]

[4910–59]

[Docket No. IP77–13; Notice 1]

MOTOR BIKES IMPORT, INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Motor Bikes Import, Inc. (MBI), of Pennsauken, N.J., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for apparent noncompliances with 49 CFR 571.122 Motor Vehicle Safety Standard No. 122, Motorcycle Brake Systems, and 49 CFR 571.123 Motor Vehicle Safety Standard No. 123, Motorcycle Controls and Displays. The basis of the petition is that the noncompliances are inconsequential as they relate to motor vehicle safety.

Petitioner is an importer of "Safari" mopeds manufactured by Rovet s.r.l. of Bologna, Italy, vehicles which are defined as "motorcycles" under the Federal motor vehicle safety standards. Because an importer of motor vehicles for resale is a "manufacturer" as defined by 15 U.S.C. 1391(5), an importer may be required to fulfill a manufacturer's obligations to notify and remedy when noncompliances are determined to exist in motor vehicles that it imports. Paragraph S5.1.5 of Standard No. 122 requires that:

> The brake system shall be installed so that the lining thickness of drum brake shoes may be visually inspected either directly or by use of a mirror without removing the drums, and so that disc brake friction lining thickness may be visually inspected without removing the pads.

Standard No. 123 requires that a supplemental engine stop control be furnished, and a manual fuel shut off control, if provided, point forward to indicate the "off" position, and upward to indicate "reserve." MBI has imported 150 mopeds, manufactured in 1975, that do not provide a visual brake lining indicator as required by Standard No. 122, and 50 mopeds without a supplemental engine stop control and whose fuel shut off control points rearward to indicate "off" and forward to indicate "reserve." It argues that the noncompliance with Standard No. 122 is inconsequential because the brake linings have an "indefinite" life span due to the slow top speed (25 mph) and operating speeds (15 to 20 mph) of the vehicles. As for Standard No. 123, petitioner states only that its fuel values have never opened during any type of collision or mishap and that it would have difficulty in finding the machines because mopeds, unlike other vehicles, are subject to frequent changes in ownership.

This notice of receipt of a petition for exemption from notification and remedy is published in accordance with section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition for inconsequentiality by Motor Bikes Import, Inc. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business of the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent practicable. Notice of final action on the petition will be published in the FEDERAL REGISTER.

Comment closing date: December 9, 1977.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8).

Issued on: Octobed 17, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77–30758 Filed 10–21–77;8:45 am]

[4810–22]

DEPARTMENT OF THE TREASURY

LEATHER WEARING APPAREL FROM THE REPUBLIC OF KOREA

Final Countervailing Duty Determination

AGENCY: Customs Service, United States Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that the Government of Korea has not given benefits which are considered to be bounties or grants on the manufacture, production or exportation of leather wearing apparel within the meaning of the Countervailing Duty Law.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

> Anthony L. Russo, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202–566–5492.

SUPPLEMENTARY INFORMATION: On April 27, 1977, a "Notice of Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 21531), which stated that on the basis of an investigation conducted pursuant to § 159.47(c), Customs Regulations (19 CFR 159.47(c)), it preliminarily had been determined that no bounty or grant, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"), is being paid or bestowed directly or indirectly, upon the manufacture, production, or exportation of leather wearing apparel from the Republic of Korea. The term "leather wearing apparel" means wearing apparel not specifically provided for, of leather, and classified under

item number 791.7600 of the Tariff Schedules of the United States.

The preliminary notice stated further that before a final determination would be made in this proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing and received by the Commissioner of Customs not later than May 27, 1977.

On May 3, 1977, a submission was received by the Commissioner of Customs from the petitioner. The petitioner's submission made additional allegations specifying certain programs not considered in the preliminary determination which according to petitioner bestowed benefits on Korean leather wearing apparel manufacturers or exporters. After analysis of these allegations, it is determined that the following programs do not constitute bounties or grants in that they are either not applicable or have not been utilized by the Korean leather wearing apparel industry:

(1) Income tax forgiveness of 50 percent of export earnings, a program which was abolished in 1973;

(2) The "link" system of granting special import licenses on certain luxury goods for controlled sales domestically to companies who produce the same for export. Leather wearing apparel is not among those items affected by this system;

(3) Excess customs duty drawback on imported raw materials is granted by "wastage allowance" provision in the Korean Customs Tariff. In connection with the countervailing duty investigation of certain handbags from the Republic of Korea (T.D. 77-152), Treasury found that the "wastage allowance" for the raw material inputs was not excessive and therefore did not constitute a bounty or grant, but rather was a reasonable method of administering drawback procedures. Based upon the information available regarding this program as utilized by the Korean leather products industry, it has been concluded that the "wastage allowance" on raw material inputs of leather wearing apparel is also not excessive and therefore does not constitute a bounty or grant.

Therefore, it has been determined that the benefits bestowed to the leather wearing apparel industry by the Government of the Republic of Korean involve an aggregate amount of less than twenty-six one-hundredths of one percent (0.26 percent), which is considered to be de minimis and such benefits do not constitute bounties or grants within the meaning of section 303 of the Act.

Accordingly, for the reasons stated above and the reasons set forth in the "Notice of Preliminary Countervailing Duty Determination," it is hereby determined that no bounties or grants are being paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production, or exportation of leather wearing apparel from the Republic of Korea.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, and the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

OCTOBER 19, 1977.

[FR Doc.77-30901 Filed 10-21-77;8:45 am]

[4810-22]

Office of the Secretary

CERTAIN CARBON STEEL PIPES AND TUBES FROM JAPAN

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of certain steel pipes and tubes from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Potts or Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 20, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from United States Steel Corp., indicating a possibility that certain steel pipes and tubes from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The pipes and tubes under consideration include welded pipes and tubes of carbon steel not over 4.5 inches in outside diameter, meant for use in other than boilers, super heaters, heat exchangers, condensers, and feed water heaters, classifiable under item number 610.32 of the Tariff Schedules of the United States.

The petition contains two counts, one alleging dumping on the basis of a comparison of home market prices on reprechangers, condensers, and feed water sentative sales made during the month United States during the same period, and the other alleging dumping on the basis of a comparison of a constructed value for Japanese steel products with U.S. prices. Resort to constructed value is suggested as appropriate in the light of allegations that insufficient sales were made in the home market at not below the cost of production at prices permitting the recovery of all costs within a reasonable period of time in the normal course of trade. Under the first count, margins of from 13.6 to 16.2 percent are alleged; under the second count, margins of from 36.8 to 39.9 percent are alleged. As a copy of the petition was made publicly available following receipt pursuant to procedures recently adopted, certain Japanese exporters of the merchandise were enabled to comment on it. Some have suggested that the sample of sales provided under the first count is too small to provide a meaningful basis for initiating a formal investigation and that the methodology employed by the petitioner in developing its cost of production information for the purpose of the second count is so erroneous in various particulars that no cost of production investigation is warranted.

In determining whether to initiate an investigation under section 201(c)(1) of the Act, the Secretary must act affirmatively if he receives "information alleging" that a particular class of merchandise is being sold at less than its fair value. No quantum of evidence is specified. The law must be presumed to permit a negative determination if the allegations received are of merely de minimis sales at less than fair value—in terms of their quantity or the margins of dumping alleged. However, the law seems equally clear that allegations which, on their face, appear to establish the existence of more than insubstantial dumping margins on a not significant volume of imported merchandise suffice to permit (if not require) the Secretary to proceed with an investigation. That an investigation has commenced is not evidence that the allegations in the information received by the Secretary are correct, complete or conclusive. The purpose of the investigation is to test their adequacy under the standards of the Act. The potentially affected foreign producers may submit such evidence and arguments as they deem appropriate to demonstrate that sales at less than fair value—under any or all of the alternative methods for making that determination—are not being made nor are they likely to be made. Indeed, the more complete the informaion is that they submit, the more likely will any Tentative and Final Determination in the case be made on the basis of the "best evidence available."

It may be difficult for a petitioner to determine whether a foreign producer's sales in its home market or to third countries are at prices establishing dumping margins. It is likely to be even more difficult for a petitioner to determine a foreign producer's costs of production and the other data relevant to a determination under section 205(b) of

the Act. The threshhold the petition must cross is necessarily low. In the instant case, the sales price and cost of production information provided are considered sufficient to warrant further investigation. Nothing more need be—nor is—decided.

There is also evidence on record concerning injury to, or the likelihood of injury to, an industry in the United States, including plant closings, worker layoffs, loss of profits and suppressed prices. In addition, evidence has been presented which indicates that the share of the U.S. market held by imports of this merchandise from Japan has been increasing during a period of general decline in U.S. consumption. Under these circumstances, no reference to the United States International Trade Commission under section 201(c)(2) of the Act is considered necessary.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. For this purpose, the Customs Service will request pricing information covering the period September 1976 through September 1977.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

OCTOBER 19, 1977.

[FR Doc.77-30897 Filed 10-21-77;8:45 am]

[4810-22]

CERTAIN CARBON STEEL PLATES FROM JAPAN

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initated for the purpose of determining whether imports of certain carbon steel plates from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Potts or Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 20, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from United States Steel Corporation, indicating a possibility that certain carbon steel plates from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The plates for carbon steel under consideration are classifiable under item numbers 608.84 (except carbon steel plate which is not in coils and which is classified under 608.84), 608.87, 608.94, and 608.95 of the Tariff Schedules of the United States. Carbon steel plate which is not in coils and which is classified under item number 608.84 of the Tariff Schedules of the United States was excepted from this proceeding notice since this merchandise is currently the subject of an antidumping investigation, notice of which was published in the FEDERAL REGISTER of March 30, 1977 (42 FR 16883).

Margins of dumping are alleged which, if based on a comparison with sales in the home market, range from 13.3 to 16.6 percent, and, if based on the complainant's calculation of constructed value, range from 36.7 to 40.1 percent. As in the case of Carbon Steel Pipes and Tubes from Japan, in which an investigation is being initiated today, certain Japanese producers of the affected merchandise object to the adequacy of the price information supplied and the cost of production calculations made by the complainant. However, as in the case of Carbon Steel Pipes and Tubes, the information furnished is considered sufficient to warrant the initiation of an investigation. As is also indicated there, nothing more need be—nor is—decided.

There is evidence on record concerning injury to, or the likelihood of injury to an industry in the United States resulting from sales of this merchandise at less than fair value as in the case of Carbon Steel Pipes and Tubes from Japan. As in that case, no reference under section 201(c)(2) of the Act is considered necessary.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. For this purpose, the Customs Service will request pricing information covering the period September 1976 through September 1977.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

OCTOBER 19, 1977.

[FR Doc.77-30898 Filed 10-21-77;8:45 am]

[4810-22]

CERTAIN CARBON STEEL SHEETS FROM JAPAN

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of certain carbon steel sheets from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Potts or Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 20, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from United States Steel Corp., indicating a possibility that certain carbon steel sheets from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The steel sheets under consideration include hot rolled sheets of carbon steel classifiable under item numbers 608.84 and 608.87, cold rolled sheets of carbon steel classifiable under item number 608.87, and galvanized steel sheets of carbon steel classifiable under item numbers 608.94 and 608.95 of the Tariff Schedules of the United States. While the information indicates no recent imports of hot rolled carbon steel sheets, this merchandise is being included within the scope of these proceedings pending consideration of whether this merchandise is functionally interchangeable and competitive with other types of carbon steel sheet.

Margins of dumping are alleged which, if based on a comparison with sales in

the home market, range from 14.3 to 22.6 percent, and, if based on the complainant's calculation of constructed value, range from 37.2 to 47.6 percent. As in the case of Carbon Steel Pipes and Tubes from Japan, in which an investigation is being initiated today, certain Japanese producers of the affected merchandise object to the adequacy of the price information supplied and the cost of production calculations made by the complainant. However, as in the case of Carbon Steel Pipes and Tubes, the information furnished is considered sufficient to warrant the initiation of an investigation. As is also indicated there, nothing more need be—nor is—decided.

There is evidence on record concerning injury to, or the likelihood of injury to an industry in the United States resulting from sales of this merchandise at less than fair value as in the case of Carbon Steel Pipes and Tubes from Japan. As in that case, no reference under section 201(c)(2) of the Act is considered necessary.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. For this purpose, the Customs Service will request pricing information covering the period September 1976 through September 1977.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 19, 1977.

[FR Doc.77-30899 Filed 10-21-77;8:45 am]

[4810-22]

CERTAIN STRUCTURAL CARBON STEEL PRODUCTS FROM JAPAN

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of certain structural steel products from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the Merchandise sold for exportation to the United States are less than the prices in the home market or the constructed value.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Linda Potts or Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 20, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from United States Steel Corp., indicating a possibility that certain structural steel products from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The structural steel products under consideration include angles, shapes, and sections of carbon steel classifiable under item number 609.80 of the Tariff Schedules of the United States.

Margins of dumping are alleged which, if based on a comparison with sales in the home market, range from 4.8 to 10.9 percent and, if based on the complainant's calculation of constructed value, range from 25.7 to 33.1 percent. As in the case of Carbon Steel Pipes and Tubes from Japan, in which an investigation is being initiated today, certain Japanese producers of the affected merchandise object to the adequacy of the price information supplied and the cost of production calculations made by the complainant. However, as in the case of Carbon Steel Pipes and Tubes, the information furnished is considered sufficient to warrant the initiation of an investigation. As is also indicated there, nothing more need be—not is—decided.

There is evidence on record concerning injury to, or the likelihood of injury to, an industry in the United States resulting from sales of this merchandise at less than fair value as in the case of Carbon Steel Pipes and Tubes from Japan. As in that case, no reference under section 201(c)(2) of the Act is considered necessary.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. For this purpose, the Customs Service will request pricing information covering the period September 1976 through September 1977.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 19, 1977.

[FR Doc.77-30900 Filed 10-21-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. 507]

ASSIGNMENT OF HEARINGS

OCTOBER 19, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 4963 (Sub-No. 52), Alleghany Corp., d.b.a. Jones Motor now assigned November 7, 1977, at Uniontown, Pa., will be held in the Post Office Bldg. (Main Floor), 47 East Fayette Street.

MC 143112, Western Kansas Express, Inc., now assigned November 28, 1977 at Wichita, Kans., will be held in Room 501C, West Town—Federal Bldg., 401 North Market.

MC 114273 (Sub-No. 266), CRST, Inc., now assigned November 1, 1977, at Des Moines, Iowa, will be held in Room 707, Federal Building, 210 Walnut Street.

MC 129631 (Sub-No. 55), Pack Transport, Inc., now assigned November 15, 1977, at Salt Lake City, Utah, will be held in Room 2205, Federal Building, 125 South State Street.

MC 58923 (Sub-No. 45), Georgia Highway Express, Inc., now assigned November 29, 1977, at Atlanta, Ga., will be held in the Ramada Inn-Central, I-85 North at Monroe Drive.

MC 143214, Matuszko Farms Trucking, Inc., now assigned December 6, 1977, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 119619 (Sub-No. 107), Distributors Service, Co., now assigned December 7, 1977, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC-F 13084, Yellow Freight System, Inc.—Purchase—Harman O. E. Lagerberg, d.b.a. Bartlett's Express now assigned December 12, 1977, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 130438, Delores P. Larson, d.b.a. American Motor Coach Tours, now assigned November 1, 1977, at St. Paul, Minn., is being postponed until November 29, 1977 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 40978 (Sub-No. 28), Chair City Express Co., now assigned December 7, 1977, at St. Paul, Minn., will be held in Court Room 584, Federal Building and U.S. Courthouse, 316 N. Robert St.

MC 139495 (Sub-No. 195), National Carriers, Inc., now assigned December 6, 1977, at St. Paul, Minn., will be held in Courtroom 584, Federal Building and U.S. Courthouse, 316 N. Robert Street.

MC 135874 (Sub-No. 74), LTL Perishables, Inc., now assigned December 5, 1977, at St. Paul, Minn., will be held in Court Room 584, Federal Building and U.S. Courthouse, 316 N. Robert St.

MC 114457 (Sub-No. 297), Dart Transit Co., and MC 140612 (Sub-No. 14), Robert F. Kazimour, now assigned December 1, 1977, at St. Paul, Minn., will be held in Court Room 584, Federal Building and U.S. Courthouse, 316 N. Robert St.

MC 133689 (Sub-No. 101), Overland Express, Inc., now assigned November 30, 1977, at St. Paul, Minn., will be held in Court Room 584, Federal Building and U.S. Courthouse, 316 N. Robert St.

MC 117068 (Sub-No. 76), Midwest Specialized Transportation, Inc., now assigned November 29, 1977, at St. Paul, Minn., will be held in Court Room 584, Federal Building and U.S. Courthouse, 316 N. Robert St.

MC 114632 (Sub-No. 121), Apple Lines, Inc., now being assigned November 14, 1977 (1 day), for hearing in Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 107839 (Sub-No. 173), Denver-Albuquerque Motor Transport, Inc., now being assigned November 14, 1977 (1 week), for hearing in Denver, Colo., in a hearing room to be later designated.

MC 143140, Seymour Bus Lines, Inc., and MC-C 9687 Greyhound Lines, Inc. *v.* Sway Seymour Individually & Swan Seymour d.b.a. Swan Seymour Bus Lines, now assigned December 5, 1977, at Knoxville, Tenn., will be held in Room LL 8, 301 Cumberland Bldg., 301 Cumberland Street.

MC 93980 (Sub-No. 69), Vance Trucking Co., Inc., now being assigned for continued hearing on October 26, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117119 (Sub-No. 632), Willis Shaw Frozen Express, Inc., and MC 133566 (Sub-No. 89), Gangloff & Downham Trucking Co., Inc., now being assigned November 11, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-9684, Carl R. Bieber, Inc. *v.* Trans-Bridge Lines, Inc., now assigned October 17, 1977, at Philadelphia, Pa., is canceled.

MC 30844 (Sub-No. 581), Kroblin Refrigerated Xpress, Inc., now assigned November 3, 1977, at Washington, D.C., is canceled and application dismissed.

MC 139495 (Sub-No. 232), National Carriers, Inc., now assigned November 1, 1977, at New Orleans, La., is canceled and transfered to Modified Procedure.

MC-F 13197, Jack C. Robinson, d.b.a. Robinson Freight Lines—Control—Cumberland Express, Inc. and MC-F 13236, Atlanta Motor Lines, Inc., et al. *v.* Cumberland Express, Inc., et al now being assigned November 8, 1977, for prehearing conference at the Office of the Interstate Commerce Commission in Washington, D.C.

MC-C 9754, Carolina Coach Co., Inc. *v.* Hopkins Motor Coach, Inc., and MC 48315 (Sub-No. 7), Hopkins Motor Coach, Inc., now assigned November 28, 1977, at Salisbury, Md., and will be held in the Old Federal Savings & Loan Bank, 306 Carroll Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30907 Filed 10-21-77;8:45 am]

[7035-01]

[No. 508]

ASSIGNMENT OF HEARINGS

OCTOBER 19, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction [1]

MC 35807 (Sub-No. 68), Wells Fargo Armored Service Corp., now assigned November 1, 1977, at Richmond, Va., will be held in Room 1035, First Floor, Federal Building, 400 North 8th Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30908 Filed 10-21-77;8:45 am]

[7035-01]

[Notice No. 136TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 18, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

[1] This corrects notice dated October 6, 1977, served October 13, 1977, location of hearing should read 400 North 8th Street, instead of 400 North H Street.

MOTOR CARRIERS OF PROPERTY

No. MC 16903 (Sub-No. 51TA), filed October 3, 1977. Applicant: MOON FREIGHT LINES, INC., 120 W. Grimes Street, P.O. Box 1275 Bloomington Ind. 47401. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square Indianapolis Ind. 46204. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Packaged coal*, from Clarion and Northumberland Counties Pa., and Bergen County, N.J., to points in the United States east of the Mississippi River, for 180 days. Supporting shipper(s): Pascack Valley Stone & Slate Co., Inc., 400 Demorest Avenue, Closter, N.J. 07624. Send protests to: William S. Ennis, District Supervisor, Interstate Commission, Federal Building and U. S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 50059 (Sub-No. 524TA), filed October 3, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: William P. Fromm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid propane gas*, in bulk, in tank vehicles, from Painesville, Ohio, to Winchester and Versailles, Ky., for 180 days. Supporting shipper(s): GTE Sylvania Inc., 816 Lexington Avennue, Warren, Pa. 16365. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 60253 (Sub-No. 29TA), filed September 26, 1977. Applicant: ARLINGTON TRUCK CO., 524 Oregon Road, Toledo, Ohio 43619. Applicant's representative: Michael M. Briley, 300 Madison Avenue, Northwood, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass*, from Toledo, Ohio, to points in the state of Texas, limited to transportation service performed for and under a continuing contract, or contracts, with Libbey-Owens-Food Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Libbey-Owens-Food Co., 811 Madison Avenue, Toledo, Ohio 43624. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 106074 (Sub-No. 45TA), filed September 28, 1977. Applicant: B & P MOTOR LINES, INC., Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in containers, from Kansas City, Kans., to

points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, North Carolina (except points in Avery, Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties), Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, and (2) *returned empty containers* for petroleum products from the destination points in (1) above, to Kansas City, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phillips Petroleum Co., 151 Phillips Bldg. Annex, Bartlesville, Okla. 74004. Send protests to: District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Bldg., Room CC516, Charlotte, N.C. 28205.

No. MC 108207 (Sub-No. 467TA), filed October 3, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith, P.O. Box 5888, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in vehicle equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co., Decatur, Ill., to points in Oklahoma, Kansas, Arkansas, Louisiana, Texas, and New Mexico, restricted to traffic originating at the above named plant and storage facilities, and destined to the above named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62625. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 110525 (Sub-No. 1213TA), filed October 5, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, 520 E. Lancaster Avenue, Downingtown, Pa. 19335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phthalic anhydride*, in bulk, in tank vehicles, from the International Boundary Line between the United States and Canada located at or near Rooseveltown, N.Y., to Stoney Point, N.Y., Hebronville, Mass., Newark, South Kearny, Cartaret, Elizabeth, and Fords, N.J., for 180 days. Supporting shipper(s): BASF Wyandotte Corp., 100 Cherry Hill Road, Parsippany, N.J. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 112822 (Sub-No. 424TA) (Correction), filed August 11, 1977, published in the FEDERAL REGISTER issue of September 1, 1977, and republished as corrected this issue. Applicant: BRAY LINES, INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 75023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk), from Cameron, Hidalgo, and Willacy Counties, Tex., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, and Wisconsin, for 180 days. Supporting shipper(s): Blue-bonnet Foods, Inc., Monte Alto, Tex. 78538. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 NW. Third Street, Oklahoma City, Okla. 73102. The purpose of this republication is to include the state of Missouri.

No. MC 113106 (Sub-No. 48TA), filed October 3, 1977. Applicant: THE BLUE DIAMOND CO., 4401 East Fairmount Avenue, Baltimore, Md. 21224. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in packages, from the facilities of Watkins Salt Co., White Marsh, Md., to Watkins Glen, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry Girven, GTM, Watkins Salt Co., P.O. Box 150, Watkins Glen, N.Y. 14891. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 113908 (Sub-No. 418TA), filed September 27, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, and wine products*, in bulk, (1) from Kentucky, Florida, and California, to Chicago, Ill., and (2) from ports of entry between the United States and the Republic of Mexico, located in Texas, to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mar-Salle Chicago Co., 847 North Larrabee Street, Chicago, Ill. 60610. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 419TA), filed September 28, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral and distilled spirits, and denatured industrial alcohol*, in bulk, from Atchison, Kans., to Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming, Texas, Oklahoma, and Arkansas, for 180 days. Supporting shipper(s): Midwest Solvents Co., Inc., 1300 Main Street, Atchison, Kans. 66002. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114569 (Sub-No. 193TA), filed October 3, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except) commodities in bulk, hides, pet foods, and pet food ingredients, from Denison, Carroll, and Iowa Falls, Iowa, to points in Connecticut, Delaware, Illinois, Maryland, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia restricted to transportation of traffic originating at the above-named origins and destined to points in the named destination states and District, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Farmland Foods, Inc., Box 403, Denison, Iowa 51442. Send protests to: Charles F. Myers, District Supervisor, Interestate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 116763 (Sub-No. 397TA), filed September 27, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonfrozen foodstuffs*, in containers (except meat, meat by-products, dairy products, and articles distributed by meat packinghouses), from Beaver Valley Canning Co., Grimes, Iowa; Reinbeck Canning Co., Reinbeck, Iowa; Ackley Food Processors, Ackley, Iowa; and Vista Products, Storm Lake, Iowa, to points in Alabama, Florida, Georgia, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee, restricted to the transportation of traffic

originating at the above named origins and destined to the indicated destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. C. Mathis, Traffic Manager, Beaver Valley Canning Co., 512 North Main, Grimes, Iowa 50111. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 117986 (Sub-No. 3TA3, filed September 30, 1977. Applicant: ALFRED DeLUCA, d.b.a. GILBERT & AL TRANSFER, 8605 Howell Road, Bethesda, Md. 20034. Applicant's representative: Alfred DeLuca, 8605 Howell Road, Bethesda, Md. 20034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantain, pineapples, and other imported fruits*, from Charleston, S.C., to Washington, D.C., and its respective commercial zones and the State of Maryland, for 180 days. Supporting shipper(s): Chiquita Brands, Inc., Boston, Mass.; Del Monte Banana Co., Miami, Fla. Send protests to: W.C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 118535 (Sub-No. 106TA), filed September 29, 1977. Applicant: TIONA TRUCK LINE, INC., 111 South Prospect, Butler, Md. 64730. Applicant's representative: Tom Ventura, 111 South Prospect, Butler, Mo. 64730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, from Tecumseh, Kans., to all points in Arkansas, Colorado, Iowa, Oklahoma, Missouri, and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Admixtures Corp., 1200 Hanley Industrial Court, St. Louis, Mo. 63144. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119641 (Sub-No. 140TA), filed September 29, 1977. Applicant: RINGLE EXPRESS, INC., 628 East Ninth Street, Fowler, Ind. 47944. Applicant's representative: Leo A. Maciolek, Box 335, Route No. 1, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, moulding, plastic articles and accessories* used in the installation thereof, from the plant and storage facilities of Weyerhaeuser Co., located in Chesapeake, Va., to Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Co., 201 Dexter Street West, Chesapeake, Va. 23324. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 123004 (Sub-No. 8TA), filed October 3, 1977. Applicant: THE LUPER TRANSPORTATION CO., 350 East 21st Street, Wichita, Kans. 67219. Applicant's representative: William B. Barker, 641 Harrison, Topeka. Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from the facilities of Sunflower Beef Co. at Wichita, Kans., to points in Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sunflower Beef Co., 800 East 37th Street North, Wichita, Kans. 67208. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 124896 (Sub-No. 29TA), filed October 3, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne and Ralston Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: B. H. Williamson, 1107 Brookside Drive, Wilson, N.C. 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products*, for Wilson Foods Corp., from the plant site and warehouse facilities of Wilson Foods Corp., at Cedar Rapids, Iowa, to points in Alabama, Florida, Georgia, North Carolina (except Wilson, N.C.), and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wilson Foods Corp., 4545 Lincoln Boulevard, Oklahoma City, Okla. 73105. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 128527 (Sub-No. 87TA), filed September 13, 1977. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, Idaho 83661. Applicant's representative: C. Marvin May (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hides* (green and salted), from Torrington and Riverton, Wyo.; Grand Junction and Denver, Colo.; Salt Lake City, Utah; Gooding, Roberts, and Nampa, Idaho, to Boise, Idaho; Portland, Oreg.; Manteca, Oakland, San Francisco, Long Beach, and Los Angeles, Calif.; and from Boise, Idaho, to Portland, Oreg.; Manteca, Oakland, San Francisco, Long Beach, and Los Angeles, Calif.; (2) *Meat and meat by-products* from Eagle, Idaho, to Portland, Tualatin, and Hillsboro, Oreg.; and San Francisco and Los Angeles, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Hide Co., 309 South 25th, Boise, Idaho 83705. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 129026 (Sub-No. 3TA), filed September 29, 1977. Applicant: J. C. D. TRANSPORTATION CORP., 6538 Collamer Road, P.O. Box 487, East Syracuse, N.Y. 13057. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points in East Hartford, Conn., and Springfield, Mass., on the one hand, and, on the other, points in New York (except those in Nassau, Suffolk, Westchester, Putnam, Orange, and Rockland Counties) and Berks, Bradford, Carbon, Clinton, Columbia, Dauphin, Erie, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzurne, Lycoming, McKean, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Warren, Wayne, Wyoming, and York Counties, Pa., under a continuing contract, or contracts, with The Great Atlantic & Pacific Tea Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Great Atlantic & Pacific Tea Co., Inc., Two Paragon Drive, Montvale, N.J. 07645. Send protests to: Mr. Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse and Federal Building, 100 South Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 134752 (Sub-No. 3TA), filed September 27, 1977. Applicant: HILL & WILLIAMS BROS., INC., 799 44th Street, Marion, Iowa 52302. Applicant's representative: Del Williams (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation flotation products, and foam building products*, from Marion, Iowa, to points in Arkansas, Colorado, Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, under a continuing contract, or contracts, with Poly Cell Industries, Inc., for 180 days. Supporting shipper(s): Poly Cell Industries, Inc., 4495 Eighth Avenue, Marion, Iowa. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg. Des Moines, Iowa 50309.

No. MC 142994 (Sub-No. 4TA), filed September 30, 1977. Applicant: VIRGINIA COURIER SERVICE, INC., P.O.

Box 287, Harrisonburg, Va. 22801. Applicant's representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicine and chemicals* (except in bulk), and *materials and supplies* used in the manufacture of the aforementioned commodities, moving in express service, between Elkton, Va., on the one hand, and, on the other, Charlottesville Airport, Charlottesville, Va., Philadelphia, Pittsburgh, and West Point, Pa., Baltimore, Md., and Washington, D.C., and their respective commercial zones. Restriction: (a) no service shall be provided in the transportation of articles weighing in the aggregate more that 5,000 pounds from one consignor at one location to one consignee on any one day; (b) in two axle vehicles with delivery provided within a 24-hour period for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 143474 TA (Amendment), filed July 8, 1977, published in the FEDERAL REGISTER issue of July 28, 1977, and republished as amended this issue. Applicant: WHEELER TRUCKING CORP., 3375 South Polaris, Las Vegas, Nev. 89102. Applicant's representative: R. Alan Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, stolen, repossessed, or impounded motor vehicles and trailers or semi-trailers* designed to be towed by motor vehicles and replacement vehicles therefor, via wrecker type equipment and also via transporter type equipment equipped with power loading and off loading equipment. From points in the States of California, Arizona, Utah, and Nevada, within 150 miles of Las Vegas, Nev., on the one hand, to Las Vegas, Nev., on the other hand, for 180 days. Supporting shippers: There are approximately 8 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 203 Federal Building, 705 North Plaza St., Carson City, Nev. 89701, ATT: District Supervisor W. J. Huetig. The purpose of this republication is to amend the territorial description in this proceedings.

No. MC 143730 (Sub-No. 1TA), filed September 19, 1977. Applicant: PENINSULA TRUCKING CO., INC., 705 Morehouse Drive, New Castle, Del. 19720. Applicant's representative: Richard M. Ochroch, 327 South 17th St., Philadelphia, Pa. 19103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain drug, and pharmaceutical business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points and places in the states of Connecticut, Delaware, Florida, Indiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Virginia, under a continuing contract or contracts with R. Baylin Co., trading as Action Drug Co. of New Castle, Del., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: R. Baylin Co., trading as Action Drug Co., P.O. Box 388, New Castle, Del. 19720. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room. 3238, Philadelphia, Pa. 19106.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-30910 Filed 10-21-77;8:45 am]

[7035-01]

[Notice No. 137TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 19, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 33641 (Spb-No. 130 TA), filed September 9, 1977. Applicant: IML FREIGHT, INC., P.O. Box 30277 (2175 So. 3270 West), Salt Lake City, Utah 84119. Applicant's representative: H. Lynn Davis, IML Freight, Inc., P.O. Box 30277, Salt Lake City, Utah 84125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) to serve the intermediate and off-route points of Fort Hall, Roberts, Ririe, Sugar City, Rexburg, Blackfoot, Shelley, Firth, Bellevue, Hailey, Ketchum, Sun Valley, Rigby, St. Anthony, Ashton, Aberdeen, and American Falls, Idaho, in connection with regular route service between Weiser, Idaho and Brigham City, Utah, and between Montpelier and Pocatello, Idaho, under MC 33641 (Sub-No. 24), and between Pocatello, Idaho, and Afton, Wyo., under MC 33641 (Sub-No. 47). Request authority to serve the commercial zones of each city above also. Applicant intends to tack this authority with that held in MC 33641 and subs. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (157) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah. 84138.

No. MC 115322 (Sub-No. 137TA), filed September 30, 1977. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, Fla. 32809. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertsing matter*, (2) *empty malt beverage containers, malt beverage pallets, dunnage, damaged, refused and rejected shipments* of malt beverage, (1) from Baltimore, Md.; to points in Florida, (2) from points in Florida; to Baltimore, Md., for 180 days. Supporting shipper: Carling National Breweries, Inc., 3720 Dillon St. Baltimore, Md. 21224. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 500 West Bay St. Jacksonville, Fla.32202.

No. MC 123061 (Sub-No. 91TA), filed October 3, 1977. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, Utah 84116. Applicant's representative: Harry D. Pugsley, P.O. Box 780, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle,

over irregular routes, transporting: *Lumber and lumber mill products*, from points in Oregon and Wash., to points in Calif., for 180 days. Supporting shipper(s): There are appriximately 10 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Lyle D. Helfer Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah. 84138.

No. MC 123997 (Sub-No. 2TA), filed September 30, 1977. Applicant: COMET FAST FREIGHT, INC., 101 Wellham Ave. NE., Glen Burnie, Md. 21061. Applicant's representative: Ralph L. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures therefor and fibreboard boxes*, and on return, *used wood pallets and shipping devices* used in the transportation of glass containers, closures therefor, and equipment, materials, and supplies used or useful in the manufacture and shipment of glass containers (except commodities in bulk), between the plantsite of Chattanooga Glass Co., at or near Keyser, W. Va., and shipping facilities therefor, on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Mississippi, Ohio, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin. Applicant intends to tack this authority with that presently held at MC 123997 (Sub-No. 2) and MC 123997 for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert L. Taylor, Traffic coordinator, Chattanooga Glass Co., P.O. Box 968, Industrial Park, Keyser, W. Va. 26726. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 127840 (Sub-No. 56TA), filed October 3, 1977. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, Ill. 60438. Applicant's representative: William H. Towle, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible lard*, in bulk, from Austin, Minn., to Kansas City, Kans., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., Mark E. Matthews Supervisor, Motor Carrier Services, P.O. Box 800, Austin, Minn. 55912. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128320 (Sub-No. 9TA), filed October 3, 1977. Applicant: ART QUIRING, P.O. Box 1481, 118½ West 4th Street, Grand Island, Nebr. 68801. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries*, (1) between Davenport, Iowa, on the one hand, and on the other, Chicago, Ill.; and (2) from Chicago, Ill., to points in California, Florida, Georgia, Idaho, Oregon, Texas, Washington, and Nevada, under a continuing contract, or contracts, with E. J. Brach & Sons, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edward M. Carey Traffic Manager, E. J. Brach & Sons, 4656 West Kinzie Street, Chicago, Ill. 60644. Send protests to: Max H. Johnston District Supervisor, 285 Federal Building & Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 128375 (Sub-No. 155TA), filed September 15, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, accessories, and equipment, and materials and supplies* used in the production and distribution of the foregoing commodities (except commodities in bulk and those which because of size and weight require the use of special equipment), (a) between Paulding, Ohio, and its commercial zone, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, and Ohio), (b) between Nashville, Tenn., and its commercial zone, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, and Tennessee), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): T. Frank Burgett Nutrun Corp., a joint venture of the Maremont Corp., 20 E. Randolph Drive, Chicago, Ill. 60601. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building and U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 133095 (Sub-No. 176TA), filed September 21, 1977. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, 2603 W. Euless Boulevard, Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the plantsite and/or warehouse facilities of Green Giant at or near Belvidere, Ill., to the States of Texas and Arkansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Green Giant Co., 1100 N. 4th Street, Le Sueur, Minn. 56058. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 136511 (Sub-No. 8TA), filed October 4, 1977. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, Va. 24502. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts, and materials and supplies* used in the manufacture and sale thereof, from Morristown and Newport, Tenn., to points in Texas, Oklahoma, New Mexico, Arizona, California, Washington, Oregon, Wyoming, Idaho, Montana, Utah, Nevada, and Colorado, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Levitz Furniture Corp., 1367 NW 167th Street, Miami, Fla. 33169, (2) Wickes Furniture, 351 Dundee Road, Wheeling, Ill. 60090, and (3) Breuners, 3201 Fostoria, San Ramon, Calif. 94583. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Intersttae Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 136605 (Sub-No. 32TA), filed October 3, 1977. Applicant: DAVIS BROS. DIST., INC., 2024 Trade Street, P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. Seliski, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation* and (2) *materials, equipment and supplies* used in the manufacture and distribution of insulation, between Minot, N. Dak., and Great Falls, Mont., on the one hand, and, on the other, points in Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, for 180 days. Supporting shipper(s): Floyd E. Gebert, General Manager, Robinson Insulation Co., P.O. Box 1419, Great Falls, Mont. 59403. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2603 First Avenue North, Billings, Mont. 59101.

No. MC 138126 (Sub-No. 20TA), filed October 4, 1977. Applicant: WILLIAMS REFRIGERATED EXPRESS, INC., Old Denton Road, P.O. Box 47, Federalsburg, Md. 21632. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from Salisbury, Md., to Atlanta, Ga., for 180 days. Supporting shipper(s): Donald R. Loring, Manager of Transportation, Campbell

Soup Co., P.O. Box 1618, Salisbury, Md. 21801. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814–B Federal Building, Baltimore, Md. 21201.

No. MC 138256 (Sub-No. 6 TA), filed October 3, 1977. Applicant: INTERIOR TRANSPORT, INC., 2124 Waterworks Way, P.O. Box 3347, Spokane, Wash. 99220. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sprinkler irrigation systems*, K. D., including all components, parts, and accessories therefor, from Catoosa, Okla., to points in Minnesota, Iowa, Nebraska, Kansas, Oklahoma, Texas, and points in the United States west of these States, except Alaska and Hawaii, under a continuing contract, or contracts, with Gifford-Hill & Co., Inc., for 180 days. Supporting shipper(s): Gifford-Hill & Co., Inc., North 800 Fancher Road, Spokane, Wash. 99220. Send protests to: Hugh H. Chaffee District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 138446 (Sub-No. 8 TA), filed September 27, 1977. Applicant: MURRAY'S TRANSFER & STORAGE, INC., 1011 Floral Lane, Davenport, Iowa 52802. Applicant's representative: Larry D. Knox, Hubbell Building, Des Moines, Iowa. 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice and Cold Storage Co., at or near Bettendorf, Iowa, to points in North Dakota, South Dakota, Nebraska, Colorado, Kansas, Minnesota, Wisconsin, Missouri, West Virginia, Mississippi, and Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terminal Ice & Cold Storage Co., 6875 State Street, Bettendorf, Iowa 52722. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140612 (Sub-No. 36 TA), filed September 27, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Bettendorf, Iowa, to points in Missouri, Arkansas, and those portions of Illinois and Indiana on and south of U.S. Highway 36, restricted to the transportation of traffic originating at the facilities of the Terminal Ice and Cold Storage Co., at or near Bettendorf, Iowa, and destined to the above-named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terminal Ice and Cold Storage Co., P.O. Box 928, Bettendorf, Iowa, 52722. Send protests to: Herbert W. Allen District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa. 50309.

No. MC 141034 (Sub-No. 5 TA), filed October 3, 1977. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, Mass. 01607. Applicant's representative: Ronald I. Shapss, 450 Seventh Avenue, New York, N.Y. 10001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and empty beverage containers*, between Holliston, Mass., on the one hand, and, on the other, Merrimack, N.H., Newark, N.J., Fogelsville, Pa., and Williamsburg, Va., under a continuing contract, or contracts, with Mooney & Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mooney & Co., Inc., 74 Lowland Street, Holliston, Maine. 01746. Send protests to: J. D. Perry, Jr., Acting District Supervisor, Interstate Commerce Commission, 436 Dwight Street, Room 338, Springfield, Mass. 01103.

No. MC 141195 (Sub-No. 3TA), filed September 29, 1977. Applicant: CALARK, INCORPORATED, Rural Route 2 Armistics, Prairie Grove, Ark. 72753. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene disposable meat trays*, in vehicles equipped with specialized equipment, from Greensboro, N.C., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts, with Western Foam Pak, Inc., at or near Fresno, Calif., for 180 days. Supporting shipper(s): Western Foam-Pak, Inc., P.O. Box 19146, Greensboro, N.C. 27410. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 141599 (Sub-No. 4TA), filed October 3, 1977. Applicant: MOUNTAIN PACIFIC TRANSPORT (Edmonton) LTD, d.b.a. SHADOWLINES, 241 Schoolhouse Street, Coquitlam, British Columbia, Canada. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority sougt to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wall Board*, from ports of entry on the U.S.-Canada boundary at or near Blaine, Lynden, or Sumas on the one hand, to points in Whatcom, Skagit, Snohomish, King, and Pierce Counties on the other hand, restricted to traffic moving in foreign commerce from British Columbia, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Westroc Industries, Ltd. 2995 Wall Street, Vancouver, B.C., Canada. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 141871 (Sub-No. 7TA), filed October 3, 1977. Applicant: WNI, INC., 8700 S.W. Elligsen Rd., Wilsonville, Oreg. 97070. Applicant's representative: Robert L. Cross (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum foil and stretch wrap holders*, from Clearfield and Lewiston, Utah, to points in Arizona, California, Colorado, Indiana, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming, (2) *equipment, materials, and supplies* used in the manufacture and distribution of aluminum foil and stretch wrap holders, from points in the above-named destination States to Clearfield and Lewiston, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Presto Products, Inc., P.O. Box 2399, Appelton, Wis. 54911. Send protests to: District Supervisor, A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill St., Portland, Oreg. 97204.

No. MC 142368 (Sub-No. 3TA), filed September 30, 1977. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, City of Industry, Calif. 91744. Applicant's representative: William J. Monheim, 15942 Whittier Boulevard, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, equipment, and supplies* used in the repair, rebuilding, and refurbishing of freight trailers, from Atlanta, Ga.; Chicago, Ill.; Cincinnati, Ohio; Denver, Colo.; Fort Worth, Tex.; Huntington, W. Va.; Lynchburg, Va.; Mansfield, Mo.; Memphis, Tenn.; Newark, N.J.; Portland, Oreg.; Salt Lake City, Utah; Seattle, Wash.; Tacoma, Wash.; and Washington Court House, Ohio, to City of Industry, Mira Loma, and Oakland, Calif., and (2) *return shipments* of the above commodities, from City of Industry, Mira Loma and Oakland, Calif., to the origins shown in (1) above, for 180 days. Supporting shipper(s): Rail Systems, Inc., 3401 Etiwanda Avenue, Mira Loma, Calif. 91752. Real Services of California, Inc., 333 Heggenberger Road, Calif. 94621. Send protests to: Irene Carlos, Transportation Assistant. Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142608 (Sub-No. 2TA), filed October 3, 1977. Applicant: ASCENZO BROTHERS, INC., 525 Brush Avenue, Bronx, N.Y. 10465. Applicant's representatives: John L. Alfano, Roy A. Jacobs, 550 Mamaroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from Wallingford, Conn., to points in New York, New Jersey, and Pa., under a continuing contract or contracts with Cosid, Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cosid, Inc., 30 E. 42nd Street, New York, N.Y. 10017. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 143298 (Sub-No. 1TA), filed September 8, 1977. Applicant: METER TANK SERVICE, INC., 569 W. Lancaster Avenue, Haverford, Pa. 19041. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in tank vehicles equipped with meters and hose reels, from Claymont, Del., Delair, Pennsauken, Gloucester City, and Paulsboro, N.J., Philadelphia, Twin Oaks, Tullytown, Malvern, Willow Grove, and Marcus Hook, Pa., to points in Delaware, points in the counties of Baltimore (except city of Baltimore), Carroll, Frederick, Harford, and Cecil, Md., and those in that part of Maryland east of the Chesapeake Bay; points in New Jersey south of the northern boundaries of the counties of Mercer and Monmouth and points in Pennsylvania east of the western boundaries of the counties of York, Dauphin, Northumberland, Montour, Sullivan, and Bradford, under a continuing contract or contracts with Kirschner Bros. Oil Co., Kirschner Bros. of New Jersey, Inc., and Service Distributors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Kirschner Bros. Oil Co., 569 W. Lancaster Avenue, Haverford, Pa. 19041, (2) Service Distributors, Inc., 569 W. Lancaster Avenue, Haverford, Pa. 19041, and (3) Kirschner Bros. of New Jersey, Inc., 569 W. Lancaster Avenue, Haverford, Pa. 19041. Send protests to: Monica A. Blodgett Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 143603 (Sub-No. 1TA), filed October 4, 1977. Applicant: BENJAMIN DiMEDIO, JR., d.b.a. FREIGHT CONSULTANTS COMPANY, 1631 South 6th Street, Camden, N.J. 08104. Applicant's representative: Louis R. Meloni, 35 Kings Highway East, Handonfield, N.J. 08033. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk ore and/or metal products*, from Camden, N.J., or Philadelphia, Pa., on the one hand, and, on the other, Friedensville or Palmerton, Pa., under a continuing contract, or contracts, with G & W Industries, Natural Resources Group, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G & W Industries, Natural Resources Group, 65 E. Elizabeth Avenue, Bethlehem, Pa. 18018. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 143729, filed September 12, 1977. Applicant: EQUIDAY, INC., 6506 Glenhill, Spring, Tex. 77379. Applicant's representative: Bobby R. Stewart, 609 Fannin, Suite 1317, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Race horses, show horses and incidental feed, bridles, harness, saddles and related paraphernalia*, between the states of Arizona, Arkansas, California, Colorado, Florida, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, Oklahoma, Pennsylvania, Texas, and Virginia, for 180 days. Supporting shipper(s): Gleannloch Farms, 9305 Spring-Cypress Rd., Spring, Tex. 77379. Fairweather Farms, P.O. Box 447, Tomball, Tex. 77375, Post Oak Stud Inc., 2627 Kipling, Houston, Tex. 77098.

No. MC 143791 (Sub-No. 1 TA), filed September 28, 1977. Applicant: MOBILE HOME TRANSPORT, INC., 10 Rustic Parkway, Madison, Wis. 53711. Applicant's representative: Michael S. Varda, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes, and materials and supplies* used in the installation of mobile homes in secondary movements, between Monroe, Wis., on the one hand, and, on the other, points in Illinois on and north of Interstate 80, restricted to shipments originating and terminating in the described area, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Housing Mart of Monroe, 110 8th Street, Monroe, Wis. 53566. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 143792 (Sub-No. 1 TA), filed October 4, 1977. Applicant: KEN WATFORD, 2200 Locust Street NE., St. Petersburg, Fla. 33704. Applicant's representative: Ken Watford, 220 Locust Street NE., St. Petersburg, Fla. 33704. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic bottles*, from St. Petersburg, Fla., to Waycross and Albany Ga., under a continuing contract or contracts with Pet Incorporated Dairy Group, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pet Incorporated Dairy Group, 5700 22d Street No., St. Petersburg, Fla. 33714. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53rd Terrace, Miami, Fla. 33166.

No. MC 143795 TA, filed September 28, 1977. Applicant: GARDNER ENTERPRISES, INC., d.b.a., GARDNER WRECKER SERVICE, 151 Lady Street, Cayce, S.C. 29033. Applicant's representative: William K. Morgan, 1801 Charleston Highway, Cayce, S.C. 29033. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled vehicles*, between points and places in South Carolina, North Carolina and Georgia, for 180 days. Supporting shipper(s): Millen Moving & Storage, Inc., No. 1 Millen Street, Cayce, S.C., Burton International, 1619 Bluff Road, Columbia, S.C., Love Chevrolet, 1255 Knox Abbott Drive, Cayce, S.C., Toyota Center, Inc., 1640 Edmund Road, West Columbia, S.C., Motor Convoy, Inc., Dunbar Road, Cayce, S.C., Send protest to: E. E. Strotheid District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 143796 TA, filed September 23, 1977. Applicant: M. EVAN GRASS, d.b.a. M. E. GRASS & SONS, Box 292 Mars Hill, Maine 04758. Applicant's representative: William D. Pinansky, 443 Congress Street, Portland, Maine 04101, Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rocksalt*, in bulk, in dump vehicles, from the port of entry on the International boundary line between the United States and Canada at or near Bridgewater, Maine, to points in Aroostook County, Maine, under a continuing contract, or contracts, with Morton Salt Company, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Salt Company, 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 143806TA, filed October 3, 1977. Applicant: CANADIAN PACIFIC TRANSPORT CO., LTD., 44 West Pender Street, Vancouver, British Columbia, Canada. Applicant's representative: P. A. Livett, 44 West Pender Street, Vancouver, British Columbia. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bulk lime*, from the port of entry on the International boundary line between the United States and Canada at or near Oroville, Laurier, and Nelway, Wash., to the site of Western Nuclear Inc., located near Wellpinit, Wash.,

restricted to traffic moving from Pavillion, British Columbia, and Exshaw, Alberta, Canada, only, under a continuing contract, or contracts, with Steel Bros. Canada Ltd., for 180 days. Supporting shipper(s): Steel Bros. Canada Ltd., 4836 6th Street NE., Calgary, Alberta. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30911 Filed 10-21-77;8:45 am]

[7035-01]

[Notice No. 244]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 25, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named, and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interest persons on notice of the proposed transfer.

No. MC-FC-77341, filed October 4, 1977. Transferee: FOUNTAIN MOVING & STORAGE, INC., 3507 Edwin Avenue, Savannah, Ga. 31403. Transferor: Fountain Transfer & Storage, Inc., 3507 Edwin Avenue, Savannah, Ga. 31403. Applicant's representative: Donald G. Arpin, President, Fountain Moving & Storage, Inc., 3507 Edwin Avenue, Savannah, Ga. 31403. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 133282, issued July 31, 1970, as follows: Used household goods, between Savannah, Ga., on the one hand, and, on the other, points in Appling, Bryan, Bulloch, Candler, Chatham, Effingham, Evans, Glynn, Jenkins, Liberty, Long, McIntosh, Screven, Tattnall, Toombs, and Wayne Counties, Ga., and Beaufort, Hampton, and Jasper Counties, S.C.; restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized; and restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210(b) of the Act.

No. MC-FC-77350, filed October 7, 1977. Transferee: FASTWAY TRANSPORTATION, INC., 151D Morristown Road, Matawan, N.J. Transferor: Beckers Motor Transportation, Inc., Box 383, Matawan, N.J. 07747. Applicants' representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07006. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 36918 and Sub 3, issued February 12, 1968, and July 13, 1971, respectively as follows: General commodities, except those of unusual value, Class A and B explosives, household goods defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading: Between New York, N.Y., and points in Rockland and Orange Counties, N.Y., and those in Westchester and Nassau Counties, N.Y., within 30 miles of Columbus Circle, New York, N.Y., on the one hand, and, on the other, points in Bergen, Essex, Hudson, Mercer, Monmouth, Middlesex, Passaic, Somerset, Union, and Morris Counties, N.J., over irregular routes. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are restricted against providing service for the International Business Machines Corp. The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved to impose such terms, conditions, or limitations in the future as it may find necessary in order to insure that carrier's operation shall conform to the provisions of Section 210 of the Act; irregular routes: glass containers: From Salem, N.J., to New York, N.Y. Application has been filed for temporary authority under Section 210a(b). Transferee currently holds no authority from this Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-30909 Filed 10-21-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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[6320–01]

1

CIVIL AERONAUTICS BOARD.

[M–72, amdt. 1; 10/18/77]

CANCELLATION OF MEETING SCHEDULED FOR OCTOBER 25, 1977

TIME AND DATE: 2 p.m., October 25, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Pan American World Airways to make a presentation to the Board regarding its status.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202–673–5068.

SUPPLEMENTARY INFORMATION: Pan American World Airways has requested that the meeting scheduled for October 25, 1977 be canceled and rescheduled for November 8, 1977 at 2:30 p.m.

Dated: October 19, 1977.

[S–1639–77 Filed 10–20–77;9:33 am]

[6740–02]

2

FEDERAL ENERGY REGULATORY COMMISSION.

OCTOBER 19, 1977.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

TIME AND DATE: October 26, 1977, 10 a.m. and October 27, 1977, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda). *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, secretary, telephone, 202–275–4116.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

P–1.—Docket Nos. E–7738 and E–7784, Boston Edison Co.

P–2.—Docket No. E–9578, Texas Power & Light Co.

P–3.—Docket No. ER76–495 (Phase II), Carolina Power & Light Co.

P–4.—Project No. 516, Docket No. E–7791, South Carolina Electric and Gas Co.

P–5.—Project No. 2710, Bangor Hydro-Electric Co.

POWER AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

CP–1.—Docket No. ER77–631, Northwestern Public Service Co.

CP–2.—Docket No. ER77–534, Consumers Power Co.

CP–3.—Docket No. ER77–618, Wisconsin Michigan Power Co.

CP–4.—Docket No. ER77–454, Union Electric Co.

CP–5.—Docket No. ER77–617, Appalachian Power Co.

CP–6.—Docket No. ER77–559, Fitchburg Gas & Electric Co.

CP–7.—Docket No. ES77–56, Iowa Southern Utilities Co.

CP–8.—Docket No. ES77–57, Oklahoma Gas & Electric Co.

CP–9.—Docket No. ES77–60, Louisville Gas and Electric Co.

CP–10.—Docket No. ID–1815, Fred L. Clayton, Jr.

CP–11.—Docket No. ID–1517, Ralph D. Dunlevy.

CP–12.—Project No. 2100, Department of Water Resources, State of California.

CP–13.—Project No. 1855, New England Power Co.

CP–14.—Project No. 943, Public Utility District No. 1 of Chelan County, Wash.

CP–15.—Docket No. ER76–709, Cincinnati Gas and Electric Co.

MISCELLANEOUS AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

M–1.—Docket No. RM74–16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

M–2.—Docket No. RM76–15. Regulation of Small Producers.

M–3.—Docket No. RM____, Emergency Sales by Independent Producers.

MISCELLANEOUS AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

CM–1.—Twin Cities Level B Study Report "Minneapolis-St. Paul Water and Land: Future Perspectives and Plans."

CM–2.—List of Authorized but Unconstructed Projects Proposed for Deauthorization by the Congress.

GAS AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

G–1.—Docket No. RP75–102, Panhandle Eastern Pipe Line Co.

G–2.—Docket No. RP72–133, (PGA77–2), United Gas Pipe Line Co.

G–3.—Docket No. RP77–110, Alabama–Tennessee Natural Gas Co.

G–4.—Docket No. RP77–3, Northern Natural Gas Co.

G–5.—Docket No. RP77–108, Transcontinental Gas Pipe Line Corp.

G–6.—Docket Nos. RP77–55 and RP74–61 (PGA77–4), Arkansas-Louisiana Gas Co.

G–7.—Docket Nos. RP76–136, RP77–26, Transcontinental Gas Pipe Line Corp.

G–8.—Docket No. RP77–136–1, Southern Natural Gas Co.

G–9.—Docket No. RP77–134, Tennessee Gas Pipeline Co. (Springfield Gas System), Docket No. RP77–133–1, Tennessee Gas Pipeline Co. (Pike Natural Gas Co.) (Delta Natural Gas Co.).

G–10.—Docket No. RP72–89, Columbia Gas Transmission Corp.

G–11.—Docket No. CI76–358, Alma Oringderff.

G–12.—Docket No. CI77–329, Texaco, Inc., Docket Nos. CP77–304 and Docket No. CP64–97, Sabine Pipe Line Co.

G–13.—Docket No. CI76–704, Wise Oil Co.

G–14.—Docket No. CI77–412, Phillips Petroleum Co.

G–15.—Docket No. CI77–246, The Gordon Oil Co., Inc.

G–16.—Docket Nos. C–8820, et al., Texaco, Inc., et al., Docket No. CI77–222, Exxon Corp.

G–17.—Docket No. CI76–432, Cabot Corp., Docket No. CP76–19, Columbia Gas Transmission Corp., and the Sylvania Corp., Docket No. CP76–361, Columbia Gas Transmission Corp.

G–18.—Docket No. CP74–322, Michigan Gas Storage Co., Docket No. CP75–3, Trunkline Gas Co., Docket No. CI74–738, Northern Michigan Exploration Co.

G–19.—Docket No. CP77–17, Trunkline Gas Co. and Panhandle Eastern Pipe Line Co.

G–20.—Docket Nos. CP77–419 and CP77–431, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., Docket No. CP77–433, East Tennessee Natural Gas Co., Docket No. CP77–444, Consolidated Gas Supply Corp.

G–21.—Docket No. CP76–424, Kentucky West Virginia Gas Co.

G–22.—Docket No. CP77–38, Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., and National Fuel Gas Supply Corp.

G–23.—Docket No. CP77–542, Transcontinental Gas Pipe Line Corp.

G–24.—Docket No. CP77–255, El Paso Natural Gas Co.

G–25.—Docket No. CP77–525, United Gas Pipeline Co., Docket No. CP77–529, Delhi Gas Pipeline Co.

G–26.—Docket No. CP76–389, Northwest Pipeline Corp.

GAS AGENDA, 6TH MEETING, OCTOBER 26, 1977, REGULAR MEETING

CG-1.—Docket No. RP75-73 (AP77-3), Texas Eastern Transmission Corp.
CG-2.—Docket No. RP77-60, Michigan Wisconsin Pipe Line Co.
CG-3.—Docket No. RP77-62, Tennessee Gas Pipeline Co.
CG-4.—Docket No. RP78-1, East Tennessee Natural Gas Co.
CG-5.—Docket No. RP74-52 (PGA77-3a), Transwestern Pipeline Co.
CG-6.—Docket No. RP77-17, Eastern Shore Natural Gas Co.
CG-7.—Docket No. RP73-48 (PGA77-4), Northern Natural Gas Co. (Peoples Division).
CG-8.—Docket No. RP72-157 (PGA77-10) (R&D77-3), Consolidated Gas Supply Corp.
CG-9.—Docket No. RP77-127, Natural Gas Pipeline Co. of America.
CG-10.—Docket No. RP72-6, El Paso Natural Gas Co.
CG-11.—Docket No. CI77-507, Pacific Transmission Supply Co.
CG-12.—Docket No. CI77-428, Southern Union Supply Co.
CG-13.—Docket No. CI74-528, Exxon Corp.
CG-14.—Docket No. CP77-410, Sea Robin Pipeline Co., Docket No. CP77-494, Texas Eastern Transmission Corp. and Columbia Gulf Transmission Co.
CG-15.—Docket No. CP77-396, Sea Robin Pipeline Co.
CG-16.—Docket No. CP72-300, Columbia Gas Transmission Corp. and Consolidated Gas Supply Corp.
CG-17.—Docket No. C77-524, Florida Gas Transmission Co. and United Gas Pipeline Co.
CG-18.—Docket No. CP77-463, Trunkline Gas Co.
CG-19.—(A) Docket No. CP77-586, Northern Natural Gas Co., (B) Docket No. CP77-587, Northern Natural Gas Co.
CG-20.—Docket No. CP77-540, Natural Gas Pipeline Co., of America.
CG-21.—Docket No. CP77-539, Natural Gas Pipeline Co., of America.
CG-22.—Docket No. CP77-593, Transcontinental Gas Pipe Line Corp.
CG-23.—Docket No. CP70-24, Midwestern Gas Transmission Co.
CG-24.—Docket No. CP75-345, Cities Service Gas Co.
CG-25.—Docket No. CP76-130, Northwest Pipeline Co.
CG-26.—Docket No. RP77-60, Michigan Wisconsin Pipe Line Co.
CG-27.—Docket No. RP77-105, Colorado Interstate Gas Co.
CG-28.—Docket No. RP77-31, Southern Natural Gas Co.
CG-29.—Docket No. RP77-106, Transcontinental Gas Pipe Line Corp.
CG-30.—Docket No. RP77-98, Natural Gas Pipeline Co.
CG-31.—Docket No. RP77-1230, Stringray Pipeline Co.
CG-32.—(A) *Natural Gas Pipeline Company of America* v. *F.E.R.C.*, 7th Cir. No. 77-1958; (B) *State Corporation Commission of Kansas, et al.*, v. *F.E.R.C.* 10th Cir. Nos. 77-1781, et al.; (C) *The Sebring Utilities Commission* v. *F.E.R.C.*, 5th Cir. No. 77-2911; (D) *General Motors Corporation* v. *F.E.R.C.*, D.C. Cir. No. 77-1859.
CG-33.—Docket No. RI77-8, Bob M. Lloyd.

KENNETH F. PLUMB,
Secretary.

[S-1638-77 Filed 10-20-77;9:33 am]

[6730-01]

3

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: October 14, 1977, 42 FR 55356.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 19, 1977, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

1. Agreement No. 10050-2: United States Flag-Far East Discussion Agreement providing for a two-year extension of the agreement.

[S-1640-77 Filed 10-20-77;9:33 am]

[6750-01]

4

FEDERAL TRADE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Federal Register of Thursday, October 20, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 26, 1977.

CHANGES IN THE AGENDA: The Federal Trade Commission has added the following matter to the agenda of its October 26, 1977, open meeting:

(4) Consideration of the process of having an oral presentation before the Commission in rulemaking proceedings, including discussion of possible presentations regarding the Trade Regulation Rules on Eyeglasses (Advertising of Ophthalmic Goods and Services) and Proprietary Vocational and Home Study Schools.

Previously announced Agenda Item (4) will now be considered as Agenda Item (5).

[S-1641-77 Filed 10-20-77;9:33 am]

[4910-58]

5

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 55173, October 13, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, October 20, 1977, 9:30 a.m. [NM-77-34].

CHANGE IN THE MEETING: The following item has been added for consideration as the fifth item on the agenda and will be closed to the public A majority of the Board has determined by recorded vote that the business of the Board requires this change. No earlier announcement was possible.

Discussion.—Internal Personnel Problem.

[S-1637-77 Filed 10-20-77;9:33 am]

[7590-01]

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of October 24.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

TUESDAY, OCTOBER 25

9:30 a.m.—1. License Fees (approx. 1 hr.).

2. Briefing on Action Plan to Improve Nuclear Power Plant Licensing (approx. 1 hr.).

3. Affirmation of: (a) Natural Defense Council Petition to Reduce Occupational Radiation Exposure Limits. (b) Petitions for Review of the Denial by the Director, Office of NRR, of Requests to Initiate Proceedings for the Suspension and Revocation of the Construction Permit for the Bailly Generating Station. (c) Review of ALAB-428 (In the Matter of Florida Power and Light Company) (St. Lucie Nuclear Power Plant Unit 1; Turkey Point Plant, Units 3 and 4)

1:30 p.m.—4. Current Policy on Emergency Planning in Siting and Licensing of Nuclear Power Plants (approx. 1½ hrs.).

5. Policy Statement on Alternative Site Evaluations Under NEPA for Nuclear Generating Stations (approx. 1 hr.).

WEDNESDAY, OCTOBER 26

10:00 a.m.—1. Meeting with Sterling Cole, Southern Interstate Nuclear Board (approx. 1 hr.).

2. Briefing for Commission Concerning Public and Presidential Comments Related to Options and Future Course in GESMO; Consideration of Further Public participation (approx. 1 hr.).

1:00 p.m.—Meeting with State Liaison Officers.

THURSDAY, OCTOBER 27

10:00 a.m.—Discussion of EBTF Cost Estimates (approx. 1 hr.).

11:00 a.m.—Briefing on a Recent Abnormal Occurrence—Occupational Over-Exposure at a Irradiator Facility (approx. 1 hr.).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated at Washington, D.C. this 18th day of October, 1977.

SAMUEL J. CHILK,
Secretary of the Commission.

[S-1642-77 Filed 10-20-77;9:33 am]

[7590–01]

7

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 55518, October 17, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Week of October 17, 1977.

CHANGES IN THE MEETINGS: Meetings for Wednesday, October 19 have been revised as follows:

WEDNESDAY, OCTOBER 19

9:30 a.m.—Briefing on Special Safeguards Implementation Report (approx. 1 hr.) (closed—exemption 4) (meeting is moved to 10:30 a.m.).

10:30 a.m. (approx.)—Discussion of Personnel Matter (approx. 30 min.) (closed—exemption 6) (meeting is moved to 9:30 a.m.).

CONTACT FOR MORE INFORMATION:

Walter Magee 202–634–1410.

Dated at Washington, D.C., this 19th day of October, 1977.

JOHN C. HOYLE,
Assistant Secretary
of the Commission.

[S–1643–77 Filed 10–20–77;9:33 am]

federal register

TUESDAY, OCTOBER 25, 1977

PART II



DEPARTMENT OF AGRICULTURE

Farmers Home Administration

■

RURAL HOUSING (RH) LOAN PROGRAMS

Thermal Performance Standards

[3410–07]

Title 7—Agriculture

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instruction 424.1]

PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

Subpart A—Planning and Performing Development Work

THERMAL PERFORMANCE STANDARDS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration, amends its regulations to establish thermal performance standards to be used as eligibility criteria for all single family and multifamily dwelling units to be constructed or purchased with Rural Housing loan and grant funds. FmHA has determined that existing thermal performance standards as stated in the Minimum Property Standards (MPS) do not provide adequate protection for the FmHA borrower. This document supplements the Minimium Property Standards which are currently used.

EFFECTIVE DATE: All construction which commences after March 15, 1978. This interim period is intended to provide the industry with time to adjust inventories and production methods.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Ball, 202–447–3394.

SUPPLEMENTARY INFORMATION: 1. Introduction. 2. Unilateral Action by FmHA. 3. Format of Standards. 4. Validity of Cost Effectiveness Study. 5. Other Cost-Effective Measures.

1. INTRODUCTION

On March 21, 1977, the Farmers Home Administration published a notice of proposed rulemaking, 42 FR 15317 to amend Section 1804.3 paragraph (d) (1) and to add Appendix D to Subpart A, Part 1804, Chapter XVIII, Title 7, CFR (36 FR 18062), to establish thermal performance standards for new dwellings to be constructed with Rural Housing (RH) loan and grant funds and for existing dwellings to be purchased with RH funds. These standards are intended to replace selected portions of the Minimum Property Standards (MPS) for use by the Farmers Home Administration.

Interested persons were invited to submit comments concerning this proposal by April 20, 1977. Because of the number of comments received and indications of interest by several industry groups, the period for public comment was extended first until May 20, 1977, and then again to July 19, 1977. In response to the notice of proposed rulemaking, 504 written comments were received by FmHA. This final rule contains revisions to the proposed rule which reflect FmHA's consideration of the comments as well as other information available to FmHA.

2. UNILATERAL ACTION BY FMHA

A number of comments questioned the unilateral action by FmHA in promulgating standards which would not be consistent with those used by other Federal agencies, i.e., The Department of Housing and Urban Development (HUD) and the Veterans Administration (VA). A number of these comments pointed out that Pub. L. 94–385 "Energy Conservation Standards for New Buildings Act of 1976" Sec. 304(a) (2) mandates that National energy conservation performance standards be promulgated within three years after enactment of the Act. It was indicated that FmHA should defer action until such standard is promulgated.

FmHA has, since 1971, used the same Minimum Property Standards (MPS) as have HUD and VA. It has been the experience of FmHA in the past several years that homes built in accordance with the MPS are not sufficiently energy efficient for the low- and moderate-income persons who obtain housing loans from FmHA. Some houses have been conveyed into government inventory because the former owner could not pay the mortgage payment and the fuel bills for heating.

The basic authorities for the FmHA housing program (Section 502 of the Housing Act of 1949 as amended, 42 U.S.C. 1472) makes reference to the ability of an applicant and his family to maintain a reasonable standard of living as a qualification for loan eligibility. Based upon this, FmHA is compelled to examine not only the initial cost of purchasing a home but also the operating costs over the life of the mortgage.

FmHA has determined that existing thermal performance standards as stated in the Minimum Property Standards (MPS) do not provide adequate protection for the FmHA borrower or security for the interest of the government. The language of Pub. L. 94–385 states that standards promulgated thereunder will be minimum standards for Federal financial assistance and that other standards may be set which exceed those minimums. FmHA has consulted with HUD and VA and it has been determined that the FmHA Standards are in substantial conformity with revisions to the MPS which will be published at some future date.

3. FORMAT OF STANDARDS

A number of comments concerned the format of the proposed standard, stating that the proposed standards are prescriptive in nature rather than performance oriented. Several persons commented that performance standards are mandated by the Congress and that several model energy conservation codes namely ASHRAE 90–75 and the "Model Code for Energy Conservation in New Building Construction" being developed by the National Conference of States on Building Codes and Standards (NCSBCS) are performance oriented codes.

FmHA, in the development of the proposed standards, considered these model codes and carefully examined the level of performance which would result from the adoption of either code. In most cases, a dwelling unit constructed in accordance with ASHRAE 90–75 or the NCSBCS Model Code would not have a significantly different level of performance than a house built to the existing MPS.

The proposed standards were presented in a format similar to that used in the existing MPS which is easily understood by FmHA field personnel and contractors doing business under FmHA programs. FmHA, however, does consider valid those comments which suggested alternative means of compliance to attain the level of performance desired by FmHA. The final rules incorporate two optional methods of compliance which would permit alternative designs or technologies to be utilized which would provide energy usage equivalent to that attained by use of the component "U" factors. FmHA has adopted the basic format used in ASHRAE 90–75 for these options.

4. VALIDITY OF COST EFFECTIVENESS STUDY

Several comments questioned the validity of the basic methodology utilized to derive the proposed standard. One comment asserted that studies show that the "U" values used in the existing MPS are optimum values and that higher standards would not be cost effective. Other comments stated that computer studies performed by an industry group showed that reduction of "U" values from .17 to .10 would not be cost effective for certain construction types.

FmHA studies to derive optimum thermal performance levels were based upon construction costs, energy prices, energy usage patterns and typical construction types in all areas of the country. Marginal analysis was used to determine the point at which the last increment of savings equals the cost of providing the last increment of insulation thus resulting in the lowest total combined cost of mortgage and utility payments for the homeowner. This procedure is derived from the 1972 ASHRAE Handbook of Fundamentals, Chapter 17.

During the comment period, the base data has been resurveyed several times and the mathematical model has been examined in depth. Data compiled by FmHA has been correlated with results obtained by a computer modeling technique developed by the National Bureau of Standards. In several cases, changes in the final rules reflect additional thermal performance measures which are cost effective.

FmHA has also studied data concerning the computer study performed by the industry group and has consulted with other government agencies which may have been associated with that study. While FmHA acknowledges that computer modeling of dynamic patterns of energy usage is a valid analytical tool, it does not believe that the results of that study show sufficient cause for deviation from the standard as presented.

5. OTHER COST-EFFECTIVE MEASURES

Several comments addressed aspects of dwelling construction which were not addressed in the proposed standard. A number of comments indicated that a restriction on allowable glass area should be provided. FmHA anticipated, at the time the proposed rules were promulgated, that Revision No. 5 of the MPS, which contains a glass area restriction, would be published prior to promulgation of final rules. Revision No. 5 was published June 17, 1977, and all FmHA housing is now subject to a 15 percent maximum glass area limitation.

Several comments expressed concern that moisture problems could result from increased levels of insulation in walls and other structural cavities. FmHA concurs that this could constitute a significant problem in some instances and has amended the standards to include a section on vapor barriers.

Some comments indicated that infiltration of unconditioned air constitutes a major portion of energy usage and unless controlled, would effectively negate any benefits to be derived from increased thermal efficiency of the various components. FmHA concurs in this matter. Concurrent with the promulgation of proposed rules, FmHA has placed special emphasis upon adequate construction inspections by FmHA field personnel. Based upon data provided with some of the comments, the standards have been amended to include criteria for infiltration control.

A number of comments requested that efficiency and type of heating equipment be specified in the standard. FmHA does not consider specification of equipment type or type of fuel to be a valid inclusion in the standard. However, data available to FmHA indicates that providing combustion air from outside the conditioned space for fossil fuel burning equipment is a cost effective measure and has been included in the final rules. Also, taping of ductwork, has been determined cost effective and included.

EXHIBIT D

UNITED STATES DEPARTMENT OF AGRICULTURE
(FARMERS HOME ADMINISTRATION)

Construction Standards

I. *Purpose.* This exhibit prescribes construction standards to be used in all Rural Housing (RH) loan programs. These requirements shall supersede those listed in the Minimum Property Standards (MPS) No. 4900.1, "One and Two Family Dwellings," and 4910.1, "Multifamily Housing," as applicable.

II. *Policy.* All applications for new construction approved or conditional commitments issued after the effective date of this exhibit shall have drawings and specifications prepared to comply with paragraph III A or III C and III D of this exhibit. All existing dwelling to be bought with RH loan funds shall be considered in accordance with paragraph III B or III C of this exhibit.

III. *Minimum requirements.* A. All dwellings, single family or multifamily to be constructed with RH loan and grant funds shall comply with the following:

NEW CONSTRUCTION

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTION OF VARIOUS CONSTRUCTION

Winter Degree Days (Note 1)	Ceilings	Walls	Floors (Note 2)	Glazing	Doors (Note 3)
1000 or less	.05	.08	.08	1.13	--
1001 to 2500	.04	.07	.07	.69	--
2501 to 4500	.03	.05	.05	.69	Storm door if hollow core door or if over 25% glass
4501 to 6000	.03	.05	.05	.47	Storm Door
6001 to 7000	.026	.05	.05	.47	Storm Door
7001 or more	.026	.05	.05	.47	Storm Door

Minimum R Values of Perimeter Insulation for Slabs-on-Grade

Winter Degree Days (65 F Base)	Minimum R Values (1) Heated Slab	Unheated Slab
500 or less	2.8	--
1000	3.5	--
2000	4.0	2.5
3000	4.8	2.8
4000	5.5	3.5
5000	6.3	4.2
6000	7.0	4.8
7000	7.8	5.5
8000	8.5	6.2
9000	9.2	6.8
10000 or greater	10.0	7.5

NOTE.—*(1) For increments between degree days shown, U values may be interpolated.

NOTE 1.—Winter degree days may be obtained from the ASHRAE Guide; the "NAHB Insulation Manual for Homes Apartments"; local utilities; and the National Climatic Center, Federal Building, Asheville, N.C.

Manuals are available from NAHB RF, Rockville, MD 20850, or NMWIA, 382 Springfield Avenue, Summit, N.J. 07901.

Other sources of degree day data may be used if available from a recognized authority.

NOTE 2.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces the U value of floor section shall not exceed the value shown.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperatuer of 50° F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss calculated for floors with required insulation.

NOTE 3.—1¾ inch metal faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than .50 cfm per foot of crack length tested according to ASTM E-382 at 2.86 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

B. All existing dwellings to be purchased with RH loan and grant funds shall be insulated in accordance with the following:

EXISTING CONSTRUCTION

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTIONS OF VARIOUS CONSTRUCTION

Winter Degree Days (Note 1)	Ceilings	Walls (Note 2)	Floors (Note 3)	Glazing	Doors (Note 5)
1000 or less	.05		.08	1.13	--
1001 to 2500	.04		.07	.69	--
2501 to 4500	.03		.05	.69	Storm door if hollow core door or if over 25% glass
4501 to 6000	.03		.05	.69	Storm Door
6001 to 7000	.026		.05	.69	Storm Door
7001 or more	.026		.05	.69	Storm Door

NOTE 1.—Winter degree days may be obtained from the ASHRAE Guide; the "NAHB Insulation Manual for Homes Apartments"; local utilities; and the National Climatic Center, Federal Building, Asheville, N.C.

Manuals are available from NAHB RF, Rockville, Md. 20850, or NMWIA, 382 Springfield Avenue, Summit, N.J. 07901.

Other sources of degree day data may be used if available from a recognized authority.

NOTE 2.—Walls shall be insulated as near to new construction standards as economically feasible. Any exterior wall framing exposed during repair or rehabilitation work shall have vapor barrier installed and be fully insulated.

NOTE 3.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces the U value of floor section shall not exceed the value shown.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50 F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

NOTE 4.—Slab edge insulation should be provided wherever practical in areas of 2,500 or more winter degree days. Rigid insulation placed on the exterior face of the slab shall be protected by a durable and weather resistant material.

NOTE 5.—Storm doors not required for double doors, sliding doors or others where installation would be economically infeasible. 1¾ inch metal faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than .50 cfm per foot of crack length, tested according to ASTM E-382 at 2.86 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

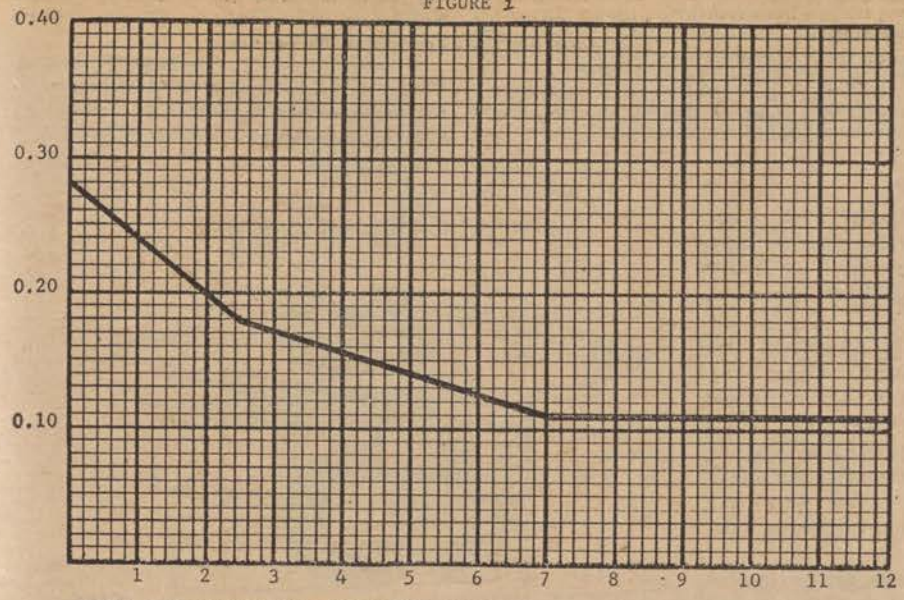
C. *Optional Standards.* Housing designs not in compliance with the requirements of paragraphs III A or III B of this exhibit may be approved in accordance with the provisions of this paragraph. Requests for acceptance proposed under paragraph C 1 which will be marketed solely within the jurisdictional area of one FmHA State Office may be approved by the State Director. Requests for acceptance proposed under paragraph C 1 which will be marketed within the jurisdictional areas of two or more FmHA State Offices and all requests for acceptance under paragraph C 2 may be approved by the Administrator.

All submissions of proposed options to the State Director or Administrator shall contain complete engineering data and calculations to document the validity of the proposal. All data and calculations will be based upon the current edition of the ASHRAE Handbook of Fundamentals or other universally accepted data sources.

1. *Overall "U" values for envelope components.* The following requirements shall be used in determining acceptable options to the requirements of paragraphs III A and III B.

a. U_o (gross wall)—Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.

FIGURE 1



ANNUAL FAHRENHEIT HEATING DEGREE DAYS (65 F BASE) (IN THOUSANDS)

Equation 1 formula for determining combinations (see Fig. 1).

$$U_o = \frac{U_{wall}A_{wall} + U_{window}A_{window} + U_{door}A_{door}}{A_o}$$

where:

U_{oo} = the average thermal transmittance of the gross wall area, Btu/h·ft²·F(W/m²K)

A_o = the gross area of exterior walls, ft²(m²) (see 4.2.2)

U_{wall} = the thermal transmittance of all lements of the opaque wall area, Btu/h·ft²·F(W/m²K)

A_{wall} = opaque wall area, ft²(m²)

U_{window} = the thermal transmittance of the window area, Btu/h·ft²·F(W/m²K)

A_{window} = window area (including sash) ft²(m²)

U_{door} = the thermal transmittance of the door area, Btu·h·ft²·F(W/m²K)

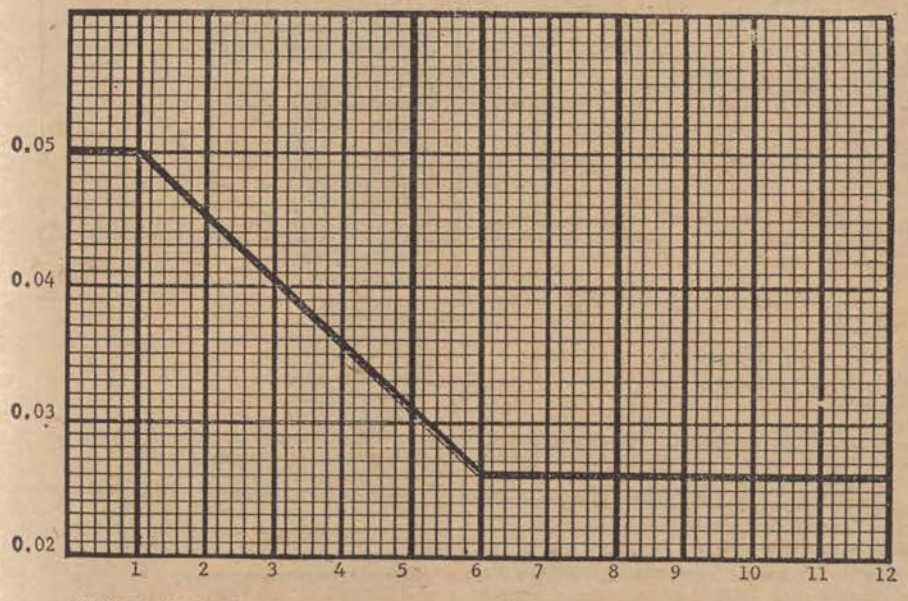
A_{door} = door area, ft²(m²)

NOTE.—Where more than one type of wall, window and/or door is used, the $U \times A$ term for that exposure shall be expanded into its sub-elements, as:

$U_{wall1}A_{wall1} + U_{wall2}A_{wall2}$, etc.

b. U_o (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U_o value) not to exceed the values shown in fig. 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of fig. 2.

FIGURE 2



ANNUAL FAHRENHEIT HEATING DEGREE DAYS (65 F BASE) (IN THOUSANDS)

Equation 2 formula for determining roof/ceiling combinations (see sec. 4.3.2.2.).

$$U_o = \frac{U_{roof}A_{roof} + U_{skylight}A_{skylight}}{A_o}$$

where:

U_o = the average thermal transmittance of the tross roof/ceiling area, Btu/h·ft²·F(W/m²K)

A_o = the gross area of a roof/ceiling assembly, ft² (m²) (see 4.2)

U_{roof} = the thermal transmittance of all elements of the opaque roof/ceiling are, Btu/h·ft²·F(W/m²K)

A_{roof} = opaque roof/ceiling area, ft²(m²)

$U_{skylight}$ = the thermal transmittance of all skylight elements in the roof/ceiling assembly, Btu/h·ft²·F(W/m²K)

$A_{skylight}$ = skylight area (including frame) ft²(m²)

NOTE.—Where more than one type of roof/ceiling and/or skylight is used, the $U \times A$ term for that exposure shall be expanded into its sub-elements, as:

$U_{roof1}A_{roof1} + U_{roof1}U_{roof2}$ etc.

c. U_o (gross floor)—Reserved.

2. *Overall structure performance.* The following requirements shall be used in determining acceptable options to the requirements of paragraphs III A and III B:

a. The methodology must be cost effective to the energy user.

b. The methodolgy must not adversely affect the structural capacity, durability or safety aspects of the structure.

c. All data and calculations must show valid performance comparisons between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with paragraph III A or III B. Structures may be considered for FmHA loan consideration which can be shown by accepted engineering practice to have energy consumption equal to or less than those which would be attained in a representative structure utilizing the requirements of paragraphs III A or III B.

D. *Energy efficient construction practices.* This section prescribes those items of design and quality control which are necessary to guarantee the energy efficiency of homes built according to the standards of this exhibit. Also included are recommendations for extra energy efficiency in homes.

1. *Infiltration.* a. Requirements: All construction shall be performed in such a manner as to provide a building envelope free of excessive infiltration.

(1) Caulking and sealants. Exterior joints around windows and door frames, between wall cavities and window or door frames, between wall and foundation, between wall and roof, between wall panels, at penetrations of utility services through walls, floors and roofs, and all other openings in the exterior envelope shall be caulked, gasketed, weatherstripped, or otherwise sealed. Caulking shall be silicone rubber base or butyl rubber base, conforming to Federal Specifications TT–S–1543 and TT–S–1657 respectively, or materials demonstrating equivalent performance in resilience and durability.

(2) Windows shall comply with ANSI 134.1, NWMA 15–2; the air infiltration rate shall not exceed 0.5 ft³/min per ft. of sash crack.

(3) Sliding glass doors shall comply with ANSI 134.2, NWMA 15–3; the air infiltration rate shall not exceed .5 ft³/min per square ft. of door area.

(4) All insulation placed in open cavity walls shall be installed so that all spaces behind electrical switches and receptacles, plumbing, ductwork and other obstructions in the cavity are insulated as completely as possible. Insulation shall be omitted on the side facing the conditioned area.

Recommendations. Wrap outside corners of wall sheathing with 15 lb. asphalt impregnated building felt before siding application.

(2) Utilize vestibules for entry doors, especially those facing into the direction of winter wind.

(3) In design of the home, place plumbing, mechanical and electrical in interior partitions as much as possible.

2. *Heating and/or Cooling Equipment.*—a. Requirements: All mechanical equipment for heating and/or cooling habitable space shall be designed to provide economy of operation.

(1) All space heating equipment (including fireplaces) requiring combustion air shall be sealed combustion types, be located in a nonconditioned area or adequate combustion air must be provided from outside the conditioned space.

(2) All ductwork shall be designed and installed so as to minimize leakage. All metal to metal connections shall be mechanically joined and taped.

b. Recommendations: (1) Wherever possible, locate ductwork inside of conditioned areas in dropped ceilings, interior partitions or other similar areas.

(2) Locate outside cooling units in areas not subject to direct sunlight or heat build-up.

3. Vapor Barrier.—a. Requirements: Adequate vapor barriers must be provided adjacent to the interior finish material of the wall.

(1) A vapor barrier at the inside of the envelope component must have a perm rating no less than four times that of any other material in that component. All vapor barriers must be continuous and sealed around all openings in the interior surface.

(2) All vapor producing or exhausting equipment shall be ducted to the outside and be equipped with dampers.

B. Recommendation.—1. Forced air heating/cooling systems should include humidification/dehumidification systems where conditions indicate.

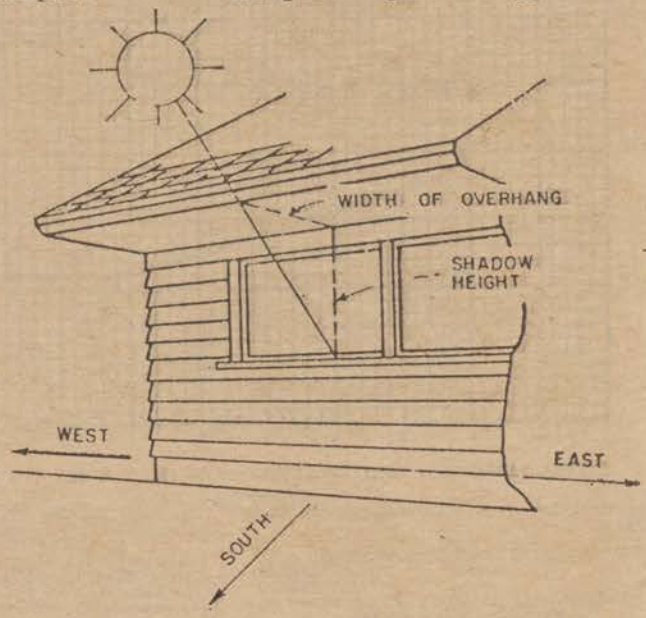
IV. *General Design Recommendations.* A. Orient homes with greatest glass areas facing south with adequate overhangs to control solar gain during non-heating periods.

Roof overhangs, or extensions of the roof, over south walls are usually easy to incorporate into house designs. To determine the *width of overhang* needed to shade a south wall or window, follow this method:

(1) Consider the *latitude* of the geographical area in which your house is located. (See map below.) Latitude, together with season of the year, determines the angle at which the sun's rays strike the earth at different times of day.

(2) Measure on your plan or house the number of feet the south windows extend below the eave of the roof or horizontal overhang. This measurement is the *shadow height*.

(3) Then for that specific latitude and shadow height, you will find, from the table given here, the exact width of overhang needed:





NORTH LATITUDE (DEGREES)	SHADOW HEIGHT (FEET) 3	4	5	6	7	8
	WIDTH OF OVERHANG (FEET)					
25	1.1	1.5	1.9	2.2	2.6	3.0
30	1.4	1.9	2.4	2.9	3.4	3.8
35	1.8	2.4	3.0	3.5	4.1	4.7
40	2.1	2.8	3.6	4.3	5.0	5.7
45	2.6	3.4	4.3	5.1	6.0	6.8
50	3.0	4.1	5.1	6.1	7.1	8.2

For example, in a latitude of 35° and for a shadow height of 5 feet, the width of overhang needed is 3 feet.

B. Arrange plantings with evergreen wind buffers on north side and deciduous trees on south.

C. Wherever possible orient entry door away from winter winds.

D. Design house with simple shape to minimize exterior wall area.

E. Minimize glass areas within constraints of required light and ventilation, applicable safety codes and other appropriate considerations.

F. Minimize the amount of paved surface adjacent to the structure where heat gain is not desirable.

NOTE.—It is hereby certified that the proposed regulation was reviewed in accordance with Executive Order 11821 and OMB Circular A-107 issued November 7, 1976, by Executive Order 11949. An Economic Impact Statement has been prepared and is available for public inspection at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, South Building, Washington, D.C. 20250.

(7 U.S.C. 1989 (42 U.S.C. 1480); delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: October 18, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-30869 Filed 10-21-77;8:45 am]

federal register

TUESDAY, OCTOBER 25, 1977

PART III



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Eligible Activities, Applications for Entitlement Grants, Urban Development Action Grants

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. R-77-471]

[24 CFR Part 570]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Eligible Activities, Applications for Entitlement Grants, Urban Development Action Grants

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rulemaking.

SUMMARY: HUD is soliciting comments on proposed revisions of Subparts C, D, and G of the regulations governing the community development block grant program under Title I of the Housing and Community Development Act of 1974, as amended. Subpart C, which covers eligible activities, is proposed for revision to clarify the eligibility of various activities and to incorporate additional activities that were made eligible by the Housing and Community Development Act of 1977. Revision of Subpart D, which covers applications for entitlement grants, is proposed principally to ensure that a community's proposed program complies with statutory objectives and requirements. Finally, Subpart G, which formerly covered Other Program Requirements, has been designated as the Subpart for urban development action grants.

The proposed provisions in Subpart G cover all aspects of urban development action grants, which were authorized for the first time by the 1977 Act.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 18, 1977.

COMMENTS SHOULD BE ADDRESSED TO: Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION OF THE FOLLOWING SUBPARTS CONTACT:

Subpart C: William Hammer, Program Standards Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6304.

Subpart D: Harriet L. Frank or Beverly M. Harvey, Program Standards Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6305 or 202-755-6306.

Subpart G: Marcia Dodge, Urban Development Action Grant Task Force, Office of Community Planning and Development, Department of HUD, Washington, D.C. 20410, 202-755-6032.

SUPPLEMENTARY INFORMATION: To facilitate understanding of the proposed changes, the discussion in the preamble is organized by Subpart, beginning with eligible activities, then entitlement grants, and finally urban development action grants.

SUBPART C—ELIGIBLE ACTIVITIES

On January 17, 1977 (42 FR 3292), proposed revisions to Subpart C were published in the FEDERAL REGISTER for public comment. With several minor exceptions, these proposals have not been adopted as final regulations.

The purpose of this notice is to propose revised rules of a technical and substantive nature regarding the eligibility of various public works and facilities and other activities in conformity with the objectives of Title I of the Housing and Community Development Act of 1974 and to propose rules regarding the eligibility of activities contained in Title I of the Housing and Community Development Act of 1977.

Included in these proposals are those unaffected parts of the rules proposed January 17, 1977, which are being published herein for further public comment.

NEW FORMAT FOR SUBPART C

As a result of the addition of new eligible activities by the Housing and Community Development Act of 1977 and the other revisions which are proposed, the format for Subpart C has been revised. Section 570.200 will contain general policies relating to eligible activities. Section 570.201 will contain the basic eligible activities. Section 570.202 will contain eligible rehabilitation and preservation activities. Section 570.203 will contain eligible economic development activities. Section 570.204 will contain eligible activities by private nonprofit entities, small business investment corporations, and local development corporations. Section 570.205 will contain planning, urban environmental design, and administrative costs. Finally, section 570.206 will contain activities that are ineligible for assistance.

GENERAL POLICIES

The proposed rules make clear that there are requirements other than those set forth in Subpart C which apply to eligible activities. The general rule is that for a specific activity proposed by an applicant to be eligible for assistance, it must be set forth in the subpart as an eligible activity, and it must be consistent with the basic statutory objectives of the community development block grant program which are measured according to criteria set forth for the entitlement grants and for small city grants. The applicant is also responsible for compliance with the environmental review and clearance requirements of 24 CFR Part 58, the appropriate application requirements of this Part, and other requirements such as those that may be imposed by State or local law. For example, it is very likely that an applicant could propose an activity that is described as eligible in Subpart C, but is nonetheless ineligible for assistance because it does not comply with the basic statutory objective or is not permitted by state or local law.

FACILITIES CONTAINING ELIGIBLE AND INELIGIBLE USES

The criteria for determining the eligibility of facilities to be used for eligible and ineligible purposes are set forth in Section 570.200(d). It is not HUD's intention to conduct extensive front end reviews to determine the appropriate allocation of costs. Section 570.200(d)(2) specifies that it is the responsibility of the applicant to determine the costs attributable to the eligible portion of the facility as separate and distinct from the overall cost of the multiple use facility.

HUD expects that an accurate accounting of costs directly attributable to the designated and discrete area of the eligible facility will be maintained. Costs which are difficult to distinguish, such as costs related to parking facilities, heating and air conditioning equipment, utilities, and design costs, shall normally be allocated on the basis of the ratio of square feet assigned to the eligible portion of the facility to that of the entire facility.

LAND ACQUISITION

Section 570.201(a) sets forth the rules governing the eligible use of program funds for real property acquisition. One example has been provided of the type of acquisition permitted for "other public purposes." The example cites the use of program funds by a central city in a metropolitan area to purchase houses in surrounding non-impacted suburban areas in order to provide a wider choice in housing opportunities for lower-income central city residents.

PUBLIC FACILITIES AND IMPROVEMENTS

The provisions governing eligible public facilities and improvements have been revised to clarify that as a part of the cost of providing such items, an applicant may include costs for appropriate design and architectural features to enhance the esthetic quality of the improvements.

Section 570.201(c)(1), relating to senior centers, has been expanded to clarify that the term does not include senior citizen housing facilities among the facilities eligible for assistance.

Section 570.201(c)(4) has been reorganized to clarify the nature of neighborhood facilities eligible for assistance under this paragraph. Neighborhood facilities are defined to indicate that in a larger community such facilities must be designed to serve a particular service area or comprehensive neighborhood revitalization area, but not the entire city, and to provide services primarily (i.e. at least fifty-one percent) for residents of such area. In smaller communities of under 10,000 population, the entire community can be considered a service area. In new communities, eligible under Section 570.403(a), these standards of popu-

lation apply generally to the population at the time of application submission, with an exception for facilities which are solely communitywide in scope in a new community with a currently projected population of greater than 10,000 are not eligible for assistance as neighborhood facilities.

Sections 570.201(c)(5)–(7) state that solid waste disposal facilities, fire protection facilities and equipment, and parking facilities may be assisted only when they are located in or serve comprehensive neighborhood revitalization areas. This is a change from the current rule which stated that such facilities are eligible if they are located in or serve areas in which other activities described in the community development program, but not necessarily funded with block grants, are being carried out. The terms "solid waste disposal facilities," "fire protection facilities," and "fire protection equipment" are further defined by the proposed regulations.

Section 570.201(c)(8) indicates that publicly owned utilities eligible for block grant assistance under this paragraph includes distribution lines and facilities, but not production or generating plants, and also includes the costs of placing distribution lines underground.

Section 570.201(c)(9) indicates that streets and bridges, along with appropriate lighting, signals, signs, street furniture, trees and other normal appurtenances, may be assisted. Limited access highways and expressways however are excluded.

Section 570.201(c)(10), water and sewer facilities, has been expanded to provide a definition of the term "storm sewers".

Section 570.201 (c)(13) contains a definition of eligible flood and drainage facilities which makes a distinction between such facilities and storm sewers. Flood and drainage facilities are those which affect natural water courses including, but not limited to rivers, streams, lakes, estuaries, bays, oceans, or intermittent streams.

CLEARANCE AND DEMOLITION ACTIVITIES

The eligibility of clearance, demolition, and removal activities are set forth in Section 570.201(d). Applicants may demolish HUD assisted housing units only pursuant to a plan approved by HUD.

PUBLIC SERVICES

The eligibility of public services has been set forth in Section 570.201(e). These provisions are essentially the rules governing public services published on September 1, 1976 (41 FR 36898), with several changes. The term "economic development" is no longer listed among the eligible categories of public services as a result of legislative change.

The references to block grant funded physical development activities which public services must support have been revised to conform with the redesignations in this subpart and with the new activities which have been added. Further, the definition of an area in which activities are being carried out in a concentrated manner has been revised to conform to the definition of a comprehensive neighborhood revitalization area, described in Section 570.301(a). The provisions also now indicate that a public service may be supported in an area for no more than three years after completion of the concentrated physical development activities and at least two-thirds of those receiving the service must be residents of the area.

The definition of "not otherwise available" has been expanded to indicate that there is proposed either a new service or a quantifiable increase in the level of a service above that which has been provided from local or State sources in the prior year.

INTERIM ASSISTANCE

The definition of interim assistance contained in Section 570.201(f) has been expanded. It now specifies that repairs to certain public facilities and improvements may be undertaken, and, private properties may be improved to the extent necessary to eliminate immediate dangers to health, safety, or welfare. Assistance may also be provided for provision of temporary parks on vacant land and carrying out of nonroutine garbage collection, trash and debris removal, and street cleaning including snow removal. These activities are generally those set forth under section 118 of the Housing Act of 1949, as amended, and previously eligible under the predecessor, categorical interim assistance grant program.

REMOVAL OF ARCHITECTURAL BARRIERS

Section 570.201(k) has been expanded to include removal of barriers which restrict the access of the elderly and handicapped to privately owned buildings, facilities and improvements, as well as those which are publicly owned.

REHABILITATION OF PUBLICLY OWNED RESIDENTIAL STRUCTURES

Section 570.202(a) specifies that both publicly owned and acquired properties may be rehabilitated with block grant assistance for use or resale in the provision of housing. The conversion of nonresidential structures to residential use would be permitted under this provision.

PUBLIC HOUSING ASSISTANCE

Section 570.202(b) permits the use of block grant assistance for modernization of publicly owned low-income housing and modernization planning. Block grant funds may not be used for new construction of public housing or office facilities for public housing.

In addition to those modernization activities eligible under this paragraph, applicants may provide block grant funds to public housing agencies for other activities eligible for block grant assistance. This may include public services provided to residents of public housing, such as security and day care, which otherwise meet the requirements of Section 570.201(e) as well as planning and policy-planning-management activities related to public housing improvements which meet the requirements of Section 570.205.

REHABILITATION BY NON-PROFIT ENTITIES

Section 570.202(c) permits the use of block grant funds for the acquisition and rehabilitation of properties by nonprofit entities for use or resale in the provision of housing. This would include the conversion of nonresidential structures to residential use.

REHABILITATION FINANCING

Legislative changes have removed the "incidental to physical development activities" test for the financing of rehabilitation of privately owned properties. Section 570.202(e) provides that financial assistance for rehabilitation may be provided to residential, nonresidential, and mixed used privately owned properties either within comprehensive neighborhood revitalization areas or on a city-wide spot rehabilitation basis for low- and moderate-income persons. Activities may vary from extensive rehabilitation to limited improvements designed to cure an accumulation of deferred maintenance.

Section 570.202(d) provides that block grant funds may be used for the provision of building materials to home owners and tenants for use in rehabilitation efforts, such as an applicant using CETA funds to provide the labor and block grant funds to provide materials as part of a rehabilitation effort.

Section 570.202(e) provides that block grant funds used for the financing of rehabilitation may include amounts necessary for the refinancing of existing indebtedness on properties being rehabilitated and may also include amounts for measures to increase the energy efficiency of structures, and the conversion, modification, or replacement of heating equipment, including use of solar energy equipment. Where appropriate, rehabilitation financing may include the costs of installation of utility connections and payment of utility connection fees.

CODE ENFORCEMENT

Section 570.202(f) provides for the eligibility of code enforcement activities within comprehensive neighborhood revitalization areas.

HISTORIC PRESERVATION

Section 570.202(g) sets forth the requirements for provision of assistance for historic preservation activities. Assistance may be provided for the rehabilitation, preservation, restoration and acquisition of historic properties, both publicly and privately owned. Such properties must be either listed in, or eligible for listing in the National Register of Historic Places or a State Inventory of Historic Places or designated a local landmark or historic district by state or local law.

Publicly-owned historic properties meeting the requirements of this paragraph which are normally ineligible may be assisted, but only to the extent necessary for historic preservation. The expansion of an ineligible public facility

such as a city hall under the heading of historic preservation is not permitted.

ECONOMIC DEVELOPMENT ACTIVITIES

A new Section 570.203 is added to include those activities relating to economic development which have been added by the legislative amendments. Eligible activities include acquisition of real property for economic development purposes, provision of public facilities and improvements not otherwise eligible, and provision of commercial and industrial structures and improvements.

PUBLIC FACILITIES AND IMPROVEMENTS RELATED TO ECONOMIC DEVELOPMENT

Section 570.203(b) permits the use of block grant funds to provide public facilities and improvements in addition to those eligible under Section 570.201(c) which are determined to be necessary and appropriate to alleviate economic distress in accordance with the applicant's economic development strategy. Public facilities and improvements meeting these requirements would not be limited by the description of ineligible facilities and improvements under Section 570.206(a).

Applicants must provide HUD with a description of any facility or improvement proposed to be provided under this paragraph and a description of the relationship of the facility of improvement to its neighborhood revitalization or economic development strategy.

COMMERCIAL AND INDUSTRIAL FACILITIES

Section 570.203 permits the use of block grant assistance to provide commercial and industrial buildings and commercial and industrial real property improvements.

ACTIVITIES BY NON-PROFIT ENTITIES

The legislative amendments now make clear that non-public entities may conduct a wider range of activities with block grant funds. Private non-profit entities such as neighborhood and community-based organizations, corporations, and associations; local development corporations; and Small Business Investment Corporations (SBIC's) organized under section 301(d) of the Small Business Investment Act of 1958, will be able to use block grant funds received from an applicant unit of general local government to conduct a wide variety of eligible activities. The unit of general local government will be responsible to ensure that when program funds are used by a private non-profit entity, by means of a grant of block grant funds by the applicant to a local development corporation or SBIC that the funds are treated as public funds and that the applicable requirements of the block grant regulations and other laws are carefully adhered to in such cases. Specific requirements governing the use of funds by nonprofit groups, SBIC's, and local development corporations will be set forth in Subpart K which will be published at a later date. The applicant is responsible for carrying out the applicable environmental review and clearance responsibilities for such activities.

GRANTS TO NON-PROFIT ENTITIES, SBIC'S AND LOCAL DEVELOPMENT CORPORATIONS

Section 570.204(b) provides for grants for neighborhood revitalization and economic development activities to be made by recipients to neighborhood based nonprofit organizations, local development corporations, or SBIC's to conduct any activity otherwise eligible for assistance under Sections 570.201–570.203 and 570.205. Assistance may also be provided for reasonable costs of planning, program development, and administration incurred in carrying out such activities. In those instances where a facility is to be provided by such an entity with block grant assistance and ownership is to be vested in the nonprofit entity, local development entity, local development corporation, or SBIC, that entity shall nonetheless assure that where appropriate, the facility will be open for use by the general public during all normal hours of operation, and shall be otherwise operated as a publicly owned facility.

ASSISTANCE TO NON-PROFIT ENTITIES, SBIC'S, AND LOCAL DEVELOPMENT CORPORATIONS FOR OTHER NEIGHBORHOOD REVITALIZATION AND ECONOMIC DEVELOPMENT ACTIVITIES

Section 570.204(c) sets forth that applicants may provide block grant funds to private non-profit entities, local development corporations, or SBICs to conduct neighborhood revitalizatidn or economic development activities principally for lower-income persons. The assistance may also be used for reasonable costs of planning, program development, and administration by the non-profit entity to carry out the economic development activity.

The private non-profit entity, local development corporation, or SBIC may also use block grant funds for certain activities not otherwise eligible including loans to new or existing small businesses, minority businesses, or nonprofit businesses for capital or operating purposes; funds required for capitalization of a local development corporation or SBIC as required by another Federal program; and providing for performance bonding of minority contractors. Other activities, not specifically mentioned in the regulations, may be undertaken which are necessary and appropriate to expand economic opportunities for lower-income persons, and the applicant receives authorization from HUD to undertake such activity.

In those instances where non-profit entities, local development corporations, or SBICs wil be providing financial assistance to small businesses, they are encouraged to coordinate the delivery of such assistance with the programs available under the Economic Development Administration (EDA), Small Business Administration (SBA), and other federal agencies. Requirements governing the administration of block grant funds by nonprofit entities, SBICs, and local development corporations, will be set forth in Section 570.612.

ELIGIBLE PLANNING, URBAN ENVIRONMENTAL DESIGN, AND ADMINISTRATIVE COSTS

Section 570.205 sets forth the costs of planning, urban environmental design, and administration eligible for assistance under the block grant program.

COMMUNITY DEVELOPMENT PLANNING

Section 570.205(a) sets forth the nature of eligible planning activities. The term comprehensive community development plan is defined and the types of activities necessary for its preparation have been clarified. The activities may include data gathering and studies, with the exception that detailed planning and engineering of ineligible facilities pursuant to Section 570.206 is not permitted; the actual preparation of the comprehensive community development plan or its components is permitted; actions necessary for the implementation of the comprehensive community development plan are permitted; and related planning activities such as the preparation of a communitywide land use plan.

The nature of the improvement of the policy-planning-management capacity of the applicant has also been clarified to illustrate the link between the comprehensive community development plan and activities of the applicant to exercise management of its implementation in Section 570.205(b).

701 PLANNING IN METROPOLITAN CITIES AND URBAN COUNTIES

Section 570.205(c) permits metropolitan cities, and urban counties to use block grant assistance to conduct section 701 planning activities in addition to the other planning activities authorized in section 570.205, provided that such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicant's Community Development Program.

ADMINISTRATIVE COSTS

Section 570.204(d) outlines those administrative costs which may be paid with program funds. HUD will permit the payment of only reasonable administrative costs related to activities financed in whole or in part with block grant funds or contained in the housing assistance plan.

Paragraph (d)(1) outlines the various program administrative costs that are permitted such as payment of salaries and other expenses. Paragraph (d)(2) allows the cost of providing information to citizens and resources to citizens organizations involved in the planning, implementation, monitoring, and evaluation of the block grant program. Paragraph (d)(3) permits the costs of fair housing counseling to be paid with program funds. Paragraph (d)(4) permits assistance necessary for contractors conducting activities with block grant assistance to obtain performance bonding. Paragraph (d)(5) permits the payment of reasonable cost of administering a

Section 312 rehabilitation loan program with program funds. Paragraph (d)(6) permits the payments of reasonable costs of managing acquired properties.

HOUSING PRECONSTRUCTION COSTS

Section 570.205(d)(7) permits the use of block grant funds for payment of housing preconstruction costs in order to implement an approved housing assistance plan. This represents a change in policy direction on these costs which is being undertaken to facilitate the development of assisted housing and secure implementation of housing assistance plans. Eligible costs may include market analyses, certain preliminary engineering and architectural costs, costs of development of applications for mortgage and insured loan commitments and for the section 8 housing assistance payments program, and HUD–FHA, Farmers Home Administration (FmHA), or Government National Mortgage Association (GNMA) processing fees. Although this paragraph represents a change in HUD's position or the eligibility of preconstruction costs, block grant funds may not be used for the direct financing of the new construction of housing.

CONSULTANT ACTIVITIES

Section 570.205(d)(8) sets forth standards for using block grants to pay consultant fees. No person acting as a consultant may be compensated for personal services at a rate exceeding the maximum daily rate for a GS–18 as set by federal law. Applicants and consultants are advised that practices which are unethical and other abuses will not be tolerated by HUD.

INELIGIBLE ACTIVITIES

Section 570.206 sets forth the activities which are ineligible for assistance by the block grant program. These are essentially the same as were previously set forth in the regulations, modified to reflect the new eligibility of economic development activities set forth in section 507.203.

CULTURAL FACILITIES

Section 570.206(a)(2) has been changed to provide that facilities used for exhibitions, spectator events, and cultural purposes are not eligible for assistance.

PUBLIC FACILITIES LOCATED ON SCHOOL SITES

Section 570.206(a)(3)(ii) sets forth standards to assure that a public facility located on a school site retains its character as a public facility and does not become treated as a "school" facility and therefore become ineligible for block grant assistance.

INTERCEPTOR SEWERS

Section 570.206(a)(6) is being revised to indicate clearly that interceptor sewers are ineligible for assistance under this Part. In order to eliminate the uncertainty whether a sewer is an "interceptor sewer" under this Part and therefore ineligible for assistance, the regulations have been revised to provide two sets of descriptive circumstances.

OPERATING AND MAINTENANCE EXPENSES

Section 570.206(c) sets forth the policy governing the general ineligibility of operating and maintenance expenses. A number of examples are provided, but these are not exhaustive of all possible excluded activities. Section 570.206(c)(4) has been revised to distinguish those circumstances when applicants conducting eligible activities may contribute to certain operating and maintenance expenses with program funds. Expenses associated with the provision of interim assistance pursuant to Section 570.201(f) and of public services pursuant to Section 570.201(e) may be assisted. For example, if a public service is being provided in a neighborhood facility, the applicant may provide assistance for rental payments, and reasonable costs associated with the payment of utilities and routine maintenance of the facility as a part of recognizable costs.

NEW HOUSING CONSTRUCTION

Section 570.206(f) contains the general prohibition against using block grant funds for new construction of housing or the financing of new housing construction. Activities in support of new housing construction pursuant to an approved housing assistance plan are not precluded by this section. These include clearance, site assemblage, provision of housing sites, provision of public and site improvements, and housing preconstruction costs permitted under Section 570.205(d)(7), which are eligible for block grant assistance.

PAYMENT OF ASSESSMENTS

Section 570.206(h) sets forth the policies regarding the payment of assessments under the block grant program. Block grant assistance may not be used to pay an assessment levied against an individual parcel of real estate in behalf of the property owner. Further, recipients may in no instance assess a benefitting property for any cost of a public improvement which has been provided with block grant assistance.

INDUSTRIAL PARKS

Section 570.206(i) sets forth the general rule about the development of industrial parks with block grant assistance. Although various activities under the block grant program could be used for industrial park development, assistance shall not be used for such development unless there is a market for such facilities. HUD normally expects that an applicant will have firm commitments from public or private entities for the use of an industrial park development. HUD does not wish to preclude the development of industrial parks if there is a reasonable expectation for their use, but the Department does not want to provide assistance for speculation or if there is no reasonable assurance of utilization of the facility.

SUBPART D—ENTITLEMENT GRANTS

Subpart D, which contains requirements for entitlement grant applications, has been substantially revised to:

(1) Ensure that applicants' proposed community development programs meet statutory objectives, particularly the objective of providing decent housing, a suitable living environment, and expanded economic opportunities for low- and moderate-income persons;

(2) Enhance the opportunity for citizens to participate in the planning, implementation, monitoring, and evaluation of the community's program;

(3) Improve the process of housing planning and the coordination between block grant assisted activities and the delivery of housing resources;

(4) Reduce the frequency of preparation and submission of the Community Development Plan Summary and the full Housing Assistance Plan to once every three years;

(5) Require that the applicant's comprehensive strategy for community development be specifically described in the application, in accordance with Section 104(a)(1) of the Act;

(6) Present material on planning community development programs before describing detailed submission requirements; and

(7) Simplify and clarify certain existing requirements.

Due to the scope and nature of these changes, the subpart has also been totally reorganized. Background information on each section of the revised subpart is presented in the following paragraphs.

OUTLINE OF APPLICATION REQUIREMENTS

Section 570.300 briefly outlines application requirements for entitlement grants and references later sections containing more detailed information. The purpose of the section is to assist applicants in complying with the application requirements by highlighting them in a checklist format.

PLANNING CONSIDERATIONS

Section 570.301 describes several factors the applicant should consider in planning its Community Development Program.

Paragraph (a) introduces the term "comprehensive neighborhood revitalization program" to define a coordinated program to upgrade predominatly residential areas. The Department's policy is to encourage the use of block grant funds in a concentrated manner, and to encourage coordination of Federal, State and local programs. The term "comprehensive neighborhood revitalization" is used consistently throughout these regulations, and the Department intends to recognize locally delineated areas meeting this definition in connection with other HUD programs requiring selection of areas for concentrated treatment. It is noted that areas delineated in accordance with this requirement will meet the definition of an area in which concentrated physical development activi-

ties are being carried out for purposes of eligibility of public services pursuant to § 570.201(b), and for rehabilitation financing pursuant to § 570.202(d).

The proposed provisions in paragraph (b) on planning and implementing multiyear projects are intended to emphasize that an applicant may undertake multiyear projects financed with entitlement funds becoming available in successive years. In such cases, the total project must be described in the first application in which entitlement funds are allocated for the project, and the environmental assessment must encompass the entire multiyear scope of activities. The requirement that a single environmental assessment be made of the entire project is new. It is needed to ensure that the public is advised of the potential effects on the environment of the entire project, not just the part being funded in a given year, before any money is committed to the project. These provisions also permit an applicant to use local funds to continue work on multiyear projects in those instances where the applicant exhausts previous entitlement funds before the next increment is approved, and then be reimbursed by HUD after approval of the next increment. This will help assure uninterrupted work on multiyear projects.

The proposed provisions on reimbursement for planning and environmental assessment costs in paragraph (c) permit an applicant to use local funds for those purposes prior to HUD approval of the application, and then be reimbursed by HUD for such costs after approval. This will allow applicants to begin environmental assessments during the application preparation process and consequently result in earlier implementation of program activities. It also recognizes that planning costs are, for the most part, necessarily incurred before an application is submitted to HUD.

PROGRAM BENEFIT TO LOW- AND MODERATE-INCOME PERSONS

Section 570.302 incorporates as a specific program requirement the primary objective of the Act of developing viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income. The experience gained in carrying out the block grant program has caused some concern that the statutory intent was not being met in a consistent fashion, and that benefits to lower-income persons might be diminishing. The 1977 amendments to the Housing and Community Development Act include additional language concerning benefits to low- and moderate-income persons. It was therefore decided to propose a rule which contains specific controls on the use of funds to assure that low- and moderate-income persons are the principal beneficiaries.

The proposed rule is that all block grant funds must be used for projects which principally benefit low- and moderate-income persons. Section 570.302(b) defines the activities which meet the principal benefit test. These include projects which benefit geographic areas which have a majority of low- and moderate-income residents, projects whose entire cost directly benefits low- and moderate-income persons outside lower-income geographic areas, economic development activities which benefit a majority of low- and moderate-income persons, and activities required as a prerequisite to other community development or housing activities which principally benefit low- and moderate-income persons.

Activities which do not meet the definitions of activities principally benefitting low- and moderate-income persons are considered exceptions to the general rule that community development funds must principally benefit low- and moderate-income persons. They are permitted only where clearly necessary to attain other statutory objectives under the criteria and definitions which appear in paragraph (c), and they must be specifically justified in the application. The exception activities are generally limited to 25 percent of the grant. Section 570.302(e) provides that the Secretary may, at her discretion, waive this percentage limitation where the applicant submits information that demonstrates that such waiver is necessary.

Exception activities are limited to the following categories: (1) certain activities to prevent or eliminate slums and blight; these are precisely defined so that they are limited to the purposes contemplated by the Act; they include, for distressed cities only, slum prevention and elimination activities for the purpose of economic development, and for the purpose of attracting higher-income residents; and (2) community development needs having a particular urgency. The reason for limiting certain activities to distressed cities is that such cities may require assistance to enhance their general economic condition and viability. Although the activities permitted may not immediately benefit lower-income persons in a direct fashion, they will help enable the city to provide a decent living environment, adequate public services, and jobs, and thus will ultimately benefit low- and moderate-income persons.

The reason for limiting exception activities to 25 percent of the grant is that the individual activities and projects whose cost may be included in computing that percentage may benefit a significant number of persons who are not lower income and such a percentage limit is therefore required to assure that the majority of the funds does benefit lower-income persons. Other methods of computation were considered, such as prorating the cost of each project in accordance with the proportion of lower-income persons served, and adopting a smaller percentage limit for the total program. However, it was felt that the alternative methods considered would be complicated to administer, and the current proposal was adopted because of its greater simplicity.

Section 570.302(d) outlines how to compute program benefit. It includes a provision that applicants may adjust the amount of the grant used for activities which principally benefit low- and moderate-income persons in the amount by which such expenditures exceeded the 75 percent minimum in previous program years beginning with Fiscal Year 1977.

CITIZEN PARTICIPATION

Section 570.303 contains proposed revisions to the citizen participation requirements of the program, which reflects both revised statutory language and the Department's initiatives to ensure citizens are afforded the opportunity to participate in the planning, implementation, monitoring, and evaluation of the community's program. A major change from the past is the requirement that the applicant prepare a written citizen participation plan which provides continuity of participation by citizens through all stages of the program. Other new citizen participation requirements to be included in the plan are: provisions for encouraging the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low and moderate income; provisions for timely responses to the proposals submitted; scheduling of hearings at times and locations which permit broad participation; and providing citizens with an opportunity to submit comments concerning the community development performance of the applicant. Additional subjects which are required to be covered by the plan are described in the proposed regulations.

COMMUNITY DEVELOPMENT PLAN

Section 570.304 describes a major innovation in the application requirements. The three year Community Development Plan Summary required by Section 104(a) of the Act is proposed to become a true three year document, to be submitted every third year and to cover the applicant's needs, long and short term objectives, and proposed activities for the next three years.

The format of the revised three year plan is more flexible so that the applicant can discuss its needs and plans in the manner most convenient and appropriate. Thus, it consists primarily of narrative statements. At the same time, the rules prescribe the functional areas to be discussed and require explicit statements of the applicant's strategy for the use of block grant funds.

The purposes of the proposed revision are (1) to minimize submission of information which does not change frequently; (2) to require more substantive discussion of the information which is submitted to facilitate HUD review and to provide a basis for subsequent monitoring and evaluation; (3) to encourage long range planning and a comprehensive approach to revitalizing communities.

The new Community Development Plan includes three components: The first is a Summary of Community De-

velopment and Housing Needs, which is described in paragraph (a). It requires specific information regarding local conditions in order to avoid limiting the needs statement to a justification of selected activities. Consistent with the Department's emphasis on neighborhoods, this section requires the applicant to identify neighborhoods or areas having significant concentrations of low- and moderate-income persons and deteriorated housing, including maps, and to state the needs of such areas.

The second component of the Community Development Plan is a Comprehensive Strategy, which is described in paragraph (b). This section calls for an articulated strategy for use of funds in four functional areas, namely neighborhood revitalization, housing, community facilities, and economic development. Only distressed cities that propose economic development activities are required to address economic development in their strategy statement. The strategy statement incorporates the long and short term objectives statements which are now required and from which a strategy was previously inferred. It requires applicants to describe not only the use of CDBG funds, but also the coordination with other resources and programs, and the regulatory and other local actions to be taken to accomplish the applicant's community development objectives.

The third component, described in paragraph (c) is a Three-Year Activity Summary which contains a general description of the activities to be carried out during the three year period to implement the comprehensive strategy, grouped by the location, the anticipated accomplishments, timing, and estimated costs.

ANNUAL COMMUNITY DEVELOPMENT PROGRAM

Section 570.305 outlines the contents of the annual Community Development Program which must be submitted with each application for grant funds. The requirements are similar to those previously contained in § 570.303(b), but they call for more detailed descriptions of the projects, their locations, and component activities, in order to facilitate HUD review, avoid the necessity for requesting supplementary information, and to be easier for citizens to understand.

HOUSING ASSISTANCE PLAN

Section 570.306 sets forth the proposed requirements for the Housing Assistance Plan (HAP) which are intended to improve the process of housing planning and to effect a stronger relationship between establishment of a housing plan, coordination of Community Development Block Grant (CDBG) activities, and the delivery of housing assistance resources. The Housing Assistance Plan (HAP) is a primary vehicle in the allocation of the Department's housing resource funding and the basis for a locality's utilization and acceptance of resources. These proposed rules delineate specific standards and criteria for preparation, review, and approval of a HAP. The major revisions and amendments are as follows:

TIMING REQUIREMENTS

For Fiscal Years 1979 and beyond, it is proposed that the Housing Assistance Plan (HAP) be submitted every third year as a part of the community's application for Community Development Block Grant (CDBG) Funds. A housing action program which defines activities to be undertaken during each program year, would be submitted annually.

Fiscal Year 1978 will be a special transition year to permit applicants to complete the previous HAP cycle and to begin the process of changing to a new HAP cycle. Applicants will be submitting an annual housing action program which is designed to complete the provision of housing assistance to each household type proportionately. Applicants must direct their housing goals during this transition year toward meeting the needs of those household types which have not been addressed in the previous years. For example, an applicant which has met only the needs elderly households during previous years is expected to include goals for family and large family households of such magnitude that the needs of each household type will have been met proportionately.

Corresponding changes will be proposed in a forthcoming revision to 24 CFR Part 891 to ensure consistency of housing applications with these policies through the Local Government Review and Comment process.

RELATIONSHIP TO PREVIOUSLY APPROVED THREE YEAR GOALS

As applicants phase into a new HAP cycle, new HAP goals must not only address the identified needs for housing assistance, but must also address those needs which were not fulfilled in accordance with prior housing assistance plans. Accordingly, applicants remain responsible for addressing the needs of each household type specified in the housing assistance plans of prior years. The applicant retains this responsibility until the needs are addressed, while, at the same time, it accrues responsibility on a continuing basis to develop a balanced housing program to address all needs which have been identified.

PROPORTIONALITY

The requirements regarding proportionality of goals among household types have been revised in Section 570.306(c)(1)(i). This is to assure that the needs of each household type are adequately addressed in conformance with the policies outlined in the two paragraphs above. Proportionality requirements will be set forth separately for owner and renter household types. This does not mean that the total goals for assistance to owner and renter households should be in the same proportion as the needs ow owner and renters, but that proportionality among renter household types shall be calculated separately from proportionality among owner household types. The needs of those expected to reside in the community shall be included among the needs of renter households.

SURVEY OF HOUSING CONDITIONS

In addition to a statistical presentation in tabular form, the applicant also would be required to submit a narrative discussion of unique or urgent housing problems which it proposes to address through the development of specific strategy and goals. Vacancy rates would be determined for standard available units only and in no instance would the inclusion of units to be vacant at a future date be permitted.

ASSESSMENT OF HOUSING ASSISTANCE NEEDS

Applicants would be expected to provide both statistical and narrative presentations of lower-income households requiring housing assistance. This information is essentially that which has been previously required.

EXPECTED TO RESIDE METHODOLOGY

The proposed rule would establish a revised methodology for estimating the number of lower-income households expected to reside in metropolitan communities. The new methodology offers an adjustment to establish the number of lower-income households expected to reside during the three year applicability of the HAP.

The Department will provide applicants with the estimates of the number of lower-income households expected-to-reside in the community for all metropolitan cities of 25,000 or more population and metropolitan counties. HUD Area Offices will provide assistance to metropolitan communities of less than 25,000 population in deriving these estimates. Where other more recent, generally available data are available, the regulations make provision for the use of such data in deriving the estimates of lower-income households expected to reside.

USE OF ALTERNATIVE METHODOLOGIES FOR DETERMINING ESTIMATES OF NEEDS DEVELOPED BY AREAWIDE PLANNING ORGANIZATIONS *

HUD, at its option, may determine that the methodologies developed by areawide planning organizations, in conjunction with the preparation of an approved Areawide Housing Opportunities Plan, for estimating the number of lower-income persons expected to reside may be a more precise means to measure such needs, and as such, may be used in lieu of the methodology described above. Areawide planning organizations whose methodologies are acceptable would be notified through publication in the FEDERAL REGISTER. HUD would monitor the estimates developed by APOs and could withdraw approval or require modification in order to maintain consistency with the objectives of this Part.

THREE YEAR HOUSING PROGRAM

The applicant would establish goals for housing units and/or persons which it proposes to assist over the three-year program period and would select general

locations for new construction and substantial rehabilitation.

ANNUAL HOUSING ACTION PROGRAM

The Annual Housing Action Program will be submitted as a part of the three year Housing Assistance Plan as well as for each of the intermittent years between HAP submission. The program will contain the annual goals for housing assistance by household, tenure, and housing program type.

The Annual Housing Action Program is an applicant's annual increment toward the achievement of its three year housing goal. An applicant is expected to formulate its annual program in a balanced manner to provide assisted housing resources to address the various needs that have been identified.

STANDARDS AND CRITERIA FOR APPROVAL OF HAPS

The rule would provide specific acceptability criteria under which a Housing Assistance Plan (HAP) would be reviewed and approved. In addition to the requirement that goals be in proportion with needs by household type, additional criteria would be established to determine whether goals are minimal or realistic, and whether they are plainly inappropriate to the needs of persons currently residing or expected to reside in the community. Minimal goals are defined as a proposed level of assistance sufficient to meet five percent (5%) of the needs per year. In addition, it would be emphasized that applicants must give priority to household types, by tenure, not provided for in an equitable manner, establish a reasonable timetable for implementing local actions to remove impediments to housing resource delivery (generally not to extend beyond the second year of the three-year action plan), and, if applicable, to conform to the approved Areawide Housing Opportunity Plan of the APO of which it is a participating jurisdiction. This section emphasizes that general locations proposed by the applicant for new construction or substantial rehabilitation must contain at least one site which will conform to site and neighborhood standards established by HUD for assisted housing and that applicants shall address the Departmental objective of promoting spatial deconcentration.

CERTIFICATIONS

Three new items have been added to the certifications currently required to reflect the September 12, 1977, revision of OMB Circular No. A-102, "Uniform Administrative Requirements for Grants-In-Aid to States and Local Governments." The new items are located in paragraphs (r), (s) and (t). In addition, two changes in the certification currently required are proposed. The certification relating to citizen participation is proposed for revision to reflect new statutory language. Also, the certifications pertaining to relocation and real property acquisition are proposed for revision to emphasize Departmental policies for assuring fair treatment of minorities and lower-income persons.

TIMING OF APPLICATION SUBMISSIONS

Two changes in the current requirements on the timing of application submissions are proposed in Section 570.308. The first proposed change consolidates two submission deadlines. Applicants that were entitled to a grant in the previous fiscal year but did not apply, or whose applications were not approved, are currently required to apply no later than January 15, unless HUD approves an extension. Other applicants that did not receive an entitlement grant in the previous fiscal year are currently required to apply no later than April 30. The proposed rule consolidates and simplifies these requirements by requiring any applicant that did not receive an entitlement grant in the previous year to apply no later than April 30.

The second proposed change increases an applicant's flexibility to shorten or lengthen its program year in order to more rapidly conform the program year to State or local fiscal or budgeting requirements. The current rule allows program years to be shortened by one month or lengthened by two months. The proposed rule permits shortening or lengthening by as much as three months. It also changes the time periods for prior HUD notice of such adjustments to assure HUD will know when to expect the community's application.

PUBLIC AVAILABILITY OF AND OBJECTIONS TO APPLICATION

Requirements governing public availability of and objections to applications have been placed in a separate Section (570.304) for emphasis. In addition, the provisions on public availability of applications have been revised by adding the requirement that applicants make reasonable efforts to inform citizens that the application has been submitted to State and areawide clearinghouses.

A-95 CLEARINGHOUSE REVIEW AND COMMENT

Requirements regarding State and areawide clearinghouse review and comment remain unchanged, but have been placed in a separate Section (570.310) for emphasis.

HUD REVIEW AND APPROVAL OF APPLICATIONS

Section 570.311 retains the procedural information currently in effect. In addition, it includes new information describing substantive matters which will govern review and approval of applications. Thus, Section 570.311(b) lists factors which will be taken into account by HUD in reviewing applications. Section 570.311(c)(2) lists some of the conditions under which proposed activities may be determined plainly inappropriate to meeting the applicant's needs and therefore constitutes a basis for denial of the application.

AMENDMENTS

Section 570.312 sets forth proposed requirements governing amendments. Paragraph (a) on amendments to the recipient's Community Development Program would require prior HUD approval of new activities a recipient proposes to undertake, over and above those undertaken as local option activities or disaster activities requiring immediate implementation. Prior HUD approval would also be required for alterations in the objectives, location, or class of beneficiaries of a previously approved activity, and for reductions in the amount of funds previously approved for completion of urban renewal projects. Recipients would retain the flexibility to allocate up to ten percent of their block grant resources for unspecified local option activities and/or contingencies, and to reprogram funds between previously approved activities without prior HUD approval, provided such changes do not alter the objectives, location, or class of beneficiaries of those activities, or reduce the amount of funds approved for completion of urban renewal projects. When the recipient proposes to undertake activities which are not consistent with the three-year activity summary in its community development plan, it would be required to submit an amended plan summary to HUD at the same time the Community Development Program amendment is submitted.

Paragraph (b) sets forth proposed changes to the current provisions governing amendments to approved Housing Assistance Plans. The current provisions are proposed to be amended primarily to conform to and respond to questions arising from local government review of assisted housing proposals for consistency with Housing Assistance Plans. This review is conducted pursuant to the requirements outlined in 24 CFR Part 891. A recipient would be required to amend its Housing Assistance Plan any time there is a change in the goals for assisted housing or there is a change in the general locations for assisted housing set forth in the Housing Assistance Plan. Further, a recipient would be required to amend its housing assistance plan where it had previously provided HUD with a major variation statement for an approved housing proposal pursuant to 24 CFR Section 891.204(a)(2), and a subsequent major variation statement is contemplated by the recipient to permit approval of additional assisted housing proposals. Recipients are required to submit all amendments to Housing Assistance Plans to HUD for review and approval.

Paragraphs (f), (g) and (h) have been added to emphasize existing citizen participation, A-95 review, and environmental requirements pertaining to amendments.

ANNUAL PERFORMANCE REPORT

The reference to the annual grantee performance report (GPR) previously in § 570.300(e) has been deleted since it is proposed that the report no longer be keyed to the submission of the application. Section 570.906 is accordingly proposed to be revised to incorporate the new timing requirements as well as other procedural and substantive changes relating to the performance report.

On May 12, 1977, HUD published a Notice in the FEDERAL REGISTER (42 FR 24105) soliciting public comments and suggestions for revisions to the grantee performance report. The public was asked to comment on three specific questions: When is the most appropriate time to submit the GPR? What should be the basis and reporting period of the GPR? What should the content of the GPR include? A total of 105 written comments were received covering one or more of the above questions as well as other related issues.

TIMING OF SUBMISSION OF GPR

The public was invited to comment on whether the grantee performance report should be submitted to HUD prior to submission of the application; concurrently with the application; at the end of the program year; at a fixed date (e.g., June 30 or December 31); or at different times for different elements of the report. The majority of the comments suggested that the GPR be submitted at the end of the program year. The Department has carefully considered that recommendation but is not adopting it at this time. The reasons are twofold.

First, the substantial revisions to the block grant application, and other programmatic changes, such as citizen participation requirements and new eligible activities, will require applicants to make adjustments in their planning and programming processes. Further adjustments in local recordkeeping and reporting procedures would place an added burden on localities during the same time period.

Second, the Department has found the GPR to be helpful in reviewing an applicant's past performance in conjunction with review of an application. A current GPR received prior to receipt of an application is important to meet the Department's obligation to review recipient performance prior to approval of a subsequent application.

Consequently, it is proposed to require the submission of an annual grantee performance report by the end of the eighth month in a recipient's program year. The report will cover the first six months of the most recently approved program year and the last six months of the prior program year.

BASIC AND REPORTING PERIOD FOR GPR

The public was asked to comment on whether the basis and reporting period of the GPR should be the most recent approved application; all approved applications since inception of the program (excluding those activities previously reported as completed or deleted); program accomplishment without regard to year of approval; or different reporting periods for different activities. The option endorsed by the most commentors is to cover all approved applications, but to exclude reporting on activities previously reported as completed or deleted. This recommendation is being accepted.

CONTENTS OF THE GPR

A number of suggestions were made for changing or improving the contents of the GPR. Proposed changes in required contents of the performance report include the following:

(1) Progress on planned activities—this section will include information on the steps taken by the applicant to carry out the project; this should provide a clearer indication of progress since the amount of funds obligated and expended has been found to be insufficient;

(2) Persons benefitting—this incorporates as a regulatory requirement information which is part of the current performance report and which is used to ensure compliance with the requirements on benefit to low- and moderate-income persons;

(3) Housing assistance—this now calls for information on an applicant's actions to further fair housing.

(4) Citizen participation—this incorporates the new statutory requirement that citizen comments concerning the applicant's community development performance be included in the annual performance report.

SUBPART G—URBAN DEVELOPMENT ACTION GRANTS

PURPOSE

The purpose of urban development action grants is to assist distressed cities and distressed urban counties in revitalizing their economic bases and reclaiming deteriorated neighborhoods. Grant assistance will be made available for discrete projects which address the commercial, industrial, or residential development needs of the applicant.

WHO MAY APPLY

Cities and urban counties may apply for assistance if they meet three requirements: (1) they must meet the minimum standards for determining physical and economic distress, as outlined in Section 570.452(b); (2) they must demonstrate results in providing housing for low- and moderate-income persons, as outlined in 570.452(c); and (3) they must demonstrate results in providing equal opportunity in housing and employment for low- and moderate-income persons and members of minority groups, as described in 570.452(d).

MINIMUM STANDARDS FOR DETERMINING PHYSICAL AND ECONOMIC DISTRESS

The minimum standards for determining physical and economic distress are divided into two sections: one for metropolitan cities and urban counties (Section 570.452(b)(1)), and one for nonmetropolitan cities (Section 570.452(b)(2)).

In establishing the action grant distress standards, a major component of determining eligibility for further consideration as a UDAG recipient, a number of objectives were kept in mind. The individual standards need to reflect the legislative language to the fullest extent possible; the individual standards should meet both commonsense and technical standards or urban distress; individual standards must be based on data that is, within reason, comparable for each city; each standard should contribute significantly to the overall judgment of distress (that is, no standard should be essentially represented by the remaining standards); though large enough to prevent arbitrary results, the total number of standards should be manageable; cities meeting most of these standards should represent those having distinct degrees of urban distress; and (subject to the previous conditions) the final results should not serve to exclude substantially all the cities of a given region or size. The Department believes that the proposed standards of distress will lead to identification of applicants on an equitable basis.

DISTRESS STANDARDS FOR METROPOLITAN CITIES AND URBAN COUNTIES

The minimum standards of physical and economic distress which metropolitan cities and urban counties must meet in order to be eligible are based on the median for all metropolitan cities. It should be noted that the median figures in Section 570.452(b)(1) may change slightly when these regulations are published for effect because of the need to systematically cross check HUD data with the data sources specified. Data will be weighted for poverty. Applicants with a percentage of poverty that is greater than one and one-half times the median of all metropolitan cities (and whose per capita income is below the median), must meet only three of the seven factors. Applicants with a percentage of poverty which is less than one half of the median for all metropolitan cities must meet five of the seven criteria. Poverty is an important and sensitive indicator of both physical and economic distress, and is therefore weighted accordingly.

DISTRESS STANDARDS FOR NONMETROPOLITAN CITIES

HUD will publish minimum standards of physical and economic distress for nonmetropolitan cities in the near future. The same general approach as was used for metropolitan cities and urban counties will be used. However, the lack of nationally available comparable data suggests that fewer factors will be used.

RESULTS IN PROVIDING HOUSING AND EQUAL OPPORTUNITY

In addition to meeting the minimum standards of physical and economic distress, applicants must have demonstrated results in providing housing for persons of low- and moderate-income, and in providing equal opportunity in housing and employment for persons of low- and moderate-income and members of minority groups. While it is not the Department's intention that applicants must meet all factors listed under each criterion, applicants must demonstrate that they have met each criterion.

DETERMINATION OF APPLICANT ELIGIBILITY

Potential applicants are required to request a determination by HUD on whether they are eligible to apply for urban development action grants prior to submitting an application. Applicants may also request a determination on whether the proposed activities are eligible for assistance. The intention of this provision is to assist potential applicants in determining whether or not they should submit a full application. A formal preapplication is not proposed for two reasons. First, in order to advise applicants of the likelihood of being funded, most of the information presently required for a full application would have to be submitted. Second, a preapplication would add significantly to the time required in A–95 and HUD review.

ALLOCATION TO NONMETROPOLITAN CITIES

Twenty-five percent of the funds available will be set aside for applicants under 50,000 population, which are not central cities of a metropolitan area. Such applicants may be located within or outside a metropolitan area.

ELIGIBLE ACTIVITIES

Subpart C of these regulations substantially expands and clarifies activities which are eligible under the community development block grant program. In addition, HUD may approve activities which are not otherwise eligible under the community development block grant program, if the activities proposed are consistent with the objectives of revitalizing the applicant's economic base or reclaiming neighborhoods having excessive housing abandonment or deterioration. The costs of planning and developing the application for urban development action grants are prohibited, because action grant funding is for projects which are already planned and can be implemented without delay. However, applicants may use community development entitlement grants for this purpose.

SEPARATE APPLICATIONS FOR EACH PROPOSED PROJECT

Applicants must submit a separate application for each proposed project. The reason for this requirement is that, as defined in Section 570.451, a project is to be of relatively large scale, and consists of all related public and private investments. A separate application for each proposed project is necessary in order to evaluate each project on the merits of the proposal.

TIMELY COMPLETION OF PROJECTS

Proposed projects must be able to be carried out in a timely fashion, which HUD generally expects not to exceed four years. HUD recognizes that the duration of projects will vary depending on the nature of the project and local conditions. However, HUD intends that projects not be of such a scale or subject to constraints which would extend project execution over a number of years.

NO ADDITIONAL FUNDING TO BE PROVIDED

It should also be noted that HUD will not provide additional funding to complete projects approved in an earlier funding cycle. If additional funds are needed to complete the project, recipients will have to provide such funding from other sources, including block grants.

PRIVATE AND PUBLIC COMMITMENTS

Section 570.454(c) (7) requires that applicants submit evidence of public and private commitments which will be available for financing the project. The Department proposes that a letter of intent from private and public sources be acceptable evidence of commitment at the initial application stage. The high risk nature of certain types of projects may perclude a legally binding commitment from other sources in every case without a commitment of funding from HUD. However, it should be noted that in all cases a legally binding contract with the private participants in the project must be executed before a recipient of UDAG funding may incur costs under the grant agreement. Moreover, those projects for which an applicant can submit evidence of legally binding commitments from private sources will receive more favorable consideration for funding. While commitment of other public resources is not required, projects which include public resource commitments, including commitments from the State, will receive more favorable consideration for funding. Therefore, evidence of such public commitments is required to be submitted as a part of the application.

CERTIFICATIONS

Section 570.454(c) (12) contains the required certifications for urban development action grants, and includes most of the certifications required for other applications for community development block grants.

CITIZEN PARTICIPATION

Applicants are required to assure compliance with the citizen participation requirements specified in § 570,454(c) (12) (i). These requirements are in lieu of the requirements specified in § 570.303 for community development block grants. However, in selecting projects for funding, HUD will give more favorable consideration to those projects which have had wide citizen participation.

A–95

The procedure for OMB Circular A–95 is modified to reduce the total time for clearinghouse review from 60 days to 45 days. This is in keeping with the intent that action grant funds be made available in a timely manner for projects which are ready to be implemented. Applicants who wish to apply for action grant funding on or after the effective date of these regulations during the first quarter of FY '78 or in the second quarter beginning January 1, 1978 are advised to notify the clearinghouses of their intent to apply, and where possible to negotiate a shorter time for review of applications.

CRITERIA FOR SELECTION

Grant assistance for the program as a whole will be made available so as to achieve a reasonable balance among neighborhood, industrial, and commercial projects. Applicants may submit applications for projects which address any one of the three types, or a combination of them. The primary criterion for selection will be the comparative degree of distress among applicants, provided such applicants submit applications for feasible and effective projects. The feasibility and effectiveness of projects will be determined according to the remaining selection criteria outlined in 570.455 (b) through (i).

REVIEW AND EVALUATION OF PROPOSALS

HUD will publish in handbook form the process by which applications will be reviewed and evaluated. HUD does not intend to use a numerical rating system. Unsuccessful applicants meeting the minimum standards of distress will be advised of the conditions under which their application may be reconsidered.

With respect to all of the above proposed subparts, interested persons are invited to participate in the making of the final rule by submitting written comments or views on the proposed amendments. To facilitate HUD's consideration and review of written comments, reviewers are requested to clearly identify the subpart to which the comments are addressed. Comments should be filed with the Rules Docket Clerk, Room 5216, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All relevant comments received on or before the date specified above will be considered before adoption of the final rule. Copies of comments will be available for examination during business hours at the above address.

Findings of Inapplicability with respect to Environmental Impact have been prepared in accordance with HUD Handbook 1390.1. In addition, an Inflation Impact Statement has been prepared for Subpart G of the proposed regulations, and a Finding of Inapplicability with respect to Economic Impact has been prepared for the balance of the proposed regulations, in accordance with Executive Order 11821. Copies of the Statement and Findings are available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, it is proposed to revise 24 CFR Part 570 by recodifying the Part as set forth in the following index; by revising Subparts C and D as set forth below; by adding new provisions which appear in the recodification as Subpart G set forth below; and by making other technical and conforming changes to reflect the recodification and revisions.

I. The index to Part 570 is recodified and revised to read as follows:

Subpart A—General Provisions

Sec.
570.1 Applicability and scope.
570.2 Objective and purpose of program.
570.3 Definitions.
570.4 Waivers.

Subpart B—Allocation and Distribution of Funds

570.100 General.
570.101 Allocation Between Metropolitan and Nonmetropolitan Areas.
570.102 Basic grant amounts.
570.103 Hold-harmless grants.
570.104 Funds for discretionary grants.
570.105 Qualification as urban county.
570.106 Qualification & submission dates.
570.107 Reallocation of funds.
570.108 Offset against entitlement.

Subpart C—Eligible Activities

570.200 General policies.
570.201 Basic eligible activities.
570.202 Eligible rehabilitation and preservation activities.
570.203 Eligible economic development activities.
570.204 Eligible activities by private nonprofit entities, local development corporations, or small business investment corporations.
570.205 Eligible planning, urban environmental design and administrative costs.
570.206 Ineligible activities.

Subpart D—Entitlement Grants

570.300 Outline of application requirements.
570.301 Planning considerations.
570.302 Program benefit to low- and moderate-income persons.
570.303 Citizen participation requirements.
570.304 Community Development Plan.
370.305 Annual Community Development Program.
570.306 Housing Assistance Plan.
570.307 Certifications.
570.308 Timing of application submission.
570.309 Public availability of and objections to application.
570.310 A-95 clearinghouse review and comment.
570.311 HUD review and approval of application.
570.312 Amendments.

Subpart E—Secretary's Fund

570.400 General.
570.401 Urgent needs fund.
570.402 General purpose funds for metropolitan and nonmetroplitan areas.
570.403 New communities.
570.404 Areawide programs.
570.405 Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.
570.406 Innovative projects.
570.407 Federally recognized disasters.
570.408 Inequities funds.
570.409 Reallocated funds.

Subpart F—Small Cities Program [Reserved]

Subpart G—Urban Development Action Grants

570.450 Purpose.
570.451 Definitions.
570.452 Eligible applicants.
570.453 Eligible activities.
570.454 Applications.
570.455 Criteria for selection.
570.456 HUD review and action on applications.
570.457 Post-approval requirements.
570.458 Program amendments.
570.459 Allocation to nonmetropolitan cities.
570.560 Applicability of rules and regulations.
570.561 Grant closeout procedures [Reserved].

Subpart H—Financial Settlement Fund [Reserved]

Subpart I—[Reserved]

Subpart J—Grant Administration

570.500 Designation of public agency.
570.501 Grant agreement.
570.502 Method of payment.
570.503 Cash withdrawals.
570.504 Restrictions on fund commitment and expenditures.
570.505 Financial management systems.
570.506 Program income.
570.507 Procurement standards.
570.508 Bonding and insurance.
570.509 Audit.
570.510 Retention of records.
570.511 HUD administrative services for rehabilitation loans and grants [Reserved].
570.512 Discretionary grant closeouts.

Subpart K—Other Program Requirements

570.600 Limitations on local option activities and contingency accounts.
570.601 Nondiscrimination.
570.602 Relocation and acquisition.
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570.612 Activities conducted by nonprofit entities, SBIC's, and local development corporations [Reserved].
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II. Subparts C, Eligible Activities, and D, Entitlement Grants, are revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies.

(a) *Determinations of eligibility.* This subpart sets forth the variety of eligible activities that may be undertaken with block grant funds to meet community development and housing needs and priorities principally for low- and moderate-income persons or for the prevention or elimination of slums and blight. The enumeration of certain eligible types of activities in this subpart does not by itself, however, render specific activities, proposed to be conducted by individual applicants, eligible for assistance under this Part. There are other requirements that must also be met to qualify a specific activity for assistance. An activity may be assisted only in those instances where it complies with all other applicable requirements of this Part, and the basic statutory objectives of the block grant program. In particular, activities conducted by entitlement recipients must comply with the requirements set forth in § 570.302 regarding benefit to low- and moderate-income persons or elimination of slums and blight, and discretionary recipients must comply with similar requirements set forth in Subpart F. Further, there must be compliance with all applicable environmental review and clearance procedures set forth in 24 CFR Part 58.

(b) *Urban Development action grants.* Grant assistance may be provided with Urban Development Action Grants pursuant to Subpart G for:

(1) Activities eligible for assistance pursuant to this Subpart; and

(2) Such other activites as the Secretary may determine to be consistent with the statutory objectives of the Urban Development Action Grant program as provided for in § 570.453.

In making determinations of eligibility with regard to Urban Development Action Grants, for the purposes of §§ 570.201–206, the term "Community Development Program" as used in this subpart shall also mean the "Urban Development Action Program."

(c) *Model cities activities.* Notwithstanding anything to the contrary in this subpart, any ongoing model cities activity being carried out in a model cities program shall be eligible for funding under this Part from that portion of the hold-harmless amount attributable to such model cities program until the applicant has received five years of funding for such activities as calculated pursuant to § 570.103(c)(2)(iii). For the purpose of this paragraph, the term "ongoing activity" means any model cities activity underway as of January 1, 1975, that was approved and funded by HUD on or before June 30, 1974.

(d) *Facilities containing both eligible and ineligible uses.* Where a facility, otherwise eligible for assistance under the block grant program is to be provided as a part of a multiple-use building and/or facility that also contains otherwise ineligible uses, the portion of the costs attributed to the eligible facility may be assisted with block grant funds where:

(1) The facility, which is otherwise eligible and proposed for assistance, will occupy a designated and discrete area within the larger facility; and

(2) The applicant can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

For example, a senior center, which is to occupy space within a building that is otherwise used for the conduct of general governmental business, may be assisted when it exclusively occupies a separate and designated area within the building (i.e., the senior center does not "float" to different locations within the building that happen to be available on a less than permanent basis) and the applicant can determine the cost associated with providing the senior center as distinct from those costs associated with all remaining ineligible portions of the building.

(e) *Activities outside an applicant's boundaries.* Applicants may conduct activities which are otherwise eligible for block grant assistance outside of their boundaries which are not plainly inappropriate to meet identified needs of the applicant. For example, an urban county many conduct necessary activities which are otherwise eligible block grant assistance within a metropolitan city which are not plainly inappropriate to meeting identified needs of the applicant.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency, by purchase, lease, donation or otherwise, of real property (including air rights, water rights and other interests therein) which is:

(1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

(2) Appropriate for rehabilitation or conservation activities;

(3) Appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources and scenic areas, the provision of recreational opportunities or the guidance of urban development;

(4) To be used for the provision of public works, facilities and improvements eligible for assistance under this subpart; or

(5) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program. For example, a central city of a metropolitan area may use block grant funds to purchase houses in a non-impacted suburban jurisdiction in order to provide a wider choice of housing opportunities for central city lower-income residents.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with block grant funds or its retention for public purposes, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506. Further information regarding disposition is set forth in § 570.613.

(c) *Public facilities and Improvements.* Acquisition, construction, reconstruction, rehabilitation or installation (including the execution of architectural design features and similar treatments intended to enhance the esthetic quality of facilities and improvements eligible for assistance under this Part such as decorative pavements, railings, sculpture, pools or water and fountains, and other works of art) of only the following public facilities and improvements:

(1) *Senior centers,* but excluding any facility whose primary function is to provide residential accommodations or care on a 24-hour day basis (such as a group home).

(2) *Parks, playgrounds and other recreational facilities* which are designed for participation, but not spectator facilities such as stadiums.

(3) *Centers for the handicapped.* The term "center for the handicapped" means any single or multipurpose facility which seeks to assist persons with physical, mental, developmental and/or emotional impairments to become more functional members of the community by providing programs or services which may include, but are not limited to, recreation, education, health care, social development, independent living, phvsical rehabilitation and vocational rehabilitation; but excluding any facility whose primary function is to provide residential care on a 24-hour a day basis (such as a group home or halfway house). For example, a sheltered workshop would be a single purpose center for the handicapped, and a facility providing several services for the handicapped would be a multipurpose center for the handicapped, both of which are eligible for assistance.

(4) *Neighborhood facilities.* Such facilities may be of either a single purpose or multipurpose nature and are designed to provide health, social, recreational or similar community services primarily for residents of the neighborhood service area, i.e., at least fifty-one (51 percent) percent of those persons receiving or planned to receive services from the facility shall be residents of the service area. For the purpose of this paragraph, the term "service area" means either:

(i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents as a neighborhood and described in the Community Development Program as a comprehensive neighborhood revitalization area as defined in § 570.301(a) or service area, or, in a new community as defined in § 570.403(a), a neighborhood, village or similar geographical designation; or

(ii) An entire unit of general local government or new community as defined in § 570.403(a) which is under 10,000 population, with the exception that a facility which is designed solely as a communitywide facility in a new community with a currently projected population in excess of 10,000, may not be assisted as a neighborhood facility.

(5) *Solid waste disposal facilities,* which are defined as those physical parts of solid waste management systems commencing at and including the site or sites at which publicly or privately owned collection vehicles discharge municipal solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems, including appropriate fixed and movable equipment including vehicular containers used after the first stage of disposal at transfer stations. Such facilities or equipment must be located in or serve comprehensive neighborhood revitalization areas. Equipment and appurtenances used in the initial collection of solid wastes are not included among those solid waste disposal facilities eligible for assistance under this Part.

(6) *Fire protection facilities and equipment.* Such facilities and equipment must be located in or serve comprehensive neighborhood revitalization areas.

(i) Fire protection facilities are defined as the land and necessary improvements thereto which are necessary for properly housing and storing fire protection equipment and personnel by a fire protection organization, but not including fire fighting schools and their appurtenances.

(ii) Fire protection equipment is defined as the appropriate equipment and apparatus which a fire protection organization requires for carrying out a program for protecting property and maintaining the safety and welfare of the public, including emergency medical aid, from the dangers of fire.

(7) *Parking facilities.* Such facilities must be located in or serve comprehensive neighborhood revitalization areas.

(8) *Public utilities,* other than water and sewer, which include:

(i) Facilities necessary for distribution of the utility, (but not production or generation, such as electrical generation plants);

(ii) Buildings and improvements that are an integral part of the utility and are of such a nature that the utility will not function without them; and

(iii) The placing underground of existing or new distribution facilities.

(9) *Street improvements.* Streets, street lights, traffic signals, signs, street furniture, trees, bridges, culverts, causeways and other normal appurtenances to streets and structures facilitating the passage on, or usage of, streets, but excluding expressways and other limited access ways and their appurtenances.

(10) *Water and sewer facilities,* including storm sewers, except for sewage treatment works and interceptor sewers which are described as in § 570.206(a)(6). The term "storm sewers" means sewers or other conduits, open or closed, or their appurtenances which collect, transport and dispose of storm waters, surface water, street wash, other wash and ground water or drainage into an existing water course, excluding domestic waste water and industrial wastes.

(11) *Foundations and platforms for air rights sites.*

(12) *Pedestrian malls and walkways.*

(13) *Flood and drainage facilities,* in cases where assistance for such facilities has been determined to be unavailable under other Federal laws or programs pursuant to the provisions of § 570.607. The term "flood and drainage facilities" means those undertakings designed to influence or affect the flow in a natural water course (such as a river, stream, lake, estuary, bay, ocean or intermittent stream) and excludes storm sewers.

(d) *Clearance activities.* Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD assisted housing units may only be undertaken pursuant to a plan approved by HUD.

(e) *Public services.* Provision of public services (including labor, supplies and materials) which are directed toward improving the community's public services and facilities, including those concerned with employment, crime prevention, child care, health, drug abuse, education, welfare or recreational needs, and which are directed toward coordinating public and private development programs. Such services may be provided by State or local governments, quasi-public, private or nonprofit agencies selected by the applicant for funds provided under this Part. Public services must meet the following criteria:

(1) Public services must be provided for residents of comprehensive neighborhood revitalization or similar areas in which block grant assisted physical development activities are being carried out in a concentrated manner. Such public services may be supported with block grant funds for no more than three years after the completion of such physical development activities. For the purpose of this paragraph:

(i) Physical development activities include only those described in § 570.201 (a) through (d), (f) through (h), and (k), and § 570.202 through § 570.203.

(ii) The phrase "concentrated manner" shall mean that the block grant assisted physical development activities are being carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy in a comprehensive neighborhood revitalization area.

(2) Such services must be directed toward meeting the needs of residents of such areas. Block grant assistance may be provided for such services only in those instances where two-thirds of those persons receiving the public service are residents of the comprehensive neighborhood revitalization area.

(3) A public service must be either (i) a new service, or (ii) a quantifiable increase in the level of a service above that which has been provided from local or State sources in the twelve calendar months prior to submission of the block grant application. (An exception to this requirement with regard to State-funded services may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the applicant.)

(4) Federal assistance in providing or securing such public services must have been applied for and denied or not made available pursuant to the provisions of § 570.607.

(5) Public services must be determined by the applicant to be necessary or appropriate to support the physical development activities to be carried out within comprehensive neighborhood revitalization areas. The specific determination of support for each proposed public service is not required to be included in the application, but the applicant must briefly describe the relationship of the public service to the physical development activities. HUD will accept the applicant's determination that a public service is necessary and appropriate to support the physical development activities unless there is substantial evidence to the contrary, in which case additional information or assurances may be requested from the applicant prior to a determination of eligibility.

(f) *Interim assistance.* Interim assistance to alleviate harmful conditions where immediate public action is determined by the applicant to be necessary, including:

(1) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities and public facilities;

(2) The improvement of private properties to the extent necessary to eliminate immediate dangers to public health, safety or welfare;

(3) The establishment of temporary public playgrounds on vacant land; and

(4) The execution of non-routine garbage, trash and debris removal, street cleaning, snow removal and similar activities.

(g) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of the block grant activities, *Provided,* That such payment shall be limited to activities otherwise eligible under this subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and assistance for individuals, families, businesses, nonprofit organizations, and farm operations displaced by activities assisted under this Part. Further information regarding the eligibility of relocation costs is set forth in § 570.602.

(j) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers in publicly owned and privately owned buildings, facilities and improvements which restrict the mobility and accessibility of elderly or handicapped persons.

§ 570.202 Eligible rehabilitation and preservation activities.

Grant assistance may be used for the following activities for the rehabilitation of buildings and improvements:

(a) *Rehabilitation of public residential structures.* Rehabilitation of publicly owned or acquired properties for use or resale in the provision of housing.

(b) *Public housing moderinzation.* Modernization and modernization planning of publicly-owned low-income housing (excluding, the new construction of office facilities for such public housing).

(N.B. Block grant funds may also be provided by an applicant to a public housing agency to be used for otherwise eligible activities, e.g., public services such security and day care meeting the requirements of § 570.201(e) and planning and policy-planning-management activities under § 570.205 related to public housing improvements.)

(c) *Rehabilitation by nonprofit entities.* Acquisition and rehabilitation of properties by private nonprofit entities for use or resale in the provision of housing;

(d) *Rehabilitation materials.* Provision of building materials, including paint, to be used by homeowners or tenants for rehabilitation of properties.

(e) *Rehabilitation financing.* The financing of rehabilitation of privately owned residential, non-residential, and mixed-use properties through the direct use of block grant funds in the provision of assistance, such as grants, loans, loan guarantees and interest supplements, for:

(1) Costs of rehabilitation of properties, including, repair directed toward cure of an accumulation of items of deferred maintenance, replacement of principal fixtures and components of existing structures, and renovation through alteration, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(2) Refinancing existing indebtedness secured by a property being rehabilitated if such refinancing is necessary or appropriate to the execution of a Community Development Program;

(3) Measures to increase the efficient use of energy in structures being assisted through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification or replacement of heating equipment; or

(4) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines, but not payment of assessments which are ineligible pursuant to § 570.206(h).

(f) *Code enforcement.* Code enforcement in designated comprehensive neighborhood revitalization areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.

(g) *Historic preservation.* Rehabilitation, preservation, restoration and ac-

quisition of historic properties, both publicly and privately owned, which are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State Inventory of Historic Places, or designated as a State or local land mark or historic district by appropriate law or ordinance.

Publicly owned historic properties may be assisted, including those properties which are otherwise ineligible for assistance under this subpart. However, eligibility is limited only to those costs necessary for rehabilitation, preservation or restoration of the property and not for conversion or expansion of the property for any ineligible use. For example, a city museum serving low- and moderate-income persons, and listed in the National Register may be restored, but the addition of a new wing on the museum could not normally be assisted, unless it were otherwise eligible for assistance pursuant to § 570.203(b).

§ 570.203 Eligible economic development activities.

Grant assistance may be provided for the following development activities which are directed toward the alleviation of physical and economic distress, or the economic development of a new community as described in § 570.403(a) through stimulation of private investment, community revitalization, and expansion of economic opportunities for low- and moderate-income persons, including:

(a) *Acquisition.* Acquisition of real property for economic development purposes;

(b) *Public facilities.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities not otherwise eligible for assistance under § 570.201(c), which are determined by the applicant to be necessary and appropriate to implement the applicant's neighborhood revitalization or economic development strategy:

(1) As described in § 570.304(b) for entitlement applicants; or

(2) For all other applicants, as set forth in the application as otherwise required by this Part.

For example, in an area with an unemployment rate in excess of the national rate, a manpower training center which is designed to prepare for the work force low- and moderate-income persons who are unemployed or underemployed, may be assisted where it is determined by the applicant that such a facility is necessary and appropriate to support its economic development strategy. The applicant shall provide HUD with a description of the proposed facility, and of the relationship of the facility to the applicant's strategy for neighborhood revitalization or economic development.

(c) *Commercial and industrial facilities.* Acquisition, construction, reconstruction, rehabilitation or installation of:

(1) Commercial or industrial buildings and structures; including

(i) Purchase of equipment and fixtures which are part of the real estate, but not personal property; and

(ii) Energy conservation improvements designed to encourage the efficient use of energy resources, (including renewable energy resources or alternative energy resources);

(2) Commercial or industrial real property improvements, (including railroad spurs or similar extensions).

§ 570.204 Eligible activities by private nonprofit entities, local development corporations, or small business investment corporations.

(a) *General.* Applicants may provide block grants funds for a number of neighborhood revitalization and economic development activities set forth in this section to be carried out by a private nonprofit entity, local development corporation, or Small Business Investment Corporation (SBIC). Applicants are nonetheless responsible for ensuring that block grant funds are utilized by such entities in a manner consistent with the requirements of this Part and other applicable Federal, state, or local law. Specific requirements governing the administration of the use of block grant funds by such entities are set forth in § 570.612. Applicants will also be responsible for the carrying out applicable environmental review and clearance responsibilities. For the purpose of this section:

(1) A private non-profit entity means any neighborhood-based organization, corporation, or association, duly organized to promote and undertake community development activities on a not-for-profit basis, including communitywide organizations with a neighborhood base and new community associations as defined in § 470.403(b);

(2) A Small Business Investment Corporation (SBIC) means an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)); and

(3) A local development corporation means an entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981); an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696); or other similar entity incorporated pursuant to Federal, State, or local law.

(b) *Activities Eligible under §§ 570.201–570.203, and § 570.205.* Grant assistance may be provided by an applicant to be utilized by private nonprofit entities, SBIC's, or local development corporations for activities otherwise eligible for block grant assistance pursuant to §§ 570.201–570.203, and § 570.205. Such organizations may provide facilities eligible for assistance pursuant to §§ 570.–201(c) and 570.203(b) which are not publicly owned, but are nonetheless available for use by the general public during all normal hours of operation.

(c) *Community or neighborhood economic development or revitalization activities.* Grant assistance may be provided by an applicant to be used by private nonprofit entities, SBIC's, or local development corporations for activities which are not otherwise eligible for assistance under this subpart and which are determined by the applicant to be necessary or appropriate to the accomplishment of its Community Development Program. Such activities may include the provision of block grant assistance for use by nonprofit entities, SBIC, or local development corporations for:

(1) Assistance to new or existing small business, minority businesses and neighborhood nonprofit businesses for

(i) Working capital or operational funds; and

(ii) Capital for land, structures, property improvements, and fixtures;

(2) Capitalization of a SBIC or local development corporation required to qualify for assistance under other Federal programs;

(3) Assistance to minority contractors to obtain performance bonding; or

(4) Other activities, appropriate for community or neighborhood economic development or revitalization. Where an applicant proposes to fund such entities to undertake activities pursuant to this paragraph, the applicant shall:

(i) Provide HUD with a complete description of the proposed activity;

(ii) Provide HUD with a description of the relationship of the proposed activity to the applicant's strategy for neighborhood revitalization or economic development; and

(iii) Receive specific authorization from HUD to undertake the activity.

§ 570.205 Eligible planning, urban environmental design, environmetal studies and administrative costs.

Grant assistance may be used for the following planning, design, environmental and administrative costs:

(a) *Development of a Comprehensive Community Development Plan.* For the purpose of this section, the term "Comprehensive Community Development Plan" means a statement or statements (in words, maps, illustrations or other methods of communication) which identify the present conditions, needs and major problems of the applicant's jurisdiction relating to the specific objectives of the Community Development Program as set forth in § 570.2(a) and set forth objectives, policies and standards to guide the development and implementation of such Community Development Program. Activities necessary to develop a Comprehensive Community Development Plan may include:

(1) *Data gathering and studies* necessary for the development of the Plan or its components, including the production of base mapping and aerial photography in coordination with the U.S. Geological Survey, but excluding the gathering of detailed data and preparing of analyses necessary for the engineering and design of facilities or activities ineligible for block grant assistance pursuant to § 570.206;

(2) *Development of statements of objectives,* policies and standards regarding proposed or foreseeable changes in the present conditions or problems affecting the applicant's jurisdiction that are to be addressed by the Community Development Program;

(3) *Development of a three-year Community Development Plan* which identifies the community development, housing, and economic conditions and needs, demonstrates a comprehensive strategy for meeting those needs and specifies both short- and long-term objectives to guide the applicant's Community Development Program;

(4) *Related planning activities including* the preparation of communitywide plans for land use, housing, open space, recreation, utilities, historic preservation, economic development, neighborhood preservation, and environmental assessment;

(5) *Collection of detailed data,* preparation of analyses, engineering and design of facilities eligible for assistance which can be constructed with block grant funds; and

(6) *Development of codes, ordinances and regulations,* necessary for the implementation of the plan.

(b) *Development of a policy-planning-management capacity* so that the applicant may:

(1) Set long-term and short-term objectives related to the community development and housing needs of its jurisdiction;

(2) Devise programs and activities to meet these goals and objectives;

(3) Establish an urban environmental design administrative capacity;

(4) Evaluate the progress of such programs and activities and the extent to which the goals and objectives have been accomplished; and

(5) Carry out the management, coordination and monitoring of the activities and programs that are a part of the applicant's Community Development Program.

(c) *Comprehensive planning activities.* In addition to the planning activities otherwise eligible for assistance under this section, assistance may be also provided for comprehensive planning activities eligible for assistance under the section 701 planning assistance program pursuant to 24 CFR Part 600, in metropolitan cities as defined in § 570.3(r), and urban counties, provided that such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicants' Community Development Program.

(d) *Administrative Costs.* Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed, in whole or in part, with funds provided under this Part and housing activities covered in the applicant's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular (FMC) 74–4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments." All items of cost listed in Attachment B, Section C of that Circular (except Item 6, preagreement costs, which are eligible only to the extent authorized in § 570.301(c) are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this subpart.

(1) *Eligible program administration costs.* Reasonable administrative costs and staff expenses include necessary expenditures for the following:

(i) Salaries, wages and related costs of the applicant's staff and the staff of local public agencies engaged in carrying out the program;

(ii) Travel costs incurred for official business in carrying out the program;

(iii) Administrative services performed under third-party contracts or agreements, including such services as general legal services, accounting services and audit services; and

(iv) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies and rental or purchase of office equipment.

(2) *The provision of information and other resources to residents* and citizen organizations participating in the planning, implementation, monitoring, or evaluation of activities being carried out with block grant funds. This may include assistance to neighborhood organizations in areas of concentrated activities or to city-wide organizations conducting training or other activities designed to increase the capability of low- and moderate-income persons to be involved effectively in the development and planning of a community development program consistent with the applicable citizen participation requirements set forth in this Part.

(3) *Provision of housing counseling services* and other activities designed to further the fair housing provisions of § 570.307(e)(11) and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower-income persons.

(4) *Provision of assistance to facilitate performance bonding* necessary for contractors carrying out activities assisted with block grant funds.

(5) *Reasonable administrative costs relating to the provision of rehabilitation loans* under section 312 of the Housing Act of 1964, as amended.

(6) *Property management.* Reasonable costs of managing properties acquired with block grant funds.

(7) *Activities to facilitate the implementation of a housing assistance plan* for necessary expenses, prior to construction, in planning and obtaining financing for the new construction or substantial rehabilitation of housing for lower- income persons. Activities may include:

(i) The costs of conducting preliminary surveys and analyses of market needs;

(ii) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, and "sketch drawings", but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(iii) Reasonable costs associated with development of applications for mortgage and insured loan commitments and of applications and proposals under the Section 8 housing assistance payments program pursuant to 24 CFR Parts 880–883; and

(iv) Fees associated with processing of applications for mortgage and insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA) and the Government National Mortgage Association (GNMA).

The new construction or direct financing of new construction of housing is not eligible for assistance under this Part.

(8) *Consultant activities.* Applicants may employ consultants to provide professional assistance in program planning, application preparation and execution of activities, provided that:

(i) The requirements of this Part, FMC 74–4, OMB Circular A–102, and applicable Federal, State and local laws are complied with;

(ii) There shall be a written agreement between the parties which details responsibilities, standards, and all fees;

(iii) Compensation for services by any consultant shall only be made for:

(A) The reasonable costs of personal services, which shall be charged on an hourly basis per person and which shall in no case on a per person basis exceed the maximum daily rate of compensation for a GS–18 as established by Federal law; and

(B) Reasonable costs for overhead and travel expenses incurred.

(e) *Environmental Studies.* The reasonable costs of environmental studies necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part.

§ 570.206 Ineligible activities.

The following list of examples of ineligible activities is merely illustrative, and does not constitute a list of all ineligible activities:

(a) *Public works, facilities and site or other improvements.* The general rule is that public works, facilities and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated or installed unless they are eligible pursuant to § 570.201(c) or § 570.203(b), or were previously eligible under any of the programs consolidated by the Act (except the public facilities loan program, the model cities program, and as an urban renewal local grant-in-aid eligible under section 110(d)(3) of Housing Act of 1949) and cited in §570.1(b). Where acquisition of real property includes an existing improvement which

is to be utilized in the provision of an ineligible public facility, the portion of the acquisition cost attributable to such improvement, as well as the cost of any rehabilitation or conversion undertaken to adapt or make the property suitable for such use, shall be ineligible. Examples of facilities which cannot be provided with these funds include the following:

(1) *Buildings and facilities for the general conduct of government,* such as city halls and other headquarters of government where the governing body of the recipient meets regularly and which are predominantly used for municipal purposes, courthouses, police stations and other municipal office buildings;

(2) *Facilities used for exhibitions, spectator events and cultural purposes,* including stadiums, sports arenas, auditoriums, concert halls, cultural and art centers, convention centers and exhibition halls, museums, central libraries, and similar facilities. For the purpose of this paragraph, libraries (including central libraries in units of general local government under 10,000 population where the criteria set forth in § 570.201 (c)(4)(ii) are satisfied), cultural, art and museum facilities which meet the requirements for neighborhood facilities set forth in § 570.201(c)(4) are considered neighborhood facilities and are therefore eligible for assistance.

(3) *Schools and educational facilities,* (including elementary, secondary, college, and university facilities). For the purpose of this paragraph:

(i) A neighborhood facility, senior center or center for the handicapped in which classes in practical and vocational activities (such as first aid, homemaking, crafts, independent living, etc.) are among the services provided or a facility eligible pursuant to § 570.203(b) is not considered as a school or educational facility;

(ii) Any facility eligible for assistance pursuant to § 570.201(c), which is designed primarily for a public purpose other than education is not considered to be a school or educational facility where, although it is to be located on a site controlled by a school district, school board or similar body responsible for public education, the facility will only be used by any adjacent school or educational facility on an incidental basis. In order to determine whether the facility is to be used on an incidental basis, the applicant shall at a minimum demonstrate that:

(A) After school hours and on weekends, the facility shall be available for use by the general public to the same extent as similar facilities operating within the applicant's jurisdiction; and

(B) During school hours, the facility is not used for school purposes for more than four hours each day.

(4) *Airports, subways, trolley lines, bus or other transit terminals,* or stations, and other transportation facilities, (excluding railroad spurs assisted pursuant to § 570.203(c) or facilities eligible under § 570.203(b)).

(5) *Hospitals, nursing homes and other medical facilities.* For the purpose of this paragraph, a neighborhood facility, senior center, center for the handicapped, or facility eligible pursuant to § 570.203 (b) which provide general health services is not considered to be a medical facility.

(6) *Treatment works for sewage or industrial wastes of a liquid nature,* including actual treatment facilities, interceptor sewers and outfall sewers. The term "interceptor sewers" applies to the following:

(i) In those situations where raw or inadequately treated sewage is being discharged from an existing public sewer, those lines which are necessary to prevent or eliminate the discharge into any waterway of raw or inadequately treated sewage from an existing point or points of discharge in a public system are not eligible. This includes any necessary pumping stations, force mains or other appurtenances thereto; and

(ii) In all other situations, the line or lines which divert the flow to the treatment facility from the point of natural discharge of a collection system, were no treatment to be provided, including any necessary pumping stations, force mains or other appurtenances are not eligible.

(b) *Purchase of equipment.* The purchase of equipment with block grant funds is generally ineligible.

(1) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of OMB Circular A-102 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is part of a solid waste disposal facility which is eligible for block grant assistance pursuant to § 570.201(c)(5).

(2) *Furnishings and personal property.* The purchase of equipment, fixtures, or furnishings or other personality not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its Community Development Program pursuant to § 570.205(d).

(c) *Operating and maintenance expenses.* The general rule is that any expense associated with operating, maintaining or repairing public facilities and works or any expense associated with providing routine public services is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance under this Part may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities and maintenance.

Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities;

(2) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance pursuant to § 570.201(e).

(d) *General government expenses.* Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible. Examples include all ordinary general government expenditures not related to the Community Development Program and not related to activities eligible under this subpart.

(e) *Political activities.* No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meeting, engaging in voter registration activity or voter transportation or other partisan political activities.

(f) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or facilities (such as dormitories, group homes and halfway houses), or for any program to subsidize or finance such new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 43. For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing in accordance with an approved Housing Assistance Plan including clearance, site assemblage, provision of site and provision of public improvements and certain housing preconstruction costs set forth in § 570.205(d)(7), are not considered as programs to subsidize or finance new residential construction.

(g) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments and mortgage subsidies.

(h) *Payment of assessments.* While assistance may be used directly to provide eligible public improvements, such as streets, sidewalks and utilities, which an applicant might normally provide through special assessment of benefitting properties, funds may not be used to pay special assessments levied against parcels of real estate in behalf of the property owners. In some cases, applicants may provide eligible public improvements through payment of a portion of the cost with block grant funds provided and the balance being provided by special assessments against benefitting properties pursuant to local law. However, in those instances where the cost or portion of the cost of public improvements were provided with program funds, an applicant shall in no instance later levy any special assessments which shall recoup any portion of expenditures paid by program funds.

(i) *Industrial park development.* The general rule is that, notwithstanding the other provisions of this subpart, grant assistance for the development of in-

dustrial parks is ineligible unless the applicant can demonstrate to the satisfaction of the Secretary that there is a market available for such development. Generally, the applicant should demonstrate that it has firm commitments from public or private entities for the use of such industrial park development.

Subpart D—Entitlement Grants

§ 570.300 Outline of application requirements.

This section briefly outlines the requirements which must be met by the applicant when applying for an entitlement grant and references other sections containing more detailed information on these requirements.

(a) *Planning requirements.* Requirements that the applicant must meet in planning its community development program are covered in the following sections.

(1) Section 570.301 describes general planning considerations;

(2) Section 570.302 describes the requirement that the applicant's community development program must be planned and carried out so as to principally benefit persons having low- and moderate-income; and

(3) Section 570.303 describes the requirement that the applicant must prepare and implement a written citizen participation plan, part of which provides for citizen involvement in the planning process.

(b) *Triennial submission requirements.* Every third year, beginning with the first application submitted on or after April 1, 1978, the applicant must submit an application consisting of the following:

(1) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A–102;

(2) Community Development Plan as described in § 570.304;

(3) Annual Community Development Program as described in § 570.305;

(4) Housing Assistance Plan as described in § 570.306; and

(5) Certifications as described in § 570.307.

(c) *Annual submission requirements.* For each of the other years in a three year period the applicant must submit an application consisting of the following:

(1) Standard Form 424;

(2) Annual Community Development Program as described in § 570.305;

(3) Annual Housing Action Program as described in § 570.306(b)(5); and

(4) Certifications as described in § 570.307.

(d) *Other application requirements.* The applicant must also comply with the following requirements when applying for an entitlement grant:

(1) Requirements on the timing of applications as set forth in § 570.308;

(2) Requirements on notifying the public that the application has been submitted and is available to interested parties upon request, as described in § 570.309; and

(3) Requirements on notifying State and areawide clearinghouses of the applicant's intent to apply for Federal assistance, on submitting the application to clearinghouse for comment, and on taking actions following clearinghouse reviews, as described in § 570.310.

§ 570.301 Planning considerations.

(a) *Comprehensive neighborhood revitalization.* It is HUD policy to encourage the use of block grant funds in a concentrated manner in order to produce substantial long-term improvements in the community. The applicant is specifically encouraged to carry out a strategy for comprehensive neighborhood revitalization which concentrates sufficient resources to stabilize and upgrade residential areas affected by blight and deterioration. A comprehensive neighborhood revitalization program is defined as one which:

(1) Focuses on a slum or blighted area which is designated by the applicant for concentrated treatment; such area shall be of manageable size and condition, physical and otherwise, so that block grant and other resources to be committed to the area can substantially meet the identified physical development and housing needs within a three- to five-year period;

(2) Is carried out in accordance with a local plan which provides for a coordinated program of physical development activities, necessary public facilities and services, private investments, and citizen self-help activities; and

(3) Coordinates the efforts of public and private agencies and neighborhood organizations. The number and combination of activities which will qualify a program as comprehensive will depend on the condition and needs of the area. Examples of comprehensive neighborhood revitalization programs include: a residential rehabilitation program which provides loans and grants to property owners in a designated area in which street improvements, playgrounds, and public services are also being provided; and a redevelopment program which includes systematic demolition of substandard structures and assemblage of sites for new construction in a particular area in conjunction with site improvements and facilities necessary to attract new development.

Although a comprehensive neighborhood revitalization area must be residential, it may include neighborhood commercial facilities which are necessary to maintain the viability of the area. In order for a program to qualify as a comprehensive neighborhood revitalization program, the activities which an applicant includes in such program (including activities to be funded and implemented in more than one action year) shall be grouped and deemed by the applicant to be a project, as defined in 24 CFR § 58.3. The environmental review of such project should take into account the relationship between component activities, and the cumulative environmental effects of activities.

(b) *Planning and implementing multiyear projects.* (1) Under the entitlement grant process, the applicant can rely on timely, annual financial assistance with a high degree of certainty. This makes it possible for the applicant to plan multiyear projects to be financed in increments with entitlement funds becoming available in successive program years. An applicant may, therefore, program funds in an application for the payment of part of the cost of such a multiyear project, provided the full scope and estimated cost of the total projects are described in the first application in which entitlement funds are allocated for the project. This does not preclude use of subsequent year entitlement funds to complete a project which was designed as a single year project and whose cost exceeds initial estimates.

(2) The environmental assessment of a multiyear project, performed under 24 CFR Part 58, should encompass the entire multiyear scope of activities. Upon certification that the applicant has completed the environmental requirements for a multiyear project, HUD may issue its release of funds for the entire multiyear project. Such release of funds shall be subject to the provisions of paragraphs (3) and (4) of this subsection.

(3) Approval of each increment of a multiyear project is subject to the general availability of entitlement funds, adequate performance, and the submission of an acceptable application in each year in which entitlement funds are to be applied toward payment of project cost. In those instances where the applicant exhausts previously approved entitlement funds before the next increment is approved, the applicant may obligate and spend local funds to continue the work and be reimbursed with funds approved for the next increment, provided the locally funded work was undertaken in compliance with the requirements of this Part.

(4) The continued authority of an applicant to commit Title I funds to a multiyear project and to be reimbursed for costs of such project, after completion of environmental requirements and HUD release of funds, shall be subject to the continued relevance and completeness of the environmental assessment performed. In the event of any significant or substantial change in the nature, magnitude or extent of the project, or any significant or substantial change in the environment affecting the project, the applicant shall, prior to any further commitment of Title I funds to the project, complete the requirements of 24 CFR Part 58 relating to the updating of environmental clearances.

(5) The applicant may also be reimbursed for costs incurred to complete activities previously approved and assisted under the urban renewal program, the water and sewer facilities program, the neighborhood facilities program, or the open space land program, described in § 570.1(b) (1), (3), (4) and (6), respectively with funds programmed in the application for block grant funds to cover those costs.

(c) *Reimbursement for costs of planning and environmental studies.* Prior to approval of its application, an applicant may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205 (a) and (b), and for the provision of information and resources to citizens pursuant to § 570.204(d)(2). After approval of its application, the applicant will be reimbursed with funds programmed in the application to cover those costs, provided the locally funded work was undertaken in compliance with the requirements of this Part.

§ 570.302 Program benefit to low- and moderate-income persons.

(a) *General.* (1) All community development funds are to be used for projects or activities which principally benefit low- and moderate-income persons under the definitions in paragraph (b) of this section. Projects or activities which do not principally benefit low- and moderate-income persons are exceptions to this general policy and may be undertaken only when they are clearly necessary to attain other statutory objectives under the criteria and definitions in paragraph (c) of this section. Such activities must be specifically justified in the application.

(2) In selecting projects and activities and designating areas for block grant funding, the applicant shall address the needs of low- as well as moderate-income persons. given the nature and relative severity of their needs, and shall include projects suitable to meeting those needs which can be carried out with available resources.

(b) *Projects which principally benefit low- and moderate-income persons.* These include the full array of projects and activities permitted under the program such as comprehensive neighborhood revitalization programs, other programs to prevent or eliminate slums and blight, provision of public services and facilities, and economic development. Such projects and activities may be included in the computation of the funds which principally benefit low- and moderate-income persons if they meet one of the following rules:

(1) *Projects benefitting low- and moderate-income areas.* These are projects which serve a geographic area consisting of one or more census tracts, enumeration districts or parts thereof, designated by the applicant, whose population contains a majority of low- and moderate-income persons. The total cost of such projects and activities may be considered to principally benefit low- and moderate-income persons if:

(i) The project is designed to meet specific needs of low- and moderate-income persons; and

(ii) The major benefits of the project will be for the low- and moderate-income residents of the area.

(2) *Projects directly benefitting low-and moderate-income persons residing outside of low-and moderate-income areas.* These are projects which provide benefits directly to low- and moderate-income persons who reside in areas which do not meet the requirements of paragraph (b)(1). Such projects may be considered to principally benefit low- and moderate-income persons only if the benefits can be readily determined, and only that portion of the costs which actually benefit lower-income persons may be included in the computation of funds which principally benefit low- and moderate-income persons. Examples of projects which meet this requirement are rehabilitation loan programs in higher-income areas where there are income limits to qualify for the loans, and otherwise eligible public services such as employment counseling provided directly to lower-income persons.

(3) *Economic development projects.* These include economic development projects eligible under § 570.203. The total cost of such projects may be considered to principally benefit low-and moderate-income persons when evidence acceptable to the Secretary is contained in the application showing that the following conditions are met:

(i) The projects can reasonably be expected to attract or retain a significant number of permanent jobs, a majority of which are available to the low- and moderate-income residents of the locality; or

(ii) The projects will enhance the viability of commercial enterprises now providing needed services in neighborhoods which contain a majority of low- and moderate-income residents or will serve to attract such enterprises to these areas.

(4) *Projects necessary to undertake another project which principally benefits low- and moderate-income persons.* These are projects which must be carried out prior to, or are an essential component of, undertaking another community development or housing project which will principally benefit low- and moderate-income persons as defined by this section. An example is construction of a flood or drainage facility prior to construction or rehabilitation of low- and moderate-income housing. The total costs of such project may be considered principally to benefit low- and moderate-income persons if:

(i) The project will not disproportionately benefit higher income persons; and

(ii) The project which will principally benefit low- and moderate-income persons is included in the applicant's three-year community development plan and can be undertaken within three years.

(c) *Exceptions.* Projects and activities which do not principally benefit low- and moderate-income persons are limited to the following categories, and to no more than 25 percent of the grant funds:

(1) *Certain programs to prevent or eliminate slums and blight.* These include:

(i) Comprehensive neighborhood revitalization programs as defined in § 570.301(a) where the applicant demonstrates in the application that the extent of physical decay, deterioration, economic decline, or disinvestment is of sufficient magnitude that public action is required at the present time to arrest these conditions; permitted activities include any eligible activities necessary to carry out the neighborhood revitalization plan, including public facilities and services;

(ii) Elimination of detrimental conditions which are scattered or located outside comprehensive neighborhood revitalization areas; permitted activities are only those necessary to eliminate the specific conditions of blight or physical decay, through acquisition of blighted structures, demolition or interim assistance;

(iii) Activities necessary to complete urban renewal projects pursuant to §§ 570.801 and 570.802.

(iv) The following activities to eliminate slums and blight which may be undertaken only by distressed cities as defined in § 570.452.

(A) Elimination of slums and blight for the purpose of attracting middle- and upper-income residents back into a community. These are limited to projects to encourage the provision of new or rehabilitated housing and related public improvements and facilities designed to attract higher-income residents. An example is demolition of deteriorated structures and acquisition of blighted property for either construction or rehabilitation of units for middle- and upper-income families, and construction of related street and sewer improvements.

(B) Elimination of slums and blight in distressed cities as defined in § 570.452 for the purpose of economic development activities which are designed to secure the tax base and provide employment through commercial and/or industrial development.

(2) *Projects designed to meet needs having a particular urgency.* These are projects which are designed to alleviate a serious and immediate threat to the health or welfare of the community which is of recent origin where the applicant is unable to finance the projects on its own, and other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the application for funds.

(d) *Computing program benefit.* (1) The costs of administration and planning may be excluded from the computation of the amount of funds which benefits low- and moderate-income persons as they will generally be assumed to benefit such persons in the same proportion as the remainder of the grant.

(2) The amount of any grant funds required by HUD to be applied to the repayment of urban renewal temporary loans pursuant to § 570.802 may also be excluded from the computation.

(3) The costs of propjects and activities which meet one of the definitions of principally benefitting low- and moderate-income persons in paragraph (b) shall be included in accordance with the relevant provisions of that paragraph.

(4) Funds budgeted for contingencies and/or local option activities shall be expended in such a manner that the percentage of the total grant which principally benefits low- and moderate-income persons is not reduced below 75 percent.

(5) The amount of grant funds which must be used for projects which principally benefit low- and moderate-income persons may be adjusted by the applicant in the amount by which the expenditures of the applicant for such projects have exceeded 75 percent of the grant amounts in Federal Fiscal Years 1977 or later.

(e) *Waiver provisions.* The Secretary, at her discretion, may waive the percentage limitations of this section where the applicant submits information that demonstrates that such waiver is necessary.

(f) *Mitigating adverse effects.* Where programs will result in direct or indirect displacement or other hardships to low- and moderate-income persons, the applicant shall take appropriate steps to minimize such displacement or hardships. Section 570.304(b)(1) requires the applicant to include in its community development plan the actions it will take to assist low- and moderate-income persons to remain in existing locations and to mitigate adverse effects on such persons as a result of neighborhood revitalization activities.

§ 570.303 Citizen participation requirements.

(a) *General.* The applicant shall provide citizens with an adequate opportunity to participate in the development of the application, and in implementation, monitoring and evaluation of the program. The applicant shall also provide adequate information to citizens, hold public hearings to obtain views of citizens, and provide citizens an opportunity to comment on the applicant's community development performance. Nothing in these requirements, however, shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Community Development Program.

(b) *Written citizen participation plan.* The applicant shall prepare a written citizen participation plan that provides procedures by which each of the requirements set forth in the following subsections will be implemented. The plan shall be followed beginning with the preparation of the first application to be submitted to HUD on or after the effective date of these regulations. It shall remain in effect until all activities assisted under this Part are completed, or until it is superseded by a new plan. Upon request, the plan shall be submitted to HUD to aid in the handling of complaints and to facilitate monitoring and evaluation.

(c) *Standards of participation.* (1) The applicant shall provide a process for citizen participation at the communitywide level, and at the neighborhood level where comprehensive neighborhood revitalization areas have been designated and other areas where multi-component projects are proposed or ongoing. The requirement for a communitywide process may be satisfied by involvement of representatives of all such neighborhoods and multi-component project areas. The process shall meet the following standards:

(i) All aspects of citizen participation shall be conducted in an open manner, with freedom of access for all interested persons;

(ii) There shall be involvement of low- and moderate-income persons, members of minority groups, residents of comprehensive neighborhood revitalization areas and other areas in which multi-component projects are proposed or ongoing, the elderly, the handicapped, and other persons directly affected by the Community Development Program;

(iii) There shall be continuity of participation by specific citizen representatives throughout all stages of the program, including development of the application and program implementation, monitoring, and evaluation, as described in subsection (d) below;

(iv) Citizens shall be provided adequate and timely information, so as to enable them to be meaningfully involved in important decisions at various stages of the program;

(v) Citizens, particularly low- and moderate-income persons and residents of blighted neighborhoods, shall be encouraged to submit their views and proposals regarding the Community Development Program;

(vi) In any community wide or neighborhood advisory committee that is established, there shall be adequate representation of low- and moderate-income persons, members of minority groups and other persons directly affected by the program.

(d) *Scope of participation.* The applicant shall provide for the continuity of citizen participation throughout all stages of the program. This includes citizen involvement in the development of the citizen participation plan, as well as involvement in the following areas:

(1) *Application development.* Citizens shall be involved in development of the annual application, including:

(i) The three-year community development plan, including the identification of community development and housing needs, and the setting of priorities;

(ii) The Housing Assistance Plan, including the annual housing action program;

(iii) The annual Community Development Program; and

(iv) Subsequent amendments and other changes to the above, in accordance with § 570.312.

(2) *Program implementation.* Citizen involvement in program implementation may take the form of advisory committees for operating programs, direct operation of certain activities, self-help efforts, or other types of involvement. The roles citizens will play in program implementation shall be indicated in the citizen participation plan.

(3) *Monitoring and evaluation.* Citizens and citizen organizations shall be given the opportunity to monitor and submit comments on all aspects of the Community Development Program, including the performance of the applicant and its grantees and contractors. They shall also be given the opportunity to evaluate projects and activities to determine whether objectives are achieved. The methods by which such opportunities shall be made available shall be indicated in the citizen participation plan.

(e) *Submission of views and proposals.* The applicant shall provide for and encourage the submission of views and proposals regarding the Community Development Program by citizens, particularly low-and moderate-income persons and residents of blighted neighborhoods. This includes submission of such views:

(1) Directly to the applicant during the planning period prior to public hearings on the application;

(2) To recognized neighborhood, project area, and communitywide citizen organizations;

(3) At neighborhood and other meetings, if scheduled by the applicant prior to formal public hearings; and

(4) At formal public hearings.

The applicant shall provide timely responses to all proposals submitted to it, including written responses to written proposals stating the reasons for the action taken by the applicant on the proposal. The citizen participation plan shall state the number of days within which responses will be provided. Whenever praticable, responses should be provided prior to the final hearing on the application.

(f) *Complaints.* The plan shall provide for answering complaints in a timely and responsive manner. Written responses shall be provided within 15 working days.

(g) *Technical assistance.* To facilitate citizen participation the plan shall provide for technical assistance through staff or other resources. Such assistance shall be available on a timely basis:

(1) To appropriate neighborhood organizations, project area organizations, and communitywide advisory groups, if any, so that they may adequately participate in planning, implementation, monitoring, and evaluation, and

(2) Whenever possible, to groups of low- and moderate-income persons and groups of residents of blighted neighborhoods which request assistance in developing proposals and statements of views. Technical assistance may also be directed toward assisting citizens in organizing and operating neighborhood and project area organizations and in carrying out Community Development Program activities. Where feasible, technical assistance should be provided by specialists selected by the organizations and groups assisted. Technical assistance is an eligible activity and may be provided either by the applicant directly or

through arrangements with public or private entities.

(h) *Adequate information.* The applicant shall provide for full public access to program information and affirmative efforts to get adequate information to citizens, espeically to those of low- and moderate-income and to those residing in lower-income or blighted neighborhoods.

(1) At the time applicant begins planning for the next program year, the following programs information shall be made available to citizens:

(i) The total amount of entitlement funds to be made available to the applicant,

(ii) The range of activities that may be undertaken with these funds and the kind of activities previously funded in the community,

(iii) The types of activities ineligible under the Act,

(iv) The processes to be followed in drawing up and approving the local application and the schedule of meetings and hearings,

(v) The citizen praticipation plan, including the roles of designated neighborhood and project area organizations and the communitywide citizen participation process, and

(vi) A summary of other important program requirements.

(2) The applicant shall provide for full and timely disclosure of its program records and information consistent with such competing public interest concerning personal privacy and obligations of confidentiality as are recognized by 5 U.S.C. 552. Documents relevant to the community development program shall be available for citizen review upon request (either verbal or written) during normal working hours of the applicant. Copies of the following materials shall be put on display in one or more locations reasonably accessible to persons effected by the program including the handicapped:

(i) All mailings and promotional material,

(ii) Records of hearings,

(iii) All key documents, including all prior applications, letter of approval, performance reports, evaluation reports, other reports required by HUD, and the proposed and approved application for the current year;

(iv) Copies of the regulations and issuances governing the program; and

(v) Explanation of important program requirements, such as contracting procedures, environmental policies, fair housing and other equal opportunity requirements, relocation provisions, and the A-95 review process.

(3) *Meetings.* The applicant is responsible for assuring that public meetings are conducted by the local government, communitywide advisory committee, neighborhood and project area organizations in order to provide information and respond to questions about the Community Development Program. The applicant is responsible for obtaining minutes or summaries of all meetings. Such meetings shall be timely, held at convenient times and at readily accessible locations, and convened with adequate notice.

(i) *Public hearings.* The plan shall provide for a sufficient number of hearings to obtain citizen views at different stages of the Community Development Program. Such hearings shall be held at convenient times and locations. Hearing arrangements should make possible the full participation of handicapped citizens.

(1) *Pre-submission hearings.* The applicant shall hold at least two kinds of public hearings prior to the submission of the application:

(i) To obtain views of citizens at the initial stage of application development on community development and housing needs and priorities, and on the latest annual performance report, and to receive their proposals. Applicants shall hold such hearings in locations around the city or county which are convenient in time and place to persons of low and moderate income and residents of blighted neighborhoods.

(ii) On the proposed application prior to adoption of a resolution or similar action by the local governing body authorizing the filing of the application.

(2) *Additional hearings.* In order to review program progress and performance, the applicant shall hold an additional public hearing or hearings after the program is operational and no later than the start of planning for the next program year.

(3) *Notices.* In order to give adequate notice of public hearings:

(i) The applicant shall, at least 14 days prior to each public hearing (or earlier if required by local law) publish a notice in easily readable type in the nonlegal and legal sections of newspapers of general circulation, in minority and non-English language newspapers reaching persons of law and moderate income and in neighborhood newspapers or periodicals serving low- and moderate-income neighborhoods. Such notices shall indicate the dates, times, places and procedures of the hearing, the topics to be considered, basic information about the program and the procedures and timing being followed in the development and approval of the application.

(ii) The applilant should use radio, television, newspapers, and other media to publicize public hearings.

(j) *Bilingual.* Wherever a significant number of low- and moderate-income persons and residents of blighted neighborhoods speak and read a primary language other than English, the plan shall provide that all notices and major documents be produced in such language or languages and that bilingual opportunities shall be offered at required public hearings.

(k) *Contingency activities.* The plan shall provide that if the applicant chooses to identify in its application contingency activities that could replace any activities disapproved by HUD during its application review, the citizen participation process shall be involved in the selection of such contingency activities.

§ 570.304 Community Development Plan.

An entitlement application shall include a summary of a Community Development Plan. This document shall be submitted every third year as part of the annual application for funds beginning with the first application submitted on or after April 1, 1978. It shall summarize the community development and housing needs of the applicant, its comprehensive strategy for meeting those needs, including its long- and short-term objectives, and the activities planned for the next three years. The plan summary shall be developed in accordance with areawide development planning and national urban growth policies and shall consist of the following:

(a) *Summary of community development and housing needs.* This shall include the following:

(1) *A community profile* on a form to be prescribed by HUD, which provides data regarding population and income characteristics of the community, the condition of the housing stock, and the economic condition of the community as a whole.

(2) *A narrative summary* of the applicant's community development and housing needs, particularly those of low- and moderate-income households. This shall include a description of the major needs for neighborhood revitalization, for community facilities and public improvements, and for economic development. The narrative may be presented in a manner most convenient to the applicant. However, all neighborhoods or areas having significant concentrations of low- and moderate-income persons or blighted or deteriorated housing shall be specifically identified, and the major needs of each described.

(b) *Comprehensive strategy.* The applicant shall describe how it proposes to meet its identified community development and housing needs, particularly those of low- and moderate-income families residing in or expected to reside in the community. The strategy shall include summary description of the following:

(1) *Neighborhood revitalization.* This shall include:

(i) The applicant's citywide strategy to prevent and eliminate slums and blight and to maintain and preserve viable neighborhoods. This shall emphasize the actions to be taken that will improve conditions for low- and moderate-income persons residing in or expected to reside in the community;

(ii) Identification of any areas designated for comprehensive neighborhood revitalization programs, and the strategy for stabilizing and upgrading each such area. This shall include a description of any public services required to support physical development activities, and the role of any neighborhood organizations in accomplishing revitalization objectives.

For each of the above the applicant shall describe:

(A) The objectives, both long-term and short-term, to be achieved, quantified wherever possible;

(B) The physical development projects proposed, such as code enforcement, rehabilitation, acquisition, demolition, or public improvements;

(C) The regulatory and other actions proposed to be taken to foster housing maintenance and improvement and the promotion of reinvestment. This may include actions to eliminate redlining with respect to property insurance and the availability of credit for the purchase and rehabilitation of housing, and the promotion of investment in restoration of deteriorated or abandoned housing;

(D) An implementation schedule showing the anticipated timing of activities and the coordination of block grant funded activities and other local actions;

(E) The anticipated resources, including block grant funds, other Federal, State, or local funds, and private investment;

(F) The factors the applicant took into account in making program decisions and the reasons for designating specific areas for treatment and selecting the projects to be carried out in such areas.

(iii) The strategy shall also describe the actions contemplated to maintain or develop an economically and racially diversified community, including the actions the applicant will take to assist low- and moderate-income persons to remain in existing locations, and to mitigate any adverse effects on such persons as a result of neighborhood revitalization activities; an applicant proposing to use block grant funds to attract or retain higher income persons shall describe its strategy for accomplishing this.

(2) *Housing.* The applicant shall describe a strategy to improve the housing conditions in the community and to meet the housing assistance needs that have been identified. The strategy shall describe:

(i) The nature of the housing stock the applicant would like to achieve in terms of the mix of owner-renter housing, single family-multifamily housing, and subsidized-nonsubsidized housing, and the types of housing and related programs required to achieve such a mix of housing stock; this shall not be inconsistent with the Housing Assistance Plan requirements in § 570.306;

(ii) The types of actions the applicant will take to achieve greater spatial deconcentration of housing opportunities for lower-income persons; and

(iii) The actions the applicant will take to affirmatively further fair housing in the applicant's jurisdiction and promote a greater choice of housing opportunities for minorities and female-headed households; and

(iv) The block grant funded actions the applicant will take to facilitate accomplishment of housing assistance goals.

(3) *Community facilities and public improvements.* The applicant shall describe a strategy to meet its major needs for recreation, open space, parks, neighborhood facilities, and other facilities and improvements, and in a manner to insure full opportunity for participation by, and benefits to, the handicapped;

(i) In designated comprehensive neighborhood revitalization areas;

(ii) In other areas if the principal beneficiaries will be low- and moderate-income persons; and

(iii) To support housing assistance activities for lower-income persons.

(4) *Economic development.* A description of the applicant's strategy for economic development is required from distressed cities, as defined in § 570.452, that propose block grant funded economic development activities; it is optional for other applicants. The strategy shall consist of a plan to improve the general economic condition of the applicant, to solve problems resulting from population loss or a stagnating or declining tax base, and to mitigate the factors of economic distress cited in the community profile described in § 570.304(a)(1). The strategy shall include:

(i) A description of the major needs for economic development in the locality;

(ii) Identification of the significant potentials for economic development, including an analysis of any factors which may be impeding private investment, and a description of any unique opportunities for private investment which now exist;

(iii) A description of the activities proposed to further economic development and to attract private investment, including the coordination of block grant funded activities with other local actions and a timetable for provision of other Federal and State resources;

(iv) The number and types of permanent jobs expected to result from economic development projects, particularly jobs available to low- and moderate-income persons and the types of job training which will be provided to such residents; and

(v) Evidence of commitments or interest by developers of new or expanded employment facilities.

(c) *Three-year activity summary.* This shall consist of a tabular summary of the projects proposed to be carried out with block grant funds during the next three years to implement the applicant's comprehensive strategy, grouped by location, the anticipated timing, the goals to be accomplished, the population benefitting, and the estimated block grant and other funds to be provided;

(d) *Maps.* The plan shall include maps showing the following information, by census tract or enumeration district:

(1) The extent and location of low- and moderate-income persons;

(2) The extent and location of minority group residents;

(3) The extent and location of substandard and deteriorated housing;

(4) The locations and service areas of block grant funded projects included in the plan, including any designated comprehensive neighborhood revitalization areas.

Maps shall be clearly legible, and all maps submitted shall be of the same scale and cover the same areas. More than one type of information may be combined on one map if the information is cearly legible when combined.

§ 570.305 Annual Community Development Program.

Each annual application shall contain a Community Development Program describing the projects to be carried out with program year funds. Such projects shall be consistent with the previously submitted three-year Community Development Plan, or an amended plan shall be submitted with the application as required by § 570.312(a). The Community Development Program shall consist of the following:

(a) *Project summary.* The proposed projects shall be grouped by location, on a form prescribed by HUD, and the following information shall be provided for each:

(1) The name of the project or activity;

(2) The location and service area, including the census tract(s) or enumeration district(s);

(3) The income and racial characteristics of the population benefitting from the project or activity, and how the beneficiaries were determined.

(4) A description of the activities which comprise each project, and the estimated costs and timing;

(5) The amounts and sources of other public funds and private investments anticipated to be provided;

(6) The environmental review status;

(7) A justification for each exception project which describes how the requirements of § 570.302(c) are met.

(b) *Cost summary.* This will consist of a tabular summary, on a form to be prescribed, of proposed block grant expenditures in specific categories and the anticipated resources available.

(c) *A map or maps* of the applicant's jurisdiction showing the locations and service areas of proposed activities, by census tracts or enumeration districts, and any designated comprehensive neighborhood revitalization areas. The maps shall be consistent with the requirements of scale and legibility in § 570.304(d).

§ 570.306 Housing Assistance Plan.

(a) *General Provisions.* This section contains policies, procedures, requirements and standards governing the Housing Assistance Plan (HAP).

(1) *Purpose.* The HAP is required as a basic part of the application for assistance under this Part. The HAP serves as a measure of the conditions of the applicant's housing stock and the needs of low- and moderate-income persons for housing assistance. Further, the HAP serves to establish goals for assistance best suited to needs of lower income persons and to further the revitalization of the community, including the restoration and rehabilitation of stable neighborhoods to the maximum extent possible, and the reclamation of the housing stock where feasible through the use of a

broad range of techniques for housing restoration by local government, the private sector, or community organizations, including provisions of a reasonable opportunity for tenants displaced as a result of such activities to relocate in their immediate neighborhood. The HAP must propose general locations for assisted housing which promote greater choice of housing opportunities and avoid undue concentrations of assisted persons in areas containing a high proportion of lower-income persons, and which further fair housing and assure the availability of public facilities and services adequate to support housing facilities. In addition, all communities are expected to share in providing expanded housing opportunities for lower-income persons and to participate in areawide solutions of housing problems through promotion of spatial deconcentration and wider housing choice for lower-income persons.

(2) *Use.* The HAP is not only a requirement for assistance under this Part, but it serves as the means for HUD to distribute assisted housing resources to applicants. The HAP offers applicants a means to manage orderly growth and implement a variety of strategies to conserve and expand its housing stock in order to provide a decent home in a suitable living environment for all persons, but principally those of low- and moderate-income. It also offers applicants an opportunity to convey to their citizens a perception of how their housing problems are viewed and how these problems are to be addressed. The HAP serves to facilitate the reduction of the isolation of income groups within communities and geographic areas, affirmatively further fair housing and the promotion of the diversity and vitality of neighborhoods.

(3) *Responsibility of applicant.* Applicants are fully responsible for implementation of the housing assistance plan in an expeditious manner. This includes the timely achievement of all goals for assisted housing and particularly those which address the needs of families and large families requiring rental assistance. Applicants are expected to take all actions within their control to facilitate the implementation of an approved housing assisance plan including the use of public mechanisms when assisted housing has not been provided by the private sector.

(4) *Period covered by HAP.* The HAP shall be submitted and be effective for time periods as follows:

(i) *During Fiscal Year 1978,* housing assistance plans shall be designed to complete initial proportionality requirements by household type (elderly and handicapped, families and non-elderly individuals, and large families) set forth in previous housing assistance plans during Fiscal Years 1976 and 1977. Accordingly, applicants shall assess the housing assistance delivered during this period by household type and determine appropriate goals to fulfill unmet needs proportionately. Applicants shall submit an annual housing action program pursuant to § 570.306(b)(4) which will set forth goals for housing assistance which, when combined with all housing assistance provided in Fiscal Years 1977 and 1978, will result in total housing assistance by household type proportionate to the needs by household type set forth in the initital housing assistance plan subject to the proportionality requirement and which for the purposes of 24 CFR Part 891 shall be considered the three year goal. For example, an applicant which has provided housing assistance for only elderly households during this period is expected to establish goals in this annual housing action program for families and large families in that the needs of each household type will have been met in the same proportion as the needs identified in the initital housing assistance plan.

(ii) *Fiscal Year 1979 and beyond,* a housing assistance plan shall be submitted once every three years as described in § 570.306(b) and shall cover a three year period. However, each annual application shall include an annual housing action program. Although some revision and updating may be necessary during this period because of the availability of new data sources or significant changes in local conditions or needs, the HAP shall be in effect for three program years. A new HAP shall be submitted every third program year thereafter.

(5) *Relationship to previously approved HAP's.* Applicants are not relieved of their responsibilities to continue to address the needs for assisted housing identified in prior program years. Such newly approved goal shall address needs not fulfilled by any prior HAP's. Accordingly, applicants, who had approved component goals designed to address the needs of particular tenure type (owner or renter), household type, (elderly/handicapped, family and non-elderly individuals, or large family), or housing type (existing, substantial rehabilitation, or new construction) which have not been substantially met, shall include goals to meet such needs prior to providing further assistance for tenure, household, or housing types which have been substantially met. For example, an applicant which has identified a substantial need, and established goals for families and large families for newly constructed rental units, but nonetheless has met only the needs, or a substantial portion of the needs, of elderly renters and homeowners, shall meet the rental assistance needs of families and large families before providing additional assistance to elderly households.

(b) *Housing Assistance Plan Content.* The application shall contain a housing assistance plan which includes:

(1) *Housing Conditions.* The applicant shall describe the condition of the existing housing stock in the community by providing a statistical profile by tenure type (owner and renter), which describes housing conditions by number of units in standard condition and in substandard condition. If a housing rehabilitation program is proposed as part of the applicant's comprehensive strategy statement as set forth in § 570.304(b), the number of units which are suitable for rehabilitation shall be stated. Estimates shall be made of vacancy rates for non-seasonal available units in standard condition, using the best estimate at the time the application is prepared, but in no case including units to be vacant at a future date.

(2) *Housing Assistance Needs.* The applicant shall describe the housing assistance needs of lower income persons.

(i) The applicant shall provide estimates of housing assistance needs of lower-income persons currently residing in the community, by tenure type and by household type (lower-income households which are elderly and/or handicapped, families and non-elderly individuals, and large families), for all households, including those households to be displaced by public or private action during the three year program. Such estimates shall also be provided for any identifiable segment of the total group of lower-income households in the community.

(ii) The applicant shall assess the housing assistance needs of lower-income households (by household type for all households and all minority households) who could reasonably be expected to reside in the community.

(A) For applicants in metropolitan areas, such estimates generally shall be derived from Federal census data; except that the applicant may also utilize other more recent data generally available from public or private sources, including areawide, regional or State planning agencies; provided that the deviations from estimates derived from the Federal census data or from areawide, regional, or State planning agency assessments are explained. All applicants which are participating jurisdictions of an areawide planning organization must use the same data.

(B) An applicant community in a metropolitan area shall utilize the following methodology to derive the minimum estimate of the number of lower-income households who could be expected to reside in the applicant community during the three year period of applicability of the HAP. First, the metropolitan area percentage of lower-income households shall be determined using Section 8 Income Limits. Second, the total number of households in the applicant's jurisdiction shall be determined. Third, the total number of households from step two shall be multiplied by the percentage from step one, the product of which is the total required number of lower-income households. Fourth, the number of lower-income households currently residing in the applicant's jurisdiction shall be determined. Fifth, the number of lower-income households currently residing from step four shall be subtracted from the total required number of lower-income households produced in step three, the remainder of which is to be divided by one minus the metropolitan area percentage of lower-income households, the result

being the gross estimate of the number of lower-income households expected to reside in the applicant community. Sixth, applicants shall then determine the estimate of the number of lower-income households who reasonably may be expected to reside by multiplying the gross estimate of the number of lower-income households expected to reside by one-third. This estimate of the number of lower-income households who reasonably may be expected to reside shall be cited in the applicant's assessment of the overall housing assistance needs of lower-income households. An applicant with a gross estimate of the number of households expected to reside of zero as a result of the fifth step in the above methodology is not required to set forth a housing need for an additional number of lower-income households expected to reside.

EXAMPLE

Step 1. SMSA Y Lower Income Household Percentage: 40 percent.

Step 2. City W Total Number of Households currently residing: 5,000.

Step 3. City W Total Number of Households Currently Residing × SMSA Lower-Income Household Percentage = Total required number of lower-income households: 5,000 × 40% = 2000.

Step 4. City W Total Lower-Income Households Currently Residing: 1000.

Step 5. (City W Total required number of lower-income households—City W Lower-Income Households Currently Residing)/(1 − SMSA Lower-Income Households Percentage) = Gross Estimate of Lower-Income Households. Expected to Reside: (2000–1000)/(1 − 40%) = 1000/60% = 1667.

Step 6. City W gross estimate of the number of lower-income households expected to reside/3 = the estimate of the number of lower-income households who reasonably may be expected to reside 1667/3 = 556.

(C) An applicant in a nonmetropolitan area, for which relevant Federal census data are not available, shall submit its best estimate of the number of lower-income households who reasonably could be expected to reside in the community, based on data generally available from Federal, State, areawide, or local sources.

(iii) *Use of alternative methodologies for determining estimates of needs developed by areawide planning organizations;* HUD may, at its option, determine that an areawide planning organization has developed an alternative methodology for one or both of these elements which evidences compliance with the objectives of this Part and is a more precise means to measure such needs within the specific geographic area of its jurisdiction. The basis for such determinations are set forth in 24 CFR Part 891. Having so determined, HUD may, at its option, authorize the use of such methodology, in lieu of the methodology set forth in § 570.306(b)(2)(ii), by all applicants within the jurisdiction of such areawide planning organizations.

(A) HUD shall inform all affected applicants, by publication of a Notice in the FEDERAL REGISTER, of those areawide planning organizations where an alternative methodology has been approved by HUD and whether such methodology will be used in lieu of the methodology set forth in § 570.306(b)(2)(ii).

(B) In determining whether an alternative methodology developed by an areawide planning organization is to be used in lieu of a methodology set forth in this Part, HUD will consider whether such alternate methodology provides the estimates required to meet the standards of acceptability set forth in paragraphs (b) and (c) of this section and is statistically and mathematicially sound.

(C) HUD shall monitor the estimates developed through an approved areawide planning organization alternative methodology. Although areawide organizations are encouraged to develop methodologies which are innovative in scope and suited to the circumstances of the jurisdiction of the areawide planning organizations, HUD may withdraw approval of or require modification of an alternative methodology which is determined to produce estimates which are plainly inconsistent with the objectives of this Part.

(iv) In addition, the applicant shall provide a narrative statement which summarizes any special housing conditions in the community and special housing needs found to exist in the total group of lower-income households in the community. Such summary shall include but need not be limited to, discussion of:

(A) Female heads of households;

(B) Individual minority groups;

(C) Handicapped persons;

(D) Special housing conditions such as concentrations of mobile homes; and

(E) Special housing needs related to a community's economic base such as military housing, migrant workers, and retirement centers.

(3) *Three Year Housing Program.* The applicant shall describe a three year housing program for implementation of its community development and housing strategy:

(i) *Goals.* The program shall specify, by tenure type, household type, and housing type, a realistic three year goal for the number of dwelling units or persons to be assisted, including the relative proportion of new, rehabilitated and existing dwelling units best suited to the needs of lower-income persons identified by the applicant. The statement of the three year goal for assisted dwelling units also shall take into consideration housing conditions with respect to the availability of existing units of standard quality and units suitable for rehabilitation and shall meet the standards set forth in § 570.306(c)(1).

(ii) *General Locations.* The program shall identify the general locations of proposed new construction housing units or projects, and substantial rehabilitation units or projects, for the programs subject to 24 CFR 891 for lower-income persons on maps as called for in § 570.304(a)(3). The locations shall be identified separately for elderly/handicapped and family/large family construction, by census tract (or enumeration districts or geographic quadrants in those jurisdictions where a census tract includes a substantial area, such as an entire community). General locations for housing projects shall contain at least one site which conforms to the site and neighborhood standards established for the appropriate HUD assisted housing program. Where an applicant proposes assisted housing resources in areas of concentration of minorities or federally assisted housing, general locations outside of such areas also shall be proposed in order to ensure the provision of assisted housing in a balanced manner.

(4) *Annual Housing Action Program.* For each program year as part of the annual submission, the applicant shall describe a program of actions to carry out each program year increment in order to achieve the three year housing program. The annual action program shall:

(i) Specify, by tenure type, household type, and housing type, a realistic annual goal for the number of dwelling units or persons to be assisted, including the relative proportion of new, rehabilitation, and existing units best suited to the needs of lower-income persons identified by the applicant; and

(ii) Specify those housing programs which the applicant does not wish to utilize.

(c) *Standards and criteria for approval of HAPs.* The following standards and criteria shall apply to the reviews and determinations of acceptability of housing assistance plans:

(1) *Goals for assisted housing*—(i) *Proportionality.* The three year total housing assistance goals shall address the needs of the three household types (elderly and/or handicapped, families and non-elderly individuals, and large families) within each tenure type (owner and renter) generally in the same proportion as the total lower-income housing needs identified in the HAP, by household type. Certain adjustments to this requirement are permitted as follows:

(A) HUD may grant an exception from this requirement when an applicant documents special needs arising from displacement of significant numbers of households of a particular size; natural disasters; meeting the housing requirements of section 105 (f) and (h) of the U.S. Housing Act of 1949, as amended; accommodating proposals for projects of feasible size which could not otherwise be developed; or implementing the goals of areawide housing allocation plans; or

(B) Applicants required to emphasize a particular household type or types pursuant to § 570.306(a)(5) shall make no downward adjustment in the percentage represented by such household type, but the percentage represented by other household types may be adjusted downward as necessary. For example, an applicant which has disproportionately met the needs of elderly households in prior years would not be permitted to make any downward adjustment to the percentages represented by family and large family households, but may be required to reduce the percentage represented by elderly households to zero.

(ii) *Minimal goals.* The goals must directly address known needs and contain a sufficient number of units to permit practical and economically feasible housing development. Each applicant should plan to address its housing assistance needs in no more than 20 years. Accordingly, HUD may determine that housing assistance goals which overall represent a proposed level of assistance of less than five (5 percent) percent of the need per annum (i.e., fifteen (15 percent) percent for the three period of applicability of the housing assistance plan) are plainly inappropriate to meeting the needs. HUD may consider a goal of lesser magnitude where the applicant can demonstrate to the satisfaction of HUD that a goal of at least five percent would be infeasible; for example, an applicant demonstrates that there is a lack of buildable sites in the community, a water or sewer moratorium exists, or that the local housing market cannot feasibly absorb the number of units proposed. The standard that housing assistance plans with only minimal housing assistance goals are plainly inappropriate recognizes that communities with very substantial housing assistance needs have a responsibility to propose substantial housing assistance goals and that goals should reflect the desirability of meeting a significant percentage of identified needs at an early date.

(iii) *Realistic goals.* The size of the goals for housing assistance shall be realistic and, in the case of new construction and substantial rehabilitation, shall represent a number of units which can be absorbed by the housing market and which constitute of feasible size project. In the case of a goal proposed for an existing housing program, the number of units shall be an administratively feasible project.

(iv) *Tenure by household types.* The types and quantities of housing assistance proposed for a tenure type (owner and renter), by household type (elderly and/or handicapped, family and nonelderly individuals large family) and by housing type (existing, substantial rehabilitation, and new construction), shall be appropriate to meeting indentified needs of both renters and owners of each household type. In this regard, the needs of those households expected to reside are generally assumed to represent needs for rental units. For example, where there are substantial needs for rental units, and the applicant is unwilling to provide such housing even though appropriate Federal, State, or local resources can reasonably be expected to be available, the goals will be determined to be plainly inappropriate to meeting the community's needs.

(v) *Vacancy rates.* In establishing goals for assisted housing, the applicant shall consider the vacancy rate established pursuant to § 570.306(b)(1) and shall estimate the number of such vacant units which would be adequate to meet the needs of lower-income households.

(A) In those cases where there exists a less than adequate vacancy rate (as determined by HUD) in housing units resulting in an insufficient number of vacant, standard, available units of appropriate size, cost, and type to meet the identified housing assistance needs for rental units for lower-income households goals for housing assistance shall emphasize a program of new construction of rental units for households of lower-income. For example, an applicant with a significant number of lower-income households expected to reside in the community and a less than adequate rental vacancy rate, would be expected to emphasize a program of new construction of rental units to address this need. However, this does not preclude the use of a vehicle such as the Section 8 Existing Housing program to address the needs of households currently residing in the community, provided that the existing program is used in concert, during the three year program, with new construction and/or substantial rehabilitation so that the housing market will not be further imbalanced.

(B) In those cases where there exists an adequate or more than adequate vacancy rate as determined by HUD in standard housing units creating a sufficient number of vacant, available units of apropriate size, cost, and type to meet the identified housing assistance needs of lower-income persons for rental units, goals for housing assistance shall emphasize a program of existing housing for persons of lower-income.

(vi) *Urban renewal completion.* Applicants engaged in the completion of Urban Renewal projects and having to meet requirements of Sections 105 (f) and (h) of the U.S. Housing Act of 1949 as amended, or applicants obligated to meet such requirements under close-out agreements pursuant to § 570.804 for projects which have been settled financially, shall incorporate appropriate goals.

(vii) *Comprehensive neighborhood revitalization areas.* In those cases where rehabilitation constitutes an integral part of programs for comprehensive neighborhood revitalization, housing assistance goals shall include a program of rehabilitation units for persons of lower income by tenure, as appropriate.

(viii) *Adequacy of rehabilitation.* In order to be included as housing goals, any units proposed to be rehabilitated for either owners or renters must be units which will, upon completion of rehabilitation, meet the basic health and safety standards of local housing codes or, in those communities lacking such codes, will meet, at a minimum, Section 8 Existing Housing Quality Standards pursuant to 24 CFR § 882.109, and be for occupancy by lower-income households. Any units proposed for rehabilitation using Federal assistance, shall upon completion meet the standards of the applicable Federal program where such standards exceed those of local codes.

(ix) *Relationship to previously approved goals.* Goals for housing assistance shall address needs which were to have been addressed under previously approved HAP goals, but assistance has not been or is not being provided. Where an applicant has previously established goals for a particular tenure type, household type, or housing type under a prior HAP which have not been fulfilled substantially and goals for other tenure, household, or housing types have been met substantially, the applicant shall provide goals in the annual housing action program pursuant to § 570.306(b)(4)(i) to meet unfulfilled needs and unmet goals before providing additional assistance for component goals already addressed, or such housing assistance goals will be determined to be plainly inappropriate.

(x) *Local actions to implement goals.* An applicant shall meet the goals in its three year housing program. When actions such as acquisition of land, formation of a housing authority or rezoning are necessary for the development of housing, such actions should normally not extend beyond the second year of the three year housing program. HUD shall consider an applicant's past performance in providing assisted housing pursuant to the performance standards for implementing housing assistance plans set forth in § 570.909 in determining whether the housing assistance goals are realistic. In those instances where an applicant's prformance in the past indicates that local actions are required to facilitate delivery of housing resources, but the applicant does not provide that such actions will be undertaken on a timely basis, the goals will be determined not to be realistic and therefore plainly inappropriate.

(xi) *Consistency with areawide housing opportunity plans.* A housing assistance plan of a community which is a participating jurisdiction of an areawide planning organization, shall be consistent with th approved Areawide Housing Opportunity Plan prepared by the areawide planning organization pursuant to 24 CFR Part 891.

(2) *General locations.* (i) In developing general locations for proposed new construction and rehabilitation, applicants should propose several general locations each of which shou'd be sufficiently large to be consistent with criteria set forth in § 570.306(b)(4)(ii), particularly the objective of promoting greater choice of housing opportunities and avoiding undue concentrations of Federally assisted persons. Each general location must contain at least one site, but preferably more than one, which fully conforms with the site and neighborhood standards established by HUD for assisted housing.

(ii) The applicant shall demonstrate by its selection of general locations that its HAP will promote greater spatial deconcentration of housing opportunities for lower-income persons.

§ 570.307 Certifications.

The applicant shall submit certifications each year providing assurances that:

(a) It possesses legal authority to apply for the grant, and to execute the proposed program.

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action au-

thorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(c) It has complied with all the requirements of OMB Circular No. A–95 as modified by this Part and that either:

(1) Any comments and recommendations made by or through clearinghouses are attached and have been considered prior to submission of the application; or

(2) The required procedures have been followed and no comments or recommendations have been received.

(d) Prior to submission of its application, the applicant has:

(1) Prepared a written citizen participation plan, which:

(i) Provides an opportunity for citizens to participate in the development of the application, encourages the submission of views and proposals, particularly by residents of blighted neighborhoods and citizens of low- and moderate-income, provides for timely responses to the proposals submitted, and schedules hearing at times and locations which permit broad participation;

(ii) Provides citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements;

(iii) Provides for public hearings to obtain the views of citizens on community development and housing needs; and

(iv) Provides citizens with an opportunity to submit comments concerning the community development performance of the applicant;

(2) Followed this plan in a manner to achieve full involvement of citizens in all stages of the program.

(e) Its chief executive officer or other officer of applicant approved by HUD:

(1) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply to this Part;

(2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(f) The Community Development Program has been developed so as to give maximum feasible priority to activities which will benefit low- and moderate-income families or aid in the prevention or elimination of slum or blight.

[The requirement for this certification will not preclude the Secretary from approving an application where the applicant certifies, and the Secretary determines, that all or part of the Community Development Program activities are designed to meet other community development needs having a particular urgency as specifically explained in the application in accordance with § 570.304.]

(g) It will comply with the regulations, policies, guidelines and requirements of OMB Circular No. A–102, Revised, Uniform Administrative Requirements for Grants-in-aid to State and local governments, and Federal Management Circular 74–4, as they relate to the application, acceptance, and use of Federal funds under this Part.

(h) It will administer and enforce the labor standards requirements set forth in § 570.605 and HUD regulations issued to implement such requirements.

(i) It will comply with all requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular No. A–102 Revised.

(j) It will comply with the provisions of Executive Order 11296, relating to evaluation of flood hazards.

(k) It will comply with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assure shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90–284), as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and will take action to affirmatively further fair housing in the sale or rental of housing, the financing of housing, and the provision of brokerage services within the applicant's jurisdiction.

(3) Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR Part 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under this Part.

(4) Executive Order 11063 on equal opportunity in housing and nondiscrimination in the sale or rental of housing built with Federal assistance.

(5) Executive Order 11246, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60), and Section 4(b) of the Grant Agreement, which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. Contractors and subcontractors on Federal and federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(l) It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended, requiring that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project area and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by, persons residing in the area of the project.

(m) It will:

(1) To the greatest extent practicable under State law, comply with Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and will comply with Sections 303 and 304 of Title III, and HUD implementing instructions at 24 CFR Part 42; and

(2) Inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations at 24 CFR Part 42 and § 570.602(b).

(n) It will:

(1) Comply with Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and HUD implementing regulations at 24 CFR Part 42 and § 570.602(a);

(2) Provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity assisted under the Community Development Block Grant Program. Such payments and assistance shall be provided in a fair and consistent and equitable manner that insures that the relocation process does not result in different or separate treatment of such persons on account of race, color, religion, national origin, sex, or source of income;

(3) Assure that, within a reasonable period of time prior to displacement, comparable decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex, or source of income; and

(4) Inform affected persons of the relocation assistance, policies and proce-

dures set forth in the regulations at 24 CFR Part 42 and § 570.602(a).

(o) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

(p) It will comply with the provisions of the Hatch Act which limits the political activity of employees.

(q) It will give HUD and the Comptroller General through any authorized representatives access to and the right to examine all records, books, papers, or documents related to the grant.

(r) It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

(s) It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976. Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.

(t) It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470), Executive Order 11593, and the Archeological and Historic Preservation Act of 1966 (16 U.S.C. 469a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.

§ 570.308 Timing of application submissions.

(a) *Submission of applications.* (1) In order to receive an entitlement grant under this Part, each applicant is required to submit an application at least 75 days, but no more than 120 days, prior to the end of its program year.

(2) An applicant which did not receive an entitlement grant in the previous fiscal year must apply no later than April 30.

(3) Notwithstanding other provisions of this section, no application will be accepted between July 15, and October 1, in any year.

(b) *Program year.* A program year shall run for a twelve month period. An applicant may, however, either shorten or lengthen its program year by as much as three calendar months, provided:

(1) It is for the purpose of conforming the program year to State or local fiscal or budgeting requirements; and

(2) HUD receives written notice of a shortened program year at least six months prior to the date the program year would have ended if it had not been shortened, or in the case of a lengthened program year, at least three months prior to the date the program year would have ended if it had not been lengthened. An applicant may not, however, receive more than one entitlement grant from a single Federal fiscal year appropriation.

§ 570.309 Public availability of and objections to application.

(a) *Public availability of application.* At the time the application is submitted to State and areawide clearinghouses, as described in § 570.310, the applicant shall make reasonable efforts to inform citizens involved in or affected by the local Community Development Program that the application has been submitted and is available to interested parties upon request. Notice to that effect shall be published in a newspaper of general circulation in the applicant's jurisdiction. Later, when the application is submitted to HUD, the applicant shall make similar efforts to inform citizens that the application has been submitted to HUD and is available upon request. The notice published when the application is submitted to HUD shall include a statement covering the requirements described in paragraph (b) of this section.

(b) *Consideration of objections to applications.* Persons wishing to object to approval of an application may make such objection known to the appropriate HUD Area Office. The Area Office will only consider objections made on the following grounds: the applicant's description of needs and objectives is plainly inconsistent with significant, available facts and data; or the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant; or the application does not comply with the requirements of this Part or other applicable law; or the application proposes activities which are otherwise ineligible under this Part.

Such objections should include both an identification of the requirements not met and, in the case of objections made on the grounds that the description of needs and objectives is plainly inconsistent with significant, generally available facts and data, the data upon which the persons rely. Although HUD will consider data submitted at any time, such objections should be submitted within 30 days of the publication of the notice that the application has been submitted to HUD, as described in paragraph (a) above. In order to ensure that data submitted will be considered during the review process, HUD will not approve an application until at least 30 days after receipt of an application.

§ 570.310 A-95 clearinghouse review and comment.

Applicants must comply with the procedures set forth in Part I of OMB Circular No. A-95 except as modified below. These procedures also require that program amendments submitted to HUD in accordance with § 570.312 shall be submitted to appropriate clearinghouses for a 30-day review and comment period.

(a) *Clearinghouse notification.* The A-95 requirement that clearinghouses be notified of an applicant's intent to apply for Federal assistance will be satisfied by HUD. Each fiscal year HUD will advise the appropriate State and areawide clearinghouses, with a copy to the applicant, of those communities entitled to receive grants under this Part. This notification will be provided at least 60 days prior to the date by which the applicant must submit the completed application to HUD. Upon receipt of its copy of the HUD notification to the clearinghouses, the applicant shall make arrangements with the clearinghouses regarding early transmittal of information describing the contents of the application. An applicant wishing to submit its application to HUD before February 1 of each year shall provide its own notice of intent to file with the appropriate clearinghouses in accordance with the usual A-95 procedures.

(b) *Clearinghouse review of application.* Unless the requirement is waived by a clearinghouse, the applicant shall provide the clearinghouses a period of 45 calendar days to review the completed application and transmit to the applicant any comments or recommendations. Clearinghouses will be of assistance to both the applicant and HUD if their reviews address the application approval criteria contained in § 570.311(c), as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A-95, item 5. Emphasis should be placed on consistency among State, areawide and local plans and strategies. Compliance with environmental and civil rights laws should also be emphasized.

(c) *Applicant actions after clearinghouse review.* The applicant shall include with its application to HUD all clearinghouse comments, or when no comments are received, a statement that no comments or recommendations have been received from the clearinghouses. Where activities are determined by the area wide planning agency to be inconsistent with areawide plans, the applicant shall provide in the application to HUD an ex-

planation of the reasons for the inconsistencies.

(d) *Application modification during clearinghouse or HUD review.* An applicant which revises its application while it is under review by a clearinghouse or by HUD shall inform the clearinghouses of the revisions and, if the application has been submitted to HUD, the number of days remaining within the 75-day review period described in § 570.311(d), for HUD to complete its review of the application.

§ 570.311 HUD review and approval of application.

(a) *Acceptance of application.* (1) Upon receipt of an application, the HUD Area Office will accept it for review, provided that:

(i) It has been received before the deadline for receipt of applications established in § 570.308(a);

(ii) The application requirements specified in this subpart are complete;

(iii) The funds requested do not exceed the entitlement amount;

(iv) Any comments and recommendations received from clearinghouses, or a statement that no comments were received, are attached to the application; and

(v) Any additional assurances previously required as a result of monitoring, inadequate local performance, or audit findings, are included.

(2) If the application is accepted in accordance with the preceding paragraph, the date of acceptance of the application will be the date of receipt of the application in the HUD field office, and the applicant will be so notified in writing. If the application is not accepted for review, the applicant will be so notified in writing, and will be advised of the specific reasons for nonacceptance.

(b) *Scope of review.* (1) HUD will normally base its review upon the applicant's certifications, statements of facts and data, and other information. The Secretary reserves the right, however, to consider substantial evidence which challenges the certifications, and information submitted by the applicant, and to require additional information or assurances from the applicant as warranted by such evidence.

(2) The review will include, but need not be limited to, the following matters contained in the application and the grantee performance report, or derived from monitoring:

(i) Eligibility of proposed activities;

(ii) Program benefit to low- and moderate-income persons in accordance with the provisions of § 570.302;

(iii) Housing Assistance Plan conformity to the requirements of § 570.306;

(iv) Coordination of housing assistance and community development activities;

(v) Consistency of the needs stated in the plan with generally available data;

(vi) Appropriateness of proposed plans and programs to meeting the applicant's needs and objectives;

(vii) Compliance with previous contract conditions or other corrective and remedial actions required by HUD;

(viii) Experience regarding the effectiveness of the proposed activities in meeting the community development needs in the locality;

(ix) Applicant's capacity to carry out the program proposed as evidenced by its previous performance record; and

(x) Compliance with the requirements of this Part and other applicable laws and regulations.

(c) *Criteria for disapproval.* The Secretary will approve the application unless:

(1) On the basis of significant facts and data, generally available, and pertaining to community and housing needs and objectives, the Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts and data. The data to be considered may be publshied data accessible to both the applicant and the Secretary, such as census data, or other data available to both the applicant and the Secretary, such as recent local, areawide or State comprehensive planning data.

(2) On the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant. The following are examples of situations in which activities may be determined to be "plainly inappropriate" to meeting the identified needs of the applicant:

(i) Experience over a period of time has demonstrated that the types of activities proposed have not been or are unlikely to be effective in alleviating the conditions they were designed to affect;

(ii) The applicant has identified areas containing significant concentrations of deteriorated housing and blight and does not propose to undertake a concentrated program of activities in any such areas;

(iii) The proposed program does not principally benefit low- and moderate-income persons under the requirements of § 570.302;

(iv) Proposed activities will have a significant detrimental effect on low- and moderate-income persons and adequate measures to mitigate such effects are not proposed;

(v) Housing goals, locations, and strategy do not meet the criteria of § 570.306(c);

(vi) Actions essential to accomplish housing assistance goals, including supportive community development activities, are not proposed;

(vii) The proposed program does not reflect previous requirements of the Secretary for corrective or remedial actions, been the basis of such requirements.

(3) The Secretary determines that the application does not comply with the requirements of this Part with specific regard to the primary purposes of principally benefitting persons of low- and moderate-income or aiding in the prevention or elimination of slums or blight, or other applicable law, or proposes activities which are ineligible under this Part.

(d) *Timing.* The Secretary will notify the applicant in writing within 75 days of the date of receipt of the application, or at such earlier time as review is completed, that the application has been either approved or disapproved. In the event the Secretary has not mailed a notification to the applicant within 75 days from the date of acceptance of a completed application the application shall be deemed to be approved. If the application is disaproved, the applicant shall be informed of the specific reasons for disapproval.

(e) *Reduction of grant.* The Secretary may approve an application for an amount less than the full entitlement for the following reasons:

(1) Activities are not eligible under § 570.200 and funds are not reprogrammed to eligible activities within the 75-day review period;

(2) Activities do not meet other program requirements, such as benefits to low- and moderate-income persons described in § 570.302; or

(3) The recipient's performance does not meet the standards prescribed in § 570.909 and a reduction is appropriate pursuant to § 570.911.

(f) *Conditional approval.* The Secretary may make a conditional approval, in which case the full entitlement amount will be approved but the obligation and utilization of funds for affected activities will be restricted. Conditional approvals may be made where:

(1) Local environmental reviews under § 570.603 have not yet been completed;

(2) The requirements of § 570.607 regarding the provision of public services or flood or drainage facilities have not yet been satisfied; or

(3) There is substantial evidence that there has been, or there will be, a lack of substantial progress, nonconformance, noncompliance, or a lack of continuing capacity, as described in § 570.909. In such case, the reason for the conditional approval and the actions necessary to remove the condition shall be specified. Failure to satisfy the condition may result in a reduction in the annual grant pursuant to §§ 570.910(b)(10) and 570.911.

§ 570.312 Amendments.

(a) *Community Development Program amendments.* The recipient shall request prior HUD approval of Community Development Program amendments when the recipient proposes:

(1) To undertake one or more activities (other than local option activities pursuant to § 570.600 or disaster activities pursuant to 24 CFR 58.6) not included in a previously approved Community Development Program;

(2) To alter the objectives, location, or class of beneficiaries of previously approved activities; or

(3) To reduce the amount of funds previously approved for completion of urban renewal projects.

When the recipient proposes to undertake activities which are not consistent with the three-year activity summary included in its community development

plan, it shall submit an amended community development plan summary to HUD at the same time the proposed program amendment is submitted.

(b) *Housing Assistance Plan Amendments.* The recipient shall request prior HUD approval of Housing Assistance Plan amendments when any of the following conditions exist:

(1) The recipient proposes a reduction of any goal for housing assistance pursuant to § 570.306(b)(3)(i) or § 570.306(b)(4)(i);

(2) The recipient proposes to increase any three-year goal by household type, for housing assistance pursuant to § 570.306(b)(3)(i);

(3) The recipient has exercised, through formal review procedures, provided for under 24 CFR 891.204(a)(2), its option to approve a housing assistance application which constitutes a major variation from the one-year goals by housing type; such application was approved by HUD; and additional applications are contemplated for funding;

(4) The recipient proposes a revision of the general locations for assisted housing pursuant to § 570.306(b)(3)(ii); or

(5) There is a significant change in, or new data available regarding, the conditions of the housing stock or needs of lower-income persons.

(c) *Scope of submission.* The following documentation only need be submitted in support of a request for an amendment to an approved application:

(1) The elements of the approved application to be changed, such as the affected portions of the annual Community Development Program;

(2) The certifications described in § 570.307; and

(3) Documentation regarding A-95 clearinghouse reviews as described in § 570.310(c).

(d) *Response to requested amendments.* Within 30 days of the date of receipt of the proposed amendment, excluding Housing Assistance Plan amendments, HUD will notify the recipient in writing that the amendment has been approved, disapproved, or conditionally approved pursuant to § 570.311(f), or, if a final decision on the amendment has not as yet been made, the date by which the recipient will be notified of the final decision. In the event HUD has not mailed a notification to the recipient within that 30-day period, the amendment shall be deemed approved. If the proposed amendment is disapproved, the recipient shall be informed of the specific reasons for disapproval.

(e) *Other changes.* Changes not covered in paragraphs (a) or (b) of this section including local option and disaster activities, do not require prior HUD approval, but shall be reported to HUD as part of the annual performance report described in § 570.906.

(f) *Citizen participation.* Amendments and other changes to the Community Development Program, community development plan and Housing Assistance Plan require citizen participation. Formal public hearings, however, are required only when prior HUD approval of application amendments is required. Citizen participation requirements do not apply, however, to disaster activities.

(g) *A-95 review.* The recipient shall provide the State and areawide clearinghouses with 30 days for review and comment prior to submission of an application amendment for prior HUD approval.

(h) *Environment.* The recipient shall comply with applicable provisions of 24 CFR Part 58 respecting all amendments.

III. Recodified Subpart G, Urban Development Action Grants, is added to Part 570 and reads as follows:

Subpart G—Urban Development Action Grants

§ 570.450 Purpose.

The purpose of urban development action grants is to assist distressed cities and distressed urban counties which require increased public assistance and private investment to alleviate physical and economic deterioration. Assistance will be made available for economic revitalization in communities with population outmigration or a stagnating or declining tax base, and for reclamation of neighborhoods having excessive housing abandonment or deterioration.

§ 570.451 Definitions.

The following definitions apply only to this subpart:

(a) "Activities" means actions undertaken with assistance under this subpart.

(b) "Project" means a group of integrally related activities financed by public and private sources to meet the objectives of this subpart and described in an application pursuant to § 570.454.

(c) "Nonmetropolitan cities" means those cities which do not qualify for a formula entitlement.

§ 570.452 Eligible applicants.

(a) *General.* Eligible applicants are distressed cities and distressed urban counties which meet the criteria specified in this section. Cities participating in the community development block grant program in cooperation with an urban county, as provided in § 570.105(b)(iii), are eligible applicants under this subpart, if they meet the requirements of this section. Such cities may at the same time continue as cooperating units of government in the urban county's entitlement grant application. States or urban counties may file an application on behalf of eligible nonmetropolitan cities at the request of the latter's local governing body. Applicants must request a determination from the HUD Area Office as to whether they meet the eligibility criteria specified in subsections (b), (c), and (d) before submitting an application pursuant to § 570.454. HUD will provide available data to applicants from the sources identified in subsection (b) to the greatest extent possible.

(b) *Minimum standards of physical and economic distress for FY 1978*—(1) *Metropolitan cities and urban counties.* Applicants which are metropolitan cities or urban counties must meet four of the seven following minimum standards of physical and economic distress, based on data for the community as a whole, unless the applicant's percentage of poverty is greater than one and one-half of the median for all metropolitan cities (and its per capita income is below the median), in which case the applicant must meet only three of the seven factors; or the applicant's percentage of poverty is less than one half of the median for all metropolitan cities, in which case the applicant must meet five of the seven factors.

(i) *Age of housing.* Thirty-four percent of the applicant's year-round housing units was constructed prior to 1940, based on U.S. Census data;

(ii) *Per capita income.* The net increase in per capita income for the period 1969–1974 was $1,433 or less, based on data compiled by the Office of General Revenue Sharing;

(iii) *Population lag/decline.* For the period 1960–1975 the percentage rate of population growth was 14.7 or less, based on U.S. Census data.

(iv) *Unemployment.* The rate of unemployment for 1976 was 7.75 percent or greater, based on data compiled by the Bureau of Labor Statistics;

(v) *Job lag/decline.* The rate of growth in retail and manufacturing employment for the period 1967–1972 was 6.1 percent or less, based on U.S. Census data. If one of the two data sources is not available for an applicant, the threshold will be the rate for that portion for which data is available.

(vi) *Poverty.* Eleven and one-tenths percent of persons within the applicant's jurisdiction is at or below the poverty level, based on 1970 U.S. Census data;

(vii) *Unique distress factors.* The Secretary may take into consideration objective, quantified evidence submitted by the applicant of other factors of distress which are unique to the applicant's jurisdiction.

(2) *Nonmetropolitan cities.* [Reserved]

(c) *Results in providing housing.* The applicant has demonstrated results in providing housing for persons of low- and moderate-income. Among the factors HUD will consider are the amount of assisted housing provided through Federal or other assistance in accordance with the proportional goals established in any HUD-approved Housing Assistance Plan applicable to the applicant's jurisdiction and actions taken by the applicant to provide assisted housing. Such local actions may include the removal of impediments in local ordinances and land use requirements to the development of assisted housing, the formation of a local housing authority when necessary to carry out the Housing Assistance Plan, the provision of sites for assisted housing when resources are available, and other actions appropriate for implementation of the Housing Assistance Plan. The actions of an applicant, which previously participated in the community development block grant program as part of an urban county and has subsequently withdrawn, shall be considered with regard to the provision

of assisted housing in accordance with the HUD-approved Housing Assistance Plan for the urban county applicable to the applicant's jurisdiction. If the applicant has never had a HUD-approved Housing Assistance Plan, the applicant must demonstrate that it previously has provided or assisted in the provision of housing for low- and moderate-income persons and families.

(d) *Results in providing equal opportunity.* The applicant has demonstrated results in providing equal opportunity in housing and employment for low- and moderate income persons and members of minority groups. Among the factors which HUD will consider are: (1) The location and administration of lower income housing assisted by HUD, the applicant, or the State presents the opportunity for lower-income persons and minorities to move outside areas of their concentration; (2) the applicant's use of the Section 8 Existing Program (24 CFR Part 882) has promoted and shown progress in the geographic dispersal of minority families to areas of non-low-income and non-minority concentration; (3) The applicant is actively engaged in promoting housing choice in all of its neighborhoods through participation in an area-wide affirmative marketing effort, a New Horizons Fair Housing Assistance Project, or other fair housing activities designed to eliminate and prevent discrimination in the private housing market throughout the applicant's jurisdiction; (4) Relocation as a result of Federally-assisted programs has resulted in expanded housing opportunities for minorities outside areas of minority or low-income concentration; (5) The applicant is a participating jurisdiction in an approved Housing Opportunity Plan, where such plan includes the applicant's jurisdiction; (6) The applicant's performance reports to HUD and/or the Equal Employment Opportunity Commission with respect to employment indicate affirmative efforts to hire, train, and promote minorities, females, and lower-income persons.

§ 570.453 Eligible activities.

(a) Except as specified in subsection (b), grant assistance will be made available for any eligible activity specified in Subpart C which supports a project designed to revitalize the recipient's economic base or reclaim neighborhoods having excessive housing abandonment or deterioration. New housing construction may be assisted if the applicant demonstrates, in addition to the factors specified in (c) below, that the proposed new housing is consistent with the applicant's community development and housing strategy and that other resources are not adequate.

(b) Assistance under this subpart may not be used for planning the project or developing the application.

(c) If an applicant requests assistance for an activity not eligible under Subpart C, then the applicant must demonstrate that the activity proposed is consistent with the objectives of revitalizing the applicant's economic base or reclaiming neighborhoods having excessive housing abandonment or deterioration. Among the factors HUD will consider in determining whether or not an otherwise ineligible activity will be funded are the following: the necessity of the activity in stimulating private investment in the proposed project; the amount of long-term employment accessible to low- and moderate-income persons generated by the proposed project; the degree of impact of the proposed project on the economic condition of the community; and the effectiveness of the proposed project as a stimulus to neighborhood revitalization.

(d) Except as specified herein, no assistance will be provided for projects intended to facilitate the relocation of industrial or commercial plants or facilities from one area to another, unless the Secretary finds that such relocation does not significantly and adversely affect the unemployment or economic base of the area from which such industrial or commercial plant or facility is to be relocated. However, moves within a metropolitan area shall not be subject to this provision. No assistance shall be provided for business loans or industrial development without prior HUD consultation and coordination of such assistance with other Federal agencies which make available funds for similar activities.

§ 570.454 Applications.

(a) *Determination of eligibility.* In order to provide applicants with a full competitive opportunity to qualify for assistance under this subpart, applicants shall request a determination from the HUD Area Office on their eligibility to apply for assistance, and may request a determination on the eligibility of proposed projects, prior to submitting full applications.

(b) *Scope.* Applicants must submit a separate application for each proposed project. The proposed project must be relevant to the applicant's distress factors, and must be able to be carried out in a timely fashion, which generally HUD expects not to exceed four years. The applicant shall apply for action grant funds in an amount which, together with other public and private resources that will be available, will be adequate to complete the project without additional action grant funds. While a recipient remains eligible for action grant funding for activities in support of other projects in subsequent years, no additional funding will be available in subsequent years to complete a project approved in a prior year. Should additional funding be required to complete a previously approved project, the applicant must provide such funding from community development block grants, local general purpose funds, or other public or private resources.

(c) *Submission requirements.* Applications must be submitted on HUD forms to the appropriate HUD Area Office and must consist of the following:

(1) Standard Form 424, prescribed by OMB Circular No. A–102.

(2) Documentation that the applicant meets the eligibility criteria described in § 570.452.

(3) A community development plan, as specified in § 570.304, and a housing assistance plan, as specified in § 570.306. Applicants which have an approved Community Development Program in effect may incorporate this information by reference.

(4) A brief description of the applicant's Urban Development Action Program, which shall consist of an action plan and strategy and related projects to alleviate physical and economic distress. This program (i) must be consistent with the Community Development Program and the Housing Assistance Plan described in § 570.304 and § 570.306, and the Overall Economic Development Plan as provided in Section 202(b)(10) of the Public Works and Economic Development Act of 1965, where such plan exists, is in effect, and is required by law or administrative action to be consistent with the Community Development Program; and (ii) must describe unique opportunities to (A) attract private investment; (B) stimulate investment in restoration of deteriorated or abandoned housing stock; or (C) solve critical problems resulting from population outmigration or a stagnating or declining tax base. Applicants which have an approved community development plan containing an economic development and neighborhood revitalization strategy pursuant to § 570.304 may submit a copy of this plan to satisfy this requirement.

(5) A description of the project to be undertaken, together with the estimated cost of the project.

(6) The status of environmental review of the proposed project, and a proposed timetable for the completion of any required environmental actions pursuant to 24 CFR Part 58.

(7) Evidence of commitment of public and private resources which will be available for completing the project, pursuant to § 570.455 (d), (e), and (f). Such evidence may be in the form of a letter of intent or a legally binding commitment between the applicant and public/private entities.

(8) A summary of proposed expenditures for the activities to be undertaken with assistance under this subpart.

(9) A schedule for accomplishing the proposed project.

(10) A statement containing appropriate information pursuant to the criteria for selection set forth in § 570.455.

(11) A map or maps of the applicant's jurisdiction which clearly identify (i) census tracts and/or enumeration districts, (ii) concentrations of minority groups, (iii) concentrations of lower-income persons, (iv) location of the proposed project, and (v) access to and from the proposed project and surrounding land uses.

(12) Certifications. The applicant shall submit certifications, in such form as HUD may prescribe, providing assurances that:

(i) Prior to submission of its application, it has:

(A) Prepared and followed a written citizen participation plan, which plan

provides the opportunity for citizens to participate in the development of the application, with special attention to measures to encourage the statement of views and the submission of proposals by low-and moderate-income people and residents of blighted neighborhoods, and to scheduling hearings at times and locations which are convenient to all citizens;

(B) Provided citizens with adequate information concerning the amount of funds available for proposed activities, the range of activities that may be undertaken, and other important program requirements;

(C) Held public hearings to obtain the views of citizens, of which at least one hearing was held on needs which may be dealt with under this subpart, and at least one hearing was held on the application prior to official action authorizing submission of the application.

(ii) The proposed project is consistent with the Community Development Program, the Housing Assistance Plan, and the Overall Economic Development Plan, where such plan exists, is in effect, and is required by law or administrative action to be consistent with the Community Development Program.

(iii) The following assurances required pursuant to § 570.307 concerning: (A) the legal authority of the applicant; (B) action by the local governing body; (C) A–95; (E) NEPA; (G) FMC–74–4 and OMB Circular No. A–102; (H) labor standards; (I) HUD requirements; (J) flood hazards; (K) equal opportunity; (L) opportunities for training, employment and contracts for residents of the project area; (M) real property acquisition; (N) relocation; (O) standards of conduct; (P) the Hatch Act; (Q) access to books and records; (R) EPA's list of violating facilities; (S) flood insurance purchase requirements; and (T) historic preservation.

(d) *Application submission date.* Applications will be accepted by HUD Area Offices on or after the effective date of these regulations during the first quarter of FY 78, and thereafter during the first month of each quarter.

(e) *Modified OMB Circular A–95 procedure for applications.*

(1) In order to provide early advance notice for coordination purposes, at least forty-five days prior to the submission of an application to HUD, the applicant shall transmit a notice of intent to file an application to the appropriate State and Areawide clearinghouses. Standard Form 424 may be used or the following information in lieu of the Standard Form unless clearinghouses have developed specific instructions.

(i) Identity of the applicant community.

(ii) The geographic location of the project to be assisted. A map shall be provided if appropriate.

(iii) A brief description of the project by purpose, general size or scope, estimated cost, beneficiaries or other characteristics which will enable the clearinghouses to identify agencies of State or local government having plans, programs, or projects that might be affected by the proposed project.

(iv) The Federal program title and number under which assistance will be sought as indicated in Attachment D of OMB Circular A–95, or the latest "Catalog of Federal Domestic Assistance."

(v) The estimated date by which the applicant expects to formally file an application.

(2) Unless the requirement is waived by a clearinghouse, the applicant shall provide the clearinghouse a period of thirty days to review the completed application and transmit to the applicant any comments or recommendations.

(3) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the eligibility criteria and criteria for selection pursuant to § 570.452 and § 570.455, as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A–95, Item 5, with emphasis on consistency among State, areawide, and local plans and compliance with environmental and civil rights laws.

(4) The applicant shall transmit all comments with the application to HUD. In instances where comments are not received by the applicant within the thirty-day period, the applicant shall include a statement indicating that the State and areawide clearinghouses were notified and no comments were received.

(5) If the A–95 review comments contain any findings of inconsistency with State, areawide, or local plans or noncompliance with environmental or civil rights laws, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the project despite the findings developed through the A–95 review process.

§ 570.455 Criteria for selection.

Applications which meet the eligibility requirements of § 570.452 shall be evaluated in accordance with the following selection criteria. The nature and purpose of the proposed project will determine the extent to which each criterion must be met. Grant assistance will be made available so as to achieve a reasonable balance for the program as a whole among projects that are designed primarily: to restore seriously deteriorated neighborhoods; to reclaim for industrial purposes underutilized real property; and to renew commercial employment centers. The criteria for selection are as follows:

(a) *The comparative degree of physical and economic distress among applicants.* The primary selection criterion will be the comparative degree of physical and economic distress among applicants, provided such applicants propose feasible and effective projects as outlined in subparagraphs (b) through (i) below. The primary measure of comparative distress for metropolitan cities and urban counties will be: (1) the percentage of their total housing stock that was built prior to 1940; (2) the percentage of their total current population that was in poverty in 1970; and, (3) the degree to which their population growth rate lags behind that of all metropolitan cities. The other minimum standards of physical and economic distress specified in § 570.452(b) (1) will also be taken into consideration, but to lesser degree. For nonmetropolitan cities, the indicators of distress will be the same as in § 570.452(b)(2).

(b) *The demonstrated performance of the applicant in carrying out housing and community development programs.* Performance shall be evaluated using such considerations as: past compliance with HUD regulations and statutory requirements; progress in carrying out programs as planned; and the ability to complete programs in a timely fashion.

(c) *The impact of the proposed project on the special problems of low- and moderate-income persons and minorities.* (1) HUD will consider the extent to which the proposed project eliminates or reduces the magnitude of the special problems of low- and moderate-income persons and minorities (e.g., the relative levels of unemployment and underemployment, discrimination in housing and employment, locational impaction, and lack of sufficient supportive services and facilities). In making this determination, HUD will consider the benefits of the project to low- and moderate-income persons and minorities, such as the provision of employment or entrepreneurial opportunities, housing opportunities, or public or private facilities and improvements. Location of the proposed project, when it is clearly relevant to the question of what groups benefit, can be used as one of the factors to show that the proposed project benefits low- and moderate-income persons and minorities. While not required, priority will be given to projects in which minorities hold an equity interest.

(2) If the project includes activities which generate relocation, HUD will consider how the applicant's relocation process, including any proposed relocation advisory services, will provide the opportunity for such persons to relocate outside areas of low-income or minority concentration.

(3) In the case of projects involving reclamation, consideration will be given to (i) whether low- and moderate-income persons and minorities will share in the opportunity to reside in the area; and (ii) whether displaced businesses will be given the opportunity to relocate in the area, once the project is completed.

(4) HUD will also consider the extent of citizen participation in the development and review of the application, as well as the provision of technical assistance to citizens' groups if such assistance has been requested and is appropriate.

(d) *The nature and extent of financial participation by private entities in the proposed project.* No activities will be funded under this subpart unless there is a firm commitment of private resources to the proposed project. The private commitment must have a clear, direct relationship to the activities for which funding is being requested. The necessary private commitment must be

identified in the application. Examples of acceptable forms of private commitment include the commitment of a company to remain in the locality, the commitment of a developer, or a commitment of financing from such lending sources as banks, savings and loan institutions, credit unions, pension funds, insurance funds, or other investors. Projects which have the following characteristics will receive more favorable consideration for funding:

(1) The developer was selected through an open process;

(2) The applicant will be able to recapture its financial participation in the project for additional economic development or neighborhood revitalization uses, through such mechanisms as loan or lease repayments and participation in profits realized by the project;

(3) The project includes a greater amount of private investment in relationship to the requested grant amount than projects of a similar nature which are being considered for action grant funding; and

(4) The private commitment is more firm than for other projects being considered for action grant funding.

(e) *The extent of financial assistance to be made available by the State.* Projects which include financial assistance from the State will receive more favorable consideration. The extent of such assistance will also be considered.

(f) *The nature and extent of financial participation by other public entities in the proposed projects.* Other public resources may be provided by matching other Federal grants, or by firm commitments of other Federal or local resources, such as those from the Economic Development Administration, the Small Business Administration, the Urban Mass Transportation Administration, or from the applicant's general purpose funds.

(g) *The impact of the proposed project on the physical, fiscal, or economic deterioration of the community.* The nature and purpose of the proposed project will determine which of the following measures will apply:

(1) Physical impact will be measured by such factors as the extent of improvement in the applicant's housing stock; provision of public improvements or facilities; and the provision or improvement of commercial and industrial facilities.

(2) HUD will consider the quality of the design of the project, including the suitability of the location and the environmental impact of the project. Attention will also be given to the extent that public and private facilities and services exist or will be provided to support the project.

(3) Fiscal impact will be measured by such factors as the extent of improvement in the applicant's tax base.

(4) Economic impact will be measured by such factors as the extent of increased long-term employment opportunities, particularly for residents of the distressed city or urban county.

(5) The market and economic feasibility of the proposed project will be taken into consideration in determining the physical, fiscal, or economic impact of the project.

(6) More favorable consideration will be given to projects which will cause minimal displacement and disruption of occupants and jobs.

(h) *The extent to which the project represents a special or unique opportunity to meet local priority needs which are consistent with the objectives of economic revitalization or reclamation of neighborhoods.*

(i) *The feasibility of accomplishing the project in a timely fashion within the total resources which will be provided.* HUD will consider such factors as the status of land assembly and zoning, the environmental status of the project, and administrative and legal mechanisms for accomplishing the project. Proposals will be considered to have a lesser degree of feasibility if they involve substantial additional planning, lengthy start-up time, or are subject to such potential obstacles as environmental or legal constraints.

(j) *Phasedown or elimination of hold-harmless entitlements.* Applicants which incur substantial reductions in their entitlement grants because of phasedown or elimination of hold-harmless funding will receive priority consideration provided they receive equal consideration on the other criteria for selection.

§ 570.456 HUD review and action on applications.

(a) *HUD review.* Area offices shall forward applications which meet the eligibility criteria of § 570.452, together with their assessment of the proposals through the Regional Office to the HUD Central Office, which will evaluate applications on a comparative basis in accordance with the criteria for selection specified in § 570.455.

(b) *HUD action on applications.* By the end of each quarter, HUD will make funding decisions on applications received during the first month of that quarter. Applications postmarked after the last day of the first month of the quarter will not be considered until the following quarter, except as provided in § 570.454(d). Applications not approved in the first quarter in which they are accepted will be reconsidered for funding in the subsequent quarter, unless there is little likelihood that the project will be funded. Applications not approved after the second quarter will not receive further consideration, unless HUD is actively negotiating the terms of the project with the applicant. The Secretary will notify the applicant in writing of the action taken on its application, and the conditions under which the application may be reconsidered.

(c) *Conditional approval.* The Secretary may make a conditional approval, in which case the grant will be approved, but the utilization of funds will be restricted. Conditional approvals will be made for the purposes described in § 570.311 (f)(1) and (f)(2); to ensure that the recipient will carry out the activities according to the schedule submitted by the applicant pursuant to § 570.454(c)(9); and to ensure that the applicant secures legally binding commitments of private resources pursuant to § 570.454(c)(7).

§ 570.457 Post-approval requirements.

(a) *Submission of evidence of private commitment.* Recipients must submit to the HUD Area Office evidence of legally binding commitments from private entities identified in the application pursuant to § 570.454(c)(7). No costs may be incurred under the grant agreement prior to HUD receipt of such evidence.

(b) *Release of funds pursuant to § 570.603 and § 570.607.* Recipients must comply with the provisions of § 570.504 concerning the release of funds for projects requiring environmental review or for flood and drainage facilities for which other Federal funds must be sought.

(c) *Performance according to schedule.* Action grant funding shall be conditioned upon the performance of the recipient in meeting the schedule set forth in its application pursuant to § 570.454(c)(9). Failure to meet such schedule may result in the termination of the grant agreement, unless a revised schedule has been approved by HUD.

(d) *Reporting requirements.* [Reserved].

§ 570.458 Program amendments.

(a) *Prior HUD approval.* Recipients shall request prior HUD approval for all program amendments involving new activities, or significant alteration of existing activities that will change the scope, location, scale, or beneficiaries of the approved activities, or whenever a revision involving the cumulative effect of a number of smaller changes add up to an amount that exceeds ten percent of the budget. HUD approval of program amendments may be granted to those requests which meet all of the following criteria:

(1) The program amendment is necessitated by actions beyond the control of the applicant.

(2) If activities are added or are significantly altered, the new activities must meet the criteria for selection applicable at the time of receipt of the program amendment.

(3) The applicant has complied with the requirements of this subpart for A–95 review of program amendments and citizen participation.

(4) Any new activity must be able to completed promptly and within the approved budget.

(b) *A–96 review.* The recipient shall provide the State and areawide clearinghouses with thirty days for review and comment prior to submission of a program amendment requiring prior HUD approval pursuant to § 570.45(a).

(c) *Other program amendments.* The recipient may make program amendments other than those requiring prior HUD approval pursuant to § 570.458(a) without HUD approval.

§ 570.459 Allocation to nonmetropolitan cities.

Not less than twenty-five percent of the funds made available under this subpart shall be used for cities under fifty thousand population which are not central cities of a metropolitan area.

§ 570.460 Applicability of rules and regulations.

The provisions of Subparts A, B, C, J, K, M, and O shall apply to this subpart, except to the extent that they are specifically modified or augmented by the contents of this subpart.

§ 570.461 Grant closeout procedures. [Reserved]

IV. Section 570.906 is revised to read as follows:

§ 570.906 Performance report.

(a) *Submission requirements.* (1) Each entitlement recipient shall submit a performance report to HUD no later than the end of the eighth month each program year. The report shall cover a twelve month period ending with the sixth month of the program year.

(2) A copy of the performance report shall be submitted to the appropriate A–95 State and areawide clearinghouses for informational purposes at the time it is submitted to HUD.

(3) The recipient shall make the report available to citizens at no charge and shall make public notice of the availability of the report at the time it is submitted.

(4) The requirements for submission of performance reports by discretionary grant recipients are set forth in § 570.400 (h).

(b) *Content of report.* The report shall include the following components in a format to be prescribed:

(1) *Progress on planned activities.* The report shall describe progress on each project and activity that was to be carried out under approved applications since the inception of the applicant's block grant program, excluding projects or activities reported as completed in a previous report. The report shall list each project and activity by the program year in which it was approved and provide cumulative information to the end of the last program year on the following:

(i) Amount of funds obligated and expended;

(ii) Environmental status including the date of HUD release of funds;

(iii) The administrative unit having lead responsibility;

(iv) The steps taken to carry out the project, such as advertisement for bids, completion of a specified percentage of construction, etc.

(2) *Recipient assessment.* The report shall include the recipient's assessment of the effectiveness of the program of community development activities conducted under this Part in meeting local needs and objectives and national objectives of the block grant program.

(3) *Persons benefitting.* The report shall include an analysis of the persons actually benefitting from activities carried out under the program, including any changes to service areas described in the application and the census tracts or enumeration districts included in such changes.

(4) *Housing assistance.* The applicant shall describe progress in carrying out the Housing Assistance Plan, including actions taken to further fair housing.

(5) *Citizen participation.* The applicant shall describe the actions it has taken to comply with the requirements of § 570.303, and include citizen comments concerning the applicant's community development performance.

(6) *Equal opportunity.* The applicant shall present evidence of compliance with the certifications required by § 570.307 (k).

V. Conforming and technical changes are made to Part 570 as follows:

§ 570.400 [Amended]

1. In § 570.400(f), the reference to "§ 570.306(e)" is changed to "§ 570.311 (f)."

§ 570.401 [Amended]

2. In § 570.401(c), the reference to "§ 570.303(e) except for (4) and (6)" is changed to "§ 570.307 except for paragraphs (d) and (f)."

§ 570.403 [Amended]

3. In § 570.403(c)(3), the reference to § 570.303(e) (1), (3), (5) if applicable, (7), (8), (11), (12) if applicable, and (13) if applicable "is changed to § 570.307 (a), (c), (e) if applicable, (g), (h), (k), (l), (m) if applicable, and (n) if applicable."

4. In § 570.403(h), the reference to "§ 570.200(a)(2)" is changed to "§ 570.201(c)(4)."

§ 570.404 [Amended]

5. In § 570.404(b)(3)(A), the reference to "§ 570.303(b)" is changed to "§ 570.305."

6. In § 570.404(b)(3)(B), the reference to "§ 570.303(c)" is changed to "§ 570.306(b)."

7. In § 570.404, paragraph (b)(3)(c) is deleted and reserved.

8. In § 570.404(b)(3)(D), the reference to "§ 570.303(e), except for (e)(4)" is changed to "§ 570.307, except for paragraph (d)."

9. In § 570.404(c)(4)(ii)(B), the reference to "§ 570.303(b)" is changed to "§ 570.305."

10. In § 570.404, paragraph (c)(4)(ii)(D) is deleted and reserved.

11. In § 570.404(c)(4)(ii)(E), the reference to "§ 570.303(e), except for (e)(4)" is changed to "§ 570.307, except for paragraph (d)."

§ 570.405 [Amended]

12. In § 570.405, the reference to "§ 570.303" is changed to "Subpart D."

13. In § 570.405(b), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.406 [Amended]

14. In § 570.406(c)(5), the reference to "§ 570.303(e), except for (4) and (6)" is changed to "§ 570.307, except for paragraphs (d) and (f)."

§ 570.407 [Amended]

15. In § 570.407(d), the reference to "§ 570.200" is changed to "Subpart C."

16. In § 570.407(e), the reference to "§ 570.303" is changed to "Subpart D."

17. In § 570.407(e)(1), the references to "§ 570.303(a)" and "§ 570.303(b)" are changed to "§ 570.304" and "§ 570.305," respectively.

18. In § 570.407(e)(3), the reference to "§ 507.303(c)" is changed to § 570.306 (b)."

19. § 570.407(e)(4), the reference to "§ 570.303(e) except for (4) and (6)" is changed to "§570.307, except for paragraphs (d) and (f)."

§ 570.503 [Amended]

20. In § 570.503(a), the reference to "§ 570.306(e)" is changed to "§ 570.311 (f)."

§ 570.504 [Amended]

21. In § 570.504, the reference to "§ 570.306(e)" is changed to "§ 570.311 (f)."

§ 570.512 [Amended]

22. In § 570.600, the references to "§ 570.200" is changed to "Subpart C."

§ 570.600 [Amended]

23. In § 570.600, the refernces to "§ 570.303(b)" and "§ 570.306(e)" are changed to § 570.305" and "§ 570.311(f)," respectively.

§ 570.601 [Amended]

24. In § 570.601(b)(4)(iii), the reference to "§ 570.200" is changed to "Subpart C."

§ 570.607 [Amended]

25. In § 570.607, the references to "§ 570.200(a)(8," "§ 570.200(b)," and "§ 570.200(a)(2)" are changed to "§ 570.201(e)," "§ 570.200(c)," and "§ 570.201(c)(13," respectively.

§ 570.801 [Amended]

26. In § 570.801(b)(1)(ii), the references to "§ 570.200" are changed to "Subpart C."

§ 570.804 [Amended]

27. In § 570.804(b), the references to "§ 570.305," "§ 570.303," "§ 570.306," and "§ 570.303" are changed to "§ 570.312," "§ 570.300 (b) or (c)," "§ 570.311," and "§ 570.300(c)," respectively.

28. In § 570.804(b)(7)(ii), the reference to "§ 570.303(c)" is changed to "§ 570.306."

29. In § 570.804(b)(7)(vi), the reference to "Subpart J" is changed to "Subpart O."

§ 570.907 [Amended]

30. In § 570.907(c), the reference to "§ 570.303(b)" is changed to "§ 570.305."

31. In § 570.907(h), the references to "§ 570.200(a)(8)" and "§ 570.200(a)(2)" are changed to "§ 570.201(e)" and "§ 570.201(c)(13)" respectively.

§ 570.909 [Amended]

32. In § 570.909(f)(1), the reference to "§ 570,305" is changed to "§ 570.312."

33. In § 570.909(f)(1)(i), the references to "§ 570.200," "§ 570.303(e)(6)," and "§ 570.305" are changed to "Subpart C," "§ 570.307(f)," and "§ 570.312," respectively.

§ 570.910 [Amended]

34. In § 570.910(b)(4), the reference to "§ 570.306(b)(1)" is changed to "§ 570.311(b)(1)."

35. In § 570.910(b)(9), the reference to "§ 570.306(e)(3)" is changed to "§ 570.-311(f)(3)."

36. In § 570.910(b)(10), the reference to "§ 570.306(e)(3)" is changed to "§ 570.311(f)(3)."

37. In §§ 570.403(e)(1), 570.502(a)(2), 570.505, 570.506 (a) and (b), 570.507, 570.508, 570.512(d), 570.905(b), and 570.-907(a), the reference to "Federal Management Circular 74-7" is changed to "OMB Circular No. A-102."

§ 570.804 [Amended]

38. In § 570.804(b)(7)(vi), the reference to "Subpart J" is changed to "Subpart O."

§ 570.900 [Amended]

39. In § 570.900, paragraph (d) is deleted.

(Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); Title I, Housing and Community Development Act of 1977 (Pub. L. 95-128); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., October 19, 1977.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc.77-30859 Filed 10-21-77;8:45 am]

federal register

TUESDAY, OCTOBER 25, 1977

PART IV



OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

TRADE POLICY STAFF COMMITTEE: GENERALIZED SYSTEM OF PREFERENCES

Acceptance for Review of Additional Petitions to Modify the List of Articles Receiving Duty-Free Treatment

[3190–01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE (TPSC); GENERALIZED SYSTEM OF PREFERENCES

Acceptance for Review of Additional Petitions To Modify the List of Articles Receiving Duty-Free Treatment

1. *Acceptance of Additional Petitions for Review; Clarification of Certain Previously Announced Petitions.* The Trade Policy Staff Committee announced in the Monday, October 17, 1977, FEDERAL REGISTER (42 FR 55580) the acceptance for review of petitions to modify the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP) as provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–2071, 19 U.S.C. 2461–2465). Notice is hereby given that:

a. Additional petitions have been accepted for review and will also be the subject of the public hearings beginning on November 14, 1977 announced at 42 FR 55580. These additional petitions are listed in Annex I to this notice.

b. The notice of acceptance of certain petitions announced at 42 FR 55580 is amended in Annex I to this notice to clarify the product coverage of those petitions.

2. *Deadline for receipt of requests to participate in the public hearings.* Requests to present oral testimony in connection with public hearings announced in 42 FR 45534 (September 9, 1977), and related written briefs, should be received by the Secretary of the Trade Policy Staff Committee, Room 728, 1800 G Street NW., Washington, D.C. 20506, not later than the close of business, Thursday, November 10, 1977. All such requests and briefs must conform to the regulations codified at 15 CFR 2001–2003 and 2007. Rebuttal briefs will be accepted if submitted within one week after the close of the hearings.

3. *Notice of Public Hearings.* Hearings will begin at 10 a.m. on Monday, November 14, 1977, in Room 2008 of the New Executive Office Building (entrance on 17th Street between Pennsylvania Avenue and H Street NW.), Washington, D.C., and will continue on that and subsequent days until all witnesses wishing to appear have been heard. Hearings on Wednesday and Thursday, November 16 and 17, 1977, will be held in the Department of Commerce Auditorium, 14th Street and Constitution Avenue NW., Washington, D.C. Hearings on Friday, November 18, 1977, and on any subsequent days if necessary, will be held in the Office of the Special Representative for Trade Negotiations, Room 730, 1800 G Street NW., Washington, D.C.

4. *Information Subject to Public Inspection.* Information submitted in connection with the hearings will be subject to public inspection by appointment at the Office of the TPSC, except for information granted business confidential status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10.

The hearings will be open to the public, and transcripts of the hearings will be made available for public inspection or purchase.

5. *Solicitation of Public Views.* The TPSC invites submissions to be made in support or opposition to any petition contained in Annex I to this notice. Such submissions should, however, conform to 15 CFR 2007.0, 2007.1(1) 2007.1(2) and 2007.1(3) (42 FR 45532, September 9, 1977).

6. *Communications.* All communications with regard to these hearings should be addressed to: Secretary, Trade Policy Staff Committee, Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Room 728, Washington, D.C. 20506. The telephone number of the Secretary of the TPSC is 202–395–7210.

Acceptance of the petitions listed in Annex I does not indicate any opinion with respect to a disposition on the merits of the petitions accepted for review. Acceptance indicates only that the listed petitions have been found to be formally adequate as bases for reviews by the TPSC, and that such reviews will take place.

WILLIAM B. KELLY, Jr.,
Chairman, Trade Policy Staff Committee.

Annex I

[The bracketed language in this list has been included only to clarify the scope of the numbered items which are being considered, and such language is not itself intended to describe articles which are under consideration.]

1. The description of articles being considered in case 77-B-19 is modified to read as follows:

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
77-B-19	363.05 pt.	Lace or net bedding, whether or not ornamented, and other bedding, ornamented Of vegetable fibers: [Sheets and pillowcases (including bolster cases)] Other (except articles of cotton which are not certified hand-loomed and folklore products)	Government of Thailand

2. The description of articles being considered in case 77-B-90 is modified to read as follows:

Case No.	TSUS or TSUSA 1/ item No.	Article
		A. Articles being considered for possible designation as eligible articles for the Generalized System of Preferences.
77-B-90	705.35 pt.	Gloves of horsehide or cowhide (except calfskin) leather with fourchettes or sidewalls

3. Additional petitions accepted for review.

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner
		A. Petitions to add products to the list of eligible articles for the Generalized System of Preferences.	
77-B-110	145.08	Coconut meat (except copra), fresh, desiccated, or otherwise prepared or preserved: Shredded and desiccated, or similarly prepared	Government of Sri Lanka
77-B-111	382.0901	Other women's, girls', or infants' wearing apparel, not ornamented: Of cotton: Not knit: Coats: Valued not over $4 each: Certified hand-loomed and folklore products	Guatemala Export Promotion Centre Guatemala City, Guatemala

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

Case No.	TSUS or TSUSA 1/ item No.	Article	Petitioner

3. Additional petitions accepted for review (continued).

B. Petitions to remove products from the list of eligible articles for the Generalized System of Preferences

		Ferroalloys:	
		Ferromanganese:	
77-B-112	607.37	Containing over 4 percent by weight of carbon	The Ferroalloys Assoc. Washington, D.C.
		Ferrosilicon:	
77-B-113	607.51	Containing over 60 percent but not over 80 percent by weight of silicon	

1/ Tariff Schedules of the United States Annotated (19 U.S.C. 1202).

[FR Doc.77-31063 Filed 10-21-77;9:49 am]

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