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FRIDAY, MAY 19, 1978



highlights

FRANKFORT, KENTUCKY WORKSHOP

HOW TO USE THE FEDERAL REGISTER

WHO: Presented by the Office of the Federal Register with the cooperation of the Office for Policy and Management, Commonwealth of Kentucky.

FOR: Any person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Important Register document.
5. An introduction to the finding aids of the FR/CFR system.

WHEN: June 16, 1978 at 1 p.m.

WHERE: Capitol Plaza Tower Auditorium.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in government actions. There will be no discussion of specific agency regulations.

RESERVATIONS: Office for Policy and Management, Commonwealth of Kentucky, Area Code 502-564-7300.

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

Reservations for June are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

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

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

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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

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

federal register

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[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agency for International Development, National Foundation on the Arts and the Humanities, National Mediation Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Agency for International Devlopment, National Foundation on the Arts and the Humanities, and the National Mediation Board because they are confidential in nature.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3368(f), 213.3382(u), and 213.3389 are added as set out below:

§ 213.3368 Agency for International Development.

* * * * *

(f) *Office of the Assistant Administrator of the Development and Support Bureau.*

(1) One Special Assistant to the Assistant Administrator.

* * * * *

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(u) One Public Affairs Officer, National Endowment for the Humanities.

* * * * *

§ 213.3389 National Mediation Board.

(a) *Office of the Chairman.*

(1) One Special Assistant to the Chairman.

(2) One Special Assistant to each of the two Members of the Board.

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

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

[FR Doc. 78-13510 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amends Part 213 to show that the Office of Management and Budget has transferred one position of Secretary from the Office of the Director to the Office of the Assistant Director for Planning and Policy Coordination to support the President's Reorganization project.

EFFECTIVE DATE: May 2, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(a)(1) is amended and (a)(20) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

(1) Four Secretaries to the Director.

* * *

(20) One Secretary to the Assistant to the Director for Planning and Policy Coordination.

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

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

[FR Doc. 78-13509 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

ACTION

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Three positions of Program Specialist at grades GS-7 through GS-14 in ACTION's Office of Voluntary Citizen Participation are excepted under Schedule B because it is not practicable to examine competitively for them.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael D. Sherwin, 202-632-4533.

Accordingly, 5 CFR 213.3259(b) is added as set out below:

§ 213.3259 Action.

* * * * *

(b) *Office of Voluntary Citizen Participation.*

(1) Three positions of Program Specialist at grades GS-7 through GS-14.

(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. 78-13615 Filed 5-18-78; 8:45 am]

[6325-1]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This document shows that: (1) Schedule A authority for professional positions in grades GS-13 through GS-15 on the staff of the Office of Telecommunications Policy; and (2) Schedule A authority for all positions on the staff of the Office of Drug Abuse Policy, are revoked because the Office of Telecommunications Policy and the Office of Drug Abuse Policy were abolished under provisions of Executive Orders 12046 and 12045, respectively.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3103(e) and (f) are revoked as set out below:

§ 213.3103 Executive Office of the President.

* * * * *

(e) [Revoked]

(f) [Revoked]

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

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

[FR Doc. 78-13613 Filed 5-18-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment modifies the exception under schedule B for positions of Librarian, GS-7, in the National Library of Medicine, by increasing the number of positions covered from 6 to 10. These positions are excepted under schedule B because it is not practicable to examine competitively for them.

EFFECTIVE DATE: May 9, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3216(d)(1) is amended as set out below:

§ 213.3216 Department of Health, Education, and Welfare.

* * * * *

(d) *National Library of Medicine.*

(1) Ten positions of Librarian, GS-7, the incumbents of which will be trainees in the Library Associate Training Program in Medical Librarianship and Biomedical Communications. Employment under this authority is not to exceed 1 year.

(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. 78-13614 Filed 5-18-78; 8:45 am]

[3410-02]

Title 7—Agriculture

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

[Valencia Orange Regs. 588 and 589; Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period May 19-25, 1978, and increases the quantity of such oranges that may be so shipped during the period May 12-18, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective May 19, 1978, and the amendment is effective for the period May 12-18, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of Valencia oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on May 16, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of Valencia oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for Valencia oranges continued to show overall strength, particularly on size 113's and larger.

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

§ 908.889 Valencia Orange Regulation 589.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period May 19, 1978, through May 25, 1978, are established as follows:

(1) District 1: 396,000 cartons;
(2) District 2: 528,000 cartons;
(3) District 3: 176,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

Paragraphs (a) (1) and (3) in § 908.888 Valencia Orange Regulation 588 (43 FR 20218), is hereby amended to read:

(1) District 1: 444,000 cartons;
(3) District 3: 223,000 cartons.

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

Dated: May 17, 1978.

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

[FR Doc. 78-14048 Filed 5-17-78; 3:47 pm]

[3410-02]

[Plum Regulation 14]

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipments of California plums during the period May 22, 1978, through July 14, 1978. These requirements are needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: May 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Plum Commodity Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of plums, as hereafter provided, will tend to effectuate the declared policy of the act.

This regulation is based upon an appraisal of the current and prospective market conditions for California plums. The committee estimates that 10.1 million packages of plums will be available for fresh shipment during the 1978 season compared to actual shipment of 11.1 million packages last season. The 1978 California plum crop is reported to be of good quality at this time with uniform sizing. Industry reports indicate that 1978 shipments of fresh California peaches and nectarines will be larger than last season. These fruits will provide strong market competition for fresh California plums. The grade and size requirements are necessary to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

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

§ 917.447 Plum Regulation 14.

Order. (a) During the period May 22, 1978, through July 14, 1978, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period May 22, 1978, through July 14, 1978, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angeleno, Andys Pride, Autumn Queen, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Grande, Roysum, SW-1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period May 22, 1978, through July 14, 1978, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

TABLE I

Column A variety	Column B plums-per-sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumns Rosa	72
Beauty	91
Bee Gee	65
Burmosa	60
Casselman	63
Duarte	62
Durado	91
El Dorado	68
Elephant Heart	53
Empress	57
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
Laroda	58
Late Duarte	60
Late Santa Rosa (including improved late Santa Rosa and Swall Rosa	64
Linda Rosa	63
Mariposa	61
Midsummer	63
Nubiana	56

TABLE I—Continued

Column A variety	Column B plums-per-sample
President	57
Queen Ann	50
Queen Rosa	53
Red Beaut	91
Red Rosa	64
Redroy	58
Rosa Ann	69
Rosa Grande	63
Roysum	80
Santa Rosa	69
Simka, Arrosa, New Yorker	48
Standard	83
Tragedy	114
Wickson	51

(d) Plum Regulation 13 (42 FR 26646, 36231) is hereby terminated as of the effective date hereof.

(e) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 51.1520-1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

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

Dated, May 15, 1978, to become effective May 22, 1978.

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

[FR Doc. 78-13578 Filed 5-18-78; 8:45 am]

[3410-02]

[Amdt. 1]

PART 948—IRISH POTATOES GROWN IN COLORADO—AREA NO. 3

PART 980—VEGETABLES: IMPORT REGULATIONS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment suspends the maturity (skinning) requirements on fresh market shipments of potatoes grown in Colorado Area No. 3. At this late stage of the season immaturity is no longer a factor in the orderly marketing of these potatoes.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order No. 948, both as amended, regulate the handling of Potatoes grown in designated counties of Colorado Area No. 3. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made on May 11, 1978, by the Colorado Area No. 3 Potato Committee, which was established under the order and is responsible for its local administration. It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) this amendment must become effective immediately if producers are to derive maximum benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of potatoes grown in the production area.

The amendment is as follows:

§ 948.377 [Amended]

In § 948.377 (42 FR 38382) the requirements of paragraph (b) *Maturity (skinning)* are suspended from the effective date hereof through June 30, 1978, the termination date of this section.

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

Effective date. Dated May 5, 1978, to become effective May 15, 1978.

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

[FR Doc. 78-13580 Filed 5-18-78; 8:45 am]

[3410-02]

PART 953—POTATOES GROWN IN SOUTHEASTERN STATES

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of $11,125 and establishes a rate of assesssment of one-fourth cent per hundredweight of potatoes for the fuctioning of the Southeastern Potato Committee for the 12 month fiscal period ending May 31, 1979. The regulation enables the committee to collect assessments from first handlers on all assessable potatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended, regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice was published in the April 27, 1978, FEDERAL REGISTER (43 FR 17949) regarding the regulation. It afforded interested persons an opportunity to submit written comments not later than May 12, 1978. None was received.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular period shall apply to all assessable potatoes from the beginning of such period.

The regulation is as follows:

§ 953.215 Expenses and rate of assessment.

(a) The expenses the Secretary finds may be necessary to be incurred during the fiscal period June 1, 1978, through May 31, 1979, by the Southeastern Potato Committee for its maintenance and functioning amount to $11,125.

(b) The rate of assessment to be paid during this period by each handler under this part shall be one-fourth cent ($0.0025) per hundredweight of potatoes of which he is the first handler. However, potatoes for canning, freezing, and other processing shall be exempt. Also, the minimum quantity exemption of up to five hundredweight of potatoes that may be shipped per day by each handler shall be exempt.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meanings as when used in the said amended marketing agreement and this part.

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

Dated: May 15, 1978.

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

[FR Doc. 78-13579 Filed 5-18-78; 8:45 am]

[3410-02]

PART 953—IRISH POTATOES GROWN IN THE SOUTHEASTERN STATES

PART 980—VEGETABLES: IMPORT REGULATIONS

Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum grade and size requirements. The regulation should promote orderly marketing of such potatoes by keeping less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: June 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 104 and Order No. 953, both as amended (7 CFR Part 953), regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

Notice of rulemaking was published in the April 28, 1978, FEDERAL REGISTER (43 FR 18187). The notice afforded interested persons through May 12, 1978, to file written comments on the proposal. None was filed.

This regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Va., on April 13, 1978.

These grade and size requirements are the same as those issued for the production area during past seasons. They are necessary to prevent potatoes of poor grade or undesirable size from being distributed to fresh market outlets. The requirements will benefit consumers and producers by standard-

izing and improving the quality of the potatoes shipped from the production area.

Exceptions are provided when certain of these requirements would be inappropriate or unreasonable.

Shipments to certain special purpose outlets need not meet the grade, size, and inspection requirements, provided safeguards are met to prevent such potatoes from reaching unauthorized outlets. Livestock feed shipments are exempt because quality requirements for livestock differ from those for fresh market. Since no purpose would be served by regulating potatoes used for charity, such shipments also are exempt. Also, potatoes for most processing uses are exempt under the legislative authority for this part.

After consideration of all relevant matters, including the proposal in the notice, it is found that the following handling regulation will tend to effectuate the declared policy of the act by setting the minimum grade, size and inspection requirements which the Secretary has found should be maintained for orderly marketing.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date of June 5, 1978, (2) to maximize benefits to producers, the regulation should apply to as many shipments as possible during the marketing season, and (3) handlers under this part should be able to complete all preparations to comply with the regulation, which is similar to those of previous marketing seasons, by June 5, 1978.

The regulation is as follows:

§ 953.318 Handling regulation.

During the period June 5 through July 31, 1978, no person shall ship any potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d), or (e) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches (38.1 millimeters) minimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any potatoes unless the Federal-State Inspection Service has issued an appropriate inspection certificate covering them and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as defined under paragraph (f) of this section, livestock feed, or charity, except that the handler of the potatoes shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler shipping potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of his intent to ship potatoes for such a special purpose by applying on a committee form for a Certificate of Privilege;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on a committee form a special purpose shipment report for each such shipment; and

(4) Forward copies of each special purpose shipment report to the committee office and to the receiver with instructions to the receiver that he sign and return a copy to the committeee office. Failure of the handler or receiver to report all such shipments by promptly signing and returning each special purpose shipment report to the committee office shall be cause for suspension of the Certificate of Privilege allowing such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed five hundredweight of potatoes any day without regard to the inspection requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" means the same as when used in the U.S. Standards for Grades of Potatoes (7 CFR 2851.1540-2851.1566), including the tolerances set forth in it. The term "other processing" means the same as when used in the act as amended February 15, 1972 (Pub. L. 92-233), in which it is specified as the preparation of potatoes for market involving the application of heat or cold to such an extent that the natural form or stability of the potatoes is substantially changed. Certain uses this includes are potatoes for dehydration, chips, shoestrings, starch, and flour. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section have the same meanings as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

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

Dated: May 15, 1978, to become effective June 5, 1978.

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

[FR Doc. 78-13581 Filed 5-18-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.1]

PART 1861—ROUTINE

Subpart A—Account Servicing Policies

MISCELLANEOUS AMENDMENTS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations for reamortizing sections 502 and 504 Rural Housing loan accounts. The amendments result from the administrative need to provide separate regulations for different types of loan accounts. The intended effect of this action is to remove reamortization regulations for farm ownership (FO), recreation (RL), individual soil and water conservation (SW), and rural housing (RH) (other than sections 502 and 504) loan accounts from § 1861.9(e) and to provide for the use of a new form.

EFFECTIVE DATE: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Colon, phone 202-447-4808.

SUPPLEMENTARY INFORMATION: Sections 1861.9(e) and 1861.10(e)(2) of Subpart A of Part 1861, Chapter XVIII, Subchapter E, Title 7, Code of Federal Regulations are amended.

Section 1861.9(e) is amended to:

(1) Delete regulations for reamortization of FO, RL, and individual SW loan accounts.

(2) Delete regulations for reamortization of RH (other than sections 502 and 504 RH) loan accounts which are now in 7 CFR 1861.46.

(3) Revise the procedure for reamortizing sections 502 and 504 RH loan accounts by replacing Form FmHA 451-21, "Request for Reamortization of Real Estate Loans," with form FmHA 452-2, "Reamortization Agreement and/or Deferral Agreement."

Section 1861.10(e)(2) is amended to:

(1) Replace Form FmHA 451-21 with form FmHA 452-2 for reamortizing

the loan account at the expiration of the final moratorium period.

(2) Delete § 1861.10(e)(2)(i) of this section.

(3) Incorporate § 1861.10(e)(2)(ii) as a last sentence in this section.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the are internal administrative changes not requiring publication for proposed rulemaking. Accordingly, §§ 1861.9(e) and 1861.10(e)(2) read as follows:

§ 1861.9 Definitions and other information on FO, SW, ORE, RH, LH, and SCH accounts.

* * * * *

(e) *Reamortizing direct and insured sections 502 and 504 RH accounts.* Reamortizing is to extend loan payments to the maximum repayment period, or to rearrange the payments within the remaining years of the original repayment period.

(1) Sections 502 and 504 RH loan accounts may be reamortized:

(i) When the borrower has made extra payments or refunds both totaling 10 percent or more of the loan being reamortized and the County Supervisor determines that the borrower cannot reasonably be expected to meet the obligation unless the account is reamortized to substantially reduce the annual or monthly installments, or

(ii) At the expiration of the final moratorium period in accordance with § 1861.10(e), or

(iii) When a section 502 or 504 RH loan or an FO, individual SW, RL, or EM loan for real estate purposes is being made to a presently indebted section 502 or 504 RH borrower and the loan approval official determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized.

(2) To reamortize the account, the following actions will be taken:

(i) Form FmHA 452-2, "Reamortization Agreement and/or Deferral Agreement," will be completed in accordance with the Forms Manual Insert.

(ii) If the note or assumption agreement (new terms) being reamortized is not held in the County Office, the County Supervisor will obtain the promissory note and any assumption agreement from the Finance Office before processing the reamortization.

(iii) On the back of the original of the note or assumption agreement (new terms) being reamortized, below all signatures and endorsements, the County Supervisor, will insert the following:

"A reamortization agreement and/or deferral agreement dated ———— 19——, in the principal sum of $————, has been given to modify payment schedule of this note."

(iv) The end of the amortization period will be the final due date of the note being reamortized unless the due date is extended in accordance with § 1861.10(e).

(v) Interest rate for the account will be unchanged.

§ 1861.10 Moratorium on principal and interest payments on section 502 and 504 loans.

* * * * *

(e) *Action at the expiration of the final moratorium period.* * * *

(2) The County Supervisor, after a determination concerning the cancellation of interest has been made, will complete Form FmHA 452-2 if the account is to be reamortized or Form FmHA 451-37 if reamortization is not planned. If Form FmHA 451-37 is submitted to the Finance Office, the County Supervisor will appropriately change County Office records to reflect the amount of the new installments.

(7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.270.)

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

Dated: May 5, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13594 Filed 5-18-78; 8:45 am]

[3410-02]

[Lemon Reg. 145; Amdt. 1; Lemon Reg. 146]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period May 21-27, 1978, and increases the quanity of such lemons that may be so shipped during the period May 14-20, 1978. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situations confronting the lemon industry.

DATES: The regulation becomes effective May 21, 1978 and the amendment is effective for the period May 14-20, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on May 16, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deems advisable to be handled during the specified weeks. The committee reports the demand for lemons continues good.

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

§ 910.446 Lemon Regulation 146.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period May 21, 1978, through May 27, 1978, is established at 300,000 cartons.

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

Paragrah (a) of § 910.445 Lemon Regulation 145 (43 FR 20475) is amended to read as follows: "The quantity of lemons grown in Califor-

nia and Arizona which may be handled during the period May 14, 1978, through May 20, 1978, is established at 315,000 cartons."

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

Dated: May 17, 1978.

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

[FR Doc. 78-14121 Filed 5-18-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

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

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

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Change in Disease Status of Malta Because of African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document designates Malta as a country in which African swine fever, a contagious and infectious disease of swine, exists. Notice has been received that an outbreak of African swine fever has occurred in Malta. The intended effect of this amendment is to restrict the entry of pork and pork products from Malta in order to protect the livestock of the United States.

EFFECTIVE DATE: May 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. James D. Roswurm, USDA, APHIS, VS, Room 819, Federal Building, Hyattsville, Md. 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION: African swine fever is potentially the most dangerous and destructive of all communicable swine diseases. The causative virus of African swine fever is highly virulent and may be present in pork and pork products originating in countries where the disease exists. The only known practical method of destroying the contagion of the disease in pork and pork products is by heat treatment.

The Department has been informed that Malta has announced that African swine fever exists in that country. Therefore, this document amends the regulations (9 CFR 94.8) to designate Malta as a country in which African swine fever exists. This designation restricts the entry of pork and pork products from Malta to those pork and pork products which have been commercially sterilized by heat in hermetically sealed containers or which are allowed controlled entry into the United States for further processing by heat.

Accordingly, Part 94, Title 9, Code of Federal Regulations is hereby amended in the following respect:

§ 94.8 Pork and pork products from countries where African swine fever exists.

In 94.8, in the introductory paragraph, the name of Malta is added after the reference to "Italy."

(Sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); 37 FR 28464, 28477; 38 FR 19141.)

This amendment is of an emergency nature and must be made effective immediately to protect the livestock of the United States against the introduction of African swine fever from Malta, except with respect to intransit shipments of pork and pork products that are on board a carrier moving to the United States at the time of issuance hereof. Such intransit shipments shall, upon arrival in the United States, be allowed entry only under such specific requirements or be disposed of in such manner as the Administrator may determine in each specific case to be necessary and adequate to safeguard against the introduction or dissemination of African swine fever into the United States. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 12th day of May 1978.

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.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 78-13520 Filed 5-18-78; 8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the Nuclear Non-Proliferation Act of 1978 (NNPA), the Nuclear Regulatory Commission (NRC) has amended its export/import regulations (10 CFR Part 110). The amended regulations incorporate the new export criteria mandated by the NNPA to govern exports of nuclear facilities, source material and special nuclear material for peaceful nuclear uses. Consistent with the NNPA, the amended regulations would also provide for NRC export control authority over nuclear facility components and other nuclear items and substances having possible significance for nuclear explosive uses. Because the NNPA requires the Commission to promulgate regulations within a short time frame, the amendments are being made effective immediately. However, the Commission is soliciting public comments with a view to further amending Part 110 to incorporate public views if warranted.

DATES: Effective date: May 19, 1978. Comments should be submitted by July 8, 1978.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Joanna M. Becker, Esq., Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-7630, or Marvin R. Peterson, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 492-8155.

SUPPLEMENTARY INFORMATION: On February 17, 1978, NRC published at 43 FR 6915 a new Part 110 to Chapter 1, Title 10 of the Code of Federal Regulations, entitled "Export and Import of Nuclear Facilities and Materials." This part, which became effective on May 3, 1978, codified in one place NRC's export and import regula-

tions and contained special provisions for public participation in NRC's export and import licensing review process. Part 110 did not contain any major substantive revisions to the standards and procedures for granting or denying export license applications, since these areas were still undergoing consideration by the Congress, the Executive Branch, and NRC.

On March 10, 1978, the President signed the Nuclear Non-Proliferation Act of 1978 (NNPA), which specifically addresses export licensing procedures and criteria. The NNPA directs NRC to promulgate revised export control regulations incorporating the major portion of the Act's requirements by July 7, 1978, and new regulations covering physical security standards by May 9, 1978. NRC has chosen to promulgate both portions of its amended regulations simultaneously.

Although many sections of Part 110 are unchanged by the new amendments, both substantive and format changes are made in various parts of Part 110. It is therefore being republished in its entirety for the convenience of the public.

SUMMARY OF REGULATIONS

The major changes to Part 110 are summarized below in the order in which they appear:

1. § 110.1. The scope of Part 110 has been expanded to cover the additional material and equipment transferred to NRC's export control authority from the Department of Commerce pursuant to section 109 of the Atomic Energy Act and also to give NRC authority to license exports of the Department of Energy upon application by that Department. A new Appendix A has been added to provide the public with a detailed list of all equipment and material under NRC's export and import control authority. The statutory criterion for selecting "components," "items" and "substances" referenced in amended section 109 of the Atomic Energy Act for Commission licensing is that of "especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." The components, items and substances chosen are essentially those on the Nuclear Suppliers' Group and IAEA Zangger Committee trigger lists, thus reflecting an international consensus on items considered to be significant for nuclear explosive uses. To avoid problems associated with dual licensing authorities, agreement has also been reached with the Commerce Department that all specially designed components for nuclear reactors will be transferred to NRC's export control authority. This will enable exporters to apply to one agency for all proposed exports of nuclear reactor components.

2. § 110.2. New definitions have been added for deuterium, high and low-enriched uranium, nuclear equipment, nuclear-grade graphite, nuclear material, physical security and production facility. The "utilization facility" definition has been changed so that "utilization facility" now means either a complete nuclear reactor, a reactor pressure vessel, a primary coolant pump, a control rod or a nuclear fuel charging or discharging machine. These definition changes are primarily related to NRC's expanded export licensing authority. The new definition of "utilization facility" has the effect of bringing within that definition certain components "especially designed" for a utilization facility as permitted by section 11 cc of the Atomic Energy Act. The components chosen are deemed to be especially critical for the functioning of a utilization facility.

3. § 110.6. This section has been retitled "Retransfers" to conform with the language in the NNPA.

4. § 110.11. The exemption in § 110.11 for Department of Energy prime contractors has been deleted, as further review indicated no need for its inclusion. It has been replaced by a new exemption for imports of nuclear equipment, source material and byproduct material by licensees authorized to possess such equipment or material under another exemption or a specific or general license issued by the Commission or an Agreement State. Except for nuclear equipment, the import license exemptions were previously covered by the general license in § 110.25.

5. § 110.25 and § 110.26. These sections provide new general licenses for exports of small quantities of deuterium (including heavy water) and nuclear grade graphite.

6. Subpart E. This Subpart has been extensively revised and expanded to incorporate the new export criteria mandated by the NNPA and the related procedures pertaining to the review of export license applications. The new export criteria are listed in § 110.42.

Section 110.43 sets out the physical security standards, amplifying the new physical security criterion in § 110.42(a)(3). The physical security standard which will be used in acting upon applications for licenses to export facilities, special nuclear material and source material is specified as, at a minimum, protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225, Rev. 1. The measures recommended in that publication are international guidelines to which the United States subscribes, whose use is permitted by section 304(d) of the Nuclear Non-Proliferation Act of 1978. In the Commission's judgment such levels of physical security will provide adequate protection for the facilities and materials to which they must be applied as provided by section 127(3) of the Atomic Energy Act.

The Commission notes that, in evaluating whether the physical security program established by the recipient country meets the physical security standards of § 110.43, the staff will consider for Category I materials (see Appendix C to Part 110) the following essential elements, or their equivalent:

(i) Storage of materials in areas which provide penetration resistance and delay;

(ii) Protection of processing and storage areas with intrusion alarm system;

(iii) 24-hour armed security force (or an unarmed security force if a national or regional emergency plan has been established that will ensure immediate wide scale alert and response by armed policy or other government agencies);

(iv) Armed offsite forces capable of response;

(v) Independent duplicated transmission system for two-way voice communication;

(vi) Procedures to control access to and to provide continuing surveillance in material storage and processing areas;

(vii) Protection of transport by escorts or guards to be armed if armed emergency teams are not available for timely response to prevent attempted theft and facilitate recovery;

(viii) Transport in vehicles equipped with communications capable of calling for assistance from the local police or emergency team;

(ix) A program for determining trustworthiness of guards and individuals who have access to nuclear materials.

The Commission also notes that the staff will consider any potential threats to nuclear activities within the recipient country.

Section 110.44 sets out the basic statutory findings NRC must make before issuing an export or import license and provides for referral of export license applications to the President if NRC is unable to make the requisite findings.

7. § 110.51. This section has been revised to indicate that changes in the value of nuclear equipment authorized for export do not require a license amendment.

8. § 110.80. This section provides that the procedures in Part 110 will constitute the sole basis for hearings on export license applications. Those procedures have not been substantially changed except for the addition of criteria to be used in determining whether to grant leave to intervene or hold a hearing in export licensing proceedings mandated by section 304(b) of the NNPA as follows:

(1) Whether intervention or a hearing would be in the public interest and

(2) Whether intervention or a hearing would assist the Commission in

making the statutory determinations required by the Atomic Energy Act.

The Commission intends to develop a new general license for the export of nuclear equipment to approved nuclear facilities abroad. Section 110.21 has been reserved for such a general license, which would be the subject of a notice of proposed rule making to be published at a later date.

Other revisions of an editorial nature have been made to Part 110. Although revised Part 110 is effective immediately, the Commission and the Commerce Department have agreed that the transfer of export licensing responsibility for items currently licensed by the Commerce Department will take place July 8, which will permit a more orderly transfer of responsibilities and result in less disruption to licensee export activities. The items involved are those listed in Appendix A, paragraphs (a)(1) through (a)(9); paragraphs (b)(1) through (b)(7); paragraphs (c)(1) through (c)(6); and paragraphs (d), (e), (i), and (j). Applications for the export of the items covered by these paragraphs will be accepted by the Department of Commerce through July 7, 1978, after which license applications shall be submitted to NRC. Prospective applicants may obtain NRC export license application forms from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Because the NNPA mandates that the amendments required by that Act be promulgated within a time period that does not permit publication of a notice of proposed rule making and public procedure thereon, the Commission has found that such notice and public procedure are impracticable and that good cause exists for making revised Part 110 effective without the customary 30-day notice. The Commission invites all interested persons who desire to submit written comments or suggestions for consideration in connection with revised Part 110 to send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments should be submitted by July 8, 1978. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 as amended, the Nuclear Non-Proliferation Act of 1978 and Sections 552 and 553 of Title 5 of the United States Code, the revised Part 110 of Title 10, Chapter 1, Code of Federal Regulations is published as a document subject to codification.

Part 110 is revised to read as follows:

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110.5 License requirements.
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Subpart B—Exemptions

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Subpart C—General Licenses

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Subpart D—Applications for Specific Licenses

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Subpart K—Special Procedures for Classified Information in Hearings

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Subpart L—Rule Making

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APPENDIX A—List of nuclear equipment and material under NRC export/import licensing authority.

APPENDIX B—List of foreign facilities to which nuclear equipment may be exported pursuant to the general license in § 110.21 [Reserved].

APPENDIX C—Categorization of nuclear material.

AUTHORITY—Secs. 51, 53, 54, 62, 63, 64, 65, 81, 82, 103, 104, 109, 126, 127, 128, 129, 161, 181, 182, 183, 189, Pub. L. 83-703, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 954, 956; Pub. L. 88-489, 78 Stat. 603, 604; Pub. L. 91-560, 84 Stat. 1472; 70 Stat. 1070; Pub. L. 85-256, 71 Stat. 579; Pub. L. 87-615, 76 Stat. 409; Pub. L. 93-377, 88 Stat. 473, 475, Pub. L. 95-242, 92 Stat. 125, 126, 131-139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092-2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2154-2158, 2201, 2231-2233, 2239); Secs. 201, 206, Pub. L. 93-438, 88 Stat. 1242, 1246; Pub. L.

94-79, 89 Stat. 413-414 (42 U.S.C. 5841, 5842, 5846).

§ 110.51 also issued under Sec. 184, Pub. L. 83-703, 68 Stat. 954; Pub. L. 88-489, 78 Stat. 607 (42 U.S.C. 2234).

§ 110.52 also issued under Sec. 186, Pub. L. 83-703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of Sec. 223, Pub. L. 83-703, 68 Stat. 958, Pub. L. 90-190, 81 Stat. 578; Pub. L. 91-161, 83 Stat. 445 (42 U.S.C. 2273): §§ 110.50 and 119.120-110.126 also issued under Sec. 161i., Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201(i).

§ 110.53 also issued under Sec. 161o., Pub. L. 83-703, 68 Stat. 950, Pub. L. 85-507, 72 Stat. 337 (42 U.S.C. 2201(o)).

§§ 110-80-110.113 also issued under 5 U.S.C. 552, 554.

§§110.130-110.135 also issued under 5 U.S.C. 553.

Subpart A—General Provisions

§ 110.1 Purpose and scope.

(a) These regulations prescribe procedures and standards, pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974, as amended, for the export and import of nuclear equipment and nuclear material as set out in Appendix A.

(b) Except as provided in paragraph (c), the regulations in this part apply to all persons in the United States, including persons in Agreement States.

(c) These regulations do not apply to the export or import of nuclear equipment, material or technology by the Departments of Energy or Defense under the authority of sections 54, 57b., 64, 82, 91, and 144b. and 144c. of the Atomic Energy Act, as amended, except when the Department of Energy seeks an export license pursuant to section 111 of the Atomic Energy Act.

§ 110.2 Definitions.

As used in this part,

(a) "Agreement for cooperation" means any agreement with another nation or group of nations concluded under section 123 of the Atomic Energy Act, as amended.

(b) "Agreement State" means any State of the United States with which the Nuclear Regulatory Commission, or its predecessor, the Atomic Energy Commission, has entered into an agreement under section 274b. of the Atomic Energy Act, as amended.

(c) "Atomic Energy Act" means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011).

(d) "Byproduct material" means radioactive material (except special nuclear material) produced by exposure to the radiation incident to the process of producing or using special nuclear material.

(e) "Classified information" means National Security Information classified pursuant to Executive Order No. 11652 or any superseding order.

(f) "Commission" means the United States Nuclear Regulatory Commission or its duly authorized representatives.

(g) "Common defense and security" means the common defense and security of the United States.

(h) "Depleted uranium" means uranium in which the isotope uranium-235 is less than 0.711 percent by weight of the total uranium present.

(i) "Deuterium" means deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

(j) "Effective kilograms of special nuclear material" means:

(1) For plutonium and uranium-233, their weight in kilograms;

(2) For uranium enriched 1 percent or greater in the isotope U-235, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium enriched below 1 percent in the isotope U-235, its element weight in kilograms multiplied by 0.0001.

(k) "Energy Reorganization Act" means the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5801).

(l) "Executive Branch" means the Departments of State, Energy, Defense and Commerce and the Arms Control and Disarmament Agency.

(m) "Export" means export from the United States.

(n) "general license" means an export or import license effective without the filing of a specific application with the Commission or the issuance of licensing documents to a particular person.

(o) "Government agency" means any Federal department, commission, independent establishment, or corporation, wholly or partly owned by the United States and which is an instrumentality of the United States.

(p) "High-enriched uranium" means uranium enriched to 20 percent or greater in the isotope uranium-235.

(q) "Import" means import into the United States.

(r) The phrase "introduced into a hearing" means the introduction or incorporation of testimony or documentary matter into the record of a hearing.

(s) "License" means a general or specific export or import license issued pursuant to this part.

(t) "Licensee" means a person authorized by a specific or a general license to export or import nuclear equipment or material pursuant to this part.

(u) "Low-enriched uranium" means uranium enriched below 20 percent in the isotope uranium-235.

(v) "Non-nuclear weapon State" means any State not a nuclear weapon State as defined in the Treaty on the Non-Proliferation of Nuclear Weapons. "Nuclear weapon State" means any State which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to January 1, 1967.

(w) "Non-Proliferation Act" means the Nuclear Non-Proliferation Act of 1978 (Pub. L. 95-242).

(x) "NRC records" means any documentary material made by, in the possession of, or under the control of the Commission under Federal law or in connection with the transaction of public business as evidence of any of the Commission's activities.

(y) "Nuclear equipment" means production facilities, utilization facilities, deuterium production plants, nuclear reactor fuel fabrication plants and specially designed or prepared equipment, parts and components for such facilities or plants as specified in paragraphs a. through e. of Appendix A.

(z) "Nuclear grade graphite" means graphite with a boron content of less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

(aa) "Nuclear material" means special nuclear material, source material, byproduct material, deuterium and nuclear grade graphite.

(bb) "Nuclear reactor" means an apparatus, other than an atomic weapon or nuclear explosive device, designed or used to sustain nuclear fission in a self-supporting chain reaction.

(cc) "Packaging" means one or more receptacles and wrappers and their contents, excluding any special nuclear material, source material or byproduct material, but including absorbent material, spacing structures, thermal insulation, radiation shielding, devices for cooling and for absorbing mechanical shock, external fittings, neutron moderators, nonfissile neutron absorbers and other supplementary equipment.

(dd) "Participant" means a person, identified in a hearing notice or other Commission order, who takes part in a hearing conducted by the Commission under this part, including any person to whom the Commission grants a hearing or leave to intervene in an export or import licensing hearing, either as a matter of right or as a matter of discretion.

(ee) "Person" means any individual, corporation, partnership, firm, association, trust, estate, institution, group, Government agency other than the Commission; any State or political entity within a State; any foreign government or political entity of such government; and any authorized representative of the foregoing.

(ff) "Physical security" means measures to reasonably ensure that source or special nuclear material will only be used for authorized purposes and to prevent theft or sabotage.

(gg) "Production facility" means any nuclear reactor or plant specially designed or used to produce special nuclear material through the irradiation of source material or special nuclear material, the separation of isotopes or the chemical reprocessing of irradiated source or special nuclear material.

(hh) "Public Document Room" means the place at 1717 H Street NW., Washington, D.C., where public records of the Commission are ordinarily available for inspection.

(ii) "Public health and safety" means the public health and safety of the United States.

(jj) "Retransfer" means the transport from one foreign country to another of nuclear equipment or nuclear material previously exported from the United States, or of special nuclear material produced through the use of source material or special nuclear material previously exported from the United States.

(kk) "Sealed source" means any special nuclear material or byproduct material encased in a capsule designed to prevent leakage or escape of that nuclear material.

(ll) "Secretary" means the Secretary of the Commission.

(mm) "Source material" means:

(1) Uranium or thorium, other than special nuclear material; or

(2) Ores which contain by weight 0.05 percent or more of uranium or thorium, or any combination of these.

(nn) "Special nuclear material" means plutonium, uranium-233 or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

(oo) "Specific license" means an export or import license issued to a named person upon an application filed pursuant to this part.

(pp) "Transfer" means the transfer of possession from one person to another person.

(qq) "Transport" means the physical movement of material from one location to another.

(rr) "United States", when used in a geographical sense, includes all territories and possessions of the United States, the Canal Zone, and Puerto Rico.

(ss) "Utilization facility" means any nuclear reactor, other than one that is a production facility, and the following major components of a nuclear reactor:

(1) Pressure vessels designed to contain the core of a nuclear reactor;

(2) Primary coolant pumps;

(3) Fuel charging or discharging machines; and

(4) Control rods.

A utilization facility does not include the steam turbine generator portion of a nuclear power plant.

§ 110.3 Interpretations.

Except as authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part other than a written interpretation by the Commission's General Counsel is binding upon the Commission.

§ 110.4 Communications.

Unless otherwise specified in this part, all communications concerning this part should be addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C., or 7735 Old Georgetown Road, Bethesda, Md.

§ 110.5 License requirements.

Except as provided in Subpart B, no person may export or import any nuclear equipment or nuclear material other than as authorized by a specific or general license issued pursuant to this part.

§ 110.6 Retransfers.

(a) No person may retransfer any nuclear equipment or nuclear material unless:

(1) At the time of the original export, the equipment or material could have been exported to the new country of ultimate destination under an exemption from licensing requirements pursuant to Subpart B or a general license pursuant to Subpart C; or

(2) The retransfer has been specifically authorized by the Department of Energy in response to a request submitted by the original license applicant or by the foreign consignee or government.

(b) Requests for authority to retransfer shall be sent to the Department of Energy, Office of Nuclear Affairs, International Programs, Washington, D.C. 20545.

Subpart B—Exemptions

§ 110.10 General provisions.

(a) *Specific exemptions.* Upon application by any person or upon its own initiative, the Commission may grant an exemption from the regulations in this part, if it determines that the exemption is authorized by law, is not inimical to the common defense and security and does not constitute an unreasonable risk to the public health and safety.

(b) *Exemptions from licensing requirements.*[1] Exemptions from licensing requirements pursuant to sections 57d, 62 and 81 of the Atomic Energy Act will be granted only after coordination with the Executive Branch and after completion of rulemaking proceedings pursuant to Subpart L of this part.

[1]The granting of an exemption does not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.11 Import of nuclear equipment, source material and byproduct material.

Any person is exempt from the requirements for an import license to the extent that he imports any nuclear equipment, source material or byproduct material which he is authorized to possess under an exemption from licensing requirements or a specific or general license issued by the Commission or an Agreement State.

§ 110.12 Intergovernmental cooperative activities.

Government agencies are exempt from the requirements of section 53 of the Atomic Energy Act and from the regulations in this part to the extent that they export, at any one time, up to 3 grams of any type of special nuclear material for use in activities authorized by an intergovernmental cooperative agreement between the United States and a foreign nation, group of nations or international organization. The exporting government agency shall notify the Commission of the destination and purpose of such exempted exports.

§ 110.13 Export of byproduct material.

Any person is exempt from the requirements of section 81 of the Atomic Energy Act and from the regulations in this part to the extent that such person exports the following:

(a) Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

(1) 25 millicuries of tritium per timepiece;

(2) 5 millicuries of tritium per hand;

(3) 15 millicuries of tritium per dial (bezels will be considered as part of dial);

(4) 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

(5) 20 microcuries of promethium-147 per watch hand or 40 microcuries of promethium-147 per other timepiece hand;

(6) 60 microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels will be considered as part of the dial);

(7) The levels of radiation from hands and dials containing promethium-147, when measured through 50 milligrams per square centimeter of absorber, will not exceed 0.1 millirad per hour at 10 centimeters from any surface for wrist watches; 0.1 millirad per hour at 1 centimeter from any sur-

face for pocket watches; and 0.2 millirad per hour at 10 centimeters from any surface for any other timepiece;

(b) Lock illuminators containing not more than 15 millicuries of tritium or not more than 2 millicuries of promethium-147 installed in automobile locks. The levels of radiation from each lock illuminator containing promethium-147 will not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 50 milligrams per square centimeter of absorber;

(c) Precision balances containing not more than 1 millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part;

(d) Automobile shift quadrants containing not more than 25 millicuries of tritium;

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas;

(f) Thermostat dials and pointers containing not more than 25 millicuries of tritium per thermostat;

(g) Electron tubes,[2] provided that no tube has a level of radiation exceeding 1 millirad per hour at 1 centimeter from any surface, when measured through 7 milligrams per square centimeter of absorber, and that no tube contains more than one of the following specilfied quantities of byproduct material:

(1) 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

(2) 1 microcurie of cobalt-60;

(3) 5 microcuries of nickel-63;

(4) 30 microcuries of krypton-85;

(5) 5 microcuries of cesium-137; or

(6) 30 microcuries of promethium-147; and

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, byproduct material not exceeding the applicable quantity set forth in § 30.71, Schedule B, of this chapter;

(i) Synthetic plastic resins containing scandium-46 which are designed for sand-consolidation in oil wells and which have been manufactured or initially transferred in accordance with a specific license issued pursuant to § 32.17 of this chapter or equivalent regulations of an Agreement State;

(j) Tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.22 of this chapter, provided that the tritium, krypton-85 or promethium-147 is not used in products primarily for frivolous purposes or in toys or adornments;

(k) Byproduct material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards and manufactured, processed, produced or initially transferred in accordance with a specific license issued pursuant to § 32.26 of this chapter; or

(l) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

[2]For purposes of this paragraph, "electron tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pickup tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

Subpart C—General Licenses

§ 110.20 General.

(a) In response to a petition or upon its own initiative, the Commission may issue a general license for the export or import of any nuclear equipment or material provided it determines that any exports or imports made pursuant to the general license will not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety.

(b) General licenses will be issued only after coordination with the Executive Branch and after completion of rule making proceedings pursuant to Subpart L of this part.

(c) General licenses do not relieve any person from complying with the regulations of other Government agencies applicable to exports or imports under their authority.

§ 110.21 Export of nuclear equipment. [Reserved]

§ 110.22 Export of special nuclear material. [Reserved]

§ 110.23 Export of source material.

The following general licenses are hereby issued authorized any person to export:

(a) At any one time, up to 1 kilogram of source material to any country, except Southern Rhodesia or countries listed in § 110.27, provided that no more than 100 kilograms per year may be exported by any one person to any one country.

(b) Thorium in incandescent gas mantles to any country, except Southern Rhodesia or countries listed in § 110.27.

(c) Depleted uranium in the form of counterweights installed in aircraft, rockets, projectiles or missiles to any country, except Southern Rhodesia or countries listed in § 110.27, provided that such counterweights have been manufactured under a specific license issued by the Commission or the Atomic Energy Commission and have been impressed with the following statement, clearly legible after plating: "Depleted Uranium".

(d) Thorium contained in finished aircraft engine parts containing nickel-thoria alloy to any country, except Southern Rhodesia or countries listed in § 110.27, provided that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators or packaging for the transportation of radioactive materials, in quantities up to 1,000 kilograms per shipment to any country, except Southern Rhodesia or countries listed in § 110.27.

(f) Depleted uranium when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, to Southern Rhodesia, to the extent that such devices are for use in medical diagnosis or therapy.

(g) Uranium or thorium in any chemical mixture, compound, solution or alloy in which the uranium or thorium is by weight less than 0.05 percent, to any country, except Cambodia, Cuba, North Korea, Southern Rhodesia or Vietnam.

§ 110.24 Export of byproduct material.

The following general licenses are hereby issued authorizing any person to export:

(a) The following to any country, except Southern Rhodesia or countries listed in § 110.27:

(1) Byproduct material having an atomic number from 3 to 83, inclusive; or

(2) Tritium contained in luminous safety devices installed in aircraft as generally licensed items pursuant to § 31.7 of this chapter.

(b) Byproduct material having an atomic number from 3 to 83, inclusive, to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(c) 5,000 curies of tritium and 5,000 curies of polonium-210 in a calendar quarter to any country, except Southern Rhodesia, Poland, or Rumania or countries listed in § 110.27, provided that no more than 1,000 curies of tritium may be exported by any person to any one country in a calendar quarter; that no more than 100 curies of tritium may be exported by any person in a single shipment under this

general license; and that the material is in one or more of the following forms or products:

(1) Tritium activitated luminous paint;

(2) Tritium labeled organic compounds;

(3) Tritiated accelerator targets;

(4) Polonium-210 static eliminators;

(5) Polonium-210 neutron sources;

(6) Tritium or Polonium-210 calibration standards;

(7) Luminescent light sources;

(8) Tritium sources for chromatography instruments;

(9) Electron tubes; or

(10) Tritium as a contaminant of helium-3 in a concentration not to exceed 2.5 millicuries of tritium per liter of helium-3.

(d) Byproduct material as specified in paragraph (c) to Southern Rhodesia, to the extent that the byproduct material is contained in medicinals or pharmaceutical preparations or in devices, applicators, or appliances designed for use in medical diagnosis or therapy.

(e) Americium-241 to any country, except Southern Rhodesia, Poland, Rumania or countries listed in § 110.27.

(f) Byproduct material having an atomic number from 3 to 83, inclusive, in labeled organic or inorganic compounds, in quantities up to 1 curie per shipment, to any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

(g) Tritium in labeled organic compounds in quantities up to 100 curies per shipment, to Rumania, Poland, and any country listed in § 110.27, except North Korea, Vietnam, Cambodia, Cuba, and Southern Rhodesia.

§110.25 Export of deuterium.

A general license is hereby issued authorizing any person to export at any one time up to 100 liters of deuterium at standard temperature and pressure (90 grams of heavy water) to any country, except Southern Rhodesia or countries listed in § 110.27.

§ 110.26 Export of nuclear grade graphite.

A general license is hereby issued authorizing any person to export at any one time up to 100 kilograms of nuclear grade graphite to any country, except Southern Rhodesia or countries listed in §110.27, provided that no more than 2,000 kilograms per year may be exported by any one person to any one country.

§ 110.27 Restricted destinations.

(a) Albania, (b) Bulgaria, (c) Cambodia, (d) Cuba, (e) Czechoslovakia, (f) Estonia, (g) German Democratic Republic (including East Berlin), (h) Hungary, (i) Laos, (j) Latvia, (k) Lithuania, (l) North Korea, (m) Outer Mongolia, (n) Peoples Republic of China, (o) Union of Soviet Socialist Republics, and (p) Vietnam.

Subpart D–Applications for Specific Licenses

§ 110.30 Filing a license application.

(a) A license application shall be filed with the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or delivered in person to the Commission's offices at 1717 H Street NW., Washington, D.C. or 7735 Old Georgetown Road, Bethesda, Md.

(b) Except for production or utilization facilities, export license applications should be filed on form NRC-7.

(c) An application for a license to export a production or utilization facility or to import nuclear equipment or nuclear material should be filed by letter.

(d) An applicant may file a consolidated license application involving two or more proposed exports of similar equipment or material destined for the same country, provided all the exports will be made within 2 years, or other time period as approved by the Commission, and under reasonably similar circumstances.

(e) If an import license application involves equipment or material which is intended for subsequent export, the applicant may simultaneously apply for the appropriate export license. The issuance of an import license does not imply approval of a subsequent export.

(f) Information contained in a previous application may be incorporated by reference.

§ 110.31 General requirements for an export license application.

Each application for an export license shall state:

(a) Name and U.S. address of applicant;

(b) Name and address of supplier of equipment or material, if different from the applicant;

(c) Name and address of ultimate consignee(s);

(d) Name and address of intermediate consignee(s);

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

(g) Contractual delivery dates, if established;

(h) Proposed expiration date of export license; and

(i) End-use of material or equipment by all consignees, intermediate and ultimate, with sufficient detail to permit accurate evaluation of the justification for the proposed export.

§ 110.32 Additional requirements for a nuclear equipment export license application.

An application for a license to export nuclear equipment shall state the following, in addition to the general information specified in § 110.31:

(a) General description of the equipment;

(b) For nuclear reactors, the design power level in thermal or electrical watts.

(c) Name of installation, if known, in which the equipment is to be used;

(d) Location where the equipment is to be used;

(e) Date when equipment is needed abroad;

(f) Total dollar value of all items to be exported under the requested license; and

(g) A list of the items proposed to be exported. Such list need only identify the items by the categories listed in paragraphs a. through e. of appendix A.

§ 110.33 Additional requirements for a nuclear material export license application.

Each application for a license to export nuclear material shall state the following, in addition to the general requirements in § 110.31:

(a) The applicable contract number, if known, of any material supplied under a Department of Energy enrichment, lease, or sale contract;

(b) Where materials are intended for use in production or utilization facility, estimated date of first use, by ultimate or intermediate consignee;

(c) Chemical and physical form, including, for enriched uranium, the weight percentage of isotopic enrichment, and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(d) Quantity in grams or kilograms (curies for byproduct material) of: (1) the material in the form exported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium; and

(e) If know, the country of origin of source and special nuclear material including the country where any special nuclear material was produced.

§ 110.34 Requirements for an import license application.

Each application for an import license shall state:

(a) Name and U.S. address of applicant;

(b) Country and installation from which the nuclear equipment or material is being imported;

(c) Name and address of supplier of the nuclear equipment or material;

(d) Destination and ultimate use of the nuclear equipment or material;

(e) Date of proposed first shipment;

(f) Date of proposed completion of final shipment;

(g) Chemical and physical form of nuclear material, including, for enriched uranium, the weight percentage of enrichment and, for plutonium, the sum of the percentages of Pu-239 content and Pu-241 content;

(h) Quantity in grams or kilograms of: (1) the nuclear material in the form imported, (2) any contained uranium or plutonium, and (3) the contained U-235 in enriched uranium;

(i) Mode of transport of nuclear material and package identification (including IAEA Certificate of Competent Authority number); and

(j) If known, the country of origin of nuclear material including the country where any special nuclear material was produced.

110.35 Further information from a license applicant.

(a) The Commission may require further information from the license applicant if necessary to complete review of the application.

(b) Each applicant shall file an amendment to his license application whenever there is any substantive change in the information described in his application.

§ 110.36 Withdrawal of a license application.

(a) An applicant may withdraw his application at any time.

(b) An applicant shall withdraw an application when it is superseded by a new application or when he no longer intends to use his license if issued.

(c) The withdrawal of a license application does not authorize the removal of any NRC record from Commission files.

Subpart E—Review of License Applications

§ 110.40 Commission review.

(a) Immediately after receipt of a license application, the Commission will initiate its licensing review and, to the maximum extent feasible, will expeditiously process the application concurrently with review by the Executive Branch.

(b) License applications for export of the following will be reviewed by the Commissioners:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material, except for routine export license applications for reloads of low-enriched uranium fuel for use in power reactors with respect to which a previous export license to receive fuel has been issued;

(3) 10,000 kilograms or more of source material;

(4) 1,000 kilograms or more of heavy water or nuclear grade graphite;

(5) Any other license application determined by the staff or any Commissioner to warrant review by the Commission.

(c) If the Commission has not completed action on a license application within 60 days after receipt of the Executive Branch judgment, as provided for in § 110.41, or the license application when an Executive Branch judgment is not required, it will inform the applicant in writing of the reason for delay and, as appropriate, provide followup reports.

§ 110.41 Executive Branch review.

(a) Except as provided in paragraph (d), the Commission will promptly forward a properly completed export license application to the Executive Branch.

(b) The Executive Branch will be requested to:

(1) Provide its judgment as to whether the proposed export would be inimical to the common defense and security, along with supporting rationale and information.

(2) Where applicable, confirm that the proposed export would be under the terms of an agreement for cooperation; and

(3) Address the extent to which the export criteria in section 110.42 are met, if applicable, and the extent to which the recipient country or group of countries has adhered to the provisions of any applicable agreement for cooperation.

(c) The Commission may request the Executive Branch to address specific concerns and provide additional data and recommendations as necessary.

(d) The Executive Branch has informed the Commission that exports of nuclear equipment and nuclear material in the following categories would not be inimical to the common defense and security because they lack significance for nuclear explosive purposes and will not normally be reviewed by the Executive Branch:

(1) Byproduct material: all types and quantities, except tritium in quantities exceeding 100 curies;

(2) Source material: all exports for non-nuclear end-uses, and exports of less than 250 kilograms for nuclear end uses.

(3) Low-enriched uranium: all exports of 1 kilogram or less of contained U-235;

(4) High-enriched uranium: 0.040 effective kilograms or less;

(5) Plutonium and U-233: 10 grams or less;

(6) Deuterium: 1,000 liters or less (900 grams or less of heavy water);

(7) Nuclear grade graphite: 100 kilograms or less.

(8) Nuclear equipment: all exports with a value under $10,000.

This paragraph does not apply to exports with end-uses related to isotope separation, chemical reprocessing, heavy water production, plutonium handling, advanced reactors and initial export of nuclear equipment to foreign nuclear reactors, and is subject to other limitations which the Executive Branch or the Commission may, from time to time, deem necessary.

§ 110.42 Export licensing criteria.

(a) The review of specific license applications for the export for peaceful nuclear uses of production or utilization facilities, special nuclear material and source material will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will be applied with respect to any such facilities or material proposed to be exported, to any such material or facilities previously exported and subject to the applicable agreement for cooperation, and to any special nuclear material used in or produced through the use thereof;

(2) No such facilities or material proposed to be exported or previously exported and subject to the applicable agreement for cooperation, and no special nuclear material produced through the use of such facilities or material, will be used for any nuclear explosive device or for research on or development of any nuclear explosive device;

(3) Adequate physical security measures will be maintained with respect to such facilities or material proposed to be exported and to any special nuclear material used in or produced through the use thereof. Physical security measures will be deemed adequate if such measures provide a level of protection equivalent to that set forth in § 110.423;

(4) No such facilities or material proposed to be exported, and no special nuclear material produced through the use of such material, will be retransferred to the jurisdiction of any other country or group of countries unless the prior approval of the United States is obtained for such retransfer;

(5) No such material proposed to be exported and no special nuclear material produced through the use of such material will be reprocessed, and no irradiated fuel elements containing such material removed from a reactor will be altered in form or content, unless the prior approval of the United States is obtained for such reprocessing or alteration; and

(6) With respect to exports of such facilities or material to non-nuclear weapon states, for which the export license application is filed after September 10, 1979, or which will occur after March 10, 1980, IAEA safeguards will be maintained with respect to all peaceful nuclear activities in, under the jurisdiction of, or carried out under the control of such state at the

time of the export. This criterion will not be applied if the Commission has been notified by the President in writing that failure to approve an export because this criterion has not been met would be seriously prejudicial to the achievement of United States nonproliferation objectives or otherwise jeopardize the common defense and security, in which case the provisions of section 128 of the Atomic Energy Act regarding Congressional review will apply.

(b) The review of license applications for the export of nuclear equipment, other than a production or utilization facility, and for the export of deuterium and nuclear grade graphite will be governed by the following criteria:

(1) IAEA safeguards as required by Article III(2) of the NPT will be applied with respect to such equipment or material;

(2) No such equipment or material will be used for any nuclear explosive device or for research on or development of any nuclear explosive device; and

(3) No such equipment or material will be retransferred without the prior approval of the United States.

§ 110.43 Physical security standards.

(a) Commission determinations on the adequacy of physical security programs in recipient countries for Category I quantities of nuclear material (see Appendix C) will be based upon:

(1) Review of the physical security program established by the recipient country and of the implementation of the national requirements as considered through country visits and other information exchanges to ensure that the physical security measures provide as a minimum protection comparable to that set forth in International Atomic Energy Agency publication INFCIRC/225/Rev. 1 entitled "The Physical Protection of Nuclear Material" (INFCIRC/225), which is incorporated by reference in this part.[3]

(2) Written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(3) The Commission's determinations may be based upon a country-wide finding rather than upon case-by-case analysis. The Commission will reexamine a determination whenever there are changed circumstances within a country that might reduce the effectiveness of its physical security program.

(b) Commission determinations on the adequacy of physical security programs in recipient countries for Category II and III quantities of material will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

(c) Commission determinations on the adequacy of physical security programs in recipient countries for exported facilities will be made in accordance with the categories of material in use or in storage at the exported facilities and will be based on available relevant information and written assurances from the recipient country or group of countries that physical security measures providing as a minimum protection comparable to that set forth in INFCIRC/225 will be maintained.

§ 110.44 Issuance or denial of licenses.

(a) The Commission will issue an export license if it has been notified by the State Department that it is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security, and;

(1) Finds, based upon a reasonable judgment of the assurances provided and other information available to the Federal Government, that:

(i) The applicable criteria in § 110.42, or their equivalent, are met, provided that failure to meet the provisions of § 110.42(a)(4) and (5) shall not prevent continued cooperation under an agreement for cooperation concluded pursuant to section 124 of the Atomic Energy Act if the Secretary of State notifies the Commission that the affected country or group of countries has agreed to negotiations as called for in section 404(a) of the Non-Proliferation Act and, if after March 10, 1980, that the President has provided an additional exemption pursuant to section 126a of the Atomic Energy Act;

(ii) The proposed export would not be inimical to the common defense and security or constitute an unreasonable risk to the public health and safety; and

(iii) Any proposed export of a production or utilization facility or special nuclear material would be under the terms of an agreement for cooperation; or,

(2) Finds that there are no material changed circumstances associated with an export license application from those existing at the time of issuance of a prior license to the same country, if the prior license was issued pursuant to the other procedures in this part.

(b) If, after receiving the Executive Branch judgment that the issuance of a proposed export license will not be inimical to the common defense and security, the Commission does not issue the proposed license on a timely basis because it is unable to make the statutory determinations required under the Atomic Energy Act, the Commission will publicly issue a decision to that effect, and will submit the license application to the President. The Commission's decision will include an explanation of the basis for the decision and any dissenting or separate views.

(c) After receipt of an Executive Branch judgment which does not recommend approval, the Commission may deny or return without action the applicable license application. The applicant will be notified in writing of the reason for denial or proposed denial, or the reason the application is being returned without action.

(d) The Commission will issue an import license if it determines that the proposed import would not be inimical to the common defense and security or constitute and unreasonable risk to the public health and safety.

§ 110.45 Conduct resulting in termination of nuclear exports.

(a) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any non-nuclear weapon state that is found by the President to have, after March 10, 1978:

(1) Detonated a nuclear explosive device;

(2) Terminated or abrogated IAEA safeguards;

(3) Materially violated an IAEA safeguards agreement; or

(4) Engaged in activities involving source or special nuclear material and having direct significance for the manufacture or acquisition of nuclear explosive devices, and failed to take steps which represent sufficient progress toward terminating such activities.

(b) Except as provided in paragraph (c), no license will be issued to export nuclear equipment or material to any country or group of countries that is found by the President to have, after March 10, 1978:

(1) Materially violated an agreement for cooperation with the United States or the terms of any other agreement under which nuclear equipment or material has been exported;

(2) Assisted, encouraged or induced any non-nuclear weapon state to engage in activities involving source or special nuclear material and having direct significance for the manufacture or acquistion of nuclear explosive devices, and failed to take steps which represent sufficient progress toward

[3] This incorporation by reference was approved by the Director of the Federal Register on May 3, 1978. Copies of INFCIRC/225 may be obtained from the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and are available for inspection in the Commission Public Document Room. A copy is on file in the library of the Federal Register.

terminating such assistance, encouragement or inducement; or

(3) Entered into an agreement for the transfer of reprocessing equipment, materials or technology to the sovereign control of a non-nuclear weapon state, except in connection with an international fuel cycle evaluation in which the United States is a participant or pursuant to an international agreement or understanding to which the United States subscribes.

(c) If, pursuant to section 129 of the Atomic Energy Act, the President waives the requirement for the termination of exports to a country described in paragraph (a) or (b) after determining in writing that the cessation of exports would seriously prejudice the achievement of United States non-proliferation objectives or otherwise jeopardize the common defense and security, the Commission may issue licenses if other applicable statutory provisions are met.

Subpart F—License Terms and Related Provisions

§ 110.50 Terms.

(a) General and specific licenses.

(1) Each license is subject to all applicable provisions of the Atomic Energy Act and to all applicable rules, regulations, decisions and orders of the Commission.

(2) Each license is subject to amendment, suspension, revocation or incorporation of separate conditions when required by amendments of the Atomic Energy Act or other applicable law, or by other rules, regulations, decisions or orders issued in accordance with the terms of the Atomic Energy Act or other applicable law.

(3) Each license authorizes export or import only and does not authorize any person to receive title to, acquire, receive, possess, deliver, use or transfer nuclear equipment or material.

(4) Each nuclear material license authorizes the export or import of only the nuclear material and accompanying packaging and fuel element hardware.

(5) No nuclear equipment license confers authority to export or import nuclear material.

(6) Each nuclear equipment export license authorizes the export of only those items required for use in the foreign nuclear installation for which the items are intended.

(7) A licensee shall not proceed to export or import and shall notify the Commission promptly if he knows or has reason to believe that the packaging requirements of Part 71 of this chapter have not been met.

(b) Specific licenses. (1) Each specific license will have an expiration date.

(2) A licensee may export or import only for the purpose stated in his license application, except when any nuclear equipment exported pursuant to his license is scrapped or otherwise rendered unsuitable for any nuclear related end use.

(3) A licensee shall promptly return any license which is completed, expired, revoked or unused (or partially used and not intended to be used further) to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) A licensee authorized to export or import special nuclear material is responsible for compliance with the physical protection requirements of Part 73 of this chapter, unless a domestic licensee of the Commission has assumed that responsibility and the Commission has been so notified.

(6) A license may be transferred, assigned or disposed of to another person only with the approval of the Commission by license amendment.

§ 110.51 Amendment and renewal of licenses.

(a) A licensee may submit a request to renew his license or to amend any part of his license, except that changes in the value of nuclear equipment already authorized for export do not require a license amendment.

(b) If a licensee submits a renewal request at least 30 days prior to the license's scheduled expiration date, the license will remain valid until the Commission has acted on his request.

(c) The Commission will review requests for amendments using, as appropriate, the same procedures and standards as for original license applications.

§ 110.52 Revocation, suspension, and modification.

(a) A license may be revoked, suspended, or modified for a condition which would warrant denial of the original license application.

(b) The Commission may require further information from a licensee to determine whether a license should be revoked, suspended, or modified.

(c) Except when the common defense and security or public health and safety requires otherwise, no license will be revoked, suspended, or modified before the licensee is informed in writing of the grounds for such action and afforded the opportunity to reply and be heard under procedures patterned on those in subpart J.

§ 110.53 United States address, records, and inspections.

(a) Each licensee shall have an office in the United States where papers may be served and where records required by the Commission will be maintained.

(b) Each licensee shall maintain records concerning his exports or imports for 5 years after each export or import, except that by product material records shall be maintained for 2 years.

(c) Each licensee shall permit the Commission to inspect his records, premises, and activities pertaining to his exports and imports when necessary to fulfill the requirements of the Atomic Energy Act.

Subpart G—Violations and Enforcement

§ 110.60 Violations.

(a) A licensee who violates a provision of the Atomic Energy act or title II of the Energy Reorganization Act or of any rule, regulation, license, or order promulgated under these Acts may be guilty of a crime, and, upon conviction, may be punished by fine and imprisonment as provided by law;

(b) An injuction or other court order may be obtained to prohibit any such violation.

(c) A court order may be obtained for payment of a civil penalty imposed pursuant to section 234 of the Atomic Energy Act.

(d) A violation may result in the revocation, suspension, or modification of a license.

§ 110.61 Notice of violation.

(a) Before instituting any enforcement action the Commission will serve on the licensee written notice of violation, except as provided in paragraph (d).

(b) The notice will state the alleged violation; require the licensee to respond in writing, within 20 days or other specified time; and may also require the licensee to state the corrective steps taken or to be taken and the date when full compliance will be achieved.

(c) The notice may provide that, if an adequate and timely reply is not received, an order to show cause may be issued pursuant to § 110.62 or a proceeding instituted to impose a civil penalty pursuant to § 110.64.

(d) The notice may be omitted and an order to show cause issued when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.62 Order to show cause.

(a) In response to an alleged violation, described in § 110.60, the Commission may institute a proceeding to revoke, suspend, or modify a license by issuing an order to show cause:

(1) Stating the alleged violation and proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) An answer consenting to the proposed enforcement action shall consti-

tute a waiver by the licensee of a hearing and of all rights to seek further Commission or judicial review.

(c) The order to show cause may be omitted and an order issued to revoke, suspend, or modify the license in cases where the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.63 Order for revocation, suspension, or modification.

(a) In response to an alleged violation described in § 110.60, the Commission may revoke, suspend, or modify a license by issuing an order:

(1) Stating the violation and the effective date of the proposed enforcement action; and

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer and demand a hearing.

(b) If an answer is not filed within the time specified, the enforcement action will become effective and permanent as proposed.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding, staying the effectiveness of the order or taking other appropriate action.

(d) The order may be made effective immediately, with reasons stated, pending further hearing and order, when the Commission determines that the violation is willful or that the public health, safety, or interest so requires.

§ 110.64 Civil penalty.

(a) In response to a violation, the Commission may institute a proceeding to impose a civil penalty under section 234 of the Atomic Energy Act by issuing a notice to the licensee:

(1) Stating the alleged violation and the amount of the proposed penalty;

(2) Informing the licensee of his right, within 20 days or other specified time, to file a written answer; and

(3) Advising that a delinquent payment for a subsequently imposed penalty may be referred to the Attorney General for collection pursuant to section 234c. of the Atomic Energy Act.

(b) If an answer is not filed within the time specified, the Commission will issue an order imposing the proposed penalty.

(c) If a timely answer is filed, the Commission, after considering the answer, will issue an order dismissing the proceeding or imposing a penalty subject to any required hearing.

(d) If an order imposing a civil penalty is issued, the licensee may request a hearing within 20 days or other specified time.

(e) Except when the matter has been referred to the Attorney General for collection, payment of penalties shall be made by check, draft, or money order payable to the Treasurer of the United States, and mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(f) An enforcement action to impose a civil penalty will not itself revoke, modify, or suspend any license under this part.

§ 110.65 Settlement and compromise.

At any time after issuance of an order for any enforcement action under this subpart, an agreement may be entered into for settlement of the proceeding or compromise of a penalty. Upon approval by the Commission, or presiding officer if a hearing has been requested, the terms of the settlement or compromise will be embodied in the order disposing of the enforcement action.

§ 110.66 Enforcement hearing.

(a) If the licensee demands a hearing, the Commission will issue an order specifying the time and place.

(b) A hearing pursuant to this subpart will be conducted under the procedures in subpart G of Part 2.

Subpart H—Public Notification and Availability of Documents and Records

§ 110.70 Public notice of receipt of an application.

(a) The Commission will notice the receipt of each export or import license application by placing a copy in the Public Document Room.

(b) The Commission will also notice in the FEDERAL REGISTER, receipt of applications for:

(1) Production and utilization facilities;

(2) One effective kilogram or more of special nuclear material; and

(3) 10,000 kilograms or more of source material, heavy water, or nuclear grade graphite.

(c) Periodic lists of applications received may be obtained upon request addressed to the Assistant Director for Export/Import and International Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

§ 110.71 Notice of withdrawal of an application.

The Commission will notice the withdrawal of an application by placing a copy of the withdrawal request in the Public Document Room.

§ 110.72 Availability of documents in the Public Document Room.

Unless exempt from disclosure under part 9 of this chapter, the following documents pertaining to each license application and license will be made available in the Public Document Room:

(a) The license application and any requests for amendments;

(b) Commission correspondence with the applicant or licensee;

(c) FEDERAL REGISTER notices;

(d) The Commission letter requesting Executive Branch views;

(e) Correspondence from the State Department with Executive Branch views;

(f) Correspondence from foreign governments and international organizations;

(g) Filings pursuant to subpart I and Commission and Executive Branch responses, if any;

(h) If a hearing is held, the hearing record and decision;

(i) A statement of staff conclusions; and

(j) The license, requests for license amendments and amendments.

§ 110.73 Availability of NRC records.

(a) Commission records under this part will be made available to the public only in accordance with part 9 of this chapter.

(b) Proprietary information provided under this part may be protected under part 9 and § 2.790 (b), (c), and (d) of this chapter.

Subpart I—Public Participation Procedures Concerning License Applications

§ 110.80 Basis for hearings.

The procedures in this Part will constitute the exclusive basis for hearings on export license applications.

§ 110.81 Written comments.

(a) The Commission encourages written comments from the public regarding export and import license applications. The Commission will consider and, if appropriate, respond to these comments.

(b) If possible, these comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(c) The Commission will provide the applicant with a copy of the comments and, if appropriate, a reasonable opportunity for response.

§ 110.82 Hearing request or intervention petition.

(a) A person may request a hearing or petition for leave to intervene on a license application.

(b) Hearing requests and intervention petitions shall:

(1) State the name, address and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised;

(3) Explain why a hearing or an intervention would be in the public interest and how a hearing or intervention would assist the Commission in making the determinations required by sections 53, 57c, 63, 64, 69, 81, 82, 103, 104, 109, 126, 127, or 128 of the Atomic Energy Act, as appropriate;

(4) Specify, when a person asserts that his interest may be affected, both the facts pertaining to his interest and how it may be affected, with particular reference to the factors in § 110.84.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 30 days after notice of receipt in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 15 days after notice of receipt in the Public Document Room, for all other applications; or

(3) Such other time as may be provided by the Commission.

§ 110.83 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 30 days after the request or petition has been filed, for those applications noticed in the FEDERAL REGISTER, or within 10 days for all other applications.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 10 days after all timely answers have been filed.

(c) Answers and replies should address the factors in § 110.84.

§ 110.84 Commission action on a hearing request or intervention petition.

(a) In an export licensing proceeding, or in an import licensing proceeding in which a hearing request or intervention petition does not assert or establish an interest which may be affected, the Commission will consider:

(1) Whether a hearing would be in the public interest; and

(2) Whether a hearing would assist the Commission in making the statutory determinations required by the Atomic Energy Act.

(b) If a hearing request or intervention petition asserts an interest which may be affected, the Commission will consider:

(1) The nature of the alleged interest;

(2) How that interest relates to issuance or denial; and

(3) The possible effect of any order on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting relief would redress the alleged injury.

(c) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or action on the application delayed.

(d) Prior to granting or denying a hearing request or intervention petition, the Commission may request further information from the petitioner, requestor, the Commission staff, the Executive Branch or others, and will not grant a hearing request prior to receipt and evaluation of Executive Branch views on the license application.

(e) The Commission will deny a request or petition that pertains solely to matters outside its jurisdiction.

(f) If an issue has been adequately explored in a previous licensing hearing conducted pursuant to this part, a request for a new hearing in connection with that issue will be denied unless:

(1) A hearing request or intervention petition establishes that an interest may be affected; or

(2) The Commission determines that changed circumstances or new information warrant a new hearing.

(g) After consideration of the factors covered by paragraphs (a) through (f), the Commission will issue a notice or order granting or denying a hearing request or intervention petition. Upon the affirmative vote of two Commissioners a hearing will be ordered. A notice granting a hearing will be published in the FEDERAL REGISTER and will specify whether the hearing will be oral or consist of written comments. A denial notice will set forth the reasons for denial.

§ 110.85 Notice of hearing consisting of written comments.

(a) A notice of hearing consisting of written comments will:

(1) State the issues to be considered;

(2) Provide the names and addresses of participants;

(3) Specify the time limits for participants and others to submit written views and respond to any written comments; and

(4) State any other instructions the Commission deems appropriate.

(b) The Secretary will give notice of any hearing under this section and § 110.86 to any person who so requests.

§ 110.86 Notice of oral hearing.

(a) A notice of oral hearing will:

(1) State the time, place and issues to be considered;

(2) Provide names and addresses of participants;

(3) Designate the presiding officer;

(4) Specify the time limit for participants and others to indicate whether they wish to present views; and

(5) State any other instructions the Commission deems appropriate.

(b) If the Commission is not the presiding officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the presiding officer commences and terminates;

(2) The powers of the presiding officer; and

(3) Instructions to the presiding officer to certify promptly the completed hearing record to the Commission without preliminary decision or findings, unless the Commission directs otherwise.

§ 110.87 Conditions in a notice or order.

(a) A notice or order granting a hearing or permitting intervention may restrict irrelevant or duplicative testimony, or require common interests to be represented by a single spokesman.

(b) If a participant's interests do not extend to all the issues in the hearing, the notice or order may limit his participation accordingly.

(c) Unless authorized by the Commission, the granting of participation will not broaden the hearing issues.

§ 110.88 Authority of the Secretary.

The Secretary is authorized to prescribe time schedules and other procedural arrangements, when not covered by this part, and rule on related procedural requests.

§ 110.89 Filing and service.

(a) Hearing requests, intervention petitions, answers, replies, and accompanying documents shall be filed with the Commission by delivery or by mail or telegram to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) All filings and Commission notices and orders shall be served, as appropriate, upon the applicant; the Executive Legal Director, Nuclear Regulatory Commission, Washington, D.C. 20555; the Executive Secretary, Department of State, Washington, D.C. 20520; and participants, if any.

(c) Service is completed by:

(1) Delivering the paper to the person; or leaving it in his office with someone in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if he has no office or it is closed, leaving it at his usual place of residence with some occupant of suitable age and discretion;

(2) Depositing it with a telegraph company, properly addressed and with charges prepaid;

(3) Depositing it in the United States mail, properly stamped and addressed; or

(4) Any other manner authorized by law, when service cannot be made as provided in subparagraphs (1) through (3).

(d) Proof of service, stating the name and address of the person served and the manner and date of service, shall be shown, and may be made by:
(1) Writen acknowledgement of the person served or his authorized representative; or
(2) The certificate or affidavit of the person making the service.
(e) The Commission may make special provisions for service when circumstances warrant.

§ 110.90 Computation of time.

(a) In computing time, the first day of a designated time period is not included and the last day is included. If the last day is a Saturday, Sunday or legal holiday at the place where the required action is to be accomplished, the time period will end on the next day which is not a Saturday, Sunday or legal holiday.
(b) In time periods of 7 days or less, Saturdays, Sundays and holidays are not counted.
(c) Whenever an action is required within a prescribed period by a paper served pursuant to § 110.89, 3 days shall be added to the prescribed period if service is by mail.
(d) An interpretation of this section is contained in § 8.3 of this chapter.

§ 110.91 Commission consultations.

(a) The Commission may consult at any time on a license application with the staff, Executive Branch or other persons.
(b) Where the Commission seeks public comment on procedural questions involving grant or denial of intervention petitions, the views of the Commission staff and the Executive Branch on standing and a hearing as a matter of right will be expressed through their public responses, except to the extent that classified information is involved.
(c) The views of the Commission staff and Executive Branch on whether a hearing should be held as a matter of discretion will be placed in the Public Document Room upon receipt by the Commissioners, except to the extent that these views are classified. The petitioners and the applicant will be notified at the time views on discretionary hearings are placed in the Public Document Room and provided a copy upon request.

Subpart J—Hearings

§ 110.100 Public hearings.

Hearings under this part will be public unless the Commission directs otherwise.

§ 110.101 Filing and service.

Filing and service of hearing documents shall be pursuant to § 110.89.

§ 110.102 Hearing docket.

For each hearing, the Secretary will maintain a docket which will include the hearing transcript, exhibits and all papers filed or issued pursuant to the hearing.

§ 110.103 Acceptance of hearing documents.

(a) Each document filed or issued shall be bound on the left side, clearly legible, and shall bear the docket number, license application number and hearing title.
(b) Each document shall be filed in one original and signed by the participant or his authorized representative, with his address and date of signature indicated. The signature is a representation that the document is submitted with full authority, the signator knows its contents and that, to the best of his knowledge, the statements made in it are true.
(c) A document not meeting the requirements of this section may be returned with an explanation for nonacceptance and, if so, will not be docketed.

§ 110.104 Presiding officer.

(a) The full Commission will ordinarily be the presiding officer at a hearing under this part. However, the Commission may provide in a hearing notice that one or more Commissioners, or any other person as provided by law, will preside.
(b) A participant may submit a written motion for the disqualification of any person presiding. The motion shall be supported by affidavit setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the person does not disqualify himself, the Commission will decide the matter.
(c) If any presiding officer designated by the Commission deems himself disqualified, he shall withdraw by notice on the record after notifying the Commission.
(d) If a presiding officer becomes unavailable, the Commission will designate a replacement.
(e) Any motion concerning the designation of a replacement presiding officer shall be made within 5 days after the designation.
(f) Unless otherwise ordered by the Commission, the jurisdiction of a presiding officer other than the Commission commences as designated in the hearing notice and terminates upon certification of the hearing record to the Commission, or when the presiding officer is disqualified.

§ 110.105 Responsibility and power of the presiding officer in an oral hearing.

(a) The presiding officer in any oral hearing shall conduct a fair hearing, develop a record that will contribute to informed decisionmaking, and, within the framework of the Commission's orders, have the power necessary to achieve these ends, including the power to:
(1) Take action to avoid unnecessary delay and maintain order;
(2) Dispose of procedural requests;
(3) Question participants and witnesses, and entertain suggestions as to questions which may be asked of participants and witnessess;
(4) Order consolidation of participants;
(5) Establish the order of presentation;
(6) Hold conferences before or during the hearing;
(7) Establish reasonable time limits;
(8) Limit the number of witnesses; and
(9) Strike or reject duplicative or irrelevant presentations.
(b) Where the Commission itself does not preside:
(1) The presiding officer may certify questions or refer rulings to the Commission for decision;
(2) Any hearing order may be modified by the Commission; and
(3) The presiding officer will certify the completed hearing record to the Commission, which may then issue its opinion on the hearing or provide that additional testimony be presented.

§ 110.106 Participation in a hearing.

(a) Unless otherwise limited by this part or by the Commission, participants in a hearing may submit:
(1) Initial and concluding written statements of position on the issues;
(2) Written questions to the presiding officer; and
(3) Written responses and rebuttal testimony to the statements of other participants.
(b) Participants in an oral hearing may also submit oral statements, questions, responses and rebuttal testimony.
(c) A participant in an import licensing hearing establishing that his interest may be affected, may be accorded additional procedural rights under Subpart G of Part 2 with respect to resolution of domestic factual issues regarding the public health, safety and environment of the United States, and the protection of the United States public against domestic theft, diversion or sabotage, to the extent that such issues are separable from the nondomestic issues associated with the license application.

§ 110.107 Presentation of testimony in an oral hearing.

(a) All direct testimony in an oral hearing shall be filed no later than 7 days before the hearing or as otherwise ordered or allowed.
(b) Written testimony will be received into evidence in exhibit form.
(c) Unless proscribed under § 110.87, members of groups which are designated as participants may testify in their individual capacities.
(d) Participants may present their own witnesses.

(e) Testimony by the Commission and the Executive Branch will be presented only by persons officially designated for that purpose.

(f) Participants and witnesses will be questioned orally or in writing and only by the presiding officer. Questions may be addressed to individuals or to panels of participants or witnesses.

(g) The presiding officer may accept written testimony from a person unable to appear at the hearing, and may request him to respond to questions.

(h) No subpoenas will be granted at the request of participants for attendance and testimony of participants or witnesses or the production of evidence.

§ 110.108 Appearance in an oral hearing.

(a) A participant may appear in a hearing on his own behalf or be represented by an authorized representative.

(b) A person appearing shall file a written notice stating his name, address and telephone number, and if an authorized representative, the basis of his eligibility and the name and address of the participant on whose behalf he appears.

(c) A person may be excluded from a hearing for disorderly, dilatory or contemptuous conduct, provided he is informed of the grounds and given an opportunity to respond.

§ 110.109 Motions and requests.

(a) Motions and requests shall be addressed to the presiding officer, and, if written, also filed with the Secretary and served on other participants.

(b) Other participants may respond to the motion or request. Responses to written motions or requests shall be filed within 5 days after service.

(c) When the Commission does not preside, in response to a motion or request, the presiding officer may refer a ruling or certify a question to the Commission for decision and notify the participants.

(d) Unless otherwise ordered by the Commission, a motion or request, or the certification of a question or referral of a ruling, shall not stay or extend any aspect of the hearing.

§ 110.110 Default.

When a participant fails to act within a specified time, the presiding officer may consider him in default, issue an appropriate ruling and proceed without further notice to the defaulting participant.

§ 110.111 Waiver of a rule or regulation.

(a) A participant may petition that a Commission rule or regulation be waived with respect to the license application under consideration.

(b) The sole ground for a waiver shall be that, because of special circumstances concerning the subject of the hearing, application of a rule or regulation would not serve the purposes for which it was adopted.

(c) Waiver petition shall specify why application of the rule or regulation would not serve the purposes for which it was adopted.

(d) Other participants may, within 10 days, file a response to a waiver petition.

(e) When the Commission does not preside, the presiding officer will certify the waiver petition to the Commission, which, in response, will grant or deny the waiver or direct any further proceedings.

(f) Regardless of whether a waiver is granted or denied, a separate petition for rulemaking may be filed pursuant to Subpart L of this part.

§ 110.112 Reporter and transcript for an oral hearing.

(a) A reporter designated by the Commission will record an oral hearing and prepare the official hearing transcript.

(b) Except for any classified portions, transcripts will be placed in the Public Document Room, and copies may be purchased from the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(c) Corrections of the official transcript may be made only as specified by the Secretary.

§ 110.113 Commission action.

(a) Upon completion of a hearing, the Commission will issue a written opinion including its decision on the license application, the reasons for the decision and any dissenting views.

(b) While the Commission will consider fully the hearing record, the licensing decision will be based on all relevant information, including information which might go beyond that in the hearing record.

(c) If the Commission considers information not in the hearing record in reaching its licensing decision, the hearing participants will be informed and, if not classified or otherwise privileged, the information will be placed in the Public Document Room and furnished to the participants.

(d) The Commission may issue a license before completion of a hearing if it finds that:

(1) Prompt issuance is required in the public interest, particularly the common defense and security; and

(2) A participant establishing that his interest may be affected has been provided a fair opportunity to present his views.

(e) The Commission may:

(1) Defer any hearing;

(2) Consolidate applications for hearing;

(3) Narrow or broaden the hearing issues; and

(4) Take other action, as appropriate.

Subpart K—Special Procedures for Classified Information in Hearings

§ 110.120 Purpose and scope.

(a) This subpart contains special procedures concerning access to, and introduction of, classified information into hearings under this part.

(b) These procedures do not in any way apply to classified information exchanged between the Executive Branch and the Commission not introduced into a hearing. Such information will be declassified to the maximum extent feasible. The public statements of the Commission staff and Executive Branch will, to the extent consistent with classification requirements, reflect consideration of any such classified information.

§ 110.121 Security clearances and access to classified information.

(a) No person without a security clearance will have access to classified information.

(b) Only the Commission will act upon an application for access to classified information.

(c) To the extent practicable, applications for access to classified information shall describe the information to which access is desired and its level of classification (confidential, secret or other); the reasons for requesting access; the names of individuals for whom access is requested; and the reasons why access is requested for those individuals.

(d) The Commission will consider requests for appropriate security clearances in reasonable numbers; conduct its review and grant or deny these in accordance with Part 10 of this chapter; and make a reasonable charge to cover costs.

(e) The Commission will not grant security clearances for access to classified information, unless it determines that the available unclassified information is inadequate on the subject matter involved.

(f) When an application demonstrates that access to classified information not introduced into a hearing may be needed to prepare a participant's position on the hearing issues, the Commission may issue an order granting access to this information to the participant, his authorized representative or other persons. Access will be subject to the conditions in paragraphs (e) and (j) and will not be granted unless required security clearances have been obtained.

(g) Once classified information has been introduced into a hearing, the Commission will grant access to a participant, his authorized representative or such other persons as the Commission determines may be needed by the

participant to prepare his position on the hearing issues. Access will be subject to the conditions in paragraph (e) and (j) and will not be granted unless required security clearances have been obtained.

(h) For good cause, the Commission may postpone action upon an application for access to classified information.

(i) The Commission will grant access to classified information only up to the level for which the persons described in paragraphs (f) and (g) of this section are cleared and only upon an adequate commitment by them not to disclose such information subject to penalties as provided by law.

(j) The Commission will not in any circumstances grant access to classified information:

(1) Unless it determines that the grant is not inimical to the common defense and security; and

(2) Which it has received from another Government agency, without the prior consent of the originating agency.

(k) Upon completion of a hearing, the Commission will terminate all security clearances granted pursuant to the hearing and may require the disposal of classified information to which access has been granted or the observance of other procedures to safeguard this information.

§ 110.122 Classification assistance.

On the request of any hearing participant or the presiding officer (if other than the Commission), the Commission will designate a representative to advise and assist the presiding officer or the participants with respect to security classification of information and the protective requirements to be observed.

§ 110.123 Notice of intent to introduce classified information.

(a) A participant shall seek the required security clearances, where necessary, and file with the Secretary a notice of intent to introduce classified information into a hearing at the earliest possible time after the notice of hearing.

(b) If a participant has not filed a notice of intent in accordance with this section, he may introduce classified information only if he gives to the other participants and the Commission prompt written notice of intent and only as permitted by the Commission when it determines that the public interest will not be prejudiced.

(c) The notice of intent shall be unclassified and, to the extent consistent with classification requirements, state:

(1) The subject matter of the classified information, which it is anticipated will be involved;

(2) The highest level of classification of the information (confidential, secret or other);

(3) When it is anticipated that the information would be introduced; and

(4) The relevance and materiality of the information to the hearing issues.

§ 110.124 Rearrangement or suspension of a hearing.

When a participant gives notice of intent to introduce classified information and other participants do not have the required security clearances, subject to § 110.121, the Commission may:

(a) Suspend or rearrange the normal order of the hearing to give other participants an opportunity to obtain the required security clearances with minimum delay in the conduct of the hearing; or

(b) Take such other action as it determines to be in the public interest.

§ 110.125 Unclassified statements required.

(a) It is the obligation of hearing participants to introduce information in unclassified form wherever possible, and to declassify, to the maximum extent feasible, any classified information introduced into the hearing. This obligation rests on each participant whether or not any other participant has the required security clearances.

(b) When classified information is offered for introduction into a hearing:

(1) The participant offering it shall, to the extent consistent with classification requirements, submit to the presiding officer and other participants an unclassified statement describing the substance of the classified information as accurately and completely as possible;

(2) In accordance with procedures agreed upon by the participants or prescribed by the presiding officer, and after notice to all participants and opportunity to be heard on the notice, the presiding officer will determine whether an unclassified statement may be substituted for the classified information in the hearing record without prejudice to the interest of any participant or the public;

(3) If the Commission determines that the unclassified statement (together with such unclassified modifications as it finds are necessary or appropriate to protect the interest of other participants and the public) adequately sets forth information in the classified matter which is relevant and material to the issues in the hearing, it will direct that the classified matter be excluded from the record of the hearing; and

(4) The Commission may postpone any of the procedures in this section until all other evidence has been received. However, a participant shall not postpone service of any unclassified statement required in this section.

§ 110.126 Protection of classified information.

Nothing in this subpart shall relieve any person from safeguarding classified information as required by law and rules, regulations or orders of any Government agency.

Subpart L—Rulemaking

§ 110.130 Initiation of rulemaking.

The Commission may initiate action to amend the regulations in this part on its own initiative or in response to a petition.

§ 110.131 Petition for rulemaking.

(a) A petition for rulemaking should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) The petition shall state the basis for the requested amendment.

(c) The petition may request the Commission to suspend all or part of any licensing proceeding under this part pending disposition of the petition.

(d) The Secretary will assign a docket number to the petition, place a copy in the Public Document Room and notice its receipt in the FEDERAL REGISTER.

(e) Publication may be limited by order of the Commission to the extent required by section 181 of the Atomic Energy Act.

§ 110.132 Commission action on a petition.

(a) The Commission may grant or deny the petition in whole or in part.

(b) If the petition is granted, a notice of proposed rulemaking or a notice of rulemaking will be published in the FEDERAL REGISTER.

(c) If the petition is denied, the petitioner will be informed of the grounds.

(d) Commission action on a petition will normally follow, whenever appropriate, receipt and evaluation of Executive Branch views.

(e) The Commission, in exercising the discretion authorized by section 4(a)(1) of the Administrative Procedure Act (5 U.S.C. 553(a)(1)), will decide what, if any, public rulemaking procedures will be followed.

§ 110.133 Notice of proposed rulemaking.

(a) When the Commission proposes to amend the regulations in this part, it will normally publish a notice of proposed rulemaking in the FEDERAL REGISTER.

(b) A notice of proposed rulemaking will include:

(1) The authority for the proposed rule;

(2) The substance and purpose of the proposed rule;

(3) Directions for public participation;

(4) The time and place of any public hearing; and

(5) If a hearing is to be held by other than the Commission, designating of a presiding officer and instructions for the conduct of the hearing.

(c) A notice of proposed rulemaking will be published not less than 15 days before any hearing, unless the Commission for good cause provides otherwise in the notice.

§ 110.134 Public participation.

(a) The Commission may hold an oral hearing on a proposed rule or permit any person to participate in a rulemaking proceeding through the submission of written comments.

(b) When it is in the public interest and is authorized by law, public rulemaking procedures may be omitted and a notice of rulemaking published pursuant to § 110.135.

§ 110.135 Notice of rulemaking.

(a) Upon approval of an amendment, the Commission will publish in the FEDERAL REGISTER a notice of rulemaking which includes a statement of its basis and purpose, effective date and, where appropriate, any significant variations from the amendment as proposed in any notice of proposed rulemaking.

(b) The effective date of an amendment will normally be no earlier than 30 days after publication of the notice of rulemaking, unless the Commission for good cause provides otherwise in the notice.

APPENDIX A—LIST OF NUCLEAR EQUIPMENT AND MATERIAL UNDER NRC EXPORT/IMPORT LICENSING AUTHORITY [4]

(a) Nuclear reactors and specially designed or prepared parts and components therefor as follows:

(1) Reactor pressure vessels, i.e., metal vessels as complete units or as major shop-fabricated parts therefor, which are specially designed to contain the core of a nuclear reactor and are capable of withstanding the operating pressure of the primary coolant.

(2) Reactor fuel charging and discharging machines, i.e., manipulative equipment specially designed or prepared for inserting or removing fuel in a nuclear reactor.

(3) Reactor control rods, i.e., rods specially designed or prepared for the control of the reaction rate in a nuclear reactor.

(4) Reactor pressure tubes, i.e., tubes specially designed or prepared to contain fuel elements and the primary coolant in a nuclear reactor at an operating pressure in excess of 50 atmospheres.

(5) Reactor primary coolant pumps, i.e., pumps specially designed or prepared for circulating the primary coolant in nuclear reactors.

(6) Zirconium tubes, i.e., zirconium metal and alloys in the form of tubes or assemblies of tubes specially designed or prepared for use in a nuclear reactor.

(7) Reactor internals, e.g., core support structures, control rod guide tubes, thermal shields, baffles, core grid plates and diffuser plates specially designed or prepared for use in a nuclear reactor.

(8) Reactor control rod drive mechanisms, including detection and measuring equipment to determine flux levels.

(9) Any other component specially designed or prepared for use in a nuclear reactor.

(10) Specially designed or prepared parts and components for any of the above.

(b) Plants for the separation of the isotopes of source material, special nuclear material or lithium, and specially designed or prepared equipment and components therefor as follows:

(1) Uranium hexafluoride (UF_6) corrosion resistant valves.

(2) Units capable of separating isotopes of source material, special nuclear material or lithium, such as (i) gas centrifuges, (ii) jet nozzle separation units, (iii) vortex separation units, and (iv) laser isotope separation units.

(3) Uranium hexafluoride (UF_6) corrosion resistant axial or centrifugal compressors, and specially designed or prepared seals for such compressors.

(4) Gaseous diffusion barriers specially designed or prepared for use in separating isotopes of source material, special nuclear material or lithium.

(5) Gaseous diffuser housings specially designed or prepared for use in plants for separating isotopes of source material, special nuclear material or lithium.

(6) Heat exchangers specially designed or prepared for use in gaseous diffusion plants.

(7) Any other equipment or component specially designed or prepared for use in an isotope spearation plant.

(8) Specially designed or prepared parts and components for any of the above.

(c) Plants for the reprocessing of irradiated nuclear reactor fuel elements or irradiated lithium and specially designed or prepared equipment and components therefor as follows:

(1) Fuel element chopping machines, i.e., remotely operated equipment specially designed or prepared to cut, chop or shear irradiated nuclear reactor fuel assemblies, bundles or rods.

(2) Criticality safe tanks, i.e., small diameter, annular or slab tanks specially designed or prepared for the dissolution of irradiated nuclear reactor fuel.

(3) Countercurrent solvent extractors specially designed or prepared for use in a reprocessing plant.

(4) Process control instrumentation specially designed or prepared for monitoring or controlling the processing of material in a reprocessing plant.

(5) Any other equipment or components specially designed or prepared for use in a reprocessing plant.

(6) Specially designed or prepared parts and components for any of the above.

[4] Except for production and utilization facilities and the nuclear material listed in paragraphs (f), (g), and (h), applications for licenses to export the nuclear equipment and materials in this Appendix will be processed by the Department of Commerce until July 8, 1978.

(d) Plants for the fabrication of nuclear reactor fuel elements and specially designed or prepared parts and components therefor (export only).

(e) Plants for the production of heavy water, deuterium and deuterium compounds, and specially designed or prepared parts and components therefor (export only).

(f) Special nuclear material.

(g) Source material.

(h) Byproduct material.

(i) Deuterium (export only).

(j) Nuclear grade graphite (export only).

NOTE.—See section 110.2 for definitions of the major terms used above.

APPENDIX B—LIST OF FOREIGN FACILITIES TO WHICH NUCLEAR EQUIPMENT MAY BE EXPORTED PURSUANT TO THE GENERAL LICENSE IN § 110.21 [RESERVED]

APPENDIX C.—*Categorization of nuclear material*[a]

[From IAEA INFCIRC/225, Rev. 1]

Material	Form	Category		
		I	II	III[e]
1. Plutonium[a]	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.
2. Uranium-235[c]	Unirradiated:[b]			
	Uranium enriched to 20 pct U^{235} or more	5 kg or more	Less than 5 kg but more than 1 kg.	1 kg or less.
	Uranium enriched to 10 pct U^{235} but less than 20 pct.		10 kg or more	Less than 10 kg.
	Uranium enriched above natural, but less than 10 pct U^{235}.			10 kg or more.
3. Uranium-233	Unirradiated[b]	2 kg or more	Less than 2 kg but more than 500 g.	500 g or less.

[a] All plutonium except that with isotopic concentration exceeding 80 pct in plutonium-238.

[b] Material not irradiated in a reactor or material irradiated in a reactor but with a radiation level equal to or less than 100 rd/h at 1 m unshielded.

[c] Natural uranium, depleted uranium, and thorium should be protected in accordance with prudent management practice. As a minimum, for quantities exceeding 500 kg, these materials should be kept under constant control and secured from unauthorized removal. Transport protection should include advance notification of shipment specifying mode of transport, expected time of arrival and confirmation of receipt of shipment.

[d] Irradiated fuel should be protected as category I, II, or III nuclear material depending on the category of the fresh fuel. However, fuel which by virtue of its original fissile material content is included as category I or II before irradiation should only be reduced one category level, while the radiation level from the fuel exceeds 100 rd/h at 1 m unshielded.

[e] Physical security determinations will not be required for 15 g or less of plutonium, uranium-233 or high-enriched uranium, or for 1 kg or less of uranium with an enrichment between 10 and 20 pct in uranium-235.

(Sec. 161, as amended, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 16th day of May 1978.

For the Nuclear Regulatory Commission.

JOHN C. HOYLE,
Assistant Secretary of the Commission.

[FR Doc. 78-12620 Filed 5-16-78; 2:54 pm]

[3128-01]

Title 10—Energy

CHAPTER X—DEPARTMENT OF ENERGY (GENERAL PROVISIONS)

PART 1000—TRANSFER OF PROCEEDINGS TO THE SECRETARY OF ENERGY AND THE FEDERAL ENERGY REGULATORY COMMISSION

Procedures for Electric Energy Import and Export Proceedings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of procedures for electric energy import and export cases.

SUMMARY: The purpose of this notice is to inform the public of the procedures which will be followed by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) in electric energy import and export proceedings. Until the ERA has sufficient time to promulgate its own rules and regulations, the procedures to be followed will be those of the former Federal Power Commission contained in Title 18, Code of Federal Regulations, Part 1 et seq.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James M. Brown, Jr., Division of Power Supply and Reliability, Economic Regulatory Administration, Department of Energy, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. 20545, 202-634-5620; or

Lise Courtney Howe, Office of General Counsel, Department of Energy, Room 5116—Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9995 or 202-566-9380.

SUPPLEMENTARY INFORMATION: This notice applies to electric energy import and export proceedings: (1) for which application was first made on or after October 1, 1977; or (2) that were transferred to the Secretary of Energy pursuant to paragraph 1000.1(b)(16)(ii) of the October 1, 1977, Final Rule entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission" (42 FR 55534, October 17, 1977).

Until further notice, the procedures applicable to these proceedings are the procedures contained in the Rules and Regulations of the Federal Power Commission (FPC), Title 18, Code of Federal Regulations, Part 1 et seq. Applications should contain the information required by 18 CFR 32.30-.38 and 32.50-.52.

Those electric energy proceedings of the FPC that were transferred to the Secretary of Energy by paragraph 1000.1(b)(16)(ii) of the Final Rule, and with respect to which all filings should now be submitted to the ERA, are:

(A) Maine Public Service Co., Docket No. E-6751. (ERA Docket No. IE-78-1).

(B) Northern States Power Co., Docket No. E-9589. (ERA Docket No. IE-78-2).

(C) Arizona Public Service Co., Docket No. IT-5331. (ERA Docket No. IE-78-3).

(D) Niagara Mohawk Power Corp., Docket No, E-7022. (ERA Docket No. IE-77-6).

(E) Maine Public Service Co., Docket No. IT-6027. (ERA Docket No. PP-12).

(F) Boise Cascade, Docket No. E-7765. (ERA Docket No. PP-52).

(G) Bonneville Power Administration, Docket No. IT-5959. (ERA Docket No. PP-10).

All fillings (including applications) in these proceedings, and in new proceedings before ERA, should be submitted to: Director, Division of Power Supply and Reliability, Economic Regulatory Administration, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. 20545.

Filings will reference the FPC docket number, if any, and, the new ERA docket number which has been assigned with the ERA number as the lead docket designation.

The files of electric energy import and export proceedings which were transferred to ERA on October 1, 1977, pursuant to paragraph 1000.1(b)(16)(ii) of the Final Rule and the files of those electric energy import and export proceedings first submitted to ERA on or after October 1, 1977, will, upon request, be made available for public inspection and copying at ERA, Public Docket Room, Room B-210, 2000 M Street NW., Washington, D.C., and at the Division of Power Supply and Reliability, ERA, Room 4070—Vanguard Building, 1111 20th Street NW., Washington, D.C. Copies of all ERA notices, orders, and other official actions will be posted in Room B-210 (with copies available to the public). Business hours for the ERA Public Docket Room, are 1 p.m. to 5 p.m., and for all other ERA offices, 8 a.m. to 4:30 p.m., Monday through Friday, except for official holidays.

Issued in Washington, D.C., May 5, 1978.

DAVID J. BARDIN,
Administrator, Economic Regulatory Administration.

[FR Doc. 78-13575 filed 5-18-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of—	Rate	Effective
Boston	7	May 12, 1978.
New York	7	May 11, 1978.
Philadelphia	7	Do.
Cleveland	7	Do.
Richmond	7	Do.
Atlanta	7	Do.
Chicago	7	Do.
St. Louis	7	Do.
Minneapolis	7	Do.
Kansas City	7	Do.
Dallas	7	May 12, 1978.
San Francisco	7	May 11, 1978.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of—	Rate	Effective
Boston	7½	May 12, 1978.
New York	7½	May 11, 1978.
Philadelphia	7½	Do.
Cleveland	7½	Do.
Richmond	7½	Do.
Atlanta	7½	Do.
Chicago	7½	Do.
St. Louis	7½	Do.
Minneapolis	7½	Do.
Kansas City	7½	Do.
Dallas	7½	May 12, 1978.
San Francisco	7½	May 11, 1978.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and section 201.2(e)(2) of regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	8	May 12, 1978.
New York	8	May 11, 1978.
Philadelphia	8	Do.
Cleveland	8	Do.
Richmond	8	Do.
Atlanta	8	Do.
Chicago	8	Do.
St. Louis	8	Do.
Minneapolis	8	Do.
Kansas City	8	Do.
Dallas	8	May 12, 1978.
San Francisco	8	May 11, 1978.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of—	Rate	Effective
Boston	10	May 12, 1978.
New York	10	May 11, 1978.
Philadelphia	10	Do.
Cleveland	10	Do.
Richmond	10	Do.
Atlanta	10	Do.
Chicago	10	Do.
St. Louis	10	Do.
Minneapolis	10	Do.
Kansas City	10	Do.
Dallas	10	May 12, 1978.
San Francisco	10	May 11, 1978.

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13674 Filed 5-18-78; 8:45 am]

[6351-01]

Title 17—Commodity and Securities Exchanges

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMISSION

PART 145—COMMISSION RECORDS AND INFORMATION

Geographic Realignment of Central and Western Regions; Creation of Southwestern Region; Change of Address of Western Regional Office.

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission recently has realigned the geographical boundaries of the Commission's Central and Western Regions and simultaneously has created a new region—the Southwestern Region. In addition, the Western Regional office which is located in San Francisco, Calif., has moved to a different suite of offices in the same building. These amendments incorporate those changes into the Commission's regulations.

EFFECTIVE DATES: May 1, 1977, address of Southwestern Regional office; May 4, 1977, realignment of geographical boundaries; October 1, 1977, change of address of Western Regional office.

FOR FURTHER INFORMATION CONTACT:

Donald L. Tendick, Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, 202-254-7556.

SUPPLEMENTARY INFORMATION: Under § 140.2 of the Commission's regulations, each of the Regional Directors is delegated the authority and responsibility for the enforcement of the Commodity Exchange Act, 7 U.S.C. 1 et seq. (1976), and administration of the programs of the Commission in his respective region. On May 4, 1977, the Commission realigned the geographical boundaries of the Commission's Central and Western Regions and created a new region—the Southwestern Region.[1]

DISCUSSION:

Since spring wheat is traded on the Minneapolis Grain Exchange which is located in the Central Region, the Commission has added to that region the states of North Dakota and South Dakota, both of which were formerly included within the Western Region and are large producers of spring wheat. In addition, the Commission has redefined the Western Region to exclude the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas, all of which are included in the new Southwestern Region. By the latter action the Commission has, in effect, divided the Western Region into two regions—Southwestern and Western—to ease the administrative burden, caused by an increased workload, in enforcing the act and administering the programs of the Commission in the States comprising the two regions.

On May 1, 1977, 3 days prior to the effective date of the division, the Southwestern Regional office was established at 4901 Main Street, Room 208, Kansas City, Mo. 64112. The telephone number for general information is 816-374-2994. At the time of the division the Western Regional office which was located in Kansas City, Mo., was moved to San Francisco, Calif., at the location of the former Western sub-office, since due to the division, Kansas City, Mo., became a part of the new Southwestern Region. Subsequently on October 1, 1977, the Western Regional office was moved from suite 975 to suite 1660 at 2 Embarcadero Center, San Francisco, Calif., 94111, its current address. The telephone number for general information is 415-556-7503.

Based on the foregoing, pursuant to its authority contained in section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j) (1976), the Commission hereby amends parts 140 and 145 of chapter I of title 17 of the Code of Federal Regulations as follows:

[1]See CFTC notice 6.

1. Section 140.2 is amended to read as follows:

§ 140.2 Regional offices—Regional directors.

Each of the Regional offices described herein functions as set forth below under the direction of a Regional Director, who is delegated authority and responsibility for the enforcement of the Act and administration of the programs of the Commission in the particular Region.

(a) The Eastern Regional office is located at 1 World Trade Center, Suite 4747, New York, N.Y. 10048, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia.

(b) The Central Regional office is located at Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, with a sub-office at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue South, Minneapolis, Minn. 55415, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Illinois, Indiana, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin.

(c) The Western Regional office is located at Two Embarcadero Center, Suite 1660, San Francisco, Calif. 94111, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming.

(d) The Southwestern Regional office is located at 4901 Main Street, Room 208, Kansas City, Mo. 64112, and is responsible for enforcement of the Act and administration of the programs of the Commission in the States of Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

2. Section 145.6 is amended to read as follows:

§ 145.6 Public reference facilities.

The Commission shall have public reference facilities at its principal offices at 2033 K Street NW., Washington, D.C. 20581, telephone 202-254-8630 and at its regional offices and sub-offices: 1 World Trade Center, Suite 4747, New York, N.Y. 10048, telephone: 212-791-0790.

Sears Tower, 46th Floor, 233 South Wacker Drive, Chicago, Ill. 60606, telephone: 312-353-5990.

510 Grain Exchange Building, Minneapolis, Minn. 55415, telephone: 612-725-2025.

4901 Main Street, Room 208, Kansas City, Mo. 64112, telephone: 816-374-2994.
Two Embarcadero Center, Suite 1660, San Francisco, Calif. 94111, telephone 415-556-7503.

The foregoing rules shall be effective immediately. The Office of the Chairman finds that the amendments relate solely to agency practice and procedure and that the public procedures and publication prior to the effective date of the rules, in accordance with the Administrative Procedure Act, as codified, 5 U.S.C. 553, are not required.

Issued in Washington, D.C., on May 15, 1978.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-13608 Filed 5-18-78; 8:45 am]

[8010-01]

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5932]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Status of Underwriters in Business Combination Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission has adopted a rule amendment which eliminates the indefinite uderwriter status attached to certain persons who receive securities in registered business combination transactions. The amendment provides that if certain conditions are met such persons shall not be deemed underwriters after they have held the securities for a period of two years. The purpose of the amendment is to relieve such persons of the necessity for complying with the restrictions on reselling securities applicable to underwriters where it appears such restrictions would be unduly burdensome and unnecessary for the protection of investors.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of an amendment to Rule 145 (17 CFR 230.145) under the Securities Act of 1933 ("1933 Act") (15 U.S.C. 77a et seq.). Rule 145 provides that certain transactions involving business combinations, such as mergers, consolidations and acquisitions of assets, are subject to the registration requirements of the Act. In addition, it states in paragraph (c) thereof that persons who are affiliates[1] of entities which are acquired in Rule 145 transactions shall be deemed to be underwriters[2] of the securities received by them in such transactions. Until now, the underwriter status attached to such persons has been indefinite. The result has been that whenever such persons sought to resell their Rule 145 securities publicly they were required either to register them or to comply with certain requirements of Rule 144 (17 CFR 230.144) under the Act.[3]

The Commission has received various requests in the past several years that it review the indefinite underwriter status imposed by Rule 145 on persons who are affiliates of entities acquired in Rule 145 transactions. These requests have focused on the fact that in many instances the persons who are deemed underwriters by the rule do not become affiliated with the acquiring entity and have no relationship to that entity other than that of a security holder. In such circumstances, particularly where these persons hold an amount of securities which is not large in relation to the total number of outstanding securities of the class, it has been urged that they are unlikely to engage in transactions that are tantamount to public distributions. Moreover, it has been asserted that Rule 145 is unduly harsh in its treatment of former affiliates of acquired entities, since it forever deems such person to have acquired their Rule 145 securities with a view to distribution, when in fact they may clearly have demonstrated by having held their securities for several years that such securities were acquired for investment reasons and not for distribution purposes. Accordingly, the requestors have urged that the indefinite underwriter status of former affiliates be discontinued under the rule.

The Commission has given consideration to the views outlined above and determined that they have merit. While it continues to believe that persons who were affiliates of entities acquired in Rule 145 transactions should be deemed underwriters because they usually are in a position to influence such transactions, it recognizes that designating such persons as underwriters for an indefinite period may be unduly burdensome and unnecessary for the protection of investors.

In arriving at the above view, the Commission has taken note of the fact that Rule 145 is somewhat more restrictive than the other rules in the "140 series"[4] insofar as the resale of securities acquired under it is concerned. Because it is an exclusive rule (unlike, for example, Rules 144 and 148), it does not permit reliance on an exemption, such as that provided by section 4(1) of the Act, for the resale of securities. Thus, it places a greater burden on persons deemed underwriters than do the other rules in the "140 series" in the sense that it provides no alternative to its resale provisions other than registration.

The Commission further has noted that the prior experiences of its staff in administering former Rule 133 under the Act[5] provide support for the view that the indefinite underwriter provision in Rule 145 may be unnecessary for the protection of investors. Rule 133 was the immediate predecessor of Rule 145 and contained a provision concerning resales that was similar in many respects to paragraph (d) of Rule 145. As does Rule 145, it limited the amount of securities that could be sold during specified periods by former affiliates. However, the staff construed that provision not to be applicable after the securities acquired in the 133 transaction had been held for two years on the ground that a person had adequately demonstrated at that point an investment intent that belied the notion that he was an underwriter. Because it does not appear that the staff's position under Rule 133 created any significant problems for the investing public, it would seem that a somewhat similar position under Rule 145 would not be harmful to the interests of investors.

In light of all of the foregoing, the Commission is amending paragraph (d) of Rule 145 to provide that an underwriter of Rule 145 securities may resell such securities without any limi-

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[1] An "affiliate" of an entity is defined in Rule 405 (17 CFR 230.405) under the 1933 Act as "a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the [entity]."

[2] The term "underwriter" is broadly defined in Section 2(11) of the 1933 Act and includes persons who acquire securities "with a view to . . . distribution."

[3] Paragraph (d) of Rule 145 permits underwriters of Rule 145 securities to resell them in accordance with paragraphs (c), (e), (f) and (g) of Rule 144. Those paragraphs require that there be current public information available about the issuer of the securities, that the amount of securities sold during any six-month period not exceed one percent of the total number of outstanding securities of the class, and that the securities be sold in brokers' transactions.

[4] See Rules 144-148 under the 1933 Act (17 CFR 230.144-148).

[5] Rule 133 was rescinded at the time Rule 145 was adopted. See Release No. 33-5316 (October 6, 1972) (37 FR 23631).

tations after that person has held them for 2 years, provided that the person is not affiliated with the issuer of the securities and provided that certain other conditions relating to the issuer are met. No change, however, has been made to that portion of paragraph (d) which permits underwriters to resell their Rule 145 securities at any time in accordance with certain provisions of Rule 144 under the 1933 Act.[6]

The conditions referred to above relating to the issuer of the Rule 145 securities are: (1) the issuer must at the time of the sale under Rule 145(d) be subject to the periodic reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)); (2) the issuer must have been subject to those requirements for at least the preceding 12 months; and (3) the issuer must have filed all of the reports required to have been filed under sections 13 or 15(d) during the preceding 12 months. With respect to the latter condition, it will not be necessary for the issuer to have timely filed all of the reports mentioned therein. Instead, it will be sufficient for the issuer simply to have filed all such reports at the time a sale is made under the rule. In this connection, the rule further states that a person seeking to sell securities under the newly adopted provision of Rule 145(d) may rely upon a statement in the most recent periodic report filed by the issuer that such issuer has filed all of its required periodic reports during the preceding 12 months, unless such person has reason to believe that the issuer has not complied with such requirements.

The Commission believes the amendment to Rule 145 announced today is consistent with the underlying policy of the 1933 Act to protect investors because of the various safeguards inherent in it. For instance, the provision that there must be a waiting period of 2 years before unlimited resales may be effected will provide a substantial indication that a person who acquired securities under Rule 145 did so for investment purposes rather than with a view to distribution. In addition, by restricting the availability of the provision to the securities of issuers which satisfy the conditions concerning periodic reports outlined above, there will be some assurance that the investing public will have adequate information upon which to base a decision to purchase securities offered pursuant to the amended paragraph. Finally, the requirement that sellers under the paragraph must not be affiliated with the issuer at the time of the sale will prevent misuse of the provision by persons who are in a control position insofar as the issuer is concerned.

[6]See footnote 3, infra.

TEXT OF THE AMENDMENT

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by revising paragraph (d) of § 230.145 to read as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph (c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph (a) of this section if: (1) such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144; or (2) such person or party is not affiliated with the issuer and has held the securities for at least two years, and the issuer is subject to the periodic reporting requirements of sections 13 or 15(d) of the Securities Exchange Act of 1934, has been so subject for at least the preceding 12 months, and has filed all of the reports required to be filed under those sections during the preceding 12 months. The person or party selling securities under this paragraph (d)(2) shall be entitled to rely upon a statement in whichever is the most recent report filed by the issuer that such issuer has filed all of the reports required to be filed under sections 13 or 15(d) of the Exchange Act during the preceding 12 months, unless such person or party has reason to believe that the issuer has not complied with such requirements.

* * * * *

(Secs. 2(11), 4(1), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1-4, 68 Stat. 683; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77b(11), 77d(1), 77s(a).)

STATUTORY BASIS AND EFFECTIVE DATE

The amendment to Rule 145 has been adopted by the Commission pursuant to the Securities Act of 1933, particularly sections 2(11), 4(1) and 19(a) thereof. The amendment will become effective immediately upon publication in the FEDERAL REGISTER.

Because the amendment to Rule 145 announced herein represents a relaxation of an existing requirement, the Commission finds that prior notice and public comment under the Administrative Procedure Act (5 U.S.C. 552) are unnecessary.

By the Commission.

GEORGE A. FITZSIMMONS
Secretary.

MAY 15, 1978.

[FR Doc. 78-13684 Filed 5-18-78; 8:45 am]

[8010-01]

[Release Nos. 33-5931; 34-14756]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Instructions for Use of Certain Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: This release amends the instructions for the use of Forms S-7, S-8, S-14 and S-16 under the Securities Act of 1933 and Forms 8-A, 16, 10-K, 11-K and 16-K under the Securities Exchange Act of 1934 to update and conform the instructions to previous form amendments.

EFFECTIVE DATE: May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter J. Romeo, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-1240.

SUPPLEMENTARY INFORMATION: Since these amendments are editorial in nature and do not change any instructions to the forms that have not previously been announced, notice of proposed rulemaking is unnecessary under the Administrative Procedure Act [5 U.S.C. 552]. Accordingly, Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. Section 239.16b is revised to read as follows:

§ 239.16b Form S-8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

Any issuer which at the time of filing a registration statement on this form has been subject to the requirement to file reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 for the prior 90 days, and has filed all reports and other materials required to be filed by such requirements during the preceding 12 months (or for such shorter period that the registrant was required to file such reports and materials), and in the case of a company subject to Section 15(d), has furnished or prior to the effective date of the registration statement will furnish an annual report to security holders for

its last fiscal year containing substantially the information required by Rule 14a-3 (17 CFR 240.14a-3) under the Securities Exchange Act of 1934, may use this form for registration under the Securities Act of 1933 ("the Act") of the following securities:

(a) Securities of such issuer to be offered to its employees, or to employees of its subsidiaries or parents, pursuant to any employee benefit plan. (See General Instruction B defining "plan".)

(b) Interests in the above plans, if such interests constitute securities and are required to be registered under the Act. (See Securities Act Release No. 4790 (July 13, 1965) [30 FR 9059] and Section 3(a)(2) of the Act.)

NOTE.—Form S-8 amended at 38 FR 2447, January 26, 1973; 39 FR 17935, May 22, 1974; 41 FR 52665, December 1, 1976; 41 FR 56194, December 27, 1976.

2. Section 239.23 is revised to read as follows:

§ 239.23 Form S-14, for simplified registration of securities issued in certain transactions under Rules 133 and 145 [17 CFR 230.133, 230.145].

This form and Form S-1 [17 CFR 239.11] may be used for registration under the Securities Act of 1933 of securities to be issued in a transaction specified in paragraph (a) of § 230.145: *Provided, however,* That Form S-14 shall not be so used unless the prospectus is delivered to security holders whose vote or consent is solicited at least 20 days prior to the date on which the meeting of such security holders is held or the date on which the transation is effectuated if no such meeting is held: *Provided further,* That if applicable law of the jurisdiction permits the furnishing of a notice of the meeting or other actions within less than the 20-day period specified herein, then compliance with such provisions of such law shall be deemed to satisfy this requirement. Form S-14 may also be used by persons and parties who may be deemed underwriters, for the registration of a public reoffering of securities issued in a transaction specified in paragraph (a) of § 230.145 of this chapter or in a transaction specified in paragraph (a) of § 230.133 of this chapter exempted by the latter section prior to its rescission effective on and after January 1, 1973.

NOTE.—Form S-14 amended 37 FR 23637, November 7, 1972.

3. Section 239.26 is revised to read as follows:

§ 239.26 Form S-7, for registration under the Securities Act of 1933 of securities of certain issuers.

Any registrant which meets the following conditions may use this form for registration of securities under the Securities Act of 1933:

(a) The registrant (1) has a class of securities registered pursuant of section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act or is required to file reports pursuant to section 15(d) of the above Act. A foreign issuer comes within the purview of this instruction but only if it is required to file the same reports with the Commission under sections 13(a) or 15(d) of the above Act as a domestic issuer.

(b) The registrant (1) has been subject to the requirements of sections 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least 36 calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the 12 calendar months preceding the filing of the registration statement; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a-3(b) and Part II of Form 10-K under the Securities Exchange Act of 1934 within the 12 calendar months preceding the filing of the registration statement, except that the information required by Part II of Form 10-K need only be provided to common stockholders and holders of securities convertible into common stock.

(c) The registrant and its subsidiaries have not during the past 36 calendar months defaulted in the payment of any dividend or sinking fund installment or preferred stock, or installment on any indebtedness for borrowed money, or in the payment of rentals under long-term leases.

(d) The registrant and its consolidated subsidiaries had a net income, after taxes but before extraordinary items and cumulative effect of a change in accounting principle net of tax effect, of at least $250,000 for 3 of the last 4 fiscal years, including the most recent fiscal years.

(e) A registrant shall be deemed to have met conditions (b), (c) and (d) above if (1) its predecessor and it, taken together, do so, provided that the succession was primarily for the purpose of changing the State of incorporation of the predecessor or forming a holding company and that the assets and liabilities of the successor at the time of succession were substantially the same as those of the predecessor; or (2) if all predecessors met the conditions at the time of succession and the registrant has continued to do so since the succession.

(f) This form may be used for the registration of securities of a majority-owned subsidiary which are fully guaranteed as to principal and interest by its parent if the parent meets the above conditions, notwithstanding the failure of the subsidiary issuer to meet such conditions.

NOTE.—Form S-7 amended at 39 FR 17934, May 22, 1974; 41 FR 21635, May 27, 1976; 41 FR 21766, May 28, 1976; 41 FR 53474, December 7, 1976; 41 FR 56301, December 28, 1976; 42 FR 22139, May 2, 1977.

4. Section 239.27 is revised to read as follows:

§ 239.27 Form S-16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

Form S-16 may be used for registration under the Securities Act of 1933 of securities offered in the transactions specified below, if the issuer meets the requirements for the use of Form S-7 (17 CFR 236.26) at the time of filing the registration statement:

1. *Transactions Involving Certain Primary Offerings.* Debt or equity securities offered for cash by or on behalf of the issuer provided the following conditions are met:

(a) The issuer meets one of the conditions listed in (i) or (ii) below relating to the aggregate market value of one or more of its or its parent's classes of outstanding voting stock. The aggregate market value of the issuer's outstanding stock shall be computed by reference to the price at which the stock was sold, or the average of the bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See the definition of affiliate in Rule 405.)

(i) The aggregate market value of the voting stock held by non-affiliates of the issuer is $50 million or more; or

(ii) The aggregate market value of the voting stock of the issuer's parent held by non-affiliates is $50 million or more, the issuer is a majority owned subsidiary and its parent has fully guaranteed the securities as to principal and interest.

(b) The offering is or will be pursuant to a firm commitment underwriting in which the underwriters are committed to take and to pay for all or not less than 90 percent of the securities being offered.

(c) If debt securities are to be registered, they shall be issued pursuant to a trust indenture subject to and qualified under the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.).

2. *Conversions or Warrants.* Securities to be offered upon the conversion of outstanding convertible securities or upon the exercise of outstanding transferable warrants issued by the issuer of the securities to be offered, or by an affiliate of such issuer, provided:

(a) No commission or other remuneration is paid for soliciting the conversion of the

convertible securities or the exercise of the warrants; or

(b) The issuer (or the parent, if the issuer is a majority owned subsidiary and the parent fully guarantees the securities) has one or more classes of outstanding voting stock and the aggregate market value of the voting stock held by its nonaffiliates is $50 million or more determined in accordance with General Instruction A(1)(a) above.

3. *Rights Offering.* Securities to be offered upon the exercise of outstanding rights granted by the issuer of the securities to be offered, provided such rights are granted on a pro rata basis to all existing security holders of the class of securities to which the rights attach.

4. *Transactions Involving Dividend or Interest Reinvestment Plans.* Securities of the issuer offered solely to its existing security holders pursuant to a plan established to allow such persons to reinvest dividends or interest paid them on securities issued by the issuer, plus additional cash amounts contributed by the participants of the plan, provided the securities to be registered are newly issued, or are purchased for the account of plan participants, at prices not in excess of current market prices at the time of the purchase, or at prices not in excess of an amount determined in accordance with a pricing formula specified in the plan and based upon average or current market prices at the time of the purchase.

5. *Transactions Involving Secondary Offerings.* Outstanding securities to be offered for the account of any person other than the issuer, including securities acquired by standby underwriters in connection with the call or redemption by the issuer of warrants or a class of convertible securities, if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association. In addition, Form S-16 may be used by affiliates to register securities for resale pursuant to the conditions specified in General Instruction E to Form S-8 (17 CFR 239.16b).

6. *Secondary Offerings by Certain Closed End Management Investment Companies.* Form S-16 may be used by closed end management investment companies for the registration of securities under the Securities Act of 1933 only for the purpose specified in paragraphs (4) and (5) above and subject to the applicable requirements of section 18(d) of the Investment Company Act of 1940 provided that such company: (1) is registered as a closed end management investment company under the Investment Company Act of 1940; (2) has been subject to and has filed all material required to be filed pursuant to sections 20(a) and 30(a) and (b) of such act for a period of at least 36 calendar months immediately preceding the filing of the registration statement on this form; (3) has filed in a timely manner all reports required to be filed during the 12 calendar months preceding the filing of the registration statement; and (4) meets the requirements of paragraphs (c) through (f) of the rule as to the Use of Form S-7.

NOTE.—Form S-16 amended at 41 FR 53474, December 7, 1976; 41 FR 56306, December 28, 1976; 43 FR 16872, April 19, 1978.

5. Section 249.208a is revised to read as follows:

§ 249.208a Form 8-A, for registration of certain classes of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

(a) Subject to paragraph (b) below, this form may be used for registration pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934 of any class of securities of any issuer which is required to file reports pursuant to sections 13 and 15(d) of that Act or pursuant to an order exempting the exchange on which the issuer has securities listed from registration as a national securities exchange.

(b) If the registrant would be required to file an annual report pursuant to section 15(d) of the Act for its last fiscal year, except for the fact that the registration statement on this form will become effective before such report is required to be filed, an annual report for such fiscal year shall nevertheless be filed within the period specified in the appropriate annual report form.

NOTE: Form 8-A was amended incorporating former Form 8-C and Rule 12b-35, 34 FR 14209, September 10, 1969.

6. Section 249.216 is conformed to read as follows:

§ 249.216 Form 16, registration of voting trust certificates.

This form shall be used for registration of voting trust certificates pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934. Whenever this form is used for the registration of voting trust certificates, the securites deposited or to be deposited under the voting trust agreement are also required to be registered unless they are already registered or are exempt from registration.

(30 FR 12772, 12773, October 7, 1965.)

7. Section 249.310 is conformed to read as follows:

§ 249.310 Form 10-K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed. Reports on this form shall be filed within 90 days after the end of the fiscal year covered by the report. However, all schedules required by Regulation S-X may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8.

NOTE: Form 10-K revised at 35 FR 16919, November 3, 1970, and amended at 36 FR 19363, October 5, 1971; 37 FR 600, 601, January 14, 1972; 37 FR 4331, March 2, 1972; 37 FR 20559, September 30, 1972; 37 FR 22979, October 27, 1972; 38 FR 2447, January 26, 1973; 38 FR 12102, May 9, 1973; 38 FR 17208, June 29, 1973; 39 FR 6070, February 19, 1974; 39 FR 10123, March 18, 1974; 39 FR 17941, May 22, 1974; 39 FR 23257, June 27, 1974; 39 FR 43711, December 18, 1974; 40 FR 55837, December 2, 1975; 41 FR 21636, May 27, 1976; 41 FR 21766, May 28, 1976; 41 FR 24702, June 18, 1976; 41 FR 53474, December 7, 1976; 42 FR 4433, January 25, 1977; 42 FR 12353, March 3, 1977; 42 FR 12422, March 4, 1977.

8. Section 249.311 is conformed to read as follows:

§ 249.311 Form 11-K, for annual reports of employee stock purchase, savings and similar plans pursuant to section 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to section 15(d) of the Securities Exchange Act of 1934 with respect to employee stock purchase, savings and similar plans, interests in which constitute securities which have been registered under the Securities Act of 1933. Such a report is required to be filed even though the issuer of the securities offered to employees pursuant to the plan also files annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934. However, attention is directed to Rule 15d-21 (§ 240.15d-21 of this chapter) which provides that in certain cases the information required by this form may be furnished with respect to the plan as a part of the annual report of such issuer. Reports on this form shall be filed within 90 days after the end of the fiscal year of the plan.

NOTE: Instructions to Form 11-K amended at 36 FR 1891, February 3, 1971; 39 FR 17943, May 22, 1974.

9. Section 249.316 is conformed to read as follows:

§ 249.316 Form 16-K, annual report relating to voting trust certificates.

This form shall be used for annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 relating to voting trust certificates. Reports on this form shall be filed within 120 days after the close of the fiscal year of the issuer of the securities deposited under the voting trust agreement.

NOTE: Form 16-K, amended at 30 FR 12775, October 7, 1965.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 15, 1978.

[FR Doc. 78-13682 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. IC-10237; File No. S7-710]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

Deregistration of Certain Investment Companies and Quarterly Reports of Management Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final form and rules.

SUMMARY: The Securities and Exchange Commission has adopted Form N-8F, an amendment to Form N-1Q, and rules relating to the implementation of those measures which will (1) create a form to be used by certain registered investment companies requesting orders of the commission declaring that such companies have ceased to be investment companies, and (2) require the quarterly reports of management investment companies to contain specified information relating to mergers or consolidations with other registered investment companies so as to provide, among other things, a basis for determining that such latter companies have ceased to be investment companies. The Commission believes that such rules and forms will facilitate the deregistration under the Investment Company Act of 1940 ("Act") of companies which have ceased to be investment companies as defined in the Act.

EFFECTIVE DATE: July 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne C. Flannery, 202-755-0248, or Brenda D. Sneed, 202-755-0233, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On July 21, 1977, the Securities and Exchange Commission published notice in Investment Company Act Release No. 9861 (42 FR 38187, July 27, 1977), that it had under consideration:

(1) Proposed Form N-8F (17 CFR 274.218), a form to be used as an application for an order of the Commission pursuant to section 8(f) (15 U.S.C. 80a-8(f)) of the Act (15 U.S.C. 80a-1 et seq.) declaring that a registered company has ceased to be an investment company as defined in the Act, in cases where the applicant company: (a) has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; (b) had never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act (15 U.S.C. 80a-3(c)(1)) and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (i) sold substantially all of its assets to another registered investment company, or (ii) merged into or consolidated with another registered investment company.

(2) Proposed Revision of Form N-1Q (17 CFR 274.106), the form for quarterly reports of registered management investment companies, to include in such form a requirement that such registered investment company provide certain information where, during the preceding quarter, it became the surviving company after merger or consolidation with another registered investment company. Such information is designed to provide, among other things, a basis upon which the Comnmission could determine that such other company had ceased to be an investment company.

(3) Proposed Rule 8f-1 (17 CFR 270.8f-1), to prescribe Form N-8F as described above.

The purpose of these proposals is to provide the Commission with reasonably current information respecting certain mergers and consolidations involving registered investment companies and to facilitate the procedures involved in determining that companies have ceased to be investment companies as defined by the Act.

Section 8(f) of the Act provides, in part, that where the Commission, upon 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 that, upon the taking effect of such order, the registration under the Act of such company shall cease to be in effect. The Commission believes that, through the use of Form N-8F, certain applicants requesting orders pursuant to section 8(f) of the Act may better be able to provide the specific information needed to process applications for deregistration. Although the use of Form N-8F as an application is limited to the situations described above, the Form may also be of assistance to other applicants as an indication of the nature of the information the Commission would consider to be significant with respect to its consideration of applications pursuant to section 8(f) of the Act.

The Commission encourages the use of Form N-8F on behalf of registered investment companies which have merged into or consolidated with another registered investment company. However, where a registered investment company has ceased to exist because of merger or consolidation with another company, and the surviving company is itself a registered management investment company, the revision of Form N-1Q is designed to provide the Commission with information concerning the merger or consolidation which would, should an application pursuant to section 8(f) not be filed on behalf of the non-surviving company, provide a basis for a Commission determination, on its own motion, that such company has ceased to be an investment company.

Together, these measures should enable the Commission to process the more routine applications pursuant to section 8(f) of the Act in a more expeditious manner and should assist applicants in the preparation of such applications.

The notice of the above proposals invited all persons who were interested in this matter to submit their views and comments on the proposed form, amendment to the existing form and rule. No comments were received by the Commission.

Form N-8F, as determined to be adopted by the Commission, provides for the inclusing of the following information in addition to that required by the Form as published for comment: (1) The applicant's file number ("811-" number) as registered under the Act, and (2) in the case where applicant is a management company, whether there exists any unit investment trust registered under the Act which serves or has served as a vehicle for investment, through periodic payment plans or otherwise, in the applicant and, if so, the name(s) and business address(es) of all such trusts. A few immaterial changes have also been made for purposes of clarification.

Notice is hereby given that the Commission has determined to adopt or amend the following sections of Chapter II, Title 17 of the Code of Federal Regulations, under the Investment Company Act of 1940, in the form set forth below.

1. Section 270.8f-1 is added as follows:

§ 270.8f-1 Form for application by certain registered investment companies for orders declaring that such companies have ceased to be investment companies as defined by the Act.

Form N-8F is hereby prescribed as the form for application for an order pursuant to section 8(f) of the Act where a registered investment company (a) has distributed substantially all of its assets to its shareholders and has effected, or is in the process of effecting, a winding-up of its affairs, or (b) has never made a public offering of its securities, has not more than 100 securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind, or (c) has (1) sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

2. Section 274.106 is amended as follows:

[This form is amended by: (1) renumbering current Item 12 as Item 13

to Form N-1Q; (2) adding new Item 12 to Form N-1Q; and (3) adding new Instruction 7 to Item 13 of Form N-1Q.]

The text of the revision is as follows:

§ 274.106 Form N-1Q, for quarterly report of registered management investment company.

* * * * *

Item 12. Mergers.

If, during the calendar quarter, registrant became the surviving corporation of a merger or consolidation with one or more other registered investment companies, furnish the following information:

(a) Give the name of each such other registered company.

(b) State the circumstances and details of such merger or consolidation, including the date and terms thereof, any action taken by the board of directors or shareholders approving or ratifying the merger or consolidation, and other actions taken pursuant to state law. State any other facts relevant to a Commission consideration of whether such other registered investment company has ceased to be an investment company as defined in the Act.

* * * * *

Item 13. Exhibits.

* * * * *

7. Copies of any merger or consolidation agreement, and other documents relevant to the information sought in Item 12, above.

3. Section 274.218 is added as follows:

§ 274.218 Form N-8F, for application by certain registered investment companies applying for orders pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that such a company has ceased to be an investment company.

This form shall be used as the application for an order of the Commission pursuant to section 8(f) of the Act in cases where the applicant (a) has distributed substantially all of its assets to its shareholders, and has effected, or is in the process of effecting, a winding-up of its affairs; or (b) has never made a public offering of its securities, has not more than one hundred securityholders for the purposes of section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind; or (c) has (1) sold substantially all of its assets to another registered investment company, or (2) merged into or consolidated with another registered investment company.

The text of Form N-8F will be set forth in its entirety as an appendix to this release when published in the SEC Docket.[1] Copies of Form N-8F will also be available from: Publications Section, Securities and Exchange Commission, Washington, D.C. 20549.

STATUTORY BASIS

Form N-8F (17 CFR 274.218) and Rule 8f-1 (17 CFR 270.8f-1) are promulgated pursuant to the provisions of section 38(a) of the Act (15 U.S.C. 80a-37(a)). The revisions of Form N-1Q (17 CFR 274.106) are promulgated pursuant to sections 14(b), 30(b), and 38(a) of the Act. (15 U.S.C. 80a-14(b), 80a-29(b), 80a-37(a)).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 11, 1978.

SECURITIES AND EXCHANGE COMMISSION,
WASHINGTON, D.C. 20549

FORM N-8F

Application pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act") and Rule 8f-1 thereunder for order declaring that company has ceased to be an investment company.

Name of Applicant: _____
File No.: 811- _____
Address of Principal Executive Office: (No. & Street, City, State, Zip Code)

_____

Classification of Applicant (face-amount certificate company, unit investment trust, or management company):

_____

Investment Adviser(s):
Name: _____
Address(es): _____

Principal Underwriter(s):
Name: _____
Address(es): _____

If Applicant is a management company:
(1) Check appropriate box:

Open-end:
☐ Diversified
☐ Non-diversified

Closed-end:
☐ Diversified
☐ Non-diversified

(2) Is there any unit investment company registered under the Act which serves or has served as a vehicle for investment, through periodic payment plans or otherwise, in Applicant? If so, state the name(s), file no(s). (811-) and business address(es) of all such unit investment trusts.

If Applicant is a unit investment trust:

Depositor:
Name: _____
Address: _____

Trustee:
Name: _____
Address: _____

Designate the basis upon which the application is being made:

☐ A. Applicant has never made a public offering of its securities, has not more than 100 securityholders for purposes of Section 3(c)(1) of the Act and the rules thereunder, and does not propose to make a public offering or engage in business of any kind ("Abandonment" or "Type A").

☐ B. Applicant (1) has distributed substantially all of its assets to its securityholders and has effected, or is in the process of effecting, a winding-up of its affairs ("Liquidation" or "Type B"), and (2) is not a "Type C" company as defined below.

☐ C. Applicant has (1) sold substantially all of its assets to another registered investment company; or (2) merged into or consolidated with another registered investment company ("Merger" or "Type C").

This form shall serve as an application only for such companies as defined in Rule 8f-1 adopted under the Act (17 CFR 270.8f-1). It shall be filed in the manner described in Rule 0-2 (a) and (b) promulgated under the Act (17 CFR 270.0-2(a), (b)). The filing of this application shall be accompanied by the authorizations described in Rule 0-2(c) (17 CFR 270.0-2(c)), and by any applicable fees, in the manner and amount prescribed by Rule 0-5 (17 CFR 270.0-5).

Every amendment to this application shall be filed in accordance with the procedures described in Rule 0-2 (a), (b), (c) and (d) (17 CFR 270.0-2 (a), (b), (c), (d)).

Any other registered investment company may use this form as a guide in the preparation of an application for an order pursuant to Section 8(f) of the Act. However, in such case, Rule 0-2 in its entirety shall apply.

I. *All Applicants.* The following items shall be completed by all Applicants:

1. State the date Applicant registered under the Act, and the date any registration statement was filed by Applicant (excluding amendments thereto) pursuant to Section 8(b) of the Act (15 U.S.C. 80a-8(b)).

2. Describe briefly any registration statements filed, with respect to securities issued by Applicant, pursuant to the Securities Act of 1933 (excluding post-effective amendments thereto), including the date(s) of filing, the amounts, titles and classes of securities covered by such registration statements, and the date(s) on which (i) such statements became effective, and (ii) any initial public offering(s) commenced.

3. State the present status of Applicant's legal existence under the state law pursuant to which it was created.

4. State whether, within the last 18 months, Applicant has, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant. If such an entity has been created, describe fully the circumstances of its creation and attach a copy of all instruments relating to its creation, including a description of any assets placed therein.

5. Describe fully the method and amount of all distributions (if any) to securityholders of Applicant made in connection with the winding-up of Applicant's affairs pursuant to such company's dissolution, liquidation, or merger, including the date such event took place.

6. Describe the value of and nature of any assets retained by Applicant at the time of filing this form and the purposes for which such assets have been retained. State whether such assets have or will be invested in any securities.

7. Describe briefly the nature of any debts, other than face-amount certificates if Applicant is a face-amount certificate company, or other liabilities of Applicant which remain outstanding.

8. State whether Applicant is party to any litigation or administrative proceeding and, if so, describe the nature of such litigation or proceeding and the position taken by the Applicant therein.

[1] A copy of Form N-8F accompanied this release as originally filed in the Office of the Federal Register.

9. State the number of securityholders (if any) of Applicant at the time of filing of this application.

10. State whether Applicant is now engaged, or proposes to engage, in any business activities other than those necessary for the winding-up of its affairs. If any activities other than winding-up are taking or will take place, describe the nature and extent of such activities.

11. State any other facts relevant to a consideration that Applicant has ceased to be an investment company.

II. *Abandonments.* The following item shall be completed by Applicants designated as Type A:

12. State whether any sales were made by Applicant of securities of which it is the issuer. Indicate the date(s) and amount(s) of such sales, and the consideration received therefor.

III. *Liquidations or mergers.* The following items shall be completed by Applicants designated as Type B or Type C:

13. State titles, classes and number of securities outstanding and net asset value attributable to each such class (in aggregate and per share) as of the nearest date practicable preceding liquidation or merger.

14. Describe the expenses incurred in connection with the liquidation or merger and how such expenses were allocated and to whom.

15. State the existence of any securityholders of Applicant to whom distributions in complete liquidation of their interests have not been made and describe briefly the plans (if any) for the distribution to, or the preservation of the interests of, such securityholders.

16. Describe briefly the disposition of portfolio securities and any other assets of the Applicant in connection with the liquidation or merger (other than distributions made to Applicant's securityholders), the basis of the price received, and the means of sale and any brokerage commissions paid thereon. Attach a balance sheet for Applicant, prepared in accordance with generally accepted accounting principles, which statement need not be audited, as of a date within 90 days immediately preceding the liquidation or merger.

17. Describe briefly any legal action taken to effect the liquidation or merger, including:

(a) any action taken by the Board of Directors or similar body authorizing or recommending such events, including the date any such action took place;

(b) any securityholder authorization which was obtained in connection with such event, including any vote required by law and the results of any such vote;

(c) the distribution of any proxy material to securityholders regarding such event; state whether such material was filed with the Commission;

(d) the filing of any application for an order of the Commission respecting such liquidation or merger, and the disposition thereof by the Commission; and

(e) any action required by state law; state whether Applicant has filed, or intends to file, any article of merger, certificate of dissolution, or similar document pursuant to state law.

IV. *Mergers.* The following items shall be completed by Applicants designated as Type C:

18. State the name and file No. (811-) of the company which Applicant has merged into, sold substantially all its assets or securities to, or which resulted from the consolidation of Applicant and any other company.

19. Briefly state the circumstances and details of such merger or consolidation, including the date and terms thereof.

Attach copies of any and all documents described in paragraphs 17(c) and (d) above, and, in the case of merger, a copy of the merger or reorganization agreement; any such documents which have previously been filed with the Commission may be incorporated herein by reference.

_____
(Name of Company)

BY _____
(Name)

_____
(Title)

VERIFICATION

State of _____
County of _____
ss: _____

The undersigned being duly sworn deposes and says that he has duly executed this application, dated ———, 19—, for an order pursuant to Section 8(f) of the Investment Company Act of 1940 declaring that ——— (Name of Company) has ceased to be an investment company, for and on behalf of such company; that he is the ——— (Title of Officer) of ——— (Name of Company); and that all action by stockholders, directors, and other bodies necessary to authorize deponent to execute and file such instrument has been taken. Deponent further says that he is familiar with such instrument, and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

_____
(Signature)

_____
(Type or print name beneath)

Subscribed and sworn to before me, a ——— (Title of Officer) this —— day of ——, 19—.

[OFFICIAL SEAL]
My commission expires _____

[FR Doc. 78-13683 Filed 5-18-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt. Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)) the Food and Drug Administration (FDA) announces the establishment of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel by the Commissioner of Food and Drugs.

The Committee will review and evaluate data concerning the safety and effectiveness of ophthalmic; ear, nose, and throat; and dental devices currently in use and advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the Ophthalmic Device Classification Panel, the Ear, Nose, and Throat Device Classification Panel, and the Dental Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosemtic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Com-

missioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(xv) and deleting paragraphs (d)(1) (v) and (vi) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *
(1) * * *

* * * * *

(v) [Reserved]
(vi) [Reserved]

* * * * *

(xv) *Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel.* Established April 28, 1978.

* * * * *

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Comissioner for Regulatory Affairs.

[FR Doc. 78-13584 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

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FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Surgical and Rehabilitation Devices Panel by the Commissioner of Food and Drugs.

The Committee will do the following: (1) Review and evaluate data concerning the safety and effectiveness of surgical and rehabilitation devices currently in use and advise the Commissioner regarding recommended classification of these devices into one of three regulatory categories; (2) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards of premarket approval category; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (5) review classification of devices to recommend changes in classification as appropriate; (6) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advise on the necessity to ban a device; and (8) respond to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the General and Plastic Surgery Device Classification Panel, the Orthopedic Device Classification Panel, and the Physical Medicine Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(viii) and deleting paragraphs (d)(1) (xvi) and (xviii) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *
(1) * * *

(viii) *Surgical and Rehabilitation Devices Panel.* Established April 28, 1978.

* * * * *

(xvi) [Reserved]

* * * * *

(xviii) [Reserved]

* * * * *

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13585 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of two others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Respiratory and Nervous System Devices Panel by the Commissioner of Food and Drugs.

The Committee will review and evaluate data concerning the safety and effectiveness of respiratory and nervous system devices currently in use and advise the Commissioner re-

garding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; advise on the necessity to ban a device; and respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner approved the termination of the Anesthesiology Device Classification Panel and the Neurological Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(i) and deleting paragraph (xiii) and marking it "reserved," as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d) * * *

(1) * * *

(i) *Respiratory and Nervous System Devices Panel.* Established April 28, 1978.

* * * * *

(xiii) [Reserved]

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Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13586 Filed 5-18-78; 8:45 am]

[4110-03]

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

Advisory Committees; Establishment and Terminations

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and the public advisory committee procedures (21 CFR Part 14), this document announces the establishment of one advisory committee and the termination of three others. This document adds to and deletes from the agency's list of standing advisory committees.

EFFECTIVE DATE: May 19, 1978; authority for the committee will remain in effect until amended or terminated by the Commissioner of Food and Drugs.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Office (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463) and § 14.40(b) (21 CFR 14.40(b)), the Food and Drug Administration (FDA) announces the establishment of the Clinical Chemistry and Hematology Devices Panel by the Commissioner of Food and Drugs.

The Committee will do the following: (1) Review and evaluate data concerning the safety and effectiveness of clinical chemistry, clinical toxicology, and hematology devices currently in use and advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; (2) recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; (3) advise on any possible risks to health associated with the use of devices; (4) advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; (5) review classification of devices to recommend changes in classification as appropriate; (6) recommend exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (7) advise on the necessity to ban a device; and (8) respond to requests from the agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Concurrently with the establishment, the Commissioner aproved the termination of the Clinical Chemistry Device Classification Panel, the Clinical Toxicology Device Classification Panel, and the Hematology Device Classification Panel. Under § 14.55(b) (21 CFR 14.55(b)), FDA announces the termination of these committees.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (d)(1)(iii) and deleting paragraphs (d)(1) (iv) and (x) and marking them "reserved," as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(d)* * *

(1)* * *

(iii) *Clinical Chemistry and Hematology Devices Panel.* Established April 28, 1978.

(iv) [Reserved]

* * * * *

(x) [Reserved]

* * * * *

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, May 19, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: May 12, 1978

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13587 Filed 5-18-78; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0118]

PART 131—MILK AND CREAM

Evaporated Milk, Sweetened Condensed Milk, Evaporated Skimmed Milk, and Sweetened Condensed Skimmed Milk; Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes standards of identity for evapo-

rated skimmed milk and sweetened condensed skimmed milk and revises the standards of identity for evaporated milk and sweetened condensed milk, based on consideration of the international standards developed by the Codex Alimentarius Commission for these foods. This action will promote honesty and fair dealing in the interest of consumers and will facilitate international trade by conforming U.S. standards more closely to international standards.

DATES: Effective July 1, 1979 for all products initially introduced into interstate commerce on or after this date.

Voluntary compliance: July 18, 1978. Objections by June 19, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md., 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1155.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued a proposal in the FEDERAL REGISTER of July 19, 1977 (42 FR 37013) to amend the standards of identity for evaporated milk and sweetened condensed milk in §§ 131.130 and 131.120 (21 CFR 131.130, 131.120), respectively, and to establish new standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk in §§ 131.132 and 131.122 (21 CFR 131.132, 131.122), respectively. The proposed standards were based on the recommended international standards for evaporated milk and evaporated skimmed milk (Codex Standard No. A-3 (1971))[1] and sweetened condensed milk, and sweetened condensed skimmed milk (Codex Standard No. A-4 (1971))[1] which were submitted to the United States for consideration of acceptance by the Joint Food and Agriculture Organization/World Health Organization's Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission.

The standards of identity set out below are being adopted as part of a program in which the United States is participating along with approximately 100 other countries to establish regional and/or worldwide food standards. The new standards of identity include (1) requirements for mandatory ingredients, (2) provisions for optional ingredients, such as safe and suitable stabilizers, emulsifiers, carriers for vitamins A and D, and characterizing flavoring ingredients, with or without coloring, and (3) requirements for label declaration of all optional ingredients except carriers for vitamins which are exempted by § 101.100(a)(3)(i) (21 CFR 101.100(a)(3)(i)). In addition, the standards of identity for evaporated milk and sweetened condensed milk are amended to provide for the use of nutritive carbohydrate sweeteners in the provision for optional characterizing flavoring. Further, for consistency with the international standards, where to do so is in accordance with FDA's policy of reasonableness and in the interest of consumers, the compositional requirements of these foods are amended to reduce the total solids requirement for evaporated milk from 25.5 percent to 25 percent by weight, and the milkfat requirement for sweetened condensed milk from 8.5 percent to 8 percent by weight.

Three comments were received in response to the proposal. One comment from the Evaporated Milk Association endorsed the proposed standard of identity for evaporated skimmed milk and the proposed revision of the standard of identity for evaporated milk. One comment from a major domestic manufacturer of sweetened condensed milk supported the proposed revision of the standard of identity for sweetened condensed milk. The third comment, from a State department of agriculture, generally supported the proposal and made several suggestions. The suggestions from the State department of agriculture and the Commissioner's responses are as follows:

1. The comment suggested that, to facilitate uniformity among standards, the composition of reduced-moisture milks should be consistent with that of fluid whole milk. Further, it explained, given the milkfat to milk solids not fat (mf/msnf) ratio for fluid milks, evaporated/condensed equivalents should maintain similar ratios, allowing for moisture reduction.

The Commissioner does not agree that there is a need to require the same mf/msnf ratio for fluid milk and evaporated and condensed milk products since the bases for the minimum requirements in the standards differ. He acknowledges that there are slight differences in the mf/msnf ratios for fluid whole milk and evaporated milk and sweetened condensed milk. In the case of whole milk, the minimum milkfat requirement of 3.25 percent and the minimum milk solids not fat requirement of 8.25 percent are based on the average minima determined for the composition of cow's milk and result in a mf/msnf ratio of 1:2.54. In the case of evaporated milk and sweetened condensed milk, the minimum milkfat and minimum milk solids requirements are based on the Codex requirements for these foods. The resulting mf/msnf ratios are 1:2.33 for evaporated milk and 1:2.50 for sweetened condensed milk. Traditionally, evaporated and sweetened condensed milks are obtained by the partial removal of water from fluid milk. Prior to removal of the water, the fat is adjusted in the fluid milk to an average rather than a minimum value. The current revisions of the standards of identity for evaporated milk and sweetened condensed milk, which are minimal, are made to effect consistency with the Codex standards for these foods. As he stated in the proposal, the Commissioner maintains that the proposed requirements are reasonable, will benefit international trade, and do not conflict with the need to promote honesty and fair dealing in the interest of consumers. The Commissioner concludes that the minimum milkfat and minimum milk solids not fat requirements for these foods should not be changed from those in the proposal.

2. The comment suggested that fluid and reduced-moisture milks should be uniformly vitamin fortified. It maintained that because the addition of vitamin D is optional in fluid milks and the addition of vitamin A is required in reduced-fat milks, addition of vitamin D to evaporated milk should be optional and the addition of vitamin A should be required for evaporated skimmed milk. The comment further stated that if regulations do not establish uniform standards for adding these vitamins to fluid and evaporated milks, the name of the standardized product should reflect the vitamin fortification (e.g., "nonfat dry milk fortified with vitamins A and D"). Thus, the comment stated, evaporated milk should be standardized as "evaporated milk fortified with vitamin D" and evaporated skimmed milk as "evaporated skimmed milk fortified with vitamins A and D".

The Commissioner does not agree that the vitamin fortification requirements for evaporated milk products should be amended simply for consistency with the requirements for fluid milk products. He notes that although vitamin D addition to fluid milks is optional, practically all such products contain added vitamin D. Further, because evaporated milk products are use in infant feeding programs, and because the practice of fortifying evaporated milk products with vitamin D is well accepted by nutritionists, he concludes that the standards of identity for evaporated milk and evaporated skimmed milk should not be changed from those in the proposal.

[1]Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products, 7th Ed. FAO/WHO Document No. CAC/M 1-1973.

The Commissioner does not agree with the suggested requirement for names such as "evaporated milk fortified with vitamin D" and "evaporated skimmed milk fortified with vitamins A and D". He maintains that the required terms which follow the name of the food in its labeling, i.e., "vitamin D" or "vitamin D added", or "vitamins A and D" or "vitamins A and D added", as appropriate, are sufficient to inform the consumer of the presence of added vitamins. He notes that the term "fortified with" is also used in the name of fluid milk products when milk solids are added, as well as in the name of nonfat dry milk fortified with vitamins A and D. The term "fortified with" in each case distinguishes the fortified product from its "unfortified" counterpart. Moreover, in the standards of identity for evaporated milk, as codified, and evaporated skimmed milk, as proposed, where fortification with vitamin(s) is mandatory and there would be no unfortified counterpart, he believes there would be no ambiguity by not requiring the name of the food to include terms such as "fortified with". The labels of evaporated milk and evaporated skimmed milk in the marketplace presently bear the names consistent with those set out in the standards of identity, and because consumers are familiar with these names, the Commissioner concludes that such a name change is unwarranted.

In consideration of the comments received, the Commissioner concludes that to establish standards of identity for evaporated skimmed milk and sweetened condensed skimmed milk based on the recommended international standards and to amend the standards of identity for evaporated milk and sweetened condensed milk, as set forth in this document, will promote honesty and fair dealing in the interest of consumers.

For the sake of clarity, several minor editorial changes have been adopted in this final rule.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner amends Part 131 as follows:

1. By revising § 131.120 to read as follows:

§ 131.120 Sweetened condensed milk.

(a) *Description.* Sweetened condensed milk is the food obtained by partial removal of water only from a mixture of milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not less than 8 percent by weight of milkfat, and not less than 28 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweetener used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, may be used:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167, under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed milk." The word "homogenized" may appear on the label if the food has been homogenized. The name of the food shall include a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(e) *Label declaration.* The nutritive carbohydrate sweetener(s) required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section, when used in the food, shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

2. By adding § 131.122 to read as follows:

§ 131.122 Sweetened condensed skimmed milk.

(a) *Description.* Sweetened condensed skimmed milk is the food obtained by the partial removal of water only from a mixture of skim milk and safe and suitable nutritive carbohydrate sweeteners. The finished food contains not more than 0.5 percent by weight of milkfat unless otherwise indicated and not less than 24 percent by weight of total milk solids. The quantity of nutritive carbohydrate sweeteners used is sufficient to prevent spoilage. The food is pasteurized and may be homogenized.

(b) *Optional ingredients.* The following safe and suitable characterizing flavoring ingredients, with or without coloring, and nutritive carbohydrate sweeteners may be used:

(1) Fruit and fruit juice, including concentrated fruit and fruit juice.

(2) Natural and artificial food flavoring.

(c) *Method of analysis.* The milkfat content is determined by the method prescribed in "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, section 16.167 under "Fat—Official Final Action."[2]

(d) *Nomenclature.* The name of the food is "Sweetened condensed skimmed milk." The word "homogenized" may appear on the label if the food has been homogenized. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement "Contains ———— percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration of the presence of any characterizing flavoring, as specified in § 101.22 of ths chapter.

(e) *Label declaration.* The nutritive carbohydrate sweetener required in paragraph (a) of this section and each of the optional ingredients specified in paragraph (b) of this section when used in the food, shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

3. By revision § 131.130 to read as follows:

§ 131.130 Evaporated milk.

(a) *Description.* Evaporated milk is the liquid food obtained by partial removal of water only from milk. It contains not less than 7.5 percent by weight of milkfat and not less than 25 percent by weight of total milk solids. Evaporated milk contains added vitamin D as prescribed by paragraph (b) of this section. It is homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Addition of vitamin A is optional, If added, vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good maufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamins A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by and complying with the provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

[2]Copies may be obtained from: The Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

(ii) Natural and artificial food flavoring.

(d) *Methods of analysis.* The following referenced methods of analysis are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat-content—"Fat—Official Final Action," section 16.154.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.166–43.179.[2]

(e) *Nomenclature.* The name of the food is "Evaporated milk." The phrase "vitamin D" or "vitamin D added", or "vitamins A and D" or "vitamins A and D added", as is appropriate, shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half the height of the letters used in such name. The name of the food shall include a declaration of a the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

4. By adding § 131.132 to read as follows:

§ 131.132 Evaporated skimmed milk.

(a) *Description.* Evaporated skimmed milk is the liquid food obtained by the partial removal of water only from skim milk. It contains not less than 20 percent by weight of total milk solids, and not more than 0.5 percent by weight of milkfat unless otherwise indicated. Evaporated skimmed milk contains added vitamins A and D as prescribed by paragraph (b) of this section. It may be homogenized. It is sealed in a container and so processed by heat, either before or after sealing, as to prevent spoilage.

(b) *Vitamin addition.* (1) Vitamin D shall be present in such quantity that each fluid ounce of the food contains 25 International Units thereof within limits of good manufacturing practice.

(2) Vitamin A shall be present in such quantity that each fluid ounce of the food contains not less than 125 International Units thereof within limits of good manufacturing practice.

(c) *Optional ingredients.* The following safe and suitable ingredients may be used:

(1) Carriers for vitamin A and D.

(2) Emulsifiers.

(3) Stabilizers, with or without dioctyl sodium sulfosuccinate (when permitted by, and complying with provisions of § 172.810 of this chapter) as a solubilizing agent.

(4) Characterizing flavoring ingredients, with or without coloring and nutritive carbohydrate sweeteners, as follows:

(i) Fruit and fruit juice, including concentrated fruit and fruit juice.

(ii) Natural and artificial food flavoring.

(d) *Methods of analyses.* The following referenced methods of analyses are from "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975.[2]

(1) Milkfat content—"Fat—Official Final Action," section 16.154.[2]

(2) Total milk solids—"Total Solids—Official Final Action," section 16.151.[2]

(3) Vitamin D content—"Vitamin D in Milk—Official Final Action," sections 43.166–43.179.[2]

(e) *Nomenclature.* The name of the food is "Evaporated skimmed milk." The phrase "vitamins A and D" or "vitamins A and D added", shall immediately precede or follow the name of the food wherever it appears on the principal display panel or panels of the label in letters not less than one-half of the height of the letters used in such name. If the milkfat content is over 0.5 percent by weight, the name of the food shall be accompanied by the statement, "Contains ———— percent milkfat", the blank to be filled in with the fraction "½", or multiple thereof, closest to the actual milkfat content of the product. The name of the food shall be accompanied by a declaration indicating the presence of any characterizing flavoring, as specified in § 101.22 of this chapter.

(f) *Label declaration.* Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before June 19, 1978, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin July 18, 1978, and all products initially introduced into interstate commerce on or after July 1, 1979 shall fully comply. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976 and is on file in the Federal Register Library.

Dated: May 11, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13588 Filed 5-18-78; 8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Recordkeeping Required

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This amendment requires any bank or other financial institution that sells or redeems a certificate of deposit on or after June 1, 1978, to maintain a record of the transaction which shall include the date, name, address and the taxpayer identification number of the purchaser or owner thereof. The information is needed for law enforcement purposes.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert J. Stankey, Assistant to the Director, Office of Law Enforcement, U.S. Department of the Treasury, Room 1462, Washington, D.C. 20220, 202-566-5630.

SUPPLEMENTARY INFORMATION: The Treasury Department published a

notice of proposed rulemaking in the FEDERAL REGISTER on March 16, 1978 [43 FR 10940]. This notice proposed that banks and other financial institutions be required to maintain a record of the date of redemption of each certificate of deposit sold or redeemed after May 15, 1978, including the above-described information, in order to impede the efforts of persons engaged in illegal activities to conceal their financial transactions relating to those activities. The notice provided that comments received on or before April 17, 1978, would be considered before action is taken on the proposed rule.

DISCUSSION OF COMMENTS

A total of 19 letters have been received. They include 10 from banks and savings and loan associations, 3 from industry associations, 1 from a member of the general public, and 5 from State and Federal financial regulatory agencies. While a majority of the responses are in substantial agreement with the proposal, some expressed general opposition and many contain technical suggestions for improving the language.

Four of the letters from financial institutions opposed the principal provisions of the proposal. The following summary lists the reasons given as a basis for that opposition together with the Treasury Department's responses:

1. In the opinion of this group of respondents, the amendment would be ineffective in impeding the concealment of financial transactions relating to illegal activities. Although the proposal would require a record of the identities of the purchaser and the person presenting a certificate for redemption, there is no provision for recording the identity of any other person who may purchase it.

Response: While the Department recognizes the fact that the proposal would not provide a complete record of the ownership of a negotiable certificate of deposit, the proposed amendment would assure the retention of records that would be highly useful in tracing the ownership of such a certificate.

2. The additional recordkeeping which would be required under the proposal would increase the operating costs of financial institutions that issue certificates of deposit.

Response: It is our understanding that most financial institutions currently create records which would satisfy the requirements of the proposal. It is recognized, however, that some institutions may not be retaining those records as long as the amendment would require. Nevertheless, in our opinion, the added cost to some institutions, of longer record retention is counter-balanced by the value of the requirement to law enforcement activities.

3. Adequate information is presently maintained for capital notes and registered certificates of deposit.

Response: It is the Department's belief that, in most instances, financial institutions are maintaining adequate records. The proposal would merely ensure that the relatively small number which have not been keeping these records will do so in the future.

4. Certificates of deposit are often bought and sold through agents. Therefore, it would disrupt the investment and collection procedures of the financial community to require the issuing institution to identify the principal in each transaction.

Response: The Department recognizes the practical difficulties that this requirement would entail in certain instances and has modified the proposal to shift the responsibility for keeping records identifying the principal, when an agent acts as intermediary, to the agent.

While two of the industry associations expressed their approval of the proposed amendment, a third opposed the inclusion of capital notes or debentures. The opposition was based on the belief that (1) the Bank Secrecy Act does not authorize the Treasury Department to require records of capital instruments of banks, and (2) the issuance of capital notes or debentures currently is regulated by Federal bank supervisory agencies and adequate records are maintained.

Although the Department believes that it has the necessary authority to require recordkeeping of capital instruments, there does not appear to be sufficient justification for including capital instruments in the proposal. Consequently, the amendment has been modified accordingly.

TEXT OF AMENDMENT

Section 103.34 of Part 103, Title 31, Code of Federal Regulations, is amended by revising paragraphs (a)(1) and (3) and by adding paragraphs (b)(11) and (12) to read as follows:

§ 103.34 Additional records to be made and retained by banks.

(a)(1) With respect to each certificate of deposit sold or redeemed after May 31, 1978, or each deposit or share account opened with a bank after June 30, 1972, a bank shall, within 45 days from the date such a transaction occurs or an account is opened, secure and maintain a record of the taxpayer identification number of the customer involved; or where the account or certificate is in the names of two or more persons, the bank shall secure the taxpayer identification number of a person having a financial interest in the certificate or account. In the event that a bank has been unable to secure, within the 45-day period specified, the required identification, it shall nevertheless not be deemed to be in violation of this section if (i) it has made a reasonable effort to secure such identification, and (ii) it maintains a list containing the names, addresses, and account numbers of those persons from whom it has been unable to secure such identification, and makes the names, addresses, and account numbers of those persons available to the Secretary as directed by him. A bank acting as an agent for another person in the purchase or redemption of a certificate of deposit issued by another bank is responsible for obtaining and recording the required taxpayer identification, as well as for maintaining the records referred to in paragraphs (b)(11) and (12) of this section. The issuing bank can satisfy the recordkeeping requirement by recording the name and address of the agent together with a description of the instrument and the date of the transaction.

* * * * *

(3) A taxpayer identification number required under paragraph (a)(1) of this section need not be secured for accounts or transactions with the following: (i) Agencies and instrumentalities of Federal, State, local or foreign governments; (ii) judges, public officials, or clerks of courts of record as custodians of funds in controversy or under the control of the court; (iii) aliens who are (A) ambassadors, ministers, career diplomatic or consular officers, or (B) naval, military or other attaches of foreign embassies and legations, and for the members of their immediate families; (iv) aliens who are accredited representatives of international organizations which are entitled to enjoy privileges, exemptions and immunities as an international organization under the International Organization Immunities Act of December 29, 1945 (22 U.S.C. sec. 288), and the members of their immediate families; (v) aliens temporarily residing in the United States for a period not to exceed 180 days; (vi) aliens not engaged in a trade or business in the United States who are attending a recognized college or university or any training program, supervised or conducted by any agency of the Federal Government; (vii) unincorporated subordinate units of a tax exempt central organization which are covered by a group exemption letter, (viii) a person under 18 years of age with respect to an account opened as a part of a school thrift savings program, provided the annual interest is less than $10; (ix) a person opening a Christmas club, vacation club and similar installment savings programs provided the annual interest is less than $10; and (x) non-resident aliens who are not engaged in a trade or business in the United States. In instances described

in paragraphs (a)(3), (viii) and (ix) of this section, the bank shall, within 15 days following the end of any calendar year in which the interest accrued in that year is $10 or more use its best effort to secure and maintain the appropriate taxpayer identification number or application form therefor.

* * * * *

(b) * * *

(11) A record containing the name, address, and taxpayer identification number, if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, a notation of the method of payment, and the date of the transaction.

(12) A record containing the name, address and taxpayer identification number, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.

Dated: May 9, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc. 78-13623 Filed 5-18-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 897-1]

PART 51—STATE IMPLEMENTATION PLANS UNDER CLEAN AIR ACT

Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas

AGENCY: Evironmental Protection Agency.

ACTION: Notice of policy memorandum.

SUMMARY: Reproduced below is a copy of a Memorandum in which the EPA Administrator summarized the elements that must be included in State Implementation Plan Revisions for areas that do not meet national ambient air quality standards under the Clean Air Act. The Memorandum establishes elements which a State Plan submittal must contain in order to be approved by EPA. EPA is publishing this Memorandum for the information of the public.

EFFECTIVE DATE: February 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Darryl D. Tyler, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, N.C. 27711, 919-541-5425.

SUMMARY INFORMATION: New provisions of the Clean Air Act enacted in 1977 require states to revise their State Implementation Plans for all areas that do not attain National Ambient Air Quality Standards. States must submit the necessary Plan revisions to EPA by January 1, 1979.[1]

The Memorandum reproduced below, which the EPA Administrator issued to the ten Regional Administrators on February 24, 1978, summarizes the elements which a Plan submittal must contain in order to be approved by EPA as meeting the requirements of Part D of the Act. Copies of this Memorandum have already been supplied to the state air pollution control agencies, to provide guidance in their preparation of Plan revisions. It is being published now for the information of the public.

EPA considers this Memorandum to state "nationally applicable" Agency policy, but not "regulations promulgated, or final action taken, by the Administrator" that is ripe for judicial review under the first sentence of section 307(b)(1) of the Act (42 U.S.C. 7607(b)(1)). Only after EPA has received actual Plan submittals, and has invited and considered public comment on whether the submittals satisfy the requirements for approval under the Act, will the Administrator take final actions with respect to the individual submittals. The opportunity for judicial review of those final Agency actions under the second and third sentences of section 307(b)(1) of the Act, will provide an opportunity for judicial consideration of the policy issues addressed in this Memorandum.

Dated: May 9, 1978.

DAVID G. HAWKINS,
Assistant Administrator for Air and Waste Management.

On February 24, 1978, the Administrator of the Environmental Protection Agency issued the following Memorandum:

SUBJECT: Criteria for Approval of 1979 SIP Revisions.

FROM: The Administrator (A-100).

TO: Regional Administrators, I-X.

FEBRUARY 24, 1978.

The attachment to this memo summarizes the elements which a 1979 State Implementation Plan (SIP) revision for a non-attainment area must contain in order to be approved by EPA as meeting the requirements of Part D of the Clean Air Act.

In summary, the Act requires the demonstration of attainment of the air quality standards (primary and secondary) as expeditiously as practicable, but in the case of national primary standards not later than December 31, 1982. However, for carbon monoxide (CO) and oxidants (Ox), if the State can demonstrate attainment is not possible by 1982 despite the implementation of all reasonable stationary source and transportation control measures, the Act provides for up to a five-year extension. In those cases the plan revisions must demonstrate attainment as expeditiously as practicable but no later than December 31, 1987. The extension is not automatic; a demonstration of need must be made and the State must fulfill the other statutory requirements.

It is the intent of the Agency to establish reasonable and achievable goals for SIP submissions and to take a firm posture on the imposition of sanctions where the reasonable goals are not achieved. Accordingly, while the policy requires a commitment to many specific strategies in the 1979 submissions (e.g., RACT on stationary sources, inspection/maintenance programs where attainment for carbon monoxide or oxidants extends beyond 1982, other reasonable transportation control measures, etc.) the memo also requires (for carbon monoxide and oxidants) a commitment to a continuing process. This process must be one which extensively involves the public as well as State and local elected officials and which ambitiously pursues a wide range of alternatives.

Since reliance on stationary controls and Federal new car standards alone will not enable most areas with oxidant and carbon monoxide problems to attain these standards by 1982, each Regional Office will need to put particular emphasis on additional measures to reduce transportation system emissions. The process committed to in the 1979 plan submission must lead to the expeditious selection and implementation of comprehensive transportation control measures. In judging the adequacy of the 1979 plan submission for the transportation sector, each Regional Administrator should ensure that ambitious alternatives (as described in the draft "Tranportation Planning guidelines" which have been circulated) will be analyzed.

The Department of Transportation (DOT), Housing and Urban Development (HUD) and EPA are seeking to integrate the transportation/air qual-

[1] The new requirements for nonattainment areas are contained in Part D to Title I of the Act (42 U.S.C. 7501-7508). The general requirements for Plans are set forth in section 110 of the Act (42 U.S.C. 7410). Several consequences that may result if a state fails to adopt and carry out the necessary Plan provisions for a nonattainment area are found in sections 110(a)(2)(I), 173(4), and 176(a)-(b) of the Act. (42 U.S.C. 7410(a)(2)(I), 7503(4), and 7506(a)-(b)). The January 1, 1979, deadline is stated in section 129(c) of the Clean Air Act Amendments of 1977, Pub. L. 95-95 (note under 40 U.S.C. 7502).

ity planning and implementation required by the Clean Air Act into existing planning and programing procedures. The air planning activities should be included in the Unified Work Program required by DOT and the adopted transportation measures should be included in the Transportation Improvement Program required by DOT. In complying with the Clean Air Act requirements, the Regions should also keep in mind the requirements of the HUD-EPA Agreement which provides for coordination of air quality planning and planning assisted under the HUD Comprehensive Planning Assistance (701) Program. Integration of air and transportation planning with comprehensive planning which incorporates growth management concerns should improve the effectiveness of air quality planning and could reduce the need for enforcement measures in the future.

States will be provided some discretion regarding the amount of emissions growth to be accommodated within the SIP. EPA generally will not question the growth rates desired by the State so long as reasonable further progress is demonstrated and there is a demonstration of attainment by the statutory deadline (1982 or 1987). However, the growth rate identified in the SIP must be consistent with growth rates used (or implied by) other planning programs in the area (e.g., FWPCA §§ 208, 201, HUD § 701, FHWA § 134).

You should note that there are other SIP revisions which are not discussed in the attachment but which are required by the 1977 Amendments. These include:

1. Section 128 (relating to State boards).
2. Section 126 (relating to interstate pollution).
3. Section 127 (relating to public notification).
4. Part C (relating to prevention of significant deterioration).
5. Section 110(a)(2)(K) (relating to permit fees).
6. Section 123 (relating to stack heights for existing source in other than non-attainment areas).
7. Section 121 (relating to consultation).

Although incorporation of these provisions is required by the law, failure to achieve final approval by July 1, 1979 does not trigger the new source prohibition of Section 110(a)(2)(I).

It is important to emphasize to the States that all current SIP requirements remain in effect despite the development of the 1979 revisions. Any suspension or discontinuance of an existing SIP provision must be submitted for EPA approval. This should be done as part of the revision submitted in January 1979. Exceptions to this procedure may be found in certain new provisions of § 110 relating to reduction of on-street parking, bridge tolls, and other measures.

The development of the January 1979 SIPs to meet the minimum requirements of the Clean Air Act Amendments of 1977 is a complex and demanding program. It will require the commitment of significant resources on the part of the air programs staff of the Regional Office to ensure that the States develop and submit a comprehensive and approvable plan. We are working with your staff to develop the necessary guidance and follow-up programs which will assist your office and the State to carry out this very difficult but important part of the overall air program.

Attachment

cc: Air & Hazardous Division Directors, Air Branch Chiefs.

Criteria for Approval of 1979 State Implementation Plan Revisions for Non-Attainment Areas

PURPOSE

The purpose of this document is to define the criteria by which State Implementation Plan (SIP) revisions for non-attainment areas required by the Clean Air Act Amendments of 1977 (the Act) will be approved. These revisions are to be submitted to EPA by January 1, 1979.

CATEGORIES OF SIP REVISIONS

SIP revisions submitted by January 1, 1979 can be divided into two categories:

1. Those which provide for attainment of the Primary Ambient Air Quality Standards (primary standards) for all criteria pollutants on or before December 31, 1982.
2. Those which provide for attainment of the primary standards for sulfur dioxide, nitrogen oxides, and particulate matter on or before December 31, 1982 but show that despite the implementation of all reasonable transportation and stationary source emission control measures attainment of the primary standards for carbon monoxide and/or oxidants cannot be achieved until after this date. In these cases, the revisions must demonstrate attainment as expeditiously as practicable but no later than December 31, 1987.

In order for an adequate SIP revision to fall into the second category, the State has an affirmative responsibility to demonstrate to the satisfaction of EPA that attainment of the primary carbon monoxide and/or oxidants standards is not possible in an area prior to December 31, 1982.

It should be noted that SIP revisions of either category should also provide for attainment of Secondary Ambient Air Quality Standards (secondary standards) as expeditiously as practicable although there is no specific deadline contained in the Act.

GENERAL REQUIREMENTS OF ALL 1979 SIP REVISIONS

Each 1979 SIP revision must contain the following:

1. A definition of the geographic areas for which control strategies have been or will be developed. Consideration should be given to the practical benefits of defining areas which correspond whenever possible to those substate districts established pursuant to Part IV, Attachment A of OMB Circular No. A-95.
2. An accurate, comprehensive, and current (1977 calendar year) inventory of existing emissions.
3. A determination of the level of control needed to demonstrate attainment by 1982 (including growth). This demonstration should be made by the application of modeling techniques as set forth in EPA's Guideline on Air Quality Models. For oxidants, any legitimate modeling technique (e.g., those referenced in "Use, Limitation and Technical Basis of Procedures for Quantifying Relationships Between Photochemical Oxidants and Precursors." EPA 450/2-77-021a. November 1977) can be used. Consideration of background and transport for oxidants should generally be in accordance with the procedures documented in "Procedures for Quantifying Relationships Between Photochemical Oxidants and Precursors." In developing photochem- ical oxidant control strategies for a particular area, states may assume at a minimum that the standard will be attained in adjacent states.

If a state can demonstrate that the level of control necessary for attainment of the primary standards for carbon monoxide and/or oxidant is not possible by 1982 despite the application of all reasonable measures, an extension past 1982 (but not beyond 1987) is authorized.

4. Adoption in legally enforceable form[2] of all measures necessary to

[2]Written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance or other legally enforceable document, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan. The relevant organizations shall provide evidence that the legally enforceable attainment measures and the "criteria, standards and implementing procedures necessary for effectively guiding and controlling major decisions as to where growth shall and shall not take place," prepared by State and local governments in compliance with Section 701 of the Housing Act of 1954, as amended, are fully coordinated in the attainment and maintenance of the NAAQS.

provide for attainment by the prescribed date or, where adoption of all such measures by 1979 is not possible, (e.g., certain transportation control measures, and certain measures to control the oxides of nitrogen and total suspended particulate) a schedule for expeditious development, adoption, submittal, and implementation of these measures. The situations in which adoption of measures may be scheduled after 1979 are discussed in the pollutant specific sections of this document. Each schedule must provide for implementation of all reasonably available control measures as expeditiously as practicable. During the period prior to attainment, these measures must be implemented rapidly enough to provide at a minimum for reasonable further progress (see discussion below). Each schedule will be considered part of the applicable implementation plan and thus will represent a commitment on the part of the State to meet the key mile- stones set forth in the submitted schedule.

5. Emission reduction estimates for each adopted or scheduled control measure or for related groups of control measures where estimates for individual measures are impractical. It is recognized that reduction estimates may change as measures are more fully analyzed and implemented. As such estimates change, appropriate responses will be required to insure that the plan remains adequate to provide for attainment and for reasonable further progress.

6. Provision for reasonable further progress toward attainment of the primary and secondary standards in the period prior to the prescribed date for attainment. Reasonable further progress is defined as annual incremental reductions in total emissions (emissions from new as well as existing sources) to provide for attainment by the prescribed date. The plan shall provide for substantial reductions in the early years with regular reductions thereafter.

Reasonable further progress will be determined for each area by dividing the total emission reductions required to attain the applicable standard by the number of years between 1979 and the date projected for attainment (not later than 1987). This is represented graphically by a straight line drawn from the emissions inventory submitted in 1979 to the allowable emissions on the attainment date. However, EPA recognizes that some measures cannot result in immediate emission reduction. Therefore, if a State can show that some lag in emissions reduction is necessary, a SIP will be acceptable even though reductions sufficient to produce decreases at the "straight-line rate" are not achieved for a year or two after 1979. This lag in achieving the "straight-line rate" for emissions reduction is to be accepted only to accommodate the time required for compliance with the first set of regulations adopted on or before January 1, 1979, if immediate compliance is not possible. It does not authorize delays in adoption of control requirements.

The requirement to demonstrate reasonable further progress will, in most areas designated non-attainment for oxidant or carbon monoxide, necessitate a continuous, phased implementation of transportation control measures. In areas where attainment of all primary ambient standards by 1982 is not possible EPA will not accept mere reliance on the Federal Motor Vehicle Control Program by itself as a demonstration of reasonable further progress.

In determining "reasonable further progress", those emission reductions obtained from compliance between August 7, 1977, and December 31, 1979, with (1) SIP revisions that have been submitted after August 7, 1977, and (2) regulations which were approved by the Agency prior to the enactment of the 1977 Clean Air Amendments, can be treated as having been achieved during 1979. There should be an assurance, however, that these are real emission reductions and not just "paper" ones.

7. An identification and quantification of an emissions growth increment which will be allowed to result from the construction and operation of major new or modified stationary sources within the area for which the plan has been developed. Alternatively, an emissions offset regulation can be adopted to provide for major new source growth.

The growth rates established by states for mobile sources and new minor stationary sources should also be specified, and in combination with the growth associated with major new or modified stationary sources will be accepted so long as they do not jeopardize the reasonable further progress test and attainment by the prescribed date. However, the growth rate identified in the SIP must be consistent with the growth rates used (or implied by) the other planning programs in the area (e.g., FWPCA Section 208 [201], HUD Section 701, FHWA Section 134). A system for monitoring the emission growth rates from major and minor new stationary sources and from transportation sources and assuring that they do not exceed the specified amounts must also be provided for in the revision.

8. Provision for annual reporting on the progress toward meeting the schedules summarized in (4) above as well as growth of mobile sources, minor new stationary sources, major new or modified stationary sources, and reduction in emissions from existing sources to provide for reasonable further progress as in (6) above. This should include an updated emission inventory.

9. A requirement that permits be issued for the construction and operation of new or modified major sources in accordance with Section 173 and 110(a)(2)(D).

10. An identification of and commitment to the financial and manpower resources necessary to carry out the plan. The commitment should be made at the highest executive level having responsiblity for SIP or that portion of it and having authority to hire new employees. This commitment should include written evidence that the State, the general purpose local government or governments, and all state, local or regional agencies have included appropriate provision in their respective budgets and intend to continue to do so in future years for which budgets have not yet been finalized, to the extent necessary.

11. Evidence of public, local government, and state legislative involvement and consultation. It shall also include an identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan revisions and of the alternatives considered by the State, and a summary of the public comment on such analysis.

12. Evidence that the SIP was adopted by the state after reasonable notice and public hearing.

ADDITIONAL REQUIREMENTS FOR CARBON MONXIDE AND OXIDANT SIP REVISIONS WHICH PROVIDE FOR ATTAINMENT OF THE PRIMARY STANDARDS LATER THAN 1982

For those SIP revisions which demonstrate that attainment of the primary standards for carbon monoxide and/or oxidants is not possible in an area prior to December 31, 1982 despite the implementation of all reasonable emission control measures the following items must be included in the January 1, 1979 submission in addition to all the general requirements listed above:

1. A program which requires prior to issuance of any permit for construction or modification of a major emitting facility an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social cost imposed as a result of its location, construction, or modification.

2. An inspection/maintenance program or a schedule endorsed by and committed to by the Governor for the development, adoption, and implementation of such a program as expeditiously as practicable. Where the necessary legal authority does not cur-

rently exist, it must be obtained by June 30, 1979. Limited exceptions to the requirement to obtain legal authority by June 30, 1979 may be possible if the state can demonstrate that (a) there was insufficient opportunity to conduct necessary technical analyses and/or (b) the legislature has had no opportunity to consider any necessary enabling legislation for inspection/maintenance between enactment of the 1977 Amendments to the Act and June 30, 1979. In addition, where a legislature has adequate opportunity to adopt enabling legislation before January 1, 1979, the Regional Administrator should require submission of such legal authority by January 1, 1979. In no case can the schedule submitted provide for obtaining legal authority later than July 1, 1980.

Actual implementation of the inspection/maintenance program must proceed as expeditiously as practicable. EPA considers two and one half years from the time of legislative adoption to be the maximum time required to implement a centralized inspection/maintenance program and one and one half years to implement a decentralized program. In no case may implementation of the program, i.e., mandatory inspection and mandatory repair of failed vehicles be delayed beyond 1982 in the case of a centralized program (either state lanes or contractor lanes) or beyond 1981 in the case of a decentralized (private garage) system.

3. A commitment by the responsible government official or officials to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as is practicable.

4. A commitment to use insofar as is necessary Federal grants, state or local funds, or any combination of such grants and funds as may be consistent with the terms of the legislation providing such grants and funds, for the purpose of establishing, expanding or improving public transportation measures to meet basic transportation needs.

Note that HUD has prepared guidelines for local development codes and ordinances to provide special requirements for areas which for significant periods of time may exceed the primary standards. These guidelines specify criteria for new construction operation of buildings which minimize pollutant concentrations to ensure a health indoor and outdoor environment. States are encouraged to adopt such measures as part of the SIP.

POLLUTANT SPECIFIC REQUIREMENTS

Sulfur Dioxide

Specifically, with regard to item (4) of the General Requirements, the January 1979 plan revisions dealing with sulfur dioxide must contain *all* the necessary emission limitations and legally enforceable procedures to provide for attainment by no later than December 31, 1982 (i.e., schedules for the development, adoption, and submittal of regulations will not be acceptable).

Nitrogen Oxides

For NO_x, the January 1979 plan must contain all the necessary emission limitations and the legally enforceable procedures, or as a minimum, the appropriate schedules to adopt and submit the emission limitations and legally enforceable procedures which provide for implementation so that standards will be attained by no later than December 31, 1982. EPA is currently evaluating the need for a short term NO_2 standard and expects to promulgate such a standard during 1978. If such a standard for air quality is promulgated, a new and separate SIP revision will be required for this pollutant.

Particulate Matter

The January 1979 plan revisions dealing with particulate matter must contain all the necessary emission limitations and legally enforceable procedures for traditional sources. These emission limitations and enforceable procedures must provide for the control of fugitive emissions, where necessary, as well as stack emissions from these stationary sources. Where control of non-traditional sources (e.g., urban fugitive dust, resuspension, construction, etc.) is necessary for attainment, the plan shall contain an assessment of the impact of these sources and a commitment on the part of the state to adopt appropriate control measures, this commitment shall take the form of a schedule to develop, submit, and implement the legally enforceable procedures, and programs for controlling non-traditional particulate matter sources. These schedules must include milestones for evaluating progress and provide for attainment of the primary standards by no later than December 31, 1982, and attainment of the secondary standards as expeditiously as practicable. States should initiate the necessary studies and demonstration projects for controlling the non-traditional sources as soon as possible.

Carbon Monoxide and Oxidant

An adequate SIP for oxidant is one which provides for sufficient control of volatile organic compounds (VOC) from stationary and mobile sources to provide for attainment of the oxidant standard. Accordingly, the 1979 plan revision must set forth the necessary emission limitations and schedules to obtain sufficient control of VOC emissions in all non-attainment areas. They must be directed toward reducing the peak concentrations within the major urbanized areas to demonstrate attainment as expeditiously as practicable but in no case later than December 31, 1987. This should also solve the rural oxidant problem by minimizing VOC emissions and more importantly oxidants that may be transported from urban to rural areas. The 1979 submission must represent a comprehensive strategy or plan for each non-attainment area; plan submissions that address only selected portions of non-attainment are not adequate.

For the purpose of oxidant plan development, major urban areas are those with an urbanized population of 200,000 or greater (U.S. Bureau of Census, 1970). A certain degree of flexibility will be allowed in defining the specific boundaries of the urban area. However, the areas must be large enough to cover the entire urbanized[3] area and adjacent fringe areas of development. For non-attainment urban areas, the highest pollutant concentration for the entire area must be used in determining the necessary level of control. Additionally, uniform modeling techniques must be used throughout the nonattainment urban area. These requirements apply to interstate as well as intrastate areas.

Adequate plans must provide for the adoption of reasonably available control measures for stationary and mobile sources.

For stationary sources, the 1979 oxidant plan submissions for major urban areas must include, as a minimum, legally enforceable regulations to reflect the application of reasonably available control technology (RACT)[4] to those stationary sources for which EPA has published a Control Techniques Guideline (CTG) by January 1978, and provide for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980, for those CTG's that have been published by January of the preceeding year.

For rural non-attainment areas, the Ox plan must provde the necessary legally enforceable procedures for the control of large HC sources (more than 100 ton/year potential emissions) for which EPA has issued a CTG by January 1978, and to adopt and submit additional legally enforceable procedures on an annual basis beginning in January 1980, after publication of subsequent CTGs as set forth above.

For mobile sources in urbanized area (population 200,000) SIPs must pro-

[3] As defined by the U.S. Bureau of Census, urbanized area generally include core cities plus any closely settled suburban areas.

[4] While it is recognized that RACT will be determined on a case-by-case basis, the criteria for SIP approval rely heavily upon the information contained in the CTG. Deviations from the use of the CTG must be adequately documented.

vide for expeditious implementation of reasonably available control measures. Each of the measures for which EPA will publish information documents during 1978 is a reasonably available control measure. These measures are listed on the following page:

1. To be published by February 1978:
a. Inspection/maintenance;
b. Vapor recovery;
c. Improved public transit;
d. Exclusive bus and carpool lanes;
e. Area wide carpool programs.
2. To be published by August 1978:
a. Private car restrictions;
b. Long range transit improvements;
c. On street parking controls;
d. Park and ride and fringe parking lots;
e. Pedestrian malls;
f. Employer programs to encourage car and van pooling, mass transit, bicycling and walking;
g. Bicycle lanes and storage facilities;
h. Staggered work hours;
i. Road pricing to discourage single occupancy auto trips;
j. Controls on extended vehicle idling;
k. Traffic flow improvements;
l. Alternative fuels or engines and other fleet vehicle controls;
m. Other than light duty vehicle retrofit;
n. Extreme cold start emission reduction programs.

The above measures (either individually or combined into packages of measures) should be analyzed promptly and thoroughly and scheduled for expeditious implementation. EPA recognizes that not all analyses of every measure can be completed by January 1979 and, where necessary, schedules may provide for the completion of analyses after January 1, 1979 as discussed below. (If analysis after January 1979 demonstrates that certain measures would be unnecessary or ineffective, a decision not to implement such measures may be justifiable. However, decisions not to implement measures will have to be carefully reviewed to avoid broad rejections of measures based on conclusory assertions of infeasibility.)

As described previously, annual incremental reductions in total emissions must occur in order to achieve reasonable further progress during the period prior to attainment of the standards. Therefore, not all transportation measure implementation activities should wait until the comprehensive analyses of control measures are completed. Demonstration studies are important and should accompany or precede full scale implementation of the comprehensive strategy. It is EPA's policy that each area will be required to schedule a representative selection of reasonable transportation measures (as listed above) for implementation at least on a pilot or demonstration basis prior to the end of 1980.

Every effort must be made to integrate the air quality related transportation plan and implementation required by the Clean Air Act into planning and programming procedures administered by DOT. EPA will publish "Transportation Planning Guidelines" which will, if followed carefully, insure that an adequate transportation planning process exists.

EPA recognizes that the planning and implementation of very extensive air quality related transportation measures can be a complicated and lengthy process, and in areas with severe carbon monoxide or oxidant problems, completion of some of the adopted measures may extend beyond 1982. Implementation of even these very extensive transportation measures, however, must be initiated before December 31, 1982.

In the case of plan revisions that make the requisite showing to justify an extension of the date for attainment, the portion of the 1979 plan submittal for transportation measures must:

1. Contain procedures and criteria adopted into the SIP by which it can be determined whether the outputs of the DOT Transportation planning process conform to the SIP.

2. Provide for the expeditious implementation of currently planned reasonable transportation control measures. This includes reasonable but unimplemented transportation measures in existing SIPs and transportation controls with demonstrable air quality benefits developed as part of the transportation process funded by DOT.

3. Present a program for evaluating a range of alternative packages of transportation options that includes, as a minimum, those measures listed above for which EPA will develop information documents. The analyses must identify a package of transportation control measures to attain the emission reduction target ascribed to it in the SIP.

4. Provide for the evaluation of long range (post-1982) transportation and growth policies. Alternative growth policies and/or development patterns must be examined to determine the potential for modifying total travel demand. One of the growth alternatives evaluated should be that prepared in response to Section 701 of the Housing Act of 1954, as amended.

5. Include a schedule for analysis and adoption of transportation control measures as expeditiously as practicable. The comprehensive analysis of alternatives (item 2 above) must be completed by July 1980 unless the designated planning agency can demonstrate that analysis of individual components (e.g., long range transit improvements) may require additional time. Adopted measures must be implemented as expeditiously as practicable and on a continuous schedule that demonstrates reasonable further progress from 1979 to the attainment date. Determinations of the reasonableness of a schedule will be based on the natue of the existing or planned transportation system and the complexity of implementation of an individual measure.

Additional Carbon Monoxide and Oxidant Monitoring Requirements

It is EPA's policy to require that all SIPs which provide for attainment of the oxidant standard after December 31, 1982, must contain commitments to implement a complete oxidant monitoring program in major urbanized areas in order to adequately characterize the nature and extent of the problem and to measure the effectiveness of the control strategy for oxidants. The 1979 plan submittal must provide for a schedule to conduct such CO monitoring as necessary to correct any deficiencies as identified by the Regional Office.

SIPs for Unclassified Areas Redesignated Non-Attainment

With respect to unclassified areas which are later found to be non-attainment areas the state will be required to submit a plan within nine months of the non-attainment determination. During plan development, the state will be required to implement the offset policy for that area. However, it should be noted that in many cases, because of previous plan revisions or adoption of previous control regulations, the baseline for offsets will be more restrictive and thus offsets may be more difficult to obtain. For oxidants, state-wide regulatory development (for at least all sources greater than 100 tons/year), however, would permit the state to utilize the regulations developed for the entire state as the applicable plan for the newly designated non-attainment area. This would normally constitute an approvable SIP per the above criteria and could essentially accommodate the proposed growth within the previously submitted state plan and not require offsets once the area is designated as non-attainment.

[FR Doc. 78-13634 Filed 5-18-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[BC Docket No. 78-47; RM-2995]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in LeRoy, Ill.; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a Class A FM channel to LeRoy, Ill., as that community's first FM assignment. The channel would provide for a station which could render a first full-time aural broadcast service to that community.

EFFECTIVE DATE: June 26, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1978.

Released: May 12, 1978.

1. The Commission herein considers the notice of proposed rulemaking, adopted February 3, 1978, 43 FR 6635, in the above-entitled proceeding instituted in response to the petition filed by Sono-Mag Corp. ("petitioner"). The petition proposed the assignment of Channel 224A to LeRoy, Ill., as a first FM channel to that community.[1] petitioner filed supporting comments in which it reaffirmed its intention to apply for the channel, if assigned. No oppositions to the proposed were received.

2. LeRoy (pop. 2,435), in McLean County (pop. 104,389),[2] is located approximately 216 kilometers (135 miles) south of Chicago, and 24 kilometers (15 miles) southeast of Bloomington, Ill. There is no local aural broadcast service in LeRoy.

3. Petitioner states that the area surrounding LeRoy is rural in nature with the farming industry contributing heavily to the overall income of McLean County. It asserts that the community relies on some manufacturing as well as retail and trade services. Petitioner has submitted sufficient information which demonstrates LeRoy's need for a first FM assignment.

4. We believe the public interest would be served by the assignment of FM Channel 224A to LeRoy, Ill. An interest has been shown for its use, and an FM station would provide the community with a first full-time local aural broadcast service.

5. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

6. *Accordingly, it is ordered,* That effective June 26, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended as it pertains to the community listed below:

City and Channel No.
LeRoy, Ill.; 224A.

7. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-13600 Filed 5-18-78; 8:45 am]

[1] Population figures are taken from the 1970 U.S. Census.

[2] The FM station would have to be located 4.8 kilometers (3 miles) north-northeast of the community.

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1003—LIST OF FORMS

Revision of OP-OR-11 Broker Application Forms

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising its broker application form to reflect recent changes in its regulations with regard to property brokerage and to make minor clerical changes. The most significant change in the application form is in the requirement that an applicant list its affiliations.

EFFECTIVE DATE: Applications filed on or after October 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, 202-275-7292.

SUPPLEMENTARY INFORMATION: A number of revisions to the Form OP-OR-11 have been made. An explanation of these changes is set forth below.

ITEM II

The Revised Guidelines for Implementation of the National Environmental Policy Act of 1969 are now contained at 49 CFR Part 1108. The reporting requirements for applicants are set forth at 49 CFR 1108.12.

ITEM III

Parts (a) and (d) of this item have been changed to reflect the adoption of the rules at 49 CFR 1045A pertaining to general commodities property brokerage applications. Since the phrase "as individuals and groups" is no longer used by the Commission, see *Passenger Transportation in Special Operations,* 112 MCC 160, 190 (1970) reference to this modifier has been deleted. The revised form lists the two most common requests for authority governed by the use of the OP-OR-11 form, and provides a space for listing any limitations or additions that applicant may wish to add. Part (d) has been eliminated. Applicants wishing to limit service according to the classification of a carrier's status (as, common carrier, or using a carrier's special operations authority only) may already do this in revised Item III(a). The arranging of air, rail, and water carriage does not require broker authority whether the movement is wholly by such means, or in combination with motor travel. Reference to such arrangements has also been deleted to avoid confusion.

ITEM VI

This item is the most significantly changed. The letter application procedure for general commodities property brokerage contains a requirement, at 49 CFR 1045A(b)(4)(ii)(c), that an applicant file information as to affiliations. Altering the information requirement here will make the two forms for brokerage authority consistent, and reflects longstanding Comission concern over affiliations between brokers and other entities. See, for example, *Merriman Broker Application,* 43 MCC 372 (1944).

CERTIFICATE OF SERVICE

The section of the Certificate of Service requirement dealing with service on State boards or officials has been modified, consistent with the Commission's previous actions in Ex Parte No. MC 100 (Sub-No. 2), *Revision of Procedures Requiring Service of Applications on State Officials.*

INSTRUCTIONS

Ex Parte No. 55 (Sub-No. 25) revised application forms for permanent motor carrier, broker, and other authority, and set forth the requirement

that an applicant had to list: (1) a current balance sheet and income statement, (2) a list delineating equipment and pertinent terminal locations, (3) a brief statement concerning the feasibility of the proposed operation, and (4) a certification of familiarity with applicable safety regulations. Since the second and fourth provisions are not applicable to brokerage operations, they have been deleted from the form to avoid confusion on the part of applicants.

The paragraph describing our certification requirements in 49 CFR 1100.247 has been modified to include pertinent information relating to passenger related applications.

APPENDIX

Minor changes in wording and format occur in the revised appendix to indicate the scope of the OP-OR-11's present use for household goods and passenger brokerage operations.

A copy of the adopted form is reprinted below. Authority for these revisions is contained in 49 U.S.C. 302, 303, 304, 305, and 311 and 5 U.S.C. 552 and 553(b)(A).

Dated May 9, 1978.

By the Commission.

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

BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. (Do not fill in)

APPLICATION FOR BROKERAGE LICENSE

(Read instructions on page — before answering)

I. (a) Application of (Name and trade name, if any)

_____

(State whether an individual, partnership, corporation, association, fiduciary, or other legal entity. If a partnership, give name of all partners. If a corporation, give name of State in which incorporated, and the names and addresses of all directors and officers.)

whose business is:

_____

(Street No. and address)

_____

(City) (State) (Zip Code)

(b) Applicant's representative to whom inquiries respecting this application may be made is:

_____

(Name)

_____

(Street No. and address)

_____

(City and State) (Zip Code)

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? ☐ YES ☐ NO

If YES, a statement complying with the requirements of 49 CFR 1108.12 as promulgated in Implementation—Natl. Environmental Policy Act, 1969, 340 ICC 431, must be attached to this application.

III. (a) Applicant applies for authority to engage in operation, in interstate or foreign commerce, as a broker to arrange for the transportation of: (check one)

1. ☐ Household goods.
2. ☐ Passengers and their baggage.

*List any limitations or additions to be placed on this authority below:

_____

_____

(NOTE:—applicants seeking to operate as a property (other than household goods) broker should refer to the application process in 49 CFR 1045A.)

(b) Applicant requests authority to arrange for transportation from, to or between the following points or described areas:

_____

(In defining the geographical scope of authority sought in an application, the term "United States" shall be construed as including the District of Columbia, and excluding Alaska and Hawaii. Applications seeking to encompass authority to, from, or between points in Alaska or Hawaii shall specifically so state.)

(c) List locations of office facilities (i.e., the points at which the proposed operations will be conducted):

_____

IV. Indicate whether applicant in prosecuting this application will present evidence of witnesses who will testify, in support of the application, as to their need for the service proposed. ☐ YES ☐ NO

(a) If YES, applicant must attach to this application one or more certifications of support which shall be prepared in the form prescribed in the appendix to the instructions accompanying this application form. The certification must be signed by the individual, or by an authorized representative of the corporation, association, or partnership, upon whose support applicant intends to rely. If 10 or less than 10 witnesses will appear, certifications from each witness must be submitted. If more than 10 witnesses will appear in support of the application, applicant must submit with the application additional certifications of support in sufficient number to be reasonably representative of the total number of witnesses to be presented and the scope of the authority applied for.

Except for good cause shown, no application depending upon the supporting evidence of public witnesses will be accepted for filing unless it is accompanied by the certifications of support of such witnesses. The submission with the application of such statements will not prevent applicant from presenting evidence of additional witnesses at a later stage of the proceeding. See Instructions for more details. Note: The information called for in this form, including the certification of support (appendix), may be used, at least in part, as supporting evidence in the application proceeding. See Revision of Application Procedures, 42 FR 62486 (1977).

(b) If the answer is NO, explain why and describe briefly the type of evidence which will be relied upon by applicant to support its burden of proof:

_____

V. (a) If applicant now holds, or has an application pending for, authority from the Interstate Commerce Commission as a motor common or contract carrier, a water common or contract carrier, a transportation broker, or a freight forwarder, identify the lead docket number assigned to such authority or application:

Docket No.: _____

(b) If applicant has within two years of the date of this application applied for authority duplicating in whole or in part that sought in this application, identify the docket number and indicate either the disposition or the current status of the prior application:

_____

(Applicant should understand that applications seeking authority which duplicates in whole or in part that sought in any such pending proceeding either may be rejected or processing thereof may be withheld until final disposition of the pending proceeding.)

VI. (a) Indicate any interest (whether stock, loans, voting, or management arrangements) which the applicant or any officer or director thereof, has in the affairs of other transportation entities:

_____

(b) Indicate any interest (whether stock, loans, voting, or management arrangements) which any transportation entity, including officers and directors thereof, or any person authorized to control a transportation entity, has in the affairs of applicant:

_____

(c) Indicate any interest (whether stock, money, voting, or management arrangements) in the applicant by any person who also holds an interest (whether stock, money, voting, or management arrangements) in another transportation entity:

_____

(d) Indicate any person or persons with which applicant is affiliated. Such information should include, but not be limited to, applicant's parent company or companies, or subsidiaries. Affiliation is defined as a relationship where it is reasonable to believe that one entity's affairs may be managed in the interest of another entity. This can occur through organization or operation of the entities, whether established through common directors, officers, or stockholders, a voting trust, a holding or investment company, or any other direct or indirect means.

_____

VII. (a) If the application is assigned for oral hearing, state where applicant prefers that the hearing be held, and alternate choices:

_____

(The listing of alternate choices may result in a more prompt scheduling of the hearing)

(b) State the approximate number of witnesses applicant will present at the hearing:

---

and the approximate time their direct examination will require:

VIII. Applicant must also attach to this application form the information called for in the first paragraph of the instructions. See Revision of Application Procedures, 42 FR 62486 (1977).

Applicant understands that the filing of this application does not, in itself, constitute authority to operate.

OATH

COUNTY OF——— ss:
STATE OF———

(Name of Affiant), being duly sworn, files this application as (indicate relationship to applicant, that is, owner or proprietor, title as officer of applicant corporation or association, member of applicant partnership, or other authorized representative of applicant)

---

and, in such capacity, is qualified and authorized to file and verify the application and to certify with respect to the availability of shippers and public witnesses to present evidence in support; that applicant has carefully examined all the statements and matters contained in the application; and that all such statements made and matters set forth are true and correct to the best of applicant's knowledge, information, and belief. Affiant further states that the application is made in good faith, with the intention of presenting evidence in support in every particular.

Knowing and willful misstatements or omissions of material facts constitute federal criminal violations punishable by up to five years imprisonment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001.)

(Signature of Affiant)

Subscribed and sworn to before me, at ——— in and for the State and County above named, this——day of ———, 19—.

(SEAL) ———

My Commission expires ———.

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Director of the Commission's Bureau of Operations for the Region in which the applicant has its headquarters: (List Regional Director and Address)

I further certify that I have delivered a copy of the caption summary regarding this application, in person or by mail, to the State Board (or official) in the State of applicant's domicile. (Name of State Board or Official)

Dated this —— day of ———, 19—.

(Signature)

INSTRUCTIONS

In addition to the other information required in this form, applicant also is required to attach to the form the following information:

(a) A current balance sheet and income statement;

(b) A brief statement concerning the feasibility of the proposed operation.

All information called for in this form must be provided, and each question must be answered. Indicate if any question is not applicable. Incomplete applications will be rejected.

The information called for in this application form and the certification of support (appendix) should be developed as succinctly as possible since both applicant and its supporting witnesses will be given the opportunity to expand upon their evidentiary presentations if the application ultimately is opposed.

Since the Commission will accept and give undiminished evidentiary value to the material contained in this application form, including the certification of support (appendix), neither applicant nor its supporting witnesses need restate material contained in this document, although neither will be prevented subsequently from developing further evidence so submitted. See Revision of Application Procedures, 42 FR 62486 (1977).

Applicant must submit with the application, a check or money order made out to the Interstate Commerce Commission for such amount as may from time to time be fixed by the Commission as the fee for the filing of such application. See 49 CFR 1002.2 for the amount.

If the space provided in the form is not sufficient to supply all of the information required, prepare the information or continue it on a separate sheet, attach it to the application, and give it the same number as the paragraph to which it refers.

The application should be typed, but if made out in neat, legible handwriting, in ink, it will be accepted; if made out in pencil, it will be rejected.

Assistance in the preparation of an application may be obtained from one of the District Supervisors of the Commission's Bureau of Operations. Before requesting assistance, however, the applicant should prepare a rough draft of the application to be used as a basis for discussion with the District Supervisor. Interviews with the District Supervisors should be arranged in advance.

Notice of the filing of this application will be published in the FEDERAL REGISTER. Unless applicant promptly notifies the Commission otherwise, applicant agrees to be bound by the published notice.

The applicant should keep a copy of the application for further reference. The original of the application should be mailed to the Interstate Commerce Commission, Washington, D.C. 20423.

Applicant's name should be stated exactly as it appears in its present authority, if any. If there has been a change in applicant's business address or name, it should submit a signed written request that the Commission's records be corrected to reflect the new address or name.

Attention is called to the provisions of section 211(a) of the Interstate Commerce Act, under which this application is filed, which state, in pertinent part, that a brokerage license is not required by any carrier holding a certificate or a permit under the provisions of this part (or by any bona fide employee or agent of such motor carrier) so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits, or with a common carrier by railroad, express, or water.

Before a license may be issued by the Interstate Commerce Commission in response to any application, the applicant must comply with the rules and regulations of the commission for the protection of travelers or shippers by motor vehicle to be observed by persons holding brokerage licenses, and must furnish a bond or other security approved by the Commission in such form and amount as will insure financial responsibility and the supplying of authorized transportation in accordance with contracts, agreements, or arrangements therefor. See 49 CFR 1043.4.

Special Rule 247(b)(1) of the Commission's General Rules of Practice has been amended to provide for the mandatory filing with the application of the certifications of support, and a caption summary of the authority sought for publication in the FEDERAL REGISTER. Applications not accompanied by a properly completed caption summary of the authority sought will not be accepted for filing.

The caption summary shall be prepared in the general format described in Appendix F to the report in Ex Parte No. 55 (Sub-No. 14), 125 M.C.C. 790 (1976). The docket number and filing date will be assigned when the application is accepted for filing by the Interstate Commerce Commission. Applicant shall print or type (single space) its name and trade name, if any, in upper case above its address. Applicant shall print or type (single space) the name of its representative above the representative's address. The authority sought shall be described in a double spaced paragraph and the commodity description (except specified restrictions and exemptions) and the particular method of transportation involved (e.g., broker) shall be underlined.

Special note: The Commission has adopted the following style changes which shall be used by all parties submitting captions on and after April 1, 1978:

All references to a State name shall use the following two-letter State abbreviations: Alabama, AL; Alaska, AK; Arizona, AZ; Arkansas, AR; California, CA; Colorado, CO; Connecticut, CT; Delaware, DE; District of Columbia, DC; Florida, FL; Georgia, GA; Hawaii, HI; Idaho, ID; Illinois, IL; Indiana, IN; Iowa, IA; Kansas, KS; Kentucky, KY; Louisiana, LA; Maine, ME; Maryland, MD; Massachusetts, MA; Michigan, MI; Minnesota, MN; Mississippi, MS; Missouri, MO; Montana, MT; Nebraska, NE; Nevada, NV; New Hampshire, NH; New Jersey, NJ; New Mexico, NM; New York, NY; North Carolina, NC; North Dakota, ND; Ohio, OH; Oklahoma, OK; Oregon, OR; Pennsylvania, PA; Rhode Island, RI; South Carolina, SC; South Dakota, SD; Tennessee, TN; Texas, TX; Utah, UT; Vermont, VT; Virginia, VA; Washington, WA; West Virginia, WV; Wisconsin, WI; Wyoming, WY.

The word "Highway" in route descriptions should be abbreviated "Hwy".

The word "thence" in route descriptions should be replaced with "then".

The shipper's plantsites, warehouses, or storage facilities should be described simply as "facilities".

Parties should indicate a desired hearing location in parens only as follows: (Hearing site:).

Verified statements submitted in support of an application for broker authority are subject to 49 CFR 1100.247, and must be prepared in accordance with the format described in that rule.

That rule further provides that upon request by any party, the applicant shall furnish such party with copies of all certifica-

tions of support filed with the application. If subsequent to the filing of the application additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve three copies upon all parties of record. The total number of witnesses subject to this rule whose testimony is offered in support of the application may not exceed twice the number for whom certifications were filed with the application. In cases designated for oral hearing, certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for oral hearing (however, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing, to be filed and served no later than 30 days prior to the date of the continued hearing). No testimony will be received from witnesses for whom such certifications have not been timely received.

NOTE.—The provisions of this paragraph limiting the total number of witnesses shall not be applicable in passenger broker applications, and, certifications for subsequently discovered witnesses shall not be required in cases handled under modified procedure except when reassigned for oral hearing.

An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. Any request for an oral hearing shall be supported by a specific explanation as to why the evidence would be more amendable to presentation at oral hearing. Amendments to applications which broaden the scope of the proposed operations will not be allowed. Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendment submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of subparagraph (e)(6) of Special Rule 247 respecting appearance at hearings.

APPENDIX

APPROVED FORM FOR CERTIFICATION OF SUPPORT OF APPLICATION FOR BROKERAGE AUTHORITY

To the Interstate Commerce Commission:

I, or the corporation, association, or partnership which I represent, have agreed to support the application filed by:

_____

(Name of Applicant)

and to which application this certification will be attached. Applicant's proposed service is desired for the arrangement of the transportation of (check one):

☐ household goods
☐ passengers and their baggage

from and to the following points or areas:

_____

The undersigned supports the following applications for authority similar to that sought in the application. (If none, so state.)

_____

(Give the name(s) of the broker(s), the docket number(s), if available, and the date(s) of filing, if known.)

Describe briefly the transportation services currently used:

_____

Indicate the extent to which applicant's proposed service, if authorized, would be used by you (i.e., volume to be tendered applicant or number and kind of tours to be taken):

_____

The undersigned certifies that support for this application was first made known to applicant on (Date).

By signing and submitting this Certificate of Support, I certify to the Commission that I, or an authorized and qualified representative of the corporation, association, or partnership, will appear and testify on applicant's behalf in any oral hearing on this application.

Should the support for this application be withdrawn or changed in whole or in part, I agree immediately to inform the Interstate Commerce Commission, Washington, D.C. 20423.

I am duly qualified and authorized to make this certification of support, and that in signing this certification am aware that anyone who, in any matter within the jurisdiction of an agency of the United States, intentionally makes or uses any false, fictitious, or fraudulent writing or document, may be subject to prosecution and fined up to $10,000 and imprisoned for up to five years. (18 U.S.C. 1001.)

Dated ————, 19—

_____

(Firm, corporation, association, partnership, etc., represented, if any.)

_____

(Signature)

_____

(Title)

_____

(Typed name)

_____

(Complete address)

[FR Doc. 78-13672 Filed 5-18-78; 8:45 am]

[3510-22]

Title 50—Wildlife and Fisheries

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final rule: correction.

SUMMARY: This document corrects an error in the regulations implementing the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California, published on April 14, 1978, which misstated the legal minimum size for a certain species of salmon on board freezer-trollers after the head has been removed.

EFFECTIVE DATE: This correction is effective on Monday, May 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Director, Northwest Region, National Marine Fisheries Service, NOAA, 1700 Westlake Avenue, North Seattle, Wash. 98109, telephone: 206-442-7575.

SUPPLEMENTARY INFORMATION:

Section 661.9(c) of the regulations implementing the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California, which appeared in the FEDERAL REGISTER on April 14, 1978 (43 FR 15629), contains a table which shows the minimum legal size of certain species of salmon both as whole fish and with the heads removed. The entry in that table for coho in Areas D and E found on line nine of the table in the "minimum dressed heads-off length" column shows a legal minimum length of 16 inches. This should be 16½ inches.

Signed at Washington, D.C. this 12th day of May, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

§ 661.9 [Amended]

Amend § 661.9(c) by striking 16 in. in line 9 of the table of minimum lengths and substituting 16½ in. so the table reads as follows:

	Minimum total length	Minimum dressed heads-off length
• • • • •		
Areas D and E:		
Chinook	•	•
Coho	•	16½ in.

[FR Doc. 78-13609 Filed 5-18-78; 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.

[1505-01]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Part 318, 320]

COOKING REQUIREMENTS FOR COOKED BEEF ROAST

Notice of Proposed Rulemaking

Correction

In FR Doc. 78-11777, appearing at page 18681 in the issue for Tuesday, May 2, 1978, on page 18681, in the third column, in the last paragraph, in the 6th line, insert the word "and" between the words "time" and "temperature".

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 211]

MANDATORY PETROLEUM ALLOCATION REGULATIONS

Inclusion of Nonrefining Uses of Lower Tier Crude Oil Within the Entitlements Program

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of extension of date for receipt of written comments. (Advance notice of proposed rulemaking.)

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) extends the date for the receipt of written comments on the notice of inquiry entitled "Inclusion of Nonrefining Uses of Lower Tier Crude Oil Within the Entitlements Program" issued on April 17, 1978 (43 FR 16987, April 21, 1978). The due date for receipt of written comments, originally May 21, 1978, is changed to May 30, 1978.

DATE: Comments by May 30, 1978, 4:30 p.m.

ADDRESS: All comments to Public Hearing Management, Box SE, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461

FOR FURTHER INFORMATION CONTACT:

Robert J. Kane (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Fred A. Wolgel (Office of General Counsel), Department of Energy, 12th and Pennsylvania Avenue NW., Room 7134, Washington, D.C. 20461, 202-566-2454.

Issued in Washington, D.C., May 11, 1978.

DOUGLAS G. ROBINSON,
Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 78-13576 Filed 5-18-78; 8:45 am]

[3128-01]

Federal Energy Administration [1]

[10 CFR Part 300]

FEDERAL LOAN GUARANTEES FOR DEVELOPMENT OF UNDERGROUND COAL MINES

Proposed Rulemaking; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Department of Energy (DOE) hereby gives notice of a proposal to establish regulations providing for implementation of the Coal Loan Guarantee Program, as authorized by the Energy Policy and Conservation Act (EPCA) and the Energy Conservation and Production Act (ECPA). Under this program, DOE is authorized to issue guarantees of loans obtained for the purpose of developing, expanding, or reopening underground coal mines. Written comments will be received and a public hearing will be held with respect to this proposal.

DATES: Written comments must be received on or before June 19, 1978; requests to speak, on or before June 12, 1978; hearing testimony, on or before June 19, 1978; public hearing date, June 21, 1978.

ADDRESSES: Written comments and requests to speak to Department of Energy, Public Hearing Management, Room 2313, Box *TO*, 2000 M Street NW., Washington, D.C. 20461. The hearing will be held at the Daniel Boone Hotel, Capitol and Washington Streets, Charleston, W. Va.

FOR FURTHER INFORMATION CONTACT:

Robert M. Grubenmann, Department of Energy, Coal Loan Guarantee Program, Resource Applications, Room 3516, Federal Building, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-7575.

SUPPLEMENTARY INFORMATION:

I. Background
II. Comment Procedures

I. BACKGROUND

Section 102 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163) as amended by section 164 of the Energy Conservation and Production Act (ECPA) (Pub. L. 94-385) authorizes the Administrator of the Federal Energy Administration (FEA) to guarantee loans issued for the development of new underground coal mines, the expansion of existing underground coal mines, and the reopening of underground coal mines which had been previously closed. The Department of Energy Organization Act, 42 U.S.C. 7101 et seq., transferred to DOE the functions of FEA under this program.

The Coal Loan Guarantee Program is designed to encourage and assist small and medium sized coal producers in increasing coal production from low sulfur underground coal mines, to enhance competition among coal producers, and to encourage new market entry by small coal producers. In addition, the program is likely to stimulate additional job opportunities in geographic areas where low sulfur underground coal reserves are located.

Underground mining is encouraged as a means of reducing the impact of coal production on the surrounding environment. Further, the program will also assist coal producers in acquiring the necessary funds to upgrade equipment and provide for better safety mechanisms as specified in the Federal Coal Mine Health and Safety Act.

FEA issued an advance notice of proposed rulemaking on July 18, 1977 (42 FR 36836), in order to obtain the public's views regarding the need for the program, its impact and its feasibility, as well as suggestions regarding program operating procedures. The preliminary regulations offered for comment outlined a procedure by which the FEA would administer its responsibilities to issue loan guarantees.

Certain comments received in response to the advance notice have

[1] EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Department of Energy.

been incorporated into the proposed regulations. Specifically, the filing and processing fee has been eliminated, the financial reporting requirement has been reduced, and the guarantee has been extended to include accrued interest to enhance the attractiveness of this program. In addition, a requirement for flood insurance has been added if the proposed project is located in an identified flood plain area, as required under the Flood Disaster Protection Act of 1973, Pub. L. 92-234.

The environmental review section has also been revised to establish criteria which will be used by DOE in determining the appropriate level of environmental review to be afforded individual loan guarantee actions. It recognizes that in most cases, the Environmental Protection Agency (EPA) will be involved in these projects through the issuance of National Pollutant Discharge Elimination System (NPDES) permits, which will be subject to an environmental review by EPA. In order to assure consistency of Federal reviews, DOE proposes to utilize the criteria which have been developed by EPA to assist in determining the level of the environmental review required. (See 42 FR 46934, September 19, 1977, for a full discussion of this policy and the basis upon which it was developed.)

In essence, the EPA criteria provide that for underground coal mines of less than 100,000 annual designed tonnage, no routine detailed environmental review (i.e., no environmental assessment or environmental impact statement) will be conducted unless such a review is warranted in a particular case, based on evidence indicating that any of the following may be significant: archaeological sites; wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; mining in a saturated zone; presence of toxic overburden; steep slope mines (over 25 percent); and mining in alluvial valley floors. For underground mines of greater than 100,000 annual designed tonnage, a detailed environmental review will be conducted unless the NPDES permit applicant certifies that he will use "best practice procedures" as set forth in the EPA document entitled, "Best Practices for New Source Surface and Underground Coal Mines."

DOE intends to coordinate its environmental review with that of EPA and other involved Federal agencies, where appropriate.

Other revisions to the preliminary regulations are editorial, procedural, or for the purpose of greater clarity.

Public comments involving the eligibility of surface mines, the duration of coal sales contracts, and the definition of low sulfur coal were not incorporated, since they would require amendments to the enabling legislation.

The proposed regulations outline requirements for the filing and processing of applications for loan guarantees and for the issuance and subsequent servicing of guaranteed loans. The documentation required to be submitted by the applicant, including certain site-specific environmental information described in application forms currently under development, will provide a basis upon which to evaluate the application and determine whether to issue a loan guarantee.

No application for a loan guarantee will be considered unless evidence is provided which establishes that adequate financing could not be obtained without such a loan guarantee.

Consideration will be given only to loan guarantee applications for low sulfur underground coal mining projects, in accord with the legislative requirement contained in section 102(b)(3) of EPCA that "no more than 20 percent of the amount of guarantees issued in any fiscal year may be issued with respect to loans for the purpose of developing, expanding, or reopening underground coal mines which produce coal that is not low-sulfur coal." In view of the seam variability of sulfur in coal, and to permit the guarantee of loans for mines which have variable sulfur content, it is not intended, at present, to make any loan guarantees for mines where low sulfur coal is not required to be delivered pursuant to contract.

Priority consideration will be given to those applications for projects having a plan of operation which indicates a reasonable likelihood of rapid production from proven reserves and which already have available such project infrastructure as access roads, rail systems, and loading facilities.

The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (a) the principal balance of the loan, or (b) the cost of the project. The aggregate outstanding principal amount of loans which are guaranteed under this program may not exceed $750,000,000.

The DOE supplemental appropriation for the fiscal year ending September 30, 1978 (Pub. L. 95-240), provides that of the total amount of the appropriation, $6,000,000 shall remain available until expended for a reserve to cover any defaults from loan guarantees issued to develop underground coal mines as authorized by Pub. L. 94-163; and that the indebtedness guaranteed or committed to be guaranteed under this program shall not exceed an aggregate of $62,000,000.

DOE will accept and process applications for loan guarantees and may issue provisional commitments to guarantee loans prior to the final rulemaking and the final programmatic environmental impact statement (EIS) on this program. No final commitments to guarantee will be issued until the EIS and rulemaking are finalized.

Any person submitting an application prior to the finalization of the EIS and rulemaking should be aware that there may be changes in these documents which may affect the terms and conditions of the provisional commitment, or which may not permit DOE to guarantee a particular loan. Also, there may be additional requirements which applicants may not be able to meet or may choose not to meet.

Application may be made to Mr. Robert M. Grubenmann, Coal Loan Guarantee Program, Resource Applications, Department of Energy, Room 3516, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20461, and shall contain, at a minimum, the information specified in the proposed regulations § 300.21-23. However, DOE may request information in addition to that specified in the proposed regulations. Processing of the application and issuance of a provisional commitment will follow the procedures and requirements of the proposed regulations.

II. Comment Procedures

A. Written Comments

Interested persons are invited to submit written comments with respect to the proposed regulations to Box *TO*, Public Hearing Management, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C., 20461. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Federal Loan Guarantee for Development of Underground Coal Mines." Fifteen (15) copies should be submitted. All written comments and related information should be received by DOE by June 19, 1978, in order to ensure consideration.

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.

B. Public Hearing

1. *Participation Procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., on June 21, 1978, at the Daniel Boone Hotel, Capitol and Washington Streets, Charleston, W. Va. Any person who has an interest in the proposed regulations or

who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Public Hearing Management, Department of Energy, Box *TO*, Room 2313, 2000 M Street, NW., Washington, D.C. 20461, on or before June 12, 1978. The person making the request should describe his or her interest in the proceeding and provide a concise summary of the proposed oral presentation and a phone number where he or she may be reached. Each person who, in DOE's judgment, proposes to pre- sent relevant and material information shall be selected to be heard, shall be notified by DOE of his or her participation before 4:30 p.m., June 14, 1978, and shall submit 15 copies of his or her proposed statement to Public Hearing Management, Department of Energy, Box *TO*, Room 2313, 2000 M Street NW., Washington, D.C. 20461, on or before June 19, 1978.

2. *Conduct of Hearing.* DOE reserves the right to arrange the schedule of presentations to be heard, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard. A DOE official will be designated as presiding officer to chair the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any participant who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer, who will determine whether the question is relevant and material, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, 1200 Pennsylvania Avenue NW., Washington, D.C., 20461, between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

DOE has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Orders 11821 and 11949 and OMB circular A-107. On March 21, 1978, DOE published a notice in the FEDERAL REGISTER (43 FR 11747) to the effect that a draft programmatic environmental impact statement (EIS), DOE/EIS-0004-D, Coal Loan Guarantee Program, had been issued. The statement was prepared pursuant to the National Environmental Policy Act of 1969, to identify potential environmental impacts that might occur as a result of implementation of DOE's proposed Coal Loan Guarantee Program.

Copies of the draft EIS were distributed for review and comment to appropriate Federal, State, and local agencies, and other organizations and individuals known to have an interest in the environmental effects of the program.

The final regulations will not be promulgated until the final EIS is prepared and available for public inspection.

TEXT OF THE AUTHORIZING LEGISLATION

For convenience, the texts of the provisions in EPCA and ECPA authorizing the Coal Loan Guarantee Program have been reprinted below:

ENERGY POLICY AND CONSERVATION ACT INCENTIVES TO DEVELOP UNDERGROUND COAL MINES

Sec. 102. (a) The Administrator may, in accordance with subsection (b) and rules prescribed under subsection (d), guarantee loans made to eligible persons described in subsection (c)(1) for the purpose of developing new underground coal mines.

(b)(1) A person may receive a loan guarantee under subsection (a) only if the Administrator determines that—

(A) Such person is capable of successfully developing and operating the mine with respect to which the loan guarantee is sought;

(B) Such person has provided adequate assurance that the mine will be constructed and operated in compliance with the provisions of the Federal Coal Mine Health and Safety Act and that no final judgment holding such person liable for any fine or penalty under such Act is unsatisfied;

(C) There is a reasonable prospect of repayment of the guaranteed loan;

(D) Such person has obtained a contract, of at least the duration of the period during which the loan is required to be repaid, for the sale or resale of coal to be produced from such mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and of any applicable implementation plan (as defined in section 110 of such Act);

(E) The loan will be adequately secured;

(F) Such person would be unable to obtain adequate financing without such guarantee;

(G) The guaranteeing of a loan to such persons will enhance competition or encourage new market entry; and

(H) Such person has adequate coal reserves to cover contractual commitments described in subparagraph (D).

(2) The total amount of guarantees issued to any person (including all persons affiliated with such person) may not exceed $30,000,000. The amount of a guarantee issued with respect to any loan may not exceed 80 percent of the lesser of (A) the principal balance of the loan or, (B) the cost of developing such new underground coal mine.

(3) The aggregate outstanding principal amount of loans which are guaranteed under this section may not at any time exceed $750,000,000. Not more than 20 percent of the amount of guarantees issued under this section in any fiscal year may be issued with respect to loans for the purpose of opening new underground coal mines which produce coal which is not low-sulfur coal.

(c) For purposes of this section—

(1) A person shall be considered eligible for a guarantee under this section if such person (together with all persons affiliated with such person)—

(A) Did not produce more than 1,000,000 tons of coal in the calendar year preceding the year in which he makes application for a loan guarantee under this section;

(B) Did not produce more than 300,000 barrels of crude oil or own an oil refinery in such preceding calendar year; and

(C) Did not have gross revenues in excess of $50,000,000 in such calendar year.

(2) A person is affiliated with another person if he controls, is controlled by, or is under common control with such other person, as such term may be further defined by rule by the Administrator.

(3) The term "low sulfur coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before sale of the coal by the producer.

(d) The Administrator shall prescribe such regulations as may be necessary or appropriate to carry out this section. Such rules shall require that each application for a guarantee under this section shall be made in writing to the Administrator in such form and with such content and other submissions as the Administrator shall require, in order reasonably to protect the interests of the United States. Each guarantee shall be issued in accordance with subsections (a) through (c), and—

(1) Under such terms and conditions as the Administrator, in consultation with the Secretary of the Treasury, considers appropriate;

(2) With such provisions with respect to the date of issue of such guarantee as the Administrator, with the concurrence of the Secretary of the Treasury, considers appropriate, except that the required concurrence of the Secretary of the Treasury may not, without the consent of the Administrator, result in a delay in the issuance of such guarantee for more than 60 days; and

(3) In such form as the Administrator considers appropriate.

(e) Each person who receives a loan guarantee under this section shall keep such records as the Administrator or the Secretary of the Treasury shall require, including records which fully disclose the total cost of the project for which a loan is guaranteed under this section and such other records as the Administrator or the Secretary of the Treasury determines necessary to facilitate an effective audit and performance evaluation. The Administrator, the Secretary of the Treasury, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any pertinent books, documents, papers, and records of any person who received a loan guarantee under this section.

ENERGY CONSERVATION AND PRODUCTION ACT

Section 164. Section 102 of the Energy Policy and Conservation Act is amended by adding at the end of subsection (c) the following new paragraph:

(4) The term "developing new underground coal mine" includes expansion of any existing underground coal mine in a manner designed to increase the rate of production of such mine, and the reopening of any underground coal mine which had previously been closed.

Issued in Washington, D.C., May 12, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

In consideration of the foregoing, it is proposed to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 300, as set forth below.

PART 300—THE COAL LOAN GUARANTEE PROGRAM

Subpart A—General Provisions, Purpose and Objectives

Sec.
300.02 Definitions.
300.03 Full faith and credit provision.
300.04 Department of the Treasury concurrence.

Subpart B—Applications

300.20 Determination of eligibility.
300.21 General application information requirements.
300.22 Financial and other application information requirements.
300.23 Project cost documentation requirements.
300.24 Consideration of environmental impacts.

Subpart C—Application Processing

300.40 Approval criteria.
300.41 Conditional commitment.
300.42 Personal and corporate financial statements.
300.43 Guarantee terms.
300.44 Mandatory purchase of flood insurance.
300.45 Interest rate.
300.46 User charge.
300.47 Disbursements.

Subpart D—Servicing the Guaranteed Loan

300.50 Collateral.
300.51 Loan servicing and reporting requirements.
300.60 Project monitoring and audit.
300.61 Assignment of transfer of guaranteed Loan.
300.62 Termination of guarantee.

Subpart E—Default

300.80 Default.
300.81 Liquidation.
300.90 Disclosure.
300.92 Noninterference with Federal, State, and local requirements.

AUTHORITY: Energy Policy and Conservation Act, Pub. L. 94-163; Energy Conservation and Production Act, Pub. L. 94-385; Department of Energy Organization Act, Pub. L. 95-91.

§ 300.02 Definitions.

For the purpose of this part:

(a) "Act" means the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163), as amended by the Energy Conservation and Production Act of 1976 (Pub. L. 94-385).

(b) "Affiliate" means a person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with another specified person, where control means direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise. (17 CFR 230.405.)

(c) "Applicant for Guarantee" or "Applicant" means the lender who applies to DOE for a guarantee.

(d) "Application" means the written request of an applicant for a loan guarantee.

(e) "Borrower" means any party directly liable for repayment of any part of a loan guaranteed by DOE.

(f) "Conditional Commitment" means that document, issued by DOE, which sets forth specifically or by reference, the terms and conditions under which DOE may issue a guarantee.

(g) "Contract" means a written coal sales agreement or agreements for at least the duration of the period during which a guaranteed loan is required to be repaid, for the direct and indirect sale or resale of coal to be produced from the subject mine to a person who the Administrator of the Environmental Protection Agency certifies will be able to burn such coal in compliance with all applicable requirements of the Clean Air Act, and with any applicable implementation plan (as defined in section 110 of the Clean Air Act).

(h) "DOE" means the Department of Energy.

(i) "Guarantee" means the guarantee contract issued by DOE setting forth specifically or by reference DOE's undertaking to pay the Lender or Holder, in the event of default, principal or accrued interest on the guaranteed portion of the loan, and the terms and conditions of the undertaking.

(j) "Holder" means the person other than the lender who has succeeded in due course to all or part of the right, title and interest in the guaranteed portion of the loan.

(k) "Lender" means any original source of financing, licensed or regulated by a State or the Federal Government or approved by DOE, which provides to a borrower funds to be guaranteed by the DOE. The Lender is also the Applicant.

(l) "Loan Agreement" means the written contract between the Borrower and Lender specifying the terms and conditions under which the Lender provides financing to the Borrower.

(m) "Low Sulfur Coal" means coal which, in a quantity necessary to produce one million British thermal units, does not contain sulfur or sulfur compounds the elemental sulfur content of which exceeds 0.6 pound. Sulfur content shall be determined after the application of any coal preparation process which takes place before the sale of the coal by the Borrower.

(n) "Obligation" means any loan, note, bond, or other evidence of indebtedness.

(o) "Project" means an undertaking by the Borrower which will produce coal by the development of any new underground mine, expansion of any existing mine in a manner designed to increase production of such mine, or the reopening of any underground mine which had previously been closed.

(p) "Secretary" means the Secretary of the Department of Energy, his duly designated representative, or any officer of the United States designated by statute or executive order to succeed to his responsibilities.

§ 300.03 Full faith and credit provision.

Any guarantee issued by DOE shall be conclusive evidence that the guaranteed loan qualifies for such guarantee, and the validity of such guarantee so made shall be incontestable in the hands of a Holder, except for fraud or material misrepresentation on the part of such Holder.

§ 300.04 Department of the Treasury concurrence.

The Secretary shall obtain the concurrence of the Secretary of the Treasury with respect to the date of issue of any loan guarantee, except that this concurrence may not, without the consent of the Administrator, result in a delay in the issuance of a guarantee for more than 60 days.

Subpart B—Applications

§ 300.20 Determination of eligibility.

(a) Each Application must include a signed statement from the Borrower representing that the Borrower (including Affiliates) did not, in the prior calendar year:

(1) Produce more than 1,000,000 tons of coal;

(2) Produce more than 300,000 barrels of crude oil;

(3) Own an oil refinery;

(4) Have gross revenue in excess of $50,000,000.

(b) The Applicant must also submit a signed statement from the Borrower representing that there is no unsatisfied final judgment that holds the Borrower (or Affiliates) liable for any fine or penalty under the Federal Coal Mine Health and Safety Act.

(c) The Lender will disclose whether any of its officers or directors, major stockholders, or other owners have financial interest in the Borrower. The Lender will disclose whether any of the Borrower's officers or directors, stockholders, or other owners have a financial interest in the Lender.

§ 300.21 General application information requirements.

The Applicant must provide at the time of application the following:

(a) Evidence that the Borrower owns, leases, or otherwise controls sufficient economically recoverable coal reserves at the site described in the application to produce sufficient coal to permit the Borrower to honor any obligation under the Contract;

(b) A letter of intent to purchase coal, a coal sales contract, or a draft coal sales contract, for the sale or resale of the coal to be produced from the project, and, if appropriate, the Secretary may require sufficient financial information concerning the purchaser of such coal, showing that said purchaser has capability to carry out the coal sales contract;

(c) An estimate of the sulfur content of the coal reserve, as mined and as sold, at the site described in the Application;

(d) Adequate assurance that the mine will be constructed and operated in compliance with the Federal Coal Mine Health and Safety Act;

(e) Evidence that the Borrower has been unable to obtain adequate financing without such guarantee. Such evidence may consist of a signed statement from the Applicant representing that he would not provide financing under the proposed terms without a Federal guarantee, and the reasons therefor;

(f) A copy of the mine development plan (normally the same plan submitted to Federal and State officials will suffice) which includes a description of the processes and methods the Borrower plans to use in the Project;

(g) A list of permits, licenses and other authorizations required by local, State or Federal authorities prior to opening of the proposed mine, with copies of any permits already issued and a schedule of expected dates of application for the remaining required permits;

(h) Certain environmental data as requested by the Department, describing environmental characteristics of the Project site.

§ 300.22 Financial and other application information requirements.

(a) The Applicant shall provide information in support of the Application, such as prescribed below: This information shall be used as the basis for the Secretary's determination that the Borrower is capable of successfully developing and operating the mine.

(1) Full description of the scope, nature, extent, and location of the proposed Project;

(2) A description of the Borrower's organization and a copy of the business certificate, partnership agreement, or corporate charter, bylaws, and appropriate authorizing resolutions;

(3) A list identifying Affiliates of the Borrower;

(4) Resumes of the Borrower's key employees which include in reverse chronological order their business and managerial experience, with emphasis on history of recent experience in the coal industry;

(5) A description of any other Federal financial assistance (e.g., direct loans, guaranteed loans, grants, contracts) expected to be applied for or already obtained by the Borrower in connection with the Project;

(6) Itemized estimates of costs of the Project (see § 300.23);

(7) Summary of insurance coverage for the Project;

(8) A schedule of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and key employees of the Borrower who are, or will be directly associated with the Project;

(9) An analysis of the Project's economic and financial feasibility including:

(i) Recoverable coal reserves quantity estimate;

(ii) Estimated thickness and pitch of seam(s);

(iii) Physical analysis of coal quality, including Btu and sulfur characteristics;

(iv) Estimated production volume;

(v) Shaft design, if applicable;

(vi) Ventilation plan;

(vii) Description of major equipment and facilities requirements;

(viii) Roof and ground cutting plans;

(ix) Coal handling and processing plan;

(x) Location of openings;

(xi) Storage and disposal facilities;

(xii) Modes of transportation;

(xiii) Building design;

(xiv) Water, sewerage, environmental control systems;

(xv) Access roads;

(xvi)Electrical and mechanical maintenance plans; and

(xvii) Mine closing and reclamation plan.

(10) A List identifying the collateral to be pledged to secure the loan, together with estimated market value.

(b) The required scope of the Project feasibility analysis will depend on the magnitude of the Project. The Secretary may require additional information at his discretion in order to evaluate adequately the likelihood of repayment of the loan.

(c) The Lender must submit evidence, which should contain sufficient information to enable the Department of Energy to make an independent evaluation, of the creditworthiness of the Borrower and the Project for which a loan Guarantee is sought. The evidence submitted should consist of, but not be limited to, such items as:

(1) The credit analysis performed by the Lender.

(2) The following current financial statements of the Borrower which should be prepared by a certified public accountant, contain adequate notes, and be for the three most recent fiscal years (if applicable):

(i) Balance sheet.

(ii) Income statement.

(iii) Cash flow statement.

(iv) Pro forma income statement for the first 5 years of the project for which the loan is made.

(v) The borrower's interim balance sheet and income statement prepared within 90 days of the date of application if the annual statements contained in subdivision (i) and (ii) of this subparagraph above are more than 3 months old.

(d) Projected source and use of funds statement shall be presented on an annual basis for 5 years of the mining operation. In case of mine expansion Projects, the same statements shall be required, identifying separately the financial effect of the expansion and continuing operations.

§ 300.23 Project cost documentation requirements.

(a) Except as provided in paragraph (b) of this section, reasonable and customary costs actually paid, or to be paid, by the Borrower applicable to the development of a Project are generally permitted in computing the estimated aggregate Project cost, as approved by the Secretary. All costs for plant and equipment must relate to facilities to be used substantially in connection with the Project. These costs related to the Project include, but are not limited to the following:

(1) Land and/or mineral rights purchase and lease payments, including reasonable real estate commissions;

(2) Acquisition or construction of buildings, including offices, bathhouses, lamphouses, and other buildings required for development;

(3) Coal preparation plant construction including all machinery and equipment;

(4) Coal handling facilities including tipples, storage facilities and loading facilities;

(5) Machinery and equipment including continuous miners, short and long wall equipment, shuttle cars, loaders, roof bolting equipment, trucks, conventional mining equipment, conveyor belt systems, and all other equipment necessary for coal mine development;

(6) Power plant equipment and transmission lines including installation cost;

(7) Employee's salaries and wages, consultant fees and independent contractor costs;
(8) Engineering fees, surveys, title insurance, recording fees and legal fees incurred in connection with land and/or mineral rights acquisition;
(9) Technical, financial, environmental, and feasibility studies;
(10) Infrastructure, including site preparation, installation of tracks, access roads, and fencing;
(11) Transportation equipment;
(12) Refuse disposal system;
(13) Water clarification system;
(14) Air pollution control system;
(15) Ventilation system;
(16) Communication system;
(17) Insurance and bonds;
(18) Costs of safety and environmental protection equipment, facilities, and services;
(19) Legal and accounting fees for mine permit acquisition and mine development;
(20) Fees for royalties and licenses;
(21) Reasonable loan fees;
(22) Interest on interim construction financing;
(23) Costs of complying with terms and conditions specified in the guarantee agreement or required by regulations and issuances by Federal, State, and local governments;
(24) Initial working capital;
(25) Other costs not specified which are reasonable and necessary; and
(26) A contingency reserve.

(b) Costs which are not considered as project costs and are excluded from the guaranteed portion of the loan are illustrated below:
(1) Dividends and profit sharing to stockholders, employees and officers;
(2) Expenses not paid or incurred by the Borrower;
(3) Normal operating expenses incurred after an initial period of start-up; and
(4) Costs that are excessive or are not directly required to carry out the project.

§ 300.24 Consideration of environmental impacts.

(a) The issuance of a Federal guarantee for a loan under this program is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq., Pub. L. 91-190). NEPA requires identification and environmental review of "major Federal actions significantly affecting the quality of the human environment." General regulations governing the procedures and policies implementing NEPA issued by the Department of Energy (DOE) are contained at 10 CFR Part 1021 (proposed for promulgation at 43 FR 7232, February 21, 1978).

(b) DOE will initially review the environmental questionnaires submitted by applicants for guarantees under this program. Upon completion of this review, DOE may issue a finding that no significant environmental impact is anticipated, or conduct a more detailed environmental review pursuant to 10 CFR Part 1021.

(c) In addition to the general criteria used for a determination as to the level of environmental review to be accorded individual applications under this program, DOE has determined that is will not routinely conduct a detailed environmental review (i.e., environmental assessment or environmental impact statement) for:

(1) Underground coal mines of less than 100,000 annual designed tonnage unless such a review is warranted in a particular case, based on information available to DOE indicating that impacts relating to any of the following may be significant: Archaeological sites; sensitive ecosystems; habitats of endangered species; historic sites; wild and scenic rivers; wetlands; prime agricultural lands; significant surface water or groundwater pollution; recreational land uses; air quality; noise levels; mining in a saturated zone; presence of toxic overburden; steep slope mines (over 25 percent); and mining in alluvial valley floors; and

(2) Underground coal mines of greater than 100,000 annual designed tonnage where the applicant certifies on his questionnaire that he will use "best practice procedures" as set forth in a document published by the Environmental Protection Agency entitled "Best Practices for New Source Surface and Underground Coal Mines." In such cases, the criteria is applicable in § 300.24(c)(1) shall apply.

(d) No guarantee will be issued prior to completion of the NEPA process.

Subpart C—Application Processing

§ 300.40 Approval criteria.

The Secretary will evaluate the proposed project and will determine whether:

(a) There is a reasonable prospect of repayment of the guaranteed Obligation;

(b) The Borrower is capable of successfully developing and operating the Project mine(s);

(c) The Borrower is of established integrity and demonstrated management capability;

(d) The proceeds from the proposed guaranteed Obligation, together with other available funds, will be sufficient to carry out the Project;

(e) The collateral pledged to secure the loan will adequately protect the interest of the U.S. Government; and

(f) The project is environmentally acceptable.

§ 300.41 Conditional Commitment.

(a) A Conditional Commitment to guarantee the Obligation may be issued by the Secretary. A Conditional Commitment will state that the Secretary is prepared to guarantee an Obligation and will further state the terms and conditions under which the guarantee may be issued. It will also contain certain covenants to be included in the loan agreement. No amendment to a Conditional Commitment shall be made unless reduced to writing and duly executed by the parties to the Conditional Commitment. Conditions in such a Conditional Commitment will include requirements such as:

(1) The Borrower must contribute a specified amount of equity;

(2) The Borrower must obtain an executed coal sales contract acceptable to the Secretary;

(3) DOE must obtain an independent validation of the quantity and quality of the Project coal reserves;

(4) The Borrower must provide for certification by the Environmental Protection Agency that the Borrower's coal can be burned by the purchaser in compliance with all applicable provisions of the Clean Air Act; and

(5) Completion of the DOE NEPA process. Where the NEPA process reveals that mitigation steps should be included as conditions to the guarantee, those steps shall be required by DOE to prevent or minimize significant environmental impacts.

§ 300.42 Personal and corporate financial statements.

(a) Personal endorsements of the loan may be required from major stockholders, owners or others having a major interest in the Borrower. Endorsements of the loan by parent, subsidiaries, or affiliated companies may also be required.

(b) Persons who endorse the loan will:

(1) In the case of personal endorsements, provide current financial statements (not over 90 days old at the time of filing), represented by endorsers to present fairly the financial position of the endorsers.

(2) In the case of corporate endorsers, provide current financial statements, including income statement, balance sheet, and statement of sources and application of funds (not over 90 days old at time of filing), represented by an officer of the corporation, to present fairly the financial position and results of operations of the corporation.

§ 300.43 Guarantee terms

(a) The amount of a Guarantee issued with respect to any obligations may not exceed 80 percent of the lesser of (1) the original principal balance of the obligation, or (2) the cost of the project.

(b) The total amount of Federal financial assistance, including Guarantees under this regulation obtained by

the borrower for the project, shall not exceed 80 percent of the estimated aggregate cost of the project to be undertaken by the Borrower.

(c) The total amount of guarantees outstanding at any time on behalf of any Borrower (including all persons affiliated with such Borrower) may not exceed $30,000,000 in principal amount.

(d) The terms of such a proposed guaranteed Obligation may require full repayment over a period of no more than 30 years, or a period no longer than the term of the coal sales contract, whichever is less, as determined by the Secretary.

(e) A coal sales contract shall be executed prior to the issuance of a Guarantee.

(f) The coal sales contract need not necessarily provide for sale of all coal production from the Project, but should illustrate the generation of sufficient revenue from sales to provide reasonable assurance of repayment of the loan.

§ 300.44 Mandatory Purchase of Flood Insurance.

The Flood Disaster Protection Act of 1973, Pub. L. 92-234, may require that the Borrower purchase flood insurance as a condition of receiving a guarantee on a loan for acquisition of real estate or construction purposes in an identified flood plain area having special flood hazards. Questions emanating from Borrowers or Lenders regarding compliance with provisions of the Flood Disaster Protection Act and guidelines should be referred to the Department of Housing and Urban Development's Federal Insurance Administration. When the purchase of flood insurance is required, as finally determined by the Secretary, such costs can be included by the Borrower in the estimated project cost.

§ 300.45 Interest Rate.

Interest rates for guaranteed loans may be negotiated between the Borrower and Lender, as approved by the Secretary. They may be fixed or variable, provided they are legal in the jurisdiction appropriate to the Loan Agreement. If approved by the Secretary, it is permissible to have one interest rate apply to the guaranteed portion, and another interest rate apply to the unguaranteed portion of the loan. The interest rate should reflect the value, in terms of security to the Lender, of the Government Guarantee.

§ 300.46 User charge.

User charges imposed on the guaranteed portion of the loan, and computed at a rate to be set forth in the guarantee agreement, will be collected from the Lender and used for the purposes of defraying the cost of administration and probable loss associated with the program. The rate shall be imposed on the actual amount of the guaranteed portion of the loan that is outstanding during the year. The user charge may be passed to the Borrower by the Lender and, in such instances, may be included as an eligible cost. At the time the Guarantee is executed, the Lender shall present to the Secretary payment of the first year's annual user charge. The Secretary will evaluate annually whether the user charge then in effect is sufficient to cover anticipated administrative and guaranteed loan default costs and, whenever appropriate, will establish a revised fee schedule to be applied to new Guarantees. The payment of the user charge by the Lender, or the lack thereof, will in no way impair the guarantee to a Holder of the guaranteed portion of the loan.

§ 300.47 Disbursements.

(a) Requests for disbursement at closing and thereafter shall be supported by such documents as the Secretary may require, as set forth in the Conditional Commitment: For example, but not limited to, copies of unpaid invoices to be paid from disbursements; copies of fully paid invoices together with lien waivers, where appropriate; and copies of canceled checks.

(b) The Secretary shall approve requests for disbursements under the conditions set forth in the Guarantee Agreement.

Subpart D—Servicing the Guaranteed Loan

§ 300.50 Collateral.

(a) The Lender, in coordination with the U.S. Government, is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the Lender, U.S. Government, and any Holders of the guaranteed Obligation.

(b) Collateral may include, but is not limited to the following: Land, buildings, machinery, equipment, furniture, fixtures, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interests, revenues, patents, and copyrights.

(c) The Lender may not take separate collateral to secure only that portion of the loan not covered by the Guarantee. The Lender may not require compensating balances or certificates of deposit, other than as used in the ordinary course of business, as a means of reducing his exposure on the unguaranteed portion of the loan.

(d) First liens on all assets pleged as collateral are preferred. Loans collateralized entirely with secondary or other inferior lien positions will receive a lower priority treatment under the program.

§ 300.51 Loan servicing and reporting requirements.

Loan servicing is the responsibility of the Lender who remains a mortgagee or secured party of record, notwithstanding the fact that another may hold a portion of the loan. The Guarantee must specify the Lender's servicing requirements which include, but are not limited to, the Lender notifying the Secretary without delay:

(a) Of the date and amount of disbursements,

(b) Of any nonpayment by the Borrower of principal or interest as required by the Loan Agreement, together with appropriate notices to the Borrower, and

(c) Of any failure by the Borrower, known to the Lender, to comply with the terms and conditions as set forth in the Loan Agreement.

§ 300.60 Project monitoring and audit.

(a) Upon request, the Lender and the Borrower will permit the Secretary of Energy, Secretary of the Treasury, and the Comptroller General, or their duly authorized representatives to inspect and make copies of any of the records of the Lender or Borrower pertaining to DOE guaranteed loans. Such inspection and copying may be made during regular office hours of the Lender or Borrower, or at any other time mutally convenient.

(b) The Secretary will undertake certain loan monitoring functions which will be performed by a representative of the Secretary acting in coordination with the Lender's loan servicing. Specifically, the Secretary's role in loan monitoring will include, but not be limited to, the following:

(1) Written approval of all requests for disbursements as set forth in the Guarantee Agreement. Requests for disbursements should be aggregated to cover development milestones of the project, such as infrastructure improvements, startup equipment purchases, etc.;

(2) Review of periodic financial statements of the borrower;

(3) Periodic inspection of the collateral pledged to secure the loan and the borrower's operating facilities and records.

§ 300.61 Assignment or transer of guaranteed loan.

(a) The Lender may assign, participate, sell, or otherwise transfer any part or all of his right, title, and interest in the guaranteed loan within any limits specified in the Guarantee. The Lender, will, however, retain and continue to be responsible for the collateral and servicing of the loan, unless the Secretary approves a substitute Lender.

(b) When a guaranteed portion of a loan is transferred from Lender to Holder, the Holder succeeds to all rights of the Lender in the Guarantee to the extent of the portion of the loan purchased by the Holder.

(c) After a transfer, the Lender will promptly notify the Secretary in writing of the fact of transfer and identify the Holder and his mail and telephone addresses. The records of all transactions by Lenders with Holders will be made available to the Secretary at his request.

(d) Any transfer of all or part of a guaranteed loan shall be subject to the condition that the Lender shall have the first option to repurchase the loan from the Holder in the event of default.

(e) The Guarantee Agreement shall be conclusive evidence that the guarantee and the underlying loan are in compliance with the provisions of this regulation, and that such loan has been approved and is legal as to principal and interest and other terms. Such a Guarantee shall be valid and incontestable by the Government, except for fraud or misrepresentation by the Holder of the Obligation.

§ 300.62 Termination of guarantee.

(a) The Secretary may terminate the Guarantee by written notice to the Lender and the Borrower if the Secretary finds that:

(1) Initiation of activity on the Project has not occurred within the period of time set forth in the Guarantee Agreement;

(2) There is noncompliance on the part of the Borrower or the Lender with material terms and conditions set forth in either the Loan Agreement or the Guarantee Agreement.

(b) The Secretary may notify the Borrower and the Lender that the Guarantee has been reduced to the amount that has been disbursed by the Lender as of the date of the notice. Disbursements made by the Lender after such notification is received will not be covered by a Guarantee.

Subpart E—Default

§ 300.80 Default.

(a) In the event of default by the Borrower, as defined in the Guarantee, the Lender shall notify the Secretary within 15 days of such default.

(b) If such default continues for 30 days after the expiration of any grace period, the Lender and Holder may:

(1) Defer payment of the overdue principal and accrued interest, and/or reschedule subsequent payments;

(2) Demand payment by the Secretary of the overdue amount of guaranteed principal and accrued interest originally causing the default; or

(3) Demand payment by the Secretary of the entire outstanding guaranteed principal and accrued interest of the loan.

(c) In the event of default, the Lender shall take such actions as provided in the Guarantee to assure the care, preservation, and maintenance of any collateral, so as to achive maximum recovery upon liquidation of collateral, security, and guarantees for the loan. The Lender shall not waive or relinquish, without the written consent of the Secretary, any collateral or guarantee for the loan.

§ 300.81 Liquidation.

(a) After Borrower default has occurred and demand for payment has been made upon the Secretary, as provided in § 300.80(b)(3), or in the event the Secretary and the Lender agree that default has occurred, the Lender shall, in consultation with the Secretary, prepare a plan for liquidation of the assets pledged as collateral to secure the loan. When the liquidation plan has been developed, the Lender shall proceed to take the necessary steps under applicable law to foreclose upon all of the collateral securing the loan and to sell the collateral for the highest attainable value under the circumstances. Provisions shall be set forth in the Guarantee Agreement for notice to the Secretary of sale of collateral and expenses incurred in such sale, and other matters pertaining to the method of handling the disposition of such collateral in a coordinated manner between the Secretary and the Lender.

(b) The Lender shall give a full accounting of the sale of assets made pursuant to the plan of liquidation, and shall serve in a fiduciary capacity for the benefit of the parties having an interest in the proceeds of the sale of assets.

(c) No action taken by the Lender in liquidation of any of the assets pledged by the Borrower shall affect the rights of any party having an interest in the loan to pursue, jointly or severally, legal actions against the Borrower, or other liable parties, for any deficiencies owing on the guaranteed loan balance after application of the proceeds received upon liquidation.

(d) Funds received by the Lender as a result of liquidation actions shall be applied as follows:

(1) First, to the payment of reasonable and customary fees and expenses incurred in the liquidation process and as set forth in the liquidation plan;

(2) Second, distributed between the legal owners of interests in the loan, pro-rated in accordance with their relative percentage ownership of the loan.

(e) The Secretary shall make payment of any amounts due under the Guarantee in accordance with the terms and conditions set forth in the Guarantee Agreement. Payment shall take place after default, but may be prior to, during, or after liquidation. In any event, once the Secretary has paid a Holder for the share held by him of the loan, the Secretary shall be subrogated to the rights of said Holder in the share of the loan and any collateral or security instrument related thereto.

(f) In the event the Secretary deems it necessary or desirable to protect or futher the interest of the United States in connection with the liquidation of collateral or recovery of deficiencies owing under the loan, he shall take such action as may be appropriate under the circumstances.

§ 300.90 Disclosure.

(a) Subject to the requirements of law, trade secrets, commercial and financial information, geological, geophysical, and geographical information, and data (including maps) concerning mine sites, which the Borrower makes available to DOE on a privileged or confidential basis, during the preliminary discussions or at any other time throughout the duration of the Project, shall be so treated by DOE and shall not be publicly disclosed without the prior written approval of the Borrower.

(b) In order to assist DOE in carrying out this provision, information deemed by the Borrower or Lender to fall within any of the foregoing categories shall be so identified and appropriately marked by the Borrower or Lender as exempt from public disclosure by section 552(b)(4) of the Freedom of Information Act.

§ 300.92 Noninterference with Federal, State, and local requirements.

Nothing in this regulation shall be construed to modify requirements imposed on the Borrower or Lender by Federal, State, and local government agencies in connection with permits, licenses, or other authorizations to conduct or finance underground coal mining activities.

[FR Doc. 78-13605 Filed 5-18-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

SMALL BUSINESS SIZE STANDARDS

Definition of Construction Contractor for Purpose of Surety Bond Guarantee

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule change will establish the Surety Bond Gurarantee size standard for all (general and special trade) construction

contractors at $3.5 million in annual receipts. The effect would be to raise the present size standard for general construction contractors from $2 million to $3.5 million and decrease the size standard for special trade construction contractors from $5 million to $3.5 million. Also, the size standard for service companies is proposed to be raised from $2 million to $3.5 million.

DATE: Comments must be received by June 19, 1978.

ADDRESS: Comments should be submitted to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Room 800, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Danny J. Gibb, Chief Underwriter, Surety Bond Guarantee, 1441 L Street NW., Washington, D.C. 20416, 202-653-6117.

SUPPLEMENTARY INFORMATION: This proposal was prompted by a need for a Surety Bond Guarantee size standard for all construction contractors. Presently, a general construction concern is small for the purpose of receiving surety bond guarantee assistance if its annual receipts (or average annual receipts of its preceding 3 fiscal years) do not exceed $2 million. In the case of special trade construction (plumbing, heating, electrical, masonry, etc.), the Surety Bond Guarantee program uses the financial assistance standards which are set at $5 million (regardless of the special trade involved). This results in a surety bond guarantee size standard for the special trade industries set at an unrealistic $5 million, as compared with the $2 million general construction standard. Thus the proposed rule will provide a Surety Bond Guarantee size standard for all (general and special trade) construction contractors at $3.5 million. Special trade contractors, however, which are already receiving surety bond guarantee assistance and now have annual receipts in excess of $3.5 million, will be eligible as long as their receipts do not exceed the old size standard of $5 million.

Accordingly, pursuant to the authority in section 308(c), 15 U.S.C. 687(c), and section 411(a), 15 U.S.C. 694b(a) of the Small Business Investment Act of 1958, it is proposed to amend part 121 as follows:

§ 121.3-15 Definition of small business for the purpose of surety bond assistance.

A small business concern for the purpose of surety bond guarantee assistance is a concern that qualifies as a small business under § 121.3-10, with the following exceptions:

(a) *Construction.* Any construction concern (general and special trade) is small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million. *Provided,* That those special trade contractors now receiving Surety Bond Guarantee assistance and having annual receipts in excess of $3.5 million, will be permitted to continue receiving surety bond guarantee assistance until such time as their annual receipts (or as averaged over the contractor's last 3 fiscal years) exceed $5 million.

(b) *Service.* Any concern performing a contract for services (including but not limited to services set forth in Division I, Services, of the Standard Industrial Classification Manual) is classified as small if its annual receipts for its preceding fiscal year or its average annual receipts for its preceding 3 fiscal years do not exceed $3.5 million.

(Catalog of Federal Domestic Assistance Program No. 59.016, Bond Guarantees For Surety Companies.)

Dated: May, 4, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-13612 Filed 5-18-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 302]

[PDR-54A; Docket No. 32466; Dated: May 15, 1978]

RULES OF PRACTICE IN ECONOMIC PROCEEDINGS EXPEDITED PROCEDURES FOR LICENSING AND RATES CASES

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice extends for 25 days the filing date for comments in a rulemaking proceeding about expedited hearing procedures. This action was requested by the American Bar Association.

DATES: Comments by June 30, 1978. Reply comments by July 17, 1978.

ADDRESSES: Comments should be sent to Docket 32466, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Docket comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking PDR-54, dated April 18, 1978 (43 FR 19403, May 5, 1978), the Board proposed to establish expedited hearing procedures for (a) processing applications for new or modified route authority by U.S. and foreign carriers, and (b) ratemaking cases. Comments in response to the notice are due June 5, 1978, with reply comments due June 20.

In a letter dated May 10, 1978, the American Bar Association (ABA) requested an extension until June 30 of the period for filing initial comments in response to PDR-54, and a corresponding extension of the reply comment period. The main reason stated for the request is that the extension is essential to useful and meaningful participation by the ABA, in view of the time needed for its Administrative Law Council to review its Aviation Subcommittee's recommended comments.

Upon consideration of the above, the undersigned finds good cause to grant this request for a reasonable extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing initial comments is extended to June 30, 1978. The time for filing reply comments is extended to July 17, 1978.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324.))

SIMON J. EILENBERG,
Associate General Counsel, Rules Division.

[FR Doc. 78-13666 Filed 5-18-78; 8:45 am]

[6320-01]

[14 CFR Part 302]

[Docket 32466]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

EXPEDITED PROCEDURES FOR LICENSING AND RATE CASES

Supplemental Notice of Proposed Rulemaking

MAY 15, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Civil Aeronautics Board has previously published a notice of proposed rulemaking (PDR-54) designed to reduce regulatory delay by expediting procedures for licensing and rate cases. This document is in response to inquiries received by our staff requesting clarification on route cases.

DATES: Comments by: June 30, 1978. Reply comments by: July 17, 1978.

Comments and other relevant information recieved after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 32466, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Gary J. Edles, Deputy General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5234.

SUPPLEMENTARY INFORMATION: Our notice of rulemaking (43 FR 19403, May 5, 1978) said at page 3 that the Board's judges disposed of seventy-eight cases during the FY ended September 30, 1976, of which twenty-two—or about 28 percent—were route cases, that they disposed of ninety-nine cases during FY ended September 30, 1977 of which 31—or 31 percent—were route matters, and that 117 cases were on hand at the end of FY 1977. Our staff has received an inquiry about what percentage of the 117 cases were route cases. The answer is that 22 cases, or about 19 percent were route cases. Of the remaining cases 11 involved foreign air carrier permits, 8 involved rates, 3 involved mergers or acquisitions, and 73 were enforcement matters. We provide this information which we hope will be helpful in responding to our notice of rulemaking.

(Sec. 204, 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481, Administrative Procedure Act, 5 U.S.C. 551 et seq.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13720 Filed 5-18-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1210]

DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rules.

SUMMARY: NASA currently does not have a prescribed policy and procedure for industry to request the use of NASA wind tunnels. These proposed rules define the classes of NASA wind tunnels and the classes of industry work, and provide information on scheduling, occupancy time charges, and test data transmitted.

DATE: Comments or suggestions respecting the proposed revision should be submitted in writing not later than June 19, 1978.

ADDRESS: Director, Space Technology Coordinating Office, Code RC, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT:

Fred J. DeMeritte, telephone 202-755-8501.

SUPPLEMENTARY INFORMATION: NASA current rules deal primarily with the unitary wind tunnel plan facilities and do not specifically indicate a method for industry to follow to request wind tunnel time for NASA wind tunnels. This proposed revision covers all NASA wind tunnels and outlines how to request wind tunnel time, and also updates the general material contained in Part 1210.

1. 14 CFR Part 1210 is revised in its entirety to read as follows:

PART 1210—DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

1210.1 Introduction.
1210.2 General classes of work.
1210.3 Priorities and schedules.
1210.4 Company projects.
1210.5 Government projects.
1210.6 Test preparation and conduct.

AUTHORITY: 50 U.S.C. 511-515, 42 U.S.C. 2473(c) (5) and (6).

§ 1210.1 Introduction.

(a) *Authority.* The regulations, as they apply to the Unitary Wind Tunnel Plan facilities, are promulgated under authority of the Unitary Wind Tunnel Plan Act of 1949, Pub. L. 85-568, and codified in 50 U.S.C. 511-515. This statute states that "The facilities authorized * * * shall be operated and staffed by the National Aeronautics and Space Administration but shall be available primarily to industry for testing experimental models in connection with the development of aircraft and missiles. Such tests shall be scheduled and conducted in accordance with industry's requirements, and allocation of laboratory time shall be made in accordance with the public interest, with proper emphasis upon the requirements of each military service and due consideration of civilian needs."

(b) *Unitary wind tunnel plan facilities.* The unitary wind tunnel plan facilities are the Ames Research Center 11- by 11-foot wind tunnel, 9- by 7-foot wind tunnel, and 8- by 7-foot wind tunnel; the Langley Research Center 4- by 4-foot high Mach number test section and the 4- by 4-foot low Mach number test section; and the Lewis Research Center 10- by 10-foot wind tunnel. These wind tunnels are operated by NASA for industry, NASA, the Department of Defense, and other Governmental agency projects.

(c) *National aeronautical facilities.* When completed, the national aeronautical facilities will be the national transonic facility at Langley Research Center and the modified 40- by 80-foot wind tunnel at Ames Research Center. The wind tunnels will be operated by NASA for industry, NASA, the Department of Defense, and other Government agency projects.

(d) *All other wind tunnels.* All other NASA wind tunnels will be used primarily for NASA research. However, all of these wind tunnels may be used for industry work when it is in the public interest either in joint programs with NASA or on a fee basis.

(e) *NASA policy.* All the projects to be performed in any of the NASA wind tunnels must be appropriate to the facility.

§ 1210.2 General classes of work.

Work for industry in the NASA facilities shall be divided into four project categories:

(a) *Company projects.* Includes work for industry on:

(1) Projects which are neither under contract nor supported by a letter of intent from a Government agency, and

(2) Company desired tests which are related to a project which is either under contract with or supported by a letter of intent from a Government agency, but are beyond the scope of the tests requested by the Government agency. A fee will be charged for these company projects.

(b) *Government projects.* Includes work for industry on projects which are either under contract with or supported by a letter of intent from a Government agency. The work must be requested by the Government agency. No fee will be charged for this type of work. (An exception is the national transonic facility for which a reimbursable policy is being developed.)

(c) *United States/foreign industry consortium projects.* This involves U.S. companies, which have formed a consortium or any other type of association with foreign companies, that desire tests on aerospace projects of joint or foreign interest. An application for work for such a consortium shall disclose the foreign interest in or anticipated foreign benefit from tests to be conducted and shall first be reviewed by the Director, International Affairs Division for consistency with current U.S. foreign policy and for compatibility with section 102 of the National Aeronautics and Space Act of

1958, as amended, prior to a final decision being reached on the application. A fee will be charged for these consortium projects unless, in the review procedure above, it is determined that Government agency cooperative sponsorship warrants a nonfee arrangement.

(d) *Foreign company projects.* Foreign company requests for wind tunnel use that are not related to U.S. Government or U.S. industry interests or programs will generally not be granted and will in no event be granted prior to a review, as required in paragraph (c) of this section, by the Director, International Affairs Division.

§ 1210.3 Priorities and schedules.

(a) *Priorities.* Unitary wind tunnels shall be available primarily to industry for development work. However, allocations of laboratory time shall be in accordance with the public interests, with proper emphasis upon the requirements of the military services and due consideration of civilian needs. Research work shall have priority in all other NASA facilities. Priority conflicts may be referred to the Associate Administrator for Aeronautics and Space Technology for review and final determination.

(b) *Schedules.* Schedules showing the allocation of testing time for Government projects and for company projects for unitary wind tunnels and other major wind tunnels will be established by the appropriate Center each month for the ensuing 3-month period and submitted to NASA Headquarters, Attn.: Code RA, by the first day of each month.

§ 1210.4 Company projects.

(a) *Initiation of company projects.* Company projects will be initiated by a letter to the Center Director followed by a conference between company and NASA representatives at the Center having responsibility for the facility proposed for the project. The company representatives will be required to explain the technical need for the project and why the NASA facility is required, as well as to define the extent of the test program, model and equipment requirements, and schedule. The Center shall maintain a file of all company requests and their disposition. The company may be required to provide a safety analysis report (SAR) to augment the wind tunnel SAR by describing potential hazards that the company test program, model and equipment may present to NASA facilities and personnel.

(b) *Scheduling of tests.* In scheduling time for company projects, the responsible NASA Center will take into account priorities as specified in § 1210.3 and all projects, including Government, company, and NASA research work relative to the national interest. Every reasonable attempt will be made to accommodate technically justifiable projects on as timely a basis as possible.

(c) *Fees for company projects.* The policy on charges for the use of NASA facilities is explained in NASA Management Instruction 9080.1A, dated November 21, 1975, titled, "Review, Approval and Imposition of User Charges." The fee imposed for a company project will cover all direct and indirect costs to NASA for the wind tunnel test.

(1) *Occupancy time charge.* (i) The occupancy time will be computed from the start of installation of the test article in the wind tunnel test section through the time on which the test article is removed from the test section and the test section restored to its original condition.

(ii) The occupancy time rate will be computed from the sum of the annual cost of the operating crew plus the estimated annual maintenance cost of the facility and will be determined in accordance with NASA Management Instruction 9080.1A.

(iii) The sum of the annual cost for the operating crew and the estimated annual maintenance cost divided by the number of operational weeks, depending on the facility, gives the weekly occupany rate. This fee will be charged per basic week of 5 days, each day to be one-fifth week. The remaining weeks over the number of operational weeks for each year are the estimated maintenance reserve and holiday allowance; hence, no charge will be made for a holiday occurring during a test period.

(2) *Energy/fuel.* The charge for energy/fuel will be determined from the energy/fuel consumed during the tests and the actual cost to the NASA.

(3) *Data reduction.* The cost of data reduction and the data report will include labor, materials, computing machine rental, and appropriate indirect charges in accordance with NASA Management Instruction 9080.1A.

(4) *Cancellation of scheduled wind tunnel time.* Upon determination of a test schedule by the representatives of the company and of the NASA, it becomes the responsibility of the company to meet this schedule. A project may be canceled by the company without charge on 60 days' notice depending upon the readiness of succeeding projects. In the event subsequently scheduled work cannot be scheduled in leiu of the company's work, when canceled with less than 60 days' notice, the company shall be required to pay the occupancy time charge for the scheduled test period or for the period the facility test section is idle due to the cancellation, whichever results in the smaller charge. Curtailment of a project underway before the end of the scheduled test period may be made by the company. In this event, the company shall be required to pay the occupancy charge for the time used plus the unused scheduled time or for the idle time of the test section, whichever is the smaller.

(5) *High power requirements.* Unavailability of adequate power or economic considerations may, on occasion, cause delay or cancellation of high-powered test runs. The company shall cooperate with the facility staff in the scheduling of low-powered runs during periods when large blocks of power are unavailable. However, should rescheduling of test runs to accommodate power shortages be impractical, occupancy time charge credits will be made for time lost arising from such shortages. The basis for these credits, which will also be made for delays due to breakdown of malfunction of Government-furnished equipment or instrumentation, or due to other reasons beyond the control of the company, will be determined by each Center. The test period allotted for the program may be extended to offset delays in lieu of refund.

(d) *Test data transmittal.* The basic data for company projects will be transmitted to the requesting compnay without detailed analysis but with the necessary description of methods and techniques employed to permit proper interpretation of the data.

(e) *Proprietary rights.* In order to protect the trade secrets of companies, NASA will generate one set of final results, which will become the property of the company and be promptly transmitted to the company. If, subsequently, there is need to review the results, it will be the responsibility of the company to provide the NASA Center with copies of the resulting data on loan. Upon completion of the review, the data will be returned to the company. Should the company desire to maintain its trade secret rights in the data during the loan period, it should mark the data with a notice stating that the data shall not be used or disclosed other than for review purposes without prior written permission of the company. NASA, in turn, will protect that data covered by the notice which is protected under the law as a trade secret.

(f) *Test preparation and conduct* (see § 1210.6).

§ 1210.5 Government projects.

(a) *Initiation of Government projects.* Government projects shall be initiated through a conference of representatives from the contracted company, the sponsoring Government agency, and the staff of the NASA Center having responsibility for the facility proposed for the project. The purpose of the conference will be to establish the technical basis for the project and why the NASA facility is

required as well as to define the extent of the test program, model and instrumentation requirements, and schedule. Upon concurrence of the Center Director, the sponsoring Government agency will submit a letter of request to NASA Headquarters for approval as well as clearing the request through the projects allocation and priority group (see paragraph (b) of this section). A safety analysis report (SAR) may be required to augment the wind tunnel SAR by describing the potential hazards that the project test program, model, and equipment may present to NASA facilities and personnel.

(b) *Projects allocation and priority group.* For coordinating Government projects, there is a group established jointly by the Department of Defense and the NASA. It consists of one representative each from the Air Force, Army, Navy, and NASA, competent to determine military priorities in the use of the NASA and other Government-owned facilities. The group is known as the aircraft, missile and propulsion projects allocation and priority group.

(c) *Scheduling of tests.* Government projects will be scheduled with due consideration of the priorities established by the projects allocation and priority group.

(d) *Test data transmitted.* The basic data for Government projects, without detailed analysis but with the necessary description of methods and techniques employed to permit the proper interpretation of the data, will be transmitted to the company for whom the tests were made and the sponsoring Government agency. Further disclosure by NASA of the test results will be made only with the prior concurrence of the sponsoring Government agency.

§ 1210.6 Test preparation and conduct.

(a) *Programing by user.* The user will be given the greatest possible freedom within the objectives of the scheduled program to obtain the precise information it requires, to determine the sequence and number of test runs to be made, and to make modifications to the program arising from the results currently being obtained, subject to requirements of safety, energy conservation, practicability, and the total time assigned.

(b) *Instrumentation.* Each facility will provide basic instrumentation suitable for the test range of the respective facility and computing equipment for the reduction of test data. Information will be furnished for each facility on the permissible size of model, standard balances, safety margins to be used in the construction of models, model mounting details, and other pertinent factors. If the basic instrumentation furnished by the facility does not meet the test requirements, the company will provide suitable instrumentation which will generally be calibrated by the facility staff to insure accuracy of measurement. This instrumentation will be made available sufficiently in advance of the test date to accomplish the calibration. Serious delays arising from inaccuracies in user supplied instrumentation, if occurring during the scheduled test period, may result in reassignment of the position of the tests on the facility schedule. Detailed specifications and arrangements for special instrumentation will be established by mutual agreement. All model criteria required by the facility for safety consideration including the necessary drawings and stress analyses of the articles to be tested will be furnished at a time specified by the facility staff for their use in preparing for the test. The user will also be required to furnish all information necessary to prepare the data reduction software program at a date specified by the facility staff.

(c) *Test program.* All tests will be conducted under NASA supervision and by NASA personnel or by NASA support service contractor personnel unless approved other wise by the facility manager. By agreement between the user (company representatives and the requesting agency) and the Center staff, changes in the test program may be made within the objectives of the scheduled program if time is available. When tests are not totally conducted by NASA personnel or by NASA support service contractor personnel, the NASA Field Installation Safety Officer shall verify that the company personnel are fully cognizant of facility safety problems and operations. A current SAR on the facility shall be available to the company personnel for review.

(d) *Handling test data.* The NASA staff will be responsible for obtaining all test data, its reduction to suitable coefficient form, and the accuracy of the final data, but the NASA will assume no responsibility for the interpretation of the data by others. Transmittal of the data will be made as rapidly as possible. For company projects, the data will be transmitted as directed by the company. The data for Government projects will be transmitted simultaneously to the sponsoring Government agency and the contractor, unless otherwise directed by the sponsoring agency.

(e) *Shops and office space.* During the conduct of user testing, the NASA will make available machine tools in the facility shop and desk space to the user whose projects are under tests.

(f) *Company furnished personnel.* User personnel furnished for each project will be agreed upon between the user and facility staff prior to the test.

MAY 11, 1978.

A. M. LOVELACE,
Deputy Administrator.

[FR Doc. 78-13618 Filed 5-18-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 4]

VESSELS IN FOREIGN AND DOMESTIC TRADES

Extension of Time for Comments Concerning Proposed Amendments to the Customs Regulations Relating to Foreign Repairs to, and Equipment Purchased for, American Vessels

MAY 16, 1978

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice further extends the period of time permitted for the submission of comments in response to the recent proposal by the Customs Service to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. This extension will permit the preparation and submission of more detailed comments by interested members of the public.

DATES: Comments must be received on or before June 30, 1978.

ADDRESS: COMMENTS SHOULD BE ADDRESSED TO THE Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Jerry C. Laderberg, Carriers Rulings Branch, Carriers, Drawback and Bonds Division, U.S. Customs Service, Washington, D.C. 20229, 202-566-5706.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 4, 1978, the Customs Service published in the FEDERAL REGISTER (43 FR 14060) notice of proposed amendments to §§ 4.7(d)(1) and 4.14 of the Customs Regulations (19 CFR 4.7(d)(1) and 4.14) to modify its substantive and procedural requirements relating to entries for foreign repairs and equipment purchases by American vessels. The proposed amendments would establish procedures for handling each aspect of a vessel repair entry and are intended to reduce the

amount of time needed to process the entry.

COMMENTS

Comments on the proposed amendments were to have been received on or before May 4, 1978. At the request of American-flag vessel operators, a notice extending the period of time to comment until June 2, 1978, was published in the FEDERAL REGISTER on May 5, 1978 (43 FR 19417). Customs has now received a request for a further extension of time. Therefore, the period of time for comment on the proposed amendments is extended until June 30, 1978.

LEONARD LEHMAN,
Assistant Commissioner
Regulations and Rulings.

[FR Doc. 78-13617 Filed 5-18-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 446]

[Docket No. 78N-0123]

CONCENTRATED LIQUID DOSAGE FORMS OF TETRACYCLINE

Proposal To Revoke Provisions for Certification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline, which are labeled and formulated specifically for pediatric use. This action is being taken because new evidence reveals continued extensive prescribing of tetracycline liquid dosage forms for children from infancy to the age of 8 years despite the known adverse reactions in this age group. The new evidence supports a finding that the concentrated liquid dosage forms formulated for pediatric patients should be removed from the market.

DATES: Comments by July 18, 1978.

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:

Merle L. Gibson, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4310.

SUPPLEMENTARY INFORMATION: The tetracyclines were first introduced for clinical use in 1948. Because of their broad spectrum of antimicrobial activity, drugs of this class have been used extensively since that time. Tetracyclines are currently marketed for oral use as capsules, sirups, concentrated liquids (pediatric drops), and oral suspensions. The pediatric drops, which are marketed under the certification provisions of sirups and oral suspensions, are characterized by a higher drug concentration than other oral dosage forms and are especially convenient for administering to infants and young children.

For many years the use of drugs of the tetracycline class has been known to cause adverse reactions in the fetus during the last half of pregnacy and in the infant and child through the age of 8 years. The recognized adverse reactions, which include permanent staining of the teeth (yellow, gray, brown), increase tendency to caries, enamel hypoplasia, and temporary inhibition of bone growth, are reflected in the labeling of the drugs. Despite the known adverse reactions, new evidence shows that tetracyclines continue to be used extensively in the pediatric age group. With the current availability of safer alternative antimicrobials that are as effective against the bacteria that cause most infections in young children, it is difficult to justify the continued availability of a dosage form of tetracycline that is specifically formulated for the pediatric age group.

Evidence to support this conclusion has been brought to the attention of the Commissioner of Food and Drugs from several sources:

1. At the 18th meeting of the Food and Drug Administration's (FDA) Anti-Infective Agents Advisory Committee, held on November 16, 1976, tetracycline pediatric dosage forms were discussed. The committee members, who are authorities in the fields of pediatrics, internal medicine, and pharmacology, considered new data from two studies prior to their publication from the American Academy of Pediatrics. One was a 6-month study by Ray, Wayne A., Charles F. Federspiel, and William Schaffner, "The Mal-Prescribing of Liquid Tetracycline Preparations." *American Journal of Public Health*, 67(8):762-763, August 1977, and the other was a 2-year study by the same investigators ("Prescribing of Tetracycline to Children Less than 8 Years Old," *The Journal of the American Medical Association*, 237(19):2069-2074, May 9, 1977). Both studies were conducted by the Division of Biostatistics, Department of Preventive Medicine, and the Division of Infectious Disease, Department of Medicine, Vanderbilt University School of Medicine, Nashville, Tenn., on ambulatory pediatric patients participating in the Medicaid program in Tennessee. The 6-month study surveyed 50,606 tetracycline prescriptions written for 27,888 people. Of these prescriptions 2,740 (5.4 percent) were for sirup and 95 (0.2 percent) were for pediatric drops. More than 55 percent of the prescriptions for sirup and 96 percent of the prescriptions for pediatric drops were for children under 8 years of age. Only 13.8 percent of the prescriptions for liquid tetracycline were prescribed for patients 60 years or older.

Data from the 2-year study showed that tetracycline was prescribed 7,046 times for 4,026 children under 8 years of age. Eighty-four percent of the prescriptions were for pediatric drops. Of the 4,026 children receiving tetracycline, 30 percent were less than 2 years of age and 55 percent were less than 4 years of age.

2. The Food and Drug Administration presented to the Advisory Committee data from the "National Prescription Audit-Therapeutic Category Report," a study conducted by IMS-America, Ltd., on new and refilled prescriptions for the liquid dosage forms of tetracyclines covering the period from January 1974 through June 1976. The audit showed that approximately 77 percent of the prescriptions for liquid dosage forms of tetracyclines were written for patients under 9 years of age. Only 3 percent of these prescriptions were written for patients over 65 years of age. All data indicate that a significant proportion of the prescriptions for liquid dosage forms are written for children and very few for other patient populations that may have difficulty taking solid dosage forms, such as the geriatric age group.

3. The Committee on Drugs of the American Academy of Pediatrics has stated in a commentary in *Pediatrics* (55:142-143, January 1975) that it is difficult to identify common pediatric infections for which an oral tetracycline would be a drug of choice. They concluded that there are few, if any, reasons for using tetracycline drugs in children less than 8 years of age.

The Anti-Infective Agents Advisory Committee considered all data presented and recommended that the Commissioner remove the concentrated liquid dosage forms of tetracycline which are for pediatric use from the market. The Committee found, however, that there is insufficient information to conclude that all oral liquid forms of tetracyclines should be removed from the market and that to recommend such an action at this time would not be in the public interest. The Committee believes that, in removing the drugs specifically formulated for use in children and by disseminating information to physicians regarding the prescribing of tetracyclines for children, the incidence of such use will be greatly reduced. The

Committee also suggested that these measures be evaluated by resurveying prescription use in 6 months to 1 year.

The Committee advised that, in conjunction with removal of the concentrated liquid, the physician labeling for all oral liquid dosage forms of tetracycline that remain on the market should be revised to strengthen the warning concerning permanent discoloration of the teeth in pediatric patients.

The Commissioner has evaluated all available data, including the recommendations of the American Academy of Pediatrics and the FDA Anti-Infective Agents Advisory Committee, and has decided that FDA will take the following actions in regard to tetracycline antibiotics:

1. Propose that the concentrated liquid forms of tetracycline antibiotics that are labeled and specifically formulated for pediatric use be removed from the market. This would be accomplished by revising §§ 446.115a and 446.166 of the regulations (21 CFR 446.115a, 446.166) to limit the amount of active ingredient permitted in sirups to 15 and 25 milligrams per milliliter (mg/ml) respectively. Currently, demeclocycline oral suspension containing 60 mg/ml of demeclocycline and oxytetracycline calcium oral suspension containing 100 mg/ml of oxytetracycline are certifiable in accordance with §§ 446.115a and 446.166, respectively. The revised regulations would no longer permit the certification of these concentrated liquids and outstanding certificates would immediately be revoked.

2. Require that the Warnings section of the physician labeling for all dosage forms of tetracyclines be revised to strengthen the warning concerning permanent discoloration of the teeth in pediatric patients.

3. Require that the Dosage and Administration section of the physician labeling for all dosage forms of tetracyclines be revised by changing the subheading "Children" to read "For children above 8 years of age."

4. Prepare and distribute an "FDA Drug Bulletin" to physicians and other health professionals which will discuss the therapeutic constraints associated with the use of tetracyclines and attempt to dissuade practitioners from prescribing the drugs for pediatric patients except in rare circumstances.

The Commissioner has sent letters to all manufacturers of tetracycline class products, directing them to revise the physician labeling in the "Warnings" section and the "Dosage and Administration" section (Commissioner's conclusions 2 and 3 above) for all dosage forms of tetracyclines. These changes are to be made at the next printing of the labeling.

The Commissioner advises that if the proposal to revise §§ 446.115a and 446.166 of the regulations to limit the amount of active ingredients permitted in sirups and oral suspensions is finalized, all outstanding certificates for batches of tetracycline concentrated sirups and suspensions will be revoked on the date that revision of the regulations is effective. Manufacturers may want to consider this now as they schedule production of batches of tetracycline sirups and oral suspensions.

Within 1 year after the effective date of a final regulation, FDA will survey prescription use and manufacturing practices to determine what effect the above-described actions have had on the incidence of prescribing tetracyclines for pediatric patients.

Copies of the minutes of the Anti-Infective Agents Advisory Committee meeting, the 6-month and 2-year studies, an example of the letters to the manufacturers, current labeling for tetracyclines, the summary of data from the "National Prescription Audit-Therapeutic Category Report," and the commentary of the Committee on Drugs of the American Academy of Pediatrics are available for public inspection at the office of the Hearing Clerk, address given above, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that §§ 446.115a and 446.166 be amended as follows:

1. In § 446.115a, by revising the second sentence of paragraph (a)(1) to read as follows:

§ 446.115a Demeclocycline oral suspension.

(a) * * *

(1) * * * Each milliliter contains demeclocycline equal to 15 milligrams of demeclocycline hydrochloride. * * *

* * * * *

2. In § 446.166, by revising the third sentence of paragraph (a)(1) to read as follows:

§ 446.166 Oxytetracycline calcium oral suspension.

(a) * * *

(1) * * * Each milliliter contains a quantity of oxytetracycline calcium equivalent to 25 milligrams of oxytetracycline. * * *

* * * * *

Interested persons may, on or before July 18, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and (OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: May 12, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13589 Filed 5-18-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[LR-260-74]

INCOME TAX

Deduction for Contributions to Qualified Pension Trusts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating principally to the deduction limitations on contributions to defined benefit pension plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. The regulations would provide the public with guidance needed to comply with that Act and would affect many sponsors of defined benefit plans.

DATES: Written comments and requests for public hearing must be delivered or mailed by July 18, 1978. The amendments are proposed to be effective generally for employers' taxable years beginning in 1976, but earlier (or later) in the case of some plans as provided by the Employee Retirement Income Security Act of 1974.

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

FOR FURTHER INFORMATION CONTACT:

J. Douglas Sorensen of the Legisla-

tion and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3478.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the income Tax Regulations (26 CFR Part 1) under section 404(a) of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1013(c) of the Employee Retirement Income Act of 1974 (88 Stat. 921) and are to be issued under the authority of section 404(a)(1) and 7805 of the Internal Revenue Code of 1954 (88 Stat. 921 and 68A Stat. 917; 26 U.S.C. 404(a)(1) and 7805).

Section 404(a)(1) of the Internal Revenue Code of 1954 provides rules governing the deductibility of contributions to qualified pension trusts. Before the enactment of the Employee Retirement Income Security Act of 1974 ("ERISA"), one of the three alternative deduction limitations in that section provided for an annual deduction with respect to past service or other supplementary pension or annuity credits, limited to ten percent of those costs.

As amended by ERISA, section 404(a)(1)(A)(iii) now provides for the amortization of those costs over a 10 year period.

Under section 404(a)(1) prior to the enactment of ERISA, the deductible limit was generally decreased by the full amount of net experience gains and increased by ten percent of the net experience losses. Special rules for handling gains and losses were provided in certain instances. The adjustment to the deductible limit due to a change in actuarial assumption varied depending on the funding method of the plan and the effect on plan costs. Such adjustments were discussed in Rev. Rul. 57-550, 1957-2 C.B. 266, Rev. Rul. 59-153, 1959-1 C.B. 89, Rev. Rul. 65-310, 1965-2 C.B. 145, and Rev. Rul. 67-116, 1967-1 C.B. 95.

The proposed regulations change these rules. In general, the proposed regulations provide that both gains as well as losses may give rise to an amortizable base, and they contain detailed rules regarding the amount to be amortized and the method of determining the annual amortization amount.

RELIANCE ON PROPOSALS

Pending the adoption of final regulations, taxpayers may rely on these proposed rules in preparing their tax returns and other computations affected by these rules. If any provisions of the final regulations are less favorable to taxpayers than these proposed rules, those provisions will be effective only for periods after the date of adoption.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

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

DRAFTING INFORMATION

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

PROPOSED AMENDMENTS TO THE REGULATIONS

It is proposed to amend 26 CFR Part 1 by adding the following new section immediately after § 1.404(a)-13:

§ 1.404(a)-14 Special rules in connection with the Employee Retirement Income Security Act of 1974.

(a) *Purpose of this section.* This section provides rules for determining the deductible limit under section 404(a)(1)(A) of the Internal Revenue Code of 1954 for defined benefit plans.

(b) *Definitions.* For purposes of this section—

(1) *Section 404(a).* The term "old section 404(a)" means section 404(a) as in effect on September 1, 1974. Any reference to section 404 without the designation "old" is a reference to section 404 as amended by the Employee Retirement Income Security Act of 1974.

(2) *Ten-year amortization base.* The term "10-year amortization base" means either the past service and other supplementary pension and annuity credits described in section 404(a)(1)(A)(iii) or any base established in accordance with paragraph (g) of this section. A plan may have several 10-year amortization bases to reflect different plan amendments, changes in actuarial assumptions, and experience gains and losses of previous years.

(3) *Limit adjustment.* The term "limit adjustment" with respect to any 10-year amortization base is the lesser of—

(i) The level annual amount necessary to amortize the base over 10 years using the valuation rate, or

(ii) The unamortized balance of the base, in each case using absolute values. To compute the level amortization amount, the base may be divided by the present value of an annuity of one dollar, obtained from standard annuity tables on the basis of a given interest rate (the valuation rate) and a known period (the amortization period).

(4) *Absolute value.* The term "absolute value" for any number is the value of that number, treating negative numbers as if they were positive numbers. For example, the absolute value of 5 is 5 and the absolute value of minus 3 is 3. On the other hand, the true value of minus 3 is minus 3. This term is relevant to the computation of the limit adjustment described in paragraph (b)(3) and the remaining amortization period of combined bases described in paragraph (i)(3) of this section.

(5) *Valuation rate.* The term "valuation rate" means the assumed interest rate used to value plan liabilities.

(c) *Use of plan year in determining deductible limit for employer's taxable year.* Although the deductible limit applies for an employer's taxable year, the deductible limit is determined on the basis of a plan year. If the employer's taxable year coincides with the plan year, the deductible limit for the taxable year is the deductible limit for the plan year that coincides with that year. If the employer's taxable year does not coincide with the plan year, the deductible limit under section 404(a)(1)(A) (i), (ii), or (iii) for a given taxable year of the employer is one of the following alternatives:

(1) The deductible limit determined for the plan year commencing within the taxable year,

(2) The deductible limit determined for the plan year ending within the taxable year, or

(3) A weighted average of alternatives (1) and (2). Such an average may be based, for example, upon the number of months of each plan year falling within the taxable year.

The employer must use the same alternative for each taxable year unless consent to change is obtained from the Commissioner under section 446 (e).

(d) *Computation of deductible limit for a plan year; general rules.* The computation of the deductible limit for a plan year is based on the funding method, actuarial assumptions, and benefit structure used for purposes of section 412, determined without regard to section 412(g) (relating to the alternative minimum funding standard), for the plan year. In

making calculations required by this section which involve amortization, any consistent assumption may be made with regard to the time or times during each year that payments will be made. The method of valuing assets for purposes of section 404 must be the same method of valuing assets used for purposes of section 412. However, for purposes of applying the rules of this section (i.e., the computation of normal cost, unfunded liabilities, and the full funding limitation described in paragraph (k) of this section, where applicable) with respect to a given plan year the following adjustments must be made:

(1) There must be excluded from the total assets of the plan the amount of any plan contribution for a plan year for which the plan was qualified under section 401(a) or 403(a) that has not previously been deducted, even though that amount has been credited to the funding standard account under section 412(b)(3)

(2) There must be included in the total assets of the plan for a plan year the amount of any plan contribution that has been deducted with respect to a prior plan year, even though that amount is considered under section 412 to be contributed in a plan year subsequent to that prior plan year.

(e) *Special computation rules under section 404(a)(1)(A)(i)*—(1) *In general.* For purposes of determining the deductible limit under section 404(a)(1)(A)(i), the deductible limit with respect to a plan year is the sum of—

(i) The amount required to satisfy the minimum funding standard of section 412 (a) (determined without regard to section 412 (g)) for the plan year and

(ii) An amount equal to the includible employer contributions.

The term "includible employer contributions" means employer contributions which were required by section 412 for the plan year immediately preceding such plan year, and which were not deductible under section 404 (a) for the prior taxable year of the employer solely because they were not contributed during the prior taxable year (determine with regard to section 404(a)(6)).

(2) *Rule for an employer using alternative minimum funding standard account and computing its deduction under section 404(a)(1)(A)(i).* This paragraph (e)(2) applies if the minimum funding requirements for the plan are determined under the alternative minimum funding standard described in section 412(g) for both the current plan year and the immediately preceding plan year. In that case, the deductible limit under section 404(a)(1)(A)(i) (regarding the minimum funding requirement of section 412) for the current year is the sum of the amount determined under the rules of paragraph (e)(1) of this section,

(i) Plus the charge under section 412(b)(2)(D), and

(ii) Less the credit under section 412(b)(3)(D),

that would be required if in the current plan year the use of the alternative method were discontinued.

(f) *Computation of deductible limit under section 404(a)(1)(A) (ii) and (iii); adjustments for 10-year amortization bases*—(1) *In general.* Subject to the full funding limitation described in paragraph (k) of this section, the deductible limit under section 404(a)(1)(A) (ii) or (iii) is the normal cost of the plan (determined in accordance with paragraph (d) of this section)—

(i) Decreased by the limit adjustments of any unamortized 10-year amortization bases required by paragraph (g) of this section that are due to a net experience gain, or to either a change in actuarial assumptions or a plan amendment which decreases the accrued liability, and

(ii) Increased by the limit adjustments of any unamortized 10-year amortization bases required by paragraph (g) or (j) of this section that are due to a net experience loss, or to either a change in actuarial assumptions or a plan amendment which increases the accrued liability.

(2) *Special limit under section 404 (a) (1) (A) (ii).* If the deduction for the plan year is determined solely on the basis of section 404(a)(1)(A)(ii) (that is, without regard to clauses (i) or (iii)), the special limitation contained in section 404 (a)(1)(A)(ii), regarding the unfunded cost with respect to any three individuals, applies notwithstanding the rules contained in paragraph (f)(1) of this section.

(g) *Establishment of a 10-year amortization base*—(1) *Experience gains and losses.* In the case of a plan valued by the use of a funding method which is an immediate gain type of funding method (and therefore separately amortizes rather than includes experience gains and losses as a part of the normal cost of the plan), a 10-year amortization base must be established in any plan year equal to the net experience gain or loss required under section 412 to be determined with respect to that plan year. The base is to be maintained in accordance with paragraph (h) of this section. Such a base must not be established if the deductible limit is determined by use of a funding method which is a spread gain type of funding method (under which experience gains and losses are spread over future periods as a part of the plan's normal cost). Examples of the immediate gain type of funding method are the unit credit method, entry age normal cost method, and the individual level premium cost method. Examples of the spread gain type of funding method are the aggregate cost method, frozen initial liability cost method, and the attained age normal cost method.

(2) *Change in actuarial assumptions.* If the creation of an amortizable base is required under the rules of section 412(b)(2)(B)(v) or (3)(B)(iii) (as applied to the funding method used by the plan), a 10-year amortization base must be established at the time of a change in actuarial assumptions used to value plan liabilities. The amount of the base is the difference between the accured liability calculated on the basis of the new assumptions and the accrued liability calculated on the basis of the old assumptions. Both computations of accrued liability are made as of the date of the change in assumptions. In the case of a plan using a funding method of the spread gain type (which type does not directly determine the accrued liability of the plan) the accrued liability determinations must be made on the basis of another funding method (of the immediate gain type) that does determine the accrued liability. In that case, the method chosen to determine the accrued liability of the plan upon the change of assumptions must not be different from the method used to establish any other 10-year amortization base maintained by the plan (if any). The base must be maintained in accordance with paragraph (h) of this section.

(3) *Past service or supplemental credits.* A 10-year base must be established when a plan is established or amended, if the creation of an amortizable base is required under the rules of section 412(b)(2)(B) (ii) or (iii), or (b)(3)(B)(i) (as applied to the funding method used by the plan). The amount of the base is the accrued liability arising from, or the decrease in accrued liability resulting from, the establishment or amendment of the plan. The base must be maintained in accordance with paragraph (h) of this section.

(h) *Maintenance of 10-year amortization base*—(1) *In general.* Each time a 10-year amortization base is established, whether by plan amendment, by change in actuarial assumptions, or by experience gains and losses, the base must, except as provided in paragraph (i) of this section, be separately maintained in order to determine when the unamortized amount of the base is zero. In the case of an immediate gain method described in paragraph (g)(1) of this section, the sum of the unamortized balances of all of the 10-year bases must equal the plan's unfunded accrued liability with the adjustments for carryovers described in paragraph (d)(1) and (2) of this section, if applicable. When the unamor-

tized amount of a base is zero, the deductible limit is no longer adjusted to reflect the amortization of the base. Except as provided in paragraph (j) of this section (relating to the initial 10-year base for a plan in existence before the effective date of section 404(a)), the unamortized amount of the base for the plan year for which the base is established is the amount of the base. For any succeeding plan year, the unamortized amount of the base is equal to—

(i) The unamortized amount of the base as of the beginning of that plan year, plus

(ii) Interest at the valuation rate, less

(iii) The contribution made with respect to the base (adjusted for interest at the valuation rate) for that plan year.

(2) *Contribution with respect to each base.* The contribution made with respect to each base is equal to the product of—

(i) The total contribution made with respect to all bases, and

(ii) The ratio of the limit adjustment for the base to the sum (using true rather than absolute values) of the limit adjustments with respect to all bases.

The contribution made for all bases is equal to the difference between the total currently deductible contribution (including carryovers described in section 404(a)(1)(D) to the extent they are currently deductible) and the normal cost (treating a negative difference as a negative contribution). The amount of a contribution which is in excess of the total currently deductible contributions (and which thus creates an additional carryover described in section 404(a)(1)(D)) is not treated as a part of the total contribution with respect to the bases until the carryover becomes deductible under section 404(a)(1)(D). The failure to make a contribution at least equal to the sum of the normal cost plus interest on the unamortized amounts does not create a new base; instead it results in an increase in the unamortized amount of each base and consequently extends the time before the base is fully amortized. The limit adjustment for any base is not increased (in absolute terms) even if the un- amortized amount computed under this subparagraph exceeds the initial 10-year amortization base. Thus, if the total unamortized amount of the plan's bases at the beginning of the plan year is $100,000 (which is also the unfunded liability of the plan), and a required $50,000 normal cost contribution is not made for the plan year, the following effects occur. The total unamortized balance of the plan's bases increases by the $50,000 normal cost for the year, plus interest on the $100,000 balance of the bases; and, because of that increase, it will take a longer period to amortize the remaining balance of the bases. (The annual amortization amount does not change.)

(3) *Required adjustment to 10-year base limit adjustment if valuation rate changed.* If there is a change in the valuation rate, the limit adjustment for all unamortized 10-year amortization bases must be changed, in addition to establishing a new base as provided in paragraph (g) (2) of this section. The new limit adjustment for any base is the level amount necessary to amortize the base over the remaining amortization period using the new valuation rate. The remaining amortization period of the base is the number of years at the end of which the unamortized amount of the base would be zero if the contribution made with respect to that base equaled the limit adjustment each year. This calculation of the remaining period is made on the basis of the valuation rate used before the change. Both the remaining amortization period and the revised limit adjustment may be determined through the use of standard annuity tables. The remaining period may be computed in terms of fractional years, or it may be rounded off to a whole number. The previously amortized amount and the remaining amortization period with respect to such base shall be unchanged by any change in the valuation rate.

(i) *Combining bases*—(1) *General method.* For purposes of section 404 only, and not for purposes of section 412, different 10-year amortization bases may be combined into a single 10-year amortization base if such single base satisfies all of the requirements of paragraph (i) (2), (3), and (4) of this section at the time of the combining of the different bases.

(2) *Unamortized amount.* The unamortized amount of the single base equals the sum of the unamortized amount of the bases being combined (treating negative bases as having negative unamortized amounts).

(3) *Remaining amortization period.* The remaining amortization period of the single base is equal to (i) the sum of the separate products of (A) the unamortized amount of each of these bases (using absolute values) and (B) its remaining amortization period, divided by (ii) the sum of the unamortized amounts of each of the bases (using absolute values). For purposes of this paragraph (i)(3), the remaining amortization period of each base being combined is that number of years at the end of which the unamortized amount of the base would be zero if the contribution made with respect to that base equaled the limit adjustment of that base in each year. This number may be determined through the use of standard annuity tables. The remaining amortization period described in this paragraph may be computed in terms of fractional years, or it may be rounded off to a whole number.

(4) *Limit Adjustment.* The limit adjustment for the single base is the level amount necessary to amortize the combined base over the remaining amortization period described in paragraph (i)(3) of this section, using the valuation rate. This amount may be determined through the use of standard annuity tables.

(5) *Fresh start alternative.* In lieu of combining different 10-year amortization bases, a plan may replace all existing bases with one new 10-year amortization base equal to the unfunded accrued liability of the plan as of the time the new base is being established. This unfunded liability must be determined in accordance with the general rules of paragraph (d) of this section. The unamortized amount of the base and the limit adjustment for the base will be determined as though the base were newly established.

(j) *Initial 10-year amortization base for existing plan*—(1) *In general.* In the case of a plan in existence before the effective date of section 404(a), the 10-year amortization base on the effective date of section 404(a) is the sum of all 10 percent bases existing immediately before section 404(a) became effective for the plan, determined under the rules of old section 404(a).

(2) *Limit adjustment.* The limit adjustment for the initial base is the lesser of the unamortized amount of such base or the sum of the amounts determined under paragraph (b)(3) of this section using the original balances of the remaining bases (under old section 404 (a) rules) as the amount to be amortized.

(3) *Unamortized amount.* The employer may choose either to establish a single initial base reflecting both all prior 10-percent bases and the experience gain or loss for the immediately preceding actuarial period, or to establish a separate base for the prior 10-percent bases and another for the experience gain or loss for the immediately preceding period. If the initial 10-year amortization base reflects the net experience gain or loss from the immediately preceding actuarial period, the unamortized amount of the initial base shall equal the total unfunded accrued liability on the effective date of section 404(a) determined in accordance with the general rules of paragraph (d) of this section. If, however, a separate base will be used to reflect that gain or loss, the unamortized amount of the initial base shall equal such unfunded accrued liability on the effective date of section 404(a), reduced by the net experience loss or increased by the net experience gain for the immediately preceding actuarial period. In this

case, a separate 10-year amortization base must be established on the effective date equal to the net experience gain or loss. Thus, if the effective date unfunded accrued plan liability is $100,000 and an experience loss of $15,000 is recognized on that date, and if the loss is to be treated as a separate base, the unamortized balances of the two bases would be $85,000 and $15,000. If the unfunded liability were the same $100,000, but a gain of $15,000 instead of a loss were recognized on that date, the unamortized balances of the two bases would be $115,000 and a credit base of $15,000. In both cases, if only one 10-year base is to be established on the effective date, its unamortized balance would be $100,000 (the unfunded accrued liability of the plan). See paragraph (d) for rules for determining the unfunded accrued liability of the plan.

(k) *Effect of full funding limit on 10-year-amortization bases.* The amount deductible under section 404(a)(1)(A)(i), (ii), or (iii) for a plan year may not exceed the full funding limitation for that year. See paragraph (d) of this section for rules to be used in the computation of the full funding limitation. If the total contribution for a plan year equals or exceeds the full funding limitation for the year, all 10-year amortization bases maintained by the plan will be considered fully amortized, and the deductible limit for subsequent plan years will not be adjusted to reflect the amortization of these bases.

(l) *Transitional rule.* For taxable years of employers commencing before January 1, 1979, a contribution will be deductible under section 404(a)(1)(A) if the computation of the deductible limit is based upon a reasonable interpretation of section 404(a)(1)(A), when considered in conjunction with prior published positions of the Internal Revenue Service under old section 404(a). A computation of the deductible limit may satisfy the preceding sentence even if it does not satisfy the rules contained in paragraphs (c) through (i) of this section. For taxable years of employers commencing on or after January 1, 1979, the computation of the deductible limit must reflect 10-year amortization bases retroactively established as of the first day to which this section applies and maintained in accordance with this section.

(m) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). Initial 10-year bases. An employer whose taxable year is the calendar year maintains a calendar year plan, which was in existence on January 1, 1974. The employer computes his minimum funding requirements for the plan and his deductible limit for 1976 on the entry age normal funding method and a 5 percent interest assumption is employed. The plan is valued annually as of the first day of each plan year. The actuarial valuation produced the following data (as of January 1, 1976):

Normal cost	$60,000
Accrued liability	1,000,000
Assets	420,000
Actual unfunded liability	580,000
Expected unfunded liability	600,000
Experience gain recognized ($600,000 less $580,000)	20,000
10 pct base if sec. 404 were not amended by ERISA (original balance)	800,000

In computing the initial 10-year amortization bases under paragraph (j)(3) of this section, the employer chooses to treat the experience gain computed on January 1, 1976, as a separate base. Thus the plan has two initial 10-year amortization bases as of January 1, 1976. Their original balances are $800,000 (the prior 10 percent base arising from the original past service liability), and $20,000 (due to the experience gain). The limit adjustments with respect to such bases are $98,670 and −$2,467, respectively (10-year amortization of each base at 5 percent interest, assuming payments made at the beginning of each year). The unamortized amounts of such bases as determined under paragraph (j)(3) of this section are $600,000 ($580,000 unfunded liability plus the $20,000 gain determined on January 1, 1976) and −$20,000, respectively. The deductible limit for 1976 is $156,203 ($60,000 normal cost plus $98,670, the limit adjustment with respect to the $800,000 base, minus $2,467, the limit adjustment with respect to the $20,000 "negative" balance base).

Example (2). Allocation of contribution. The employer in example (1) contributed $110,000 as of January 1, 1976, and claimed $110,000 as a deduction for the 1976 taxable year. The total contribution made with respect to all bases is $50,000 ($110,000 total deductible contribution minus $60,000 normal cost). The employer did not choose to combine the 10-year amortization bases, and maintained the bases as follows through the end of 1976:

(1) Ten-Year Amortization Base	(2) Limit Adjustment With Respect to Base	(3) Contribution with Respect to Base [(2) / Total (2) × Total (3)]	(4) Unamortized Amount Beginning of 1976	(5) Unamortized Amount End of 1976 1.05((4)-(3))
$800,000	$98,670	$51,282	$600,000	$576,154
-20,000	-2,467	-1,282	-20,000	-19,654
	$96,203	$50,000		

Example (3). Combining bases. The facts are the same as example (2) except the employer decided to combine the 10-year amortization bases as of January 1, 1976, in accordance with paragraph (i) of this section. The deductible limit for the combined base is determined on the basis of the remaining unamortized balance and the remaining amortization period of the single combined base. The remaining amortization period of the combined single base is derived from the remaining periods of the separate bases which are being combined. The computations are as follows:

(a) The remaining amortization period of the $800,000 10-year amortization base is determined as follows:

(1) Unamortized amount of base beginning of 1976, $600,000.

(2) Limit adjustment with respect to base, $98,670.

(3) Present value of each $1 of the limit adjustment [(a)(1) divided by (a)(2)], $6.08.

(4) Remaining amortization period (equal to period certain of the amount in (a)(3) obtained from standard annuity tables reflecting first-of-year payments), 7 years.

(b) The remaining amortization period of the $20,000 base is 10 years.

(c) The remaining amortization period of the single base is:

$$\frac{\$600,000 \times 7.0 + \$20,000 \times 10}{\$600,000 + \$20,000} = 7.1 \text{ years}$$

(d) The limit adjustment for the combined base is computed as follows:

(1) Present value of annuity certain for 7.1 years (using linear interpolation), $6.15.

(2) Unamortized amount of single base, $580,000.

(3) Limit adjustment with respect to single base [(d)(2) divided by (d)(1)], $94,309.

If the 10-year amortization bases are combined, the maximum deductible limit will be $154,309 ($60,000 normal cost + $94,309 limit adjustment with respect to the single 10-year amortization base).

(n) *Effective date.* This section applies to any taxable year of an employer to which section 404(a) applies. In the case of a plan which was in existence on January 1, 1974, section 404(a) generally applies for contributions on account of taxable years of an employer ending with or within plan years beginning after December 31, 1975. In the case of a plan not in existence on January 1, 1974, section 404(a) generally applies for contributions on account of taxable years of an employer ending with or within plan years beginning after September 2, 1974. See § 1.410(a)-2(c) for rules concerning the time of plan existence. See also § 1.410(a)-2(d), which provides that a plan in existence on January 1, 1974, may elect to have certain provisions, including the amendments to section 404(a) contained in section 1013 of the Employee Retirement Income Security Act of 1974, apply to a plan year beginning after September 2, 1974, and before the otherwise applicable effective date contained in that section.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-13583 Filed 5-18-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 897-7; PP 8E2030/P77]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Proposed Tolerances for the Pesticide Chemical Methomyl

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide methomyl on beets, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip greens, and watercress. The proposal was submitted by the Interregional Research Project No. 4. This amendment to the regulations would establish maximum permissible levels for residues of methomyl on the above crops.

DATE: Comments must be received on or before June 19, 1978.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mrs. Patricia Critchlow, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-2516.

SUPPLEMENTARY INFORMATION: Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, New Jersey State Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Alabama, Arizona, Florida, Georiga, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, has submitted a pesticide petition (PP 8E2030) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.253 be amended by the establishment of tolerances for residues of the insecticide methomyl (*S*-methyl *N*-[methylcarbamoyl)oxy] thioacetimidate) in or on the raw agricultural commodities beet tops, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip greens (tops), and watercress at 6 parts per million (ppm).

The data submitted in the petition and other relevant material have been valuated. The toxicological data considered in support of the proposed tolerances included two-year rat and dog feeding studies with a no-effect level (NEL) of 100 ppm based on systemic effects: acute oral lethal dose (LD_{50}) rat and chicken studies; a hen neurotoxicity tests; 90-day rat and dog feeding studies with NELs at 125 ppm and 400 ppm, respectively; and a three-generation rat reproduction study with an NEL of 100 ppm. An oncogenic study in a second mammalian species, a rabbit teratology study, and mutagenicity studies are studies considered desirable but lacking. However, the small incremental increase in exposure from residues in these additional commodities can be toxicologically supported even though the second oncogenicity study is missing and the tertology study is below the standard of acceptability. The three-generation reproduction study and the rat oncogenicity study provide adequeate assurance that methomyl is not likely to affect reproduction or to be carcinogenic.

Tolerances have previously been established for residues of methomyl on a variety of raw agricultural commodities at levels ranging from 10 ppm to 0.1 ppm. The metabolism of methomyl is adequately understood, and an adequate analytical method (gas chromatography) is available for enforcement purposes. There are no pending regulatory actions against the continued registration of methomyl. There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3).

The pesticide is considered useful for the purpose for which tolerances are being established, and it is concluded that the tolerances established on beet tops, collards, dandelions, kale, mustard greens, parsley, swiss chard, turnip green tops, and watercress at 6 ppm by amending 40 CFR 180.253 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before June 19, 1978, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number, "PP8E2030/P77". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Office of the Federal Register, from 8:30 a.m. to 4 p.m., Monday through Friday.

(Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).)

Dated: May 9, 1978.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.253 be amended by alphabetically inserting tolerances for residues of methomyl on beet tops, collards, dandelions, kale, mustard greens, parsley, Swiss chard, turnip green tops, and watercress at 6 ppm in the table and revising the paragraph "Vegetables, leafy * * *," as follows:

§ 180.253 Methomyl; tolerances for residues

* * * * *

Commodity:	*Parts per million*
* * * * *	
Beets, tops	6
* * * * *	
Collards	6
* * * * *	
Dandelions	6
* * * * *	
Kale	6
* * * * *	
Mustard greens	6
* * * * *	
Parsley	6
* * * * *	
Swiss chard	6
* * * * *	
Turnip greens, tops	6
* * * * *	
Vegetables, leafy except beets (tops), broccoli, brussels sprouts, cabbage, cauliflower, celery, collards, dandelions, endive (escarole), kale, lettuce, mustard greens, parsley, spinach, Swiss chard, turnip greens (tops), and watercress	0.2(M)
* * * * *	
Watercress	6

[FR Doc. 78-13633 Filed 5-18-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-92; RM-2979; RM-3086]

FM BROADCAST STATIONS IN RHINELANDER, WAUSAU AND WASHBURN, WIS.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking (Order).

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving FM channel assignments in Wausau, Rhinelander, and Washburn, Wis. It also extends the time to file a statement responsive to the proposed license modification in the Order to Show Cause in this proceeding. Petitioners, Seehafer & Johnson Broadcasting Corp. and Oneida Broadcasting Co., state that more time is needed to analyze the impact of the requested FM channel to Washburn, Wis.

DATES: Comments must be received on or before June 7, 1978, and reply comments on or before June 29, 1978. Statement in response to the proposed license modification must be filed on or before June 7, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: May 11, 1978.

Released: May 15, 1978.

1. On March 7, 1978, the Commission adopted a notice of proposed rule making and order to show cause, 43 FR 10944, concerning the above-entitled proceeding. The date for filing comments was May 8, and the date for filing reply comments is May 29, 1978.

2. On April 28, 1978, counsel for Seehafer & Johnson Broadcasting Corp., filed a request seeking an extension of time for filing comments and reply comments to and including June 7, and June 29, 1978, respectively. Counsel states that public notice of a petition was given proposing the assignment of an FM channel to Washburn, Wis., which conflicts with the proposed FM channel at Rhinelander, Wis. He asserts that his client's engineers are presently engaged in a study to determine whether this conflict can be resolved.

3. On May 2, 1978, Oneida Broadcasting Co. ("Oneida"), licensee of FM Station WRHN, Rhinelander, Wis., filed a request seeking an extension to June 7, 1978, in which to file a statement responsive to the license modification proposed by the order to show cause in this proceeding. Oneida states that the additional time is necessary in order that it, too, may analyze the impact of the requested FM channel to Washburn, Wis.

4. Through clerical error, the request for extending the comment and reply comment dates was inadvertently misplaced and was not brought to the attention of the Bureau staff until the date for filing comments had expired.

5. However, on the basis of the reasons indicated in the above-mentioned motions, we believe additional time is warranted and will grant both requests. Since one set of comments already has been filed in order to meet the May 8 deadline date, that party may supplement its filing subject to the new deadlines.

6. *Accordingly, it is ordered,* That the motion for extending time submitted by Seehafer & Johnson Broadcasting Corp. is granted and the time for filing comments and reply comments is extended to and including June 7, and June 29, 1978, respectively.

7. *It is further ordered,* That the motion for extending time for the filing of a responsive statement to the license modification proposed by the order to show cause is granted to and including June 7, 1978.

8. 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 Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

[FR Doc. 78-13601 Filed 5-18-78; 8:45 am]

[6712-01]

[47 CFR Part 81]

[Gen. Docket No. 78-67]

INTERCONNECTION AND UPGRADING OF PUBLIC COAST FACILITIES PROVIDING RADIOTELEGRAPH SERVICE

Order Extending Time for Comments; Responses and Replies

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking. (Extension of time for filing comments, responses and replies).

SUMMARY: Commission grants a second extension for filing comments, responses and replies in a rulemaking proceeding instituted to prescribe measures for improvement of maritime mobile communications services rendered by public coast radio-telegraph stations. The petitioners require additional time to complete requested financial and traffic information.

DATES: Comments are required to be filed on or before June 5, 1978. Responses may be files on or before June 26, 1978. Replies may be filed on or before July 8, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James L. Ball, International Programs Staff, Common Carrier Bureau, 202-632-3214.

SUPPLEMENTARY INFORMATION:

Adopted: May 12, 1978.

Released: May 16, 1978.

In the matter of interconnection and upgrading of public coast facilities providing radiotelegraph service (43FR 16355).

1. By notice of proposed rulemaking in the above-referenced matter, released February 27, 1978, FCC 78-115, the Commission instituted a proceeding to prescribe measures for improvement of maritime mobile communications services rendered by public coast radiotelegraph stations, including the interconnection and upgrading of the facilities of such stations. The notice called for interested persons to submit comments and required the licensees of Class IA public coast stations to provide certain information on or before April 17, 1978, for each station operated. It also invited responses to be filed on or before May 8, 1978, and replies to be filed on or before May 18, 1978.

2. On April 13, 1978, we granted the request of TRT Telecommunications Corp. (TRT) to extend the time for submitting comments to May 17, 1978. The time for submitting responses was extended to June 7, 1978, and replies to June 19, 1978.

3. We now have before us for consideration requests filed by RCA Global Communications, Inc. (RCA) and ITT World Communications, Inc. (ITT) for a further extension of time for filing initial comments to June 15, 1978. In support, both carriers assert that they require additional time to compile the financial and traffic information requested by the Commission in the appendix of the notice of proposed rulemaking. They state that they have made good faith efforts to comply with the Commission's request, but are unable to complete this task within the timeframe contemplated.

4. We recognized in our Order of April 13, 1978, that the information re-

quested by the Commission was extensive. The extension of time then granted was based on our desire to develop an adequate record in this proceeding. It appears that an additional extension of time is warranted to prepare this information. However, the users of public coast radiotelegraph stations have a strong interest in the expeditious resolution of this proceeding. And, over ten weeks have passed since the release of our notice of proposed rulemaking. We therefore will not grant the full extension requested by the petitioners. We believe that the additional time we are according will permit them sufficient time for preparation of the required information.

5. *Accordingly, it is ordered,* pursuant to §0.303 of the Commission's Rules and Regulations, 47 C.F.R. 0.303 (1977), that the request of RCA Global Communications, Inc., and ITT World Communications, Inc., are granted in part and denied in all other respects.

6. *It is further ordered,* that the procedural dates in the proceeding are extended as follows:

Comments, June 5, 1978.
Responses, June 26, 1978.
Replies, July 8, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
JOSEPH A. MARINO,
Acting Chief,
Common Carrier Bureau.

[FR Doc. 78-13611 Filed 5-18-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Endangered Status and Critical Habitat for Two Species of Turtles

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine the Key mud turtle (*Kinosternon bauri bauri*) and the Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*) to be Endangered species and to identify critical habitat for these species. This action is being taken because the habitat where these species dwell is subject to intense alteration. The proposed action, if completed, would protect the populations of these turtles and their habitat. The Key mud turtle is known from several islands in the Florida Keys, Monroe County, Fla.; the Plymouth red-bellied turtle is known from Plymouth and Dukes Counties, Mass.

DATES: Comments from the public must be received by July 18, 1978. comments from the Governors of Florida and Massachusetts must be received by August 17, 1978.

ADDRESSES: Comments and materials concerning this proposed rulemaking, preferably in triplicate, should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 6, 1977, the Fish and Wildlife Service published a notice in the FEDERAL REGISTER (42 FR 28903-28904) to the effect that a review of the status of 12 turtles was being conducted. The Key mud turtle and the red-bellied turtles (*Chrysemys rubriventris*) were part of the review. As a result of the notice of review, responses were received from the State of Florida and professional biologists. The comments and supportive documents have been reviewed and a summary is presented below. This information has been considered and is incorporated into the administrative record of this proposal.

Mr. R. M. Brantly, Executive Director of the Florida Game and Fresh Water Fish Commission, supported Federal listing of the Key mud turtle and noted that Florida protects this subspecies. All five biologists that commented on the status of the Key mud turtle recommended that Federal protection be accorded this turtle. The chief threats to the species were cited as being uncontrolled development and the destruction of the few fresh water areas on the Keys by draining. One individual commented that other species of turtles have been introduced into some of the remaining fresh water lakes and that these species could be having an impact as competitors with the Key mud turtle. The biologists that recommended a status recommended consideration as endangered. Big Pine Key was most often cited as in need of critical habitat designation although an area on Cudjoe's Key was also suggested.

The five biologists that commented on the status of the Plymouth red-bellied turtle all noted that this species should be protected by the Endangered Species Act. The chief threats to the species were cited as habitat modification and vandalism. Extant populations are known from Naushon Island, Billington Sea, Boot Pond, Gunner's Exchange Pond, Hoyt's Pond, Crooked Pond, and Island Pond, according to one individual. Most of the biologists commented on the taxonomic status of this subspecies.

A brief mention of the taxonomic status of these two subspecies should be given. The Plymouth red-bellied turtle was described in 1937 on the basis of measurements of the shell. Subsequent work by Roger Conant revealed that the measurements used by Babcock were invalid and, as such, the subspecific status of *"bangsi"* is in doubt. Ernst and Barbour ("The Turtles of the United States," Univ. Press, Kentucky, 1971), in the most recent review of U.S. turtle biology, retain the subspecies *"bangsi"*; letters from Dr. T. Graham and R. Conant, authorities on this turtle, also recommend retention of the name *"bangsi"*. Turtle biologists generally feel that given the isolation of the Plymouth red-bellied turtle, future study will reveal valid reasons for recognizing *C. r. bangsi.* As such, the Service feels justified in proposing this turtle under a trinomial designation.

While the entire species *Chrysemys rubriventris* was part of the notice of review, no information has been received which would indicate that the subspecies *C. r. rubriventris,* known from New Jersey south to North Carolina, is in any way threatened under definitions of the Endangered Species Act.

The subspecific status of the Key mud turtle has been questioned by Dr. John Iverson of the Florida State Museum. Work in progress indicates that clinal variation may be involved and that it is unclear whether subspecific status is warranted. However, Dr. Iverson does recommend listing as a trinomial and supports Endangered status. As such, the Service feels justified in retaining the name *Kinosternon bauri bauri* for the Key mud turtle in this proposed rulemaking.

Section 4(a) of the Act states:

> General.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:
> (1) The present or threatened destruction, modification, or curtailment of its habitat or range;
> (2) Overutilization for commercial, sporting, scientific, or educational purposes;
> (3) Disease or predation;
> (4) the inadequacy of existing regulatory mechanisms; or
> (5) Other natural or manmade factors affecting its continued existence.

This authority has been delegated to the Director.

SUMMARY OF FACTORS AFFECTING THE SPECIES

These findings are summarized herein under each of the five criteria of section 4(a) of the Act. These factors, and their application to the two turtles, are as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—(1) Key mud turtle *Kinosternon bauri bauri*) proposed endangered. The Key mud turtle is known from several islands in the lower Florida Keys. These areas are rapidly being developed, and the associated habitat modification has led to the decline of this species. Development in the Keys is often accompanied by draining the fresh water wetlands on which the turtle depends. As such, populations of the Key mud turtle are extremely sensitive to disturbance. Some of the populations may also be disturbed by road widening projects and the drainage of wetlands for mosquito control.

(2) Plymouth red-bellied turtle (*Chrysemys rubriventris bangsi*) proposed endangered. The Plymouth red-bellied turtle lives in an area that is increasingly being developed for housing. As such, a major threat to this species is the modification of ponds and associated wetlands on which it depends. Some areas may also be adversely affected by road widening projects.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—Not applicable.

3. *Disease or predation.*—Not applicable.

4. *The inadequacy of existing regulatory mechanisms.*—Not applicable.

5. *Other natural or manmade factors affecting its continued existence.*—(1) Key mud turtle. This species is subject to being run over as it crosses roads in the Keys; often this is done wantonly when the turtles could be avoided. In addition, this species may be facing competition from introduced species of pond turtles into its habitat.

(2) Plymouth red-bellied turtle. This species has been subject to harassment by individuals that shoot it for "sport."

CRITICAL HABITAT

Section 7 of the Act, entitled "Interagency Cooperation," states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

A definition of the term "Critical Habitat" was published jointly by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of January 4, 1978 (43 FR 870–876) and is reprinted below:

"'Critical habitat' means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would appreciably decrease the likelihood of the survival and recovery of a listed species or a distinct segment of its population. The constituent elements of critical habitat include, but are not limited to: physical structures and topography, biota, climate, human activity, and the quality and chemical content of land, water, and air. Critical habitat may represent any portion of the present habitat of a listed species and may include additional areas for reasonable population expansion."

As specified in the regulations for interagency cooperation as published in the January 4, 1978, FEDERAL REGISTER (43 FR 870), the Director will consider the physiological, behavioral, ecological, and evolutionary requirements for survival and recovery of listed species in determining what areas or parts of habitat are critical. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing of offspring; and generally;

(5) Habitats that are protected from disturbances or are representative of the geographical distribution of listed species.

With respect to the Key mud turtle and Plymouth red-bellied turtle, the areas proposed as critical habitat satisfy all known criteria for the evolutionary, ecological, behavioral, and physiological requirements of the species. Nesting and successful incubation of eggs occurs on areas immediately adjacent to the ponds inhabited by these species, and vegetation provides both cover for hatchlings and food for adult red-bellies. Mud turtles are carnivorous, and the ponds and associated wetlands provide a substantial range of potential food items. Logs and snags are present in ponds and provide basking sites for the Plymouth red-bellied turtle. Wintering areas are available in the ponds themselves and surrounding wetlands. The ponds also provide retreats and cover from human and other predators. The areas included as critical habitat for these species include all known ponds inhabited by the Plymouth red-bellied turtle and major populations of the Key mud turtle.

The areas delineated do not necessarily include the entire critical habitat of these turtles, and modifications to critical habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat of the Key mud turtle and Plymouth red-bellied turtle.

All Federal departments and agencies shall, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to affect critical habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the January 4, 1978, FEDERAL REGISTER (43 FR 870–876).

There may be many kinds of actions which can be carried out within the critical habitat of a species which would not be expected to adversely affect that species.

This point has not been well understood by some persons. There has been widespread and erroneous belief that a critical habitat designation is something akin to establishment of a wilderness area of wildlife refuge, and automatically closes an area to most human uses. Actually, a critical habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the Act are applicable in a certain area.

A critical habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a critical habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of critical habitat delineations. Such questions should, and can more conveniently, be dealt with after critical habitat has been designated.

Effect of the Rulemaking

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. All of those prohibitions and exceptions also apply to any threatened species unless a special rule pertaining to that threatened species has been published and indicates otherwise. The regulations referred to above, which pertain to endangered species, are found at § 17.21 of Title 50, and are summarized below.

With respect to the Key mud turtle and the Plymouth red-bellied turtle in the United States, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale these species in interstate or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the Federal Register of September 26, 1975 (40 FR 44412) provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

Pursuant to section 4(b) of the act, the Director will notify the Governors of Florida and Massachusetts with respect to this proposal and request their comments and recommendations before making final determinations.

Public Comments Solicited

The Director intends that the rules finally adopted will be as accurate and effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological or other relevant data concerning any threat (or the lack thereof) to the species included in this proposal;

(2) The location of and the reasons why any habitat of these species should or should not be determined to be critical habitat as provided for by section 7 of the act;

(3) Additional information concerning the range and distribution of these species.

Final promulgation of the regulations on the Key mud turtle and Plymouth red-bellied turtle will take into consideration the comments and any additional information received by the Director, and such communications may lead him to adopt final regulations that differ from this proposal.

A draft environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

Regulations Promulgation

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. It is proposed to amend § 17.11 by adding, in alphabetical order, the following to the list of animals under the heading "Reptiles:"

§ 17.11 Endangered and threatened wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles:							
Turtle, Key mud.	*Kinosternon bauri bauri*	N/A	U.S.A (Florida)	Entire	E	40	N/A
Turtle, Plymouth red-bellied.	*Chrysemysrubriventris bangsi*	N/A	U.S.A. (Massachusetts)	do	E	40	N/A

2. Also, the Service proposes to amend § 17.95(c) by adding critical habitat of the Key Mud Turtle after that of the Plymouth red-bellied turtle as follows:

§ 17.95 Critical Habitat.

* * * * *

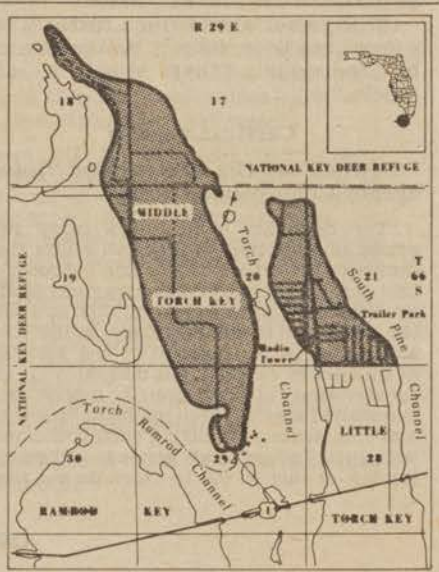
(c) Reptiles.

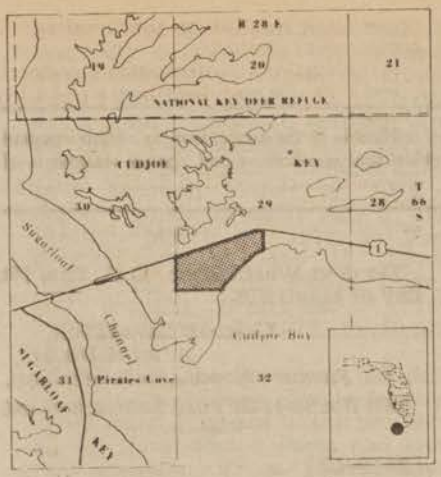
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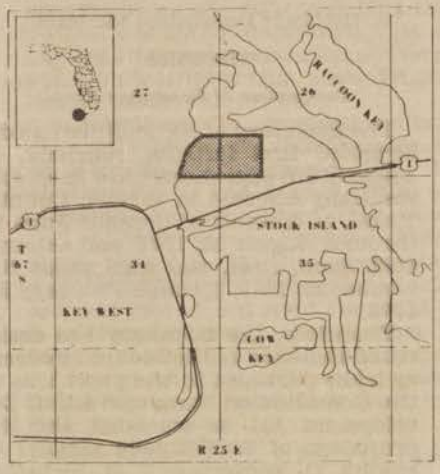
Key Mud Turtle (*Kinosternon bauri bauri*)

Florida—Monroe County. (1) An area on Cudjoe's Key south of U.S. Highway 1 on SW¼ sec. 29, R. 28 E., T. 66 S.; (2) Middle Torch Key, entire island; (3) all areas north of the southern boundary of sec. 21, R. 29 E., T. 66 S., on Little Torch Key; (4) NW¼ sec. 6, R. 30 E., T. 67 S., and NE¼ sec. 1, R. 29 E., T. 67 S., on Big Pine Key; (5) SE⅛ sec. 27, R. 25 E., T. 67 S., and SW⅛ sec. 26, R. 25 E., T. 67 S., on Stock Island.







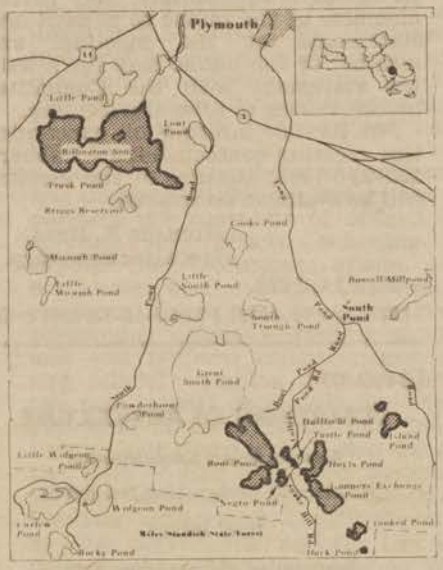


3. § 17.95(c) is further amended by adding critical habitat of the Plymouth red-bellied turtle after that of the leatherback sea turtle as follows:

* * * * *

PLYMOUTH RED-BELLIED TURTLE (*Chrysemys rubriventris bangsi*)

Massachusetts—Plymouth County. (1) Billington Sea; (2) Boot Pond; (3) Crooked Pond; (4) Duck Pond; (5) Gunners Exchange Pond; (6) Hallfield Pond; (7) Hoyts Pond; (8) Island Pond; (9) unnamed pond 0.1 km northwest of Island Pond; (10) Negro Pond; (11) Turtle Pond.



NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: May 9, 1978.

ROBERT S. COOK,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-13523 Filed 5-18-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Deregulation of the Mexican Duck

Correction

In FR Doc. 78-8400 appearing at page 13592 in the issue for Friday, March 31, 1978, on page 13594, in the third column, under the center heading "Regulation Promulgation", the section heading now carried as "27.11 [Amended]" should read "17.11 [Amended]". In the amendatory paragraph which follows, the reference to "§ 27.11" should be corrected to refer to "17.11".

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.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON INFORMAL ACTION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10 a.m., Thursday, June 8, 1978, in the library of the Administrative Conference of the United States, Suite 500, 2120 L Street NW., Washington, D.C.

The Committee will meet to discuss Professor Colin Diver's preliminary outline of his study of assessment and mitigation of civil penalties by federal administrative agencies, and other Committee business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 11, 1978.

[FR Doc.-13620 Filed 5-18-78; 8:45 am]

[6110-01]

COMMITTEE ON JUDICIAL REVIEW

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 11 a.m., Thursday, June 8, 1978, in the seventh floor Conference Room of Covington and Burling, 888 16th Street NW., Washington, D.C.

The Committee will meet to discuss Professor Frederick Davis' preliminary study of the topic: Challenging the validity of regulations in enforcement proceedings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact Jeffrey Lubbers, 202-254-7065. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

MAY 11, 1978.

[FR Doc. 78-13621 Filed 5-18-78; 8:45 am]

[3410-07]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation No. A608]

NEW JERSEY

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Burlington County, N.J., as a result of excessive rainfall November 1 through December 15, 1977, accompanied by tornado-like winds on November 17, 1977, and snow, sleet, and/or rain November 20 through November 30, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor Brendan T. Byrne's that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc 78-13635 Filed 5-18-78; 8:45 am]

[3410-07]

[Notice of Designation No. A610]

TENNESSEE

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Warren County, Tenn., as a result of drought June 27 through August 25, 1977, and extreme cold, snow, sleet, and high winds November 29, 1977, through February 28, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor Ray Blanton that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13636 Filed 5-18-78; 8:45 am]

[3410-07]

[Notice of Designation No. A609]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or

aquaculture operations have been substantially affected in the following Texas Counties as a result of drought April 1 through October 31, 1977, damaging winds March 15 through April 15, 1977, and damaging hail April 19, 1977, in Delta County; drought July 1, 1977, through March 22, 1978, in Duval County; drought July 1, 1977, through March 31, 1978, in Foard County; drought May 15 through August 15, 1977, in Panola County; and drought September 1, 1977, through March 1, 1978, in Randall County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR part 1904, subpart C, exhibit D, paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than November 6, 1978, for physical losses and May 9, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 15th day of May 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-13637 Filed 5-18-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service

GRAIN STANDARDS

Delegation of Authority to the State of California

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The Act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the Act.

The Department of Food and Agriculture of the State of California made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of California.

FGIS has conducted the required investigation of the State of California which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of California. All investigations showed that the inspection and weighing operations of the State are in compliance with the Act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of California was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Koppell Bulk at Long Beach; San Diego Public Bulk Terminal at San Diego; the Port of San Francisco Terminal elevator at San Francisco; Stockton Elevator at Stockton; Cargill Elevator at West Sacramento; and the Los Angeles Harbor Grain Terminal at Wilmington. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Director of the Department of Food and Agriculture of the State of California, effective February 15, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 78-13638 Filed 5-18-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Minnesota

Statement of considerations. Under the provisions of sections 7 and 7A of the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The act requires that prior to delegating such authority to a State agency the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the act.

The Department of Agriculture of the State of Minnesota made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Minnesota.

FGIS has conducted the required investigation of the State of Minnesota which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Minnesota. All investigations showed that the inspection and weighing operations of the State are in compliance with the act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Minnesota was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Multi Foods, Elevator "A," Elevator "B," and Elevator "C," all located at Duluth. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Commissioner of Agriculture of the State of Minnesota, effective April 7, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 78-13639 Filed 5-18-78; 8:45 am]

[3410-02]

GRAIN STANDARDS

Delegation of Authority to the State of Wisconsin

Statement of considerations. Under the provisions of sections 7 and 7A of

the U.S. Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (hereinafter the "Act") the Administrator of the Federal Grain Inspection Service (FGIS) may delegate authority to a State agency to perform all or specified functions involved in official inspection and official weighing at export port locations within the State, provided the State agency was performing official export inspection services on July 1, 1976 (7 U.S.C. 79, 79a). The Act requires that prior to delegating such authority to a State agency, the Administrator shall conduct an investigation to determine whether the agency is qualified and meets the criteria for delegation as provided in section 7 of the Act. The Department of Agriculture, Trade and Consumer Protection of the State of Wisconsin made application for delegation of authority to perform official inspection and official weighing functions for grain at the export port locations within the State of Wisconsin.

FGIS has conducted the required investigation of the State of Wisconsin which included onsite reviews of all their inspection sites and a determination of the nature of any proscribed conflicts of interest that might have existed with individual employees and licensees of the State of Wisconsin. All investigations showed that the inspection and weighing operations of the State are in compliance with the Act and that any conflicts of interest situations that may have existed have been resolved.

As a result, the State of Wisconsin was declared eligible for delegation to perform the functions of official inspection and official weighing at export port locations within the boundaries of the State. The export elevators where the State has been performing official inspection service and will perform official inspection and official weighing services under the new official delegation are: Elevator "KK" and Elevator "E" at Milwaukee; and Elevator "S," Elevator "X," Continental Elevator, Elevator "M," Farmer's Union No. 1, Farmer's Union No. 2, and the Globe Elevator, all located at Superior. The delegation provides for the automatic inclusion of export elevators at export port locations which may be established in the future and will remain in effect until canceled by mutual agreement of FGIS and the State or until revoked by FGIS.

A document delegating this authority to the State was signed by the Deputy Administrator of FGIS and the Secretary of Agriculture, Trade and Consumer Protection of the State of Wisconsin, effective April 6, 1978.

Done in Washington, D.C., on May 16, 1978.

L. E. MALONE,
Acting Administrator.

[FR Doc. 13640 Filed 5-18-78; 8:45 am]

[3410-30]

Food and Nutrition Service

ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name: National Advisory Council on Maternal, Infant, and Fetal Nutrition.
Date and time: 9 a.m., June 21-22, 1978.
Place: Sheraton-Boston Hotel, Prudential Center, Boston, Mass. 02199.

Purpose of meeting. The Council will continue its study of the Special Supplemental Food Program for Women, Infants, and Children (WIC) and the Commodity Supplemental Food Program (CSFP), and will discuss a wide range of matters concerning the operations of these two programs.

Proposed agenda. For the WIC Program, the agenda will cover legislative proposals, the results of various studies and surveys, nutrition education, the food package and general program operations. The regulations for the CSFP and operations of that program will also be covered.

This meeting will be open to the public.

Persons wishing additional information about this meeting should contact Paula Linch Carney, Supplemental Food Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone, 202-447-6746.

Dated: May 16, 1978.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 78-13646 Filed 5-18-78; 8:45 am]

[3410-11]

Forest Service

UPPER CISPUS PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2) (C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental stateement for the Upper Cispus Planning Unit, Gifford Pinchot National Forest, Washington, USDA-FS-R6-FES(Adm)-78-1.

The environmental statement concerns a revised land management plan for the Upper Cispus Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The final environmental statement was transmitted to EPA on May 12, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. S.W., Washington, D.C. 20013.
USDA, Forest Service, Pacific Northwest Region, 319 S.W. Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Associate Deputy Chief.May 12, 1978.

[FR Doc. 78-13598 Filed 5-18-78; 8:45 am]

[3410-15]

Rural Electrification Administration

DEVELOPMENT OF AN ENERGY CONSERVATION POLICY

Request for Public Comment

AGENCY: Rural Electrification Administration.

ACTION: Notice of intent.

SUMMARY: REA intends to develop an energy conservation policy that will require rural electric systems to dedicate a reasonable amount of resources, both monetary and personnel, to aggressive programs which will aid consumers in eliminating wasteful uses of electric energy. As a first step, REA is seeking recommendations from REA borrowers and the public. The recommendations received will be considered in developing this proposed policy. The proposed policy will cover reductions in energy use possible from adding insulation, building more energy-efficient homes, using more energy-efficient appliances in homes, businesses, schools or in agriculture or other production. The purpose of the policy will be to promote end-use conservation primarily of a long-term nature, such as upgrading insulation, so that both the capacity of the power supply of the system and the energy associated with that power supply are used more effectively by the consumers to keep their costs as low as possible. The policy will not cover load management practices, such as load control devices and techniques or improving the system efficiency, which are designed primarily to reduce or shift peak loads. REA expects to have a draft policy to be prepared in 90 days. When it is completed, a formal

notice of proposed energy policy will be issued to allow the public and rural electric systems a further opportunity for comments.

DATE: Written recommendations or comments concerning the development of the draft energy conservation policy will be received through June 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Harlan M. Severson, Assistant to the Administrator, Rural Electrification Administration, Room 4324-South, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4246.

SUPPLEMENTARY INFORMATION: A copy of this notice with supplementary information is being mailed directly to all REA-financed electric systems. Others may receive copies of the supplementary information from REA at the address indicated above.

Dated: May 10, 1978.

DAVID A. HAMIL,
Administrator.

[FR Doc. 78-13392 Filed 5-18-78; 8:45 am]

[3410-34]

Animal and Plant Health Inspection Service

JAPANESE BEETLE

Availability of Draft Environmental Impact Statement on the Control of the Japanese Beetle at Airports, Including Treatment of Aircraft Interiors Using Insecticides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of the draft environmental impact statement on the Japanese beetle program.

SUMMARY: A notice of the Department's intent to prepare the draft environmental impact statement (DEIS) on the Japanese beetle program at airports including treatment of aircraft interiors using insecticides was published in the FEDERAL REGISTER (43 FR 17515) on April 21, 1978. The DEIS has been prepared and sent to the Environmental Protection Agency (EPA) on May 17, 1978, pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, by the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service. Copies of the DEIS are available for public inspection at the following location: Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E, Administration Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250.

DATE: Comments must be received on or before June 2, 1978.

ADDRESS: Requests for a copy of the DEIS and comments should be addressed to the Regulatory Support Staff, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, 301-436-8247.

SUPPLEMENTARY INFORMATON: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, Md. 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in the support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the DEIS are invited from all interested members of the public, from State and local agencies which administer plant pest control regulatory programs or are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any national program, issue, or environmental impact involved.

In its order in the case of *Aviation Consumer Action Project* v. *Secretary of Agriculture* (Civil Action No. 77-1941), the United States District Court for the District of Columbia directed the Department to present the DEIS to the Court no later than June 15, 1978. Therefore, this time constraint allows a limited comment period.

The Japanese beetle is a destructive pest of nearly 300 plants and is under regulation in 24 States and the District of Columbia. The movement of articles which present a hazard to spread the Japanese beetle from infested areas into noninfested areas is regulated by the Japanese beetle quarantine and regulations (7 CFR 301.48 et seq.). The Department has recently proposed amendments to these regulations which would regulate only the interstate movement of aircraft which pose a threat to spread the Japanese beetle into seven Western States (43 FR 16984, April 21, 1978).

The Department is considering treating aircraft transiting and departing hazardous airports destined for noninfested States with a formulation of d-phenothrin or, if necessary, with DDT/carbaryl micronized dust. These formulations have been registered by the EPA for this use. Airports are declared hazardous when adult beetles are on or about aircraft destined for noninfested areas.

It should be noted that on February 28, 1978, March 14, 1978, and March 15, 1978, at Baltimore, Md., Phoenix, Ariz., and San Francisco, Calif., respectively, the Department held public meetings concerning the overall operations of the Japanese beetle program. A number of comments regarding the environmental impact of the program were received by the Department. These comments have been considered in the preparation of the DEIS.

Four letters with comments were received in response to the notice of intent to prepare the DEIS (see 43 FR 17515) from the Wisconsin Department of Agriculture, the Environmental Defense Fund, the Informed Citizens Union and the Aviation Consumer Action Project. Additionally, two letters were received after the closing date for the receipt of comments. These comments will be considered along with any additional comments on the DEIS which may be received pursuant to this notice.

Two of the commentators did not address the impact statement. Specifically, one of these commentators expressed general support for the program, and the other questioned the overall validity of the program.

With regard to the two letters of comment which did address the impact statement from the Aviation Consumer Action Project and the Environmental Defense Fund, a discussion of their comments follows:

Both commentators suggested passengers be informed that an aircraft has been treated prior to boarding. The Department notifies airline and airport officials of hazardous conditions at an airport and the need for treatment of certain aircraft. The airlines inform the Department of flights affected and this same information is available to passengers from airline personnel. As is fully discussed in the DEIS, the insecticides which may be used in the treatment program have been approved for such use by the EPA. Such approval reflects a determination by that Agency that the use of these substances in accordance with the approved labeling requirements will not have a deleterious effect upon human health and the environment. Additionally, the labels approved by EPA for the insecticides do not require such notification. Further, there is no

statutory requirement of such a notification procedure and there is some question concerning the statutory authority for the Department to require such notification. Therefore, no additional notification requirements are contemplated.

Both commentators expressed concern about d-phenothrin, the replacement chemical for DDT/carbaryl to treat aircraft. This chemical was chosen and approved by EPA for this use because the preliminary data indicate that it is more effective for Japanese beetle control than other pyrethroids and is safe for this use. Further efficacy studies are being planned for this June in compliance with EPA's requirements of registration for Japanese beetle, and this is referenced in the impact statement. These tests will be conducted at Dover Air Force Base in aircraft with no passengers or crew aboard and at Baltimore, Md., in van containers.

Both commentators questioned if there is evidence to indicate the Japanese beetle can survive in the Western States proposed for protection. The DEIS addresses this issue and concludes that the Japanese beetle can establish itself in parts of these Western States.

Both commentators suggested that alternative controls other than pesticides be utilized. The Department is committed to biological control where feasible and alternative biological controls, such as parasites, milky spore disease, etc., have been considered and discussed in the DEIS.

Both commentators expresed concern about the Department's use of and procedures for applying chemicals in aircraft, and exposure of passengers to the chemicals. Use and exposure issues are addressed in the DEIS. The Department will provide guidelines for treating aircraft to insure proper treatment. If DDT/carbaryl is used, the Department's personnel will apply the insecticide. The airlines will be requested to apply d-phenothrin under the direction of Departmental personnel in accordance with the label. Airline personnel will be trained in treatment procedures by the Department.

Both commentators addressed the basic question of whether it is conclusively established that the Japanese beetle can hitchhike on aircraft. As the DEIS indicates, there is no doubt that the Japanese beetle can hitchhike on aircraft and be carried long distances. For example, in 1977, both California and Arizona reported live beetles found on aircraft that had originated at eastern airports.

One of the commentators suggested that mitigating methods to reduce chemical exposure should be used in concert with chemical treatments. Selective spraying of aircraft was suggested. This has been the policy of the Department and will continue to be its policy. For example, no treatments will be applied on rainy days when beetles are not flying. It was also suggested that the restricted areas such as galleys should be protected when treatments are applied. The Department is in agreement with this suggestion and is currently reviewing the safety procedures to be utilized in this program. A waiting period for the insecticide to settle out was suggested prior to the boarding of passengers. Under the present program procedures the aircraft is ventilated for 15 minutes prior to the boarding of passengers and crew. Available research data indicate that this period of time should be adequate to aerate the aircraft. Additional tests will be conducted for d-phenothrin to further examine its settling characteristics. A question was raised concerning the adequacy of cleanup procedures and, also, the effect that the removal of residues during the cleanup operation may have on the efficacy of the treatment. Cleanup procedures are addressed in the DEIS. Monitoring of these various mitigating methods was suggested. Department personnel, as they have in the past, will be instructed to spot check aircraft after treatment to assure instructions are followed. Additionally, the Department is reviewing these procedures in its rulemaking proceeding involving the Japanese Beetle Quarantine (see 43 FR 16984).

With regard to effectiveness of the treatment in light of the cleanup procedures, the Department believes that these procedures are adequate to remove unnecessary residues and that the residues which remain are necessary for effective Japanese beetle control.

One of the commentators suggested that, in lieu of chemical treatments, 100 percent inspection of each aircraft be conducted. This is not feasible in light of the aircraft configuration, the lack of manpower, and the time delays that it would cause for scheduled airlines.

One of the commentators suggested that the use of traps inside the aircraft may be an adequate procedure. Lure traps are effective to detect beetles in nature, but the effectiveness inside an enclosed space is questionable. Further, passengers would find bait odor to be highly offensive. Also, the presence of these traps would tend to attract greater numbers of beetles from the outside of the aircraft to the inside of the aircraft. This would increase the hazard of spread because not all of the beetles would be trapped.

One of the commentators suggested the use of enclosed loading procedures for people and baggage as an alternative to treatment with insecticides. Passengers at many airports are loaded through enclosed systems. With regard to baggage, the commentator suggested the use of baffles or net shields to establish a semi-enclosed system. The Department believes that such measures when loading passengers and baggage may not be adequate to eliminate the necessity of insecticide treatment since none of the airports which may be declared hazardous employ procedures which insure sufficient enclosure to eliminate the risk of beetle infestation. However, the use of such procedures may contribute to individual determinations by inspectors that treatment of particular aircraft or parts of aircraft are not necessary.

One of the commentators suggested the use of camouflage or a repellant to reduce the airplane's attractiveness to the beetles. No such devices or substances are available at the present time, and the Department has no way of evaluating their effectiveness, particularly since, as noted in the DEIS, the reasons why beetles are attracted to aircraft are unknown.

All comments were given full consideration in preparation of the draft environmental impact statement.

NOTE.—The Plant Protection and Quarantine Programs, 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 17th day of May 1978.

JOSEPH W. GENTRY,
Acting Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 78-14199 Filed 5-18-78; 9:37 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 78-5-68; Dockets 31976, 31976; 32099]

AMERICAN AIRLINES, INC.

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of May 1978.

In the matter of Miami-Los Angeles low-fare case, California-Florida low-fare case, application of, American Airlines, Inc., for amendment of its certificate of public convenience and necessity for route 4.

On January 11, 1978, the Board, by Order 78-1-35, instituted a new low-fare proceeding to investigate whether the public convenience and necessity require the certification of an additional carrier or carriers between

Miami-Fort Lauderdale and Los Angeles-Ontario-Long Beach. In response to petitions for reconsideration, the Board issued Order 78-3-2, expanding the scope of the proceeding to include Tampa-St. Petersburg-Clearwater, Fla. and Oakland, Calif. American Airlines has now filed a petition for reconsideration of the latter order, requesting that the Board include San Francisco and San Jose in addition to Oakland.[1]

American urges inclusion of all three Bay Area airports, based primarily on the need for improved competitive service in the Miami-San Francisco market. It claims that the inclusion of Oakland alone, the smallest of the three area airports, will do little to increase this competition or to attract new low-fare service. American further contends that the addition of San Francisco and San Jose will not unduly expand or delay the case since Oakland has already been consolidated into the proceeding, citing the Board's decision in the *Transcontinental Low-Fare Route Proceeding*, Order 77-6-23, June 7, 1977, in support of its overall position.

National's answer in opposition to American's petition rests on both procedural and substantive grounds. On the procedural point, National argues that the Board's order on reconsideration, Order 78-3-2, is not an interlocutory order within the meaning of rule 37(a)(2) and that American is in effect filing a successive petition for reconsideration. National further contends that American seeks review not of the Board's order on reconsideration, but of instituting Order 78-1-35, and that its petition should be rejected as untimely. National's substantive argument basically claims that inclusion of San Francisco will greatly increase the complexity of the case, shift its "fundamental focus," and bring in new parties. National argues, further, that the reason for expanding the case to include Oakland—i.e., to avoid depriving the public of an opportunity to consider a meaningful application for low-fare service by a new entrant—simply does not apply to American's request to add San Francisco.

Oakland makes the same arguments as National regarding the complexity and focus of the route proceeding; it also voices fundamental reservations about the substantive issues of the case. The city's main concern is that carriers which receive hyphenated authority to the three Bay Area airports have "nearly always concentrated their efforts on San Francisco, to the exclusion of Oakland * * *." It claims that the *transcontinental* case is distinguishable on two grounds. First, the Bay Area was a primary market in the *Transcontinental* case from its inception, whereas the Oakland and Tampa Bay markets are "merely an appendage" to the instant case; second, low fare service, one of the principal elements in both route proceedings, is much more widely available today than at the time of *Transcontinental*. (Specifically, such service already exists between Miami and San Francisco, but not between Miami and Oakland.)

We have decided to grant American's petition for reconsideration, include San Francisco and San Jose in the case, and consolidate American's application into the proceeding.

1. *Procedure.* American's petition is timely and within the scope of the Board's regulations. An order expanding an investigation is in the nature of an instituting order insofar as the new markets are concerned and is clearly an "interlocutory" order within the meaning of the rules of practice. Rule 915[2] specifically provides:

> That where any further order of the Board adds to the geographic scope of a proceeding * * *, failure to file an answer or motion addressed to the Board's first order shall not preclude the filing of a petition under § 302.37, or of a motion under § 302.12, *addressed exclusively to the additional scope or issues* (emphasis added).

American's application falls reasonably within this rule, as their petition requesting the inclusion of San Francisco an San Jose was filed in response to the Board's expansion of the case to include Oakland.[3]

2. *Expansion of the Low-Fare Case.* While we have considered all the arguments to the contrary, we shall expand this case for the same reasons we put forward in the *Transcontinental Low-Fare Route Proceeding.* See Order 77-6-23, June 7, 1977, pp. 4-6. In our view, the addition of San Francisco will neither unduly complicate the proceeding nor shift the "fundamental focus" of the Board's inquiry. We have already stated that the "fundamental focus" of this case is on "the need for low-fare long-haul service between California and Florida." See Order 78-3-2, March 1, 1978, p. 4. Oakland has already been included; the addition of the other Bay Area airports will not alter the shape of the proceeding. In this regard, we find no significant differences between this proceeding and the *Transcontinental* case since we most emphatically do not regard Oakland and Tampa as "appendages" to this one. While we did say that the Tampa/Oakland markets might not, by themselves, warrant a priority hearing, they are an integral part of this route proceeding as it now stands. Oakland's second contention, regarding the present availability of low-fare Miami-San Francisco, does not persuade us to exclude San Francisco. As we stated in instituting the case, the "Board is keenly interested in promoting market conditions that provide the *increased* likelihood of low-fare service" (emphasis added). Order 78-1-35, January 11, 1978. We see no reason to abandon the reasoning of the *Transcontinental* case.[4]

We are sensitive to Oakland's fundamental concern that the award of hyphenated Bay Area authority will lead its increased service to San Francisco to the continued exclusion of Oakland and San Jose. We believe that such concern, however, is properly addressed in the course of the proceeding itself.[5]

Accordingly, it is ordered, That:

1. Docket 31976 shall be expanded to include consideration of the following issues:

(a) Do the public convenience and necessity require the authorization of a different, or additional, carrier or carriers to engage in air transportation between the terminal point Miami-Fort Lauderdale, Fla., the intermediate points Tampa-St. Petersburg-Clearwater, Fla., and Los Angeles-Ontario-Long Beach, Calif., and the terminal point San Francisco-Oakland-San Jose, Calif., *Provided*, That all flights must serve a point in California and a point in Florida?

(b) If the answer to (a) is in the affirmative, which air carrier or air carriers should be authorized to engage in such service?

(c) What terms, conditions, and/or limitations, if any, should be attached to any new authority which may be awarded?

2. Any authority awarded in this case shall be ineligible for Federal subsidy;

3. The application of American Airlines, Docket 32099, be consolidated with Docket 31976 to the extent that it conforms to that proceeding;

4. The motion of the city of Oakland for leave to file a late document is granted;

5. Applications within the expanded scope of the case, and motions to consolidate, shall be filed within 14 days

[1] The cities of San Jose and San Francisco have filed answers in support of American's petition. National Airlines and the city of Oakland have opposed it.

[2] 14 CFR 302.915(c) (1977).

[3] Contrary to National's contention, American is not filing successive petitions for reconsideration—they made no earlier motions which were rejected. For an illustration of facts which do fall within the prohibition against successive petitions, see *additional Dallas/Fort Worth-Kansas City Nonstop Service Case*, Order 76-6-160, June 24, 1976, n. 3.

[4] Cf: Baltimore/Washington-St. Louis Route Proceeding, Order 78-4-132, Apr. 20, 1978.

[5] Our concern for Oakland's special service needs was manifest when, at our Apr. 19, 1978, meeting, we issued instructions to move forward with an expedited case examining the need for service between Oakland and numerous major cities.

of the date of service of this order, and answers shall be filed 7 days later;[6] and

6. The name of Docket 31976 be changed to the California-Florida Low Fare Case.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[7]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-13679 Filed 5-18-78; 8:45 am]

[6320-01]

WITCHITA CASE ET AL.

Revised Notice

In the matter of *Improved Authority to Wichita Case,* Docket 28848; *Las Vegas-Dallas/Fort Worth Nonstop Service Investigation,* Docket 29445; *Memphis-Twin Cities/Milwaukee Case,* Docket 29186; *Midwest-Atlanta Nonstop Service Investigation,* Docket 28115; *Ohio/Indiana Points Nonstop Service Investigation,* Docket 21162; *Phoenix-Des Moines/Milwaukee Route Proceeding,* Docket 28800.

An omnibus oral argument in these cases will be held on May 17 and 18 to consider the value and extent of multiple permissive awards and the related options of delayed entry and backup authority. The Board's focus will be on the general policy and legal implications of these options. Among the issues will be:

1. Whether the Board can and should adopt a policy of granting route authority to all fit applicants, either generally or in certain categories of cases? Are environmental considerations a barrier to adopting such a policy at this time?

2. If such a policy is desirable and lawful, generally, can it be applied in the six cases specifically in issue, where it was not actually litigated by the parties at the trial stage of the proceedings?

3. On the other hand, if a general policy of open entry is not adopted, should the Board continue to make limited multiple awards as in the *Wichita* and *Ohio/Indiana Points* cases (and, tentatively, in *Las Vegas-Dallas/Fort Worth and Midwest-Atlanta*)? What standards should it apply in deciding how many carriers to certificate? Should awards be limited to the number that the market can support?

4. What role, if any, should delayed multiple authority or conditional backup awards play in the Board's routes policy? Are there any legal barriers to such awards, apart from those generally raised by multiple grants?

5. Should all new route awards be permissive? If not, when should they be permissive and when mandatory?

As announced earlier, the cases under formal consideration will provide varied factual contexts for a discussion of the general policy and legal issues. However, the Board will not hear arguments on narrow issues peculiar to individual cases—including, for example, the traffic forecasts for specific markets or the carrier or carriers to be selected if the Board decides not to grant all applications. Participants should be especially careful to avoid comment on the specific issues in cases in which they are not parties.

Turning to the format of the oral argument, participants will be divided into eight panels as indicated below:

PANEL 1

The Bureau of Pricing and Domestic Aviation
Delta Air Lines
Hughes Airwest
Pacific Southwest Airlines

PANEL 2

Eastern Air Lines
The Federal Trade Commission
The Memphis Parties
North Central Airlines

PANEL 3

Aviation Consumer Action Project
Continental Air Lines
The Kansas Parties
Ozark Air Lines

PANEL 4

Allegheny Airlines
American Airlines
The City of Birmingham
The Columbus Parties
The Massachusetts Port Authority

PANEL 5

The Department of Justice
The Minnesota Department of Transportation
National Airlines
Southern Airways

PANEL 6

The Las Vegas Parties
Texas International Airlines
Trans International Airlines
Western Air Lines

PANEL 7

Braniff Airways
The Cincinnati Parties
Frontier Airlines
The Department of Transportation
The Louisville Parties

PANEL 8

The Cleveland Parties
Northwest Airlines
Trans World Airlines
United Air Lines
The Oakland Parties

The first four panels will be heard on May 17 and last four on May 18. On each day, two will be heard in the morning and two in the afternoon. Each panel, except Nos. 4, 7, and 8 will be allotted a total of 70 minutes; each participant will have 8 minutes for an opening statement and the rest of the time will be devoted to questions by the Board, and to participants' answers to those questions and to each other's statements and comments. Panels 4, 7, and 8 which have 5 participants rather than the usual 4, will be allotted an extra 20 minutes.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

MAY 15, 1978.

[FR Doc. 78-13680 Filed 5-18-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20) the Civil Service Commission authorizes the following agency to fill by noncareer executive assignment in the excepted service the positions listed below:

Equal Employment Opportunity Commission—(1) District Director (New York), District Office, Office of Field Services, Office of the Executive Director, (2) District Director (Chicago), District Office, Office of Field Services, Office of the Executive Director, (3) District Director (Philadelphia), District Office, Office of Field Services, Office of the Executive Director, (4) District Director (Memphis), District Office, Office of Field Services, Office of the Executive Director, (5) District Director (Dallas), District Office, Office of Field Services, Office of the Executive Director, (6) District Director (Baltimore), District Office, Office of Field Services, Office of the Executive Director.

For the U.S. Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13449 Filed 5-18-78; 8:45 am]

[6325-01]

FEDERAL ENERGY ADMINISTRATION AND DEPARTMENT OF THE INTERIOR

Revocation of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Departments below to fill by noncareer executive assignment

[6] We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of this proceeding.

[7] All Members concurred.

in the excepted service the following positions:

Federal Energy Administration—(1) Deputy Assistant Administrator for Conservation and Environment, Office of Conservation and Environment, (2) Deputy Assistant Administrator for Energy Projects, Office of the Assistant Administrator for Energy Resource Development, (3) Principal Deputy Director, Office of Communications and Public Affairs, Office of the Director

Department of Interior—(1) governor, American Samoa, Office of Territorial Affairs, Office of the Secretary, (2) U.S. Resident Commissioner of the Northern Mariana Islands, Office of Territorial Affairs, Office of the Secretary.

For the U.S. Civil Service Commission

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-13448 Filed 5-18-78; 8:45 am]

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

APPLICANT AS TRUSTEE

Notice of Approval

Notice is hereby given that Texas Commerce Bank National Association, Houston, Tex., with offices at 712 Main Street, Houston, Tex., has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21—221.30.

Dated: May 16, 1978.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, JR.,
Secretary.

[FR Doc. 78-13673 Filed 5-18-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-606]

COVE VENTURES INC.

Notice of Application

Notice is hereby given that Cove Ventures Inc., Wall Street Plaza, Suite No. 1630, New York, N.Y. 10005, has filed an application dated May 8, 1978, with the Maritime Subsidy Board (the Board) pursuant to Title VI of the Merchant Marine Act, 1936, as amended (the Act), for an operating-differential subsidy contract, to expire December 31, 1978, unless extended, to operate the SS *COVE LEADER*, 71,054 deadweight tons, in the carriage of bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Dry liquid bulk cargoes may be carried from the U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R., or other permissible ports of discharge.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in Title 46 of the Code of Federal Regulations, Part 294.

For purposes of section 605(c) of the Act, is should be assumed that should the Board grant the requested approval, the vessel named above will engage in the described trade, on a full-time basis, during the indicated time period. Under such approval, each voyage must be approved for subsidy assistance prior to its commencement, and the Board will act on such request(s) as an administrative matter for which there is no requirement for further section 605(c) notice(s).

Any person having an interest in the granting of the application and who would contest a finding by the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes previously specified is inadequate, must on or before June 1, 1978 notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's Rules of Practice and Procedure (46 CFR 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act, and, with as much specificity as possible, the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to the subject application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application herein described, with respect to the vessel to be operated in an essential service and served by citizens of the U.S., would be in addition to the existing service or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed with the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such actions as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidy (ODS).)

Dated: May 16, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-13681 Filed 5-18-78; 8:45 am]

[3510-60]

National Telecommunications and Information Administration

COMPILATION OF ANALYSIS AIDS AND DATA BASES FOR PREDICTING THE PERFORMANCE OF RADIO SYSTEMS

Opportunity to Appear in Federal Catalog

The National Telecommunications and Information Administration, Institute for Telecommunication Sciences, is interested in initiating a continuing effort to compile a library of computer programs and data bases for predicting the performance of radio systems. The basic purpose of this effort would be to provide researchers, in the public and private sectors, with a source of existing computer aids for the evaluation of radio systems which operate in any part of the radio spectrum. We wish also to advise the public about those proprietary computer programs which will be available for public use.

Our first step will be to publish a catalog briefly describing available programs. Accordingly, descriptive information, on donated and proprietary programs, is solicited for inclusion in the catalog. This is not a request for proposals. Those interested in participating should contact:

Institute for Telecommunication Sciences, National Telecommunications and Information Administration, 325 Broadway, Boulder, Colo. 80303. Attention: D. L. Lucas.

(Authority: 15 U.S.C. 272 (13).)

DOUGLASS D. CROMBIE,
Acting Associate Administrator, National Telecommunications and Information Administration.

[FR Doc. 78-13599 Filed 5-18-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1978 a service to be pro-

vided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 19, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On december 9, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notice (42 FR62180) of proposed additioin to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby added to Procurement List 1978:

SIC 0782

Grounds Maintenance (SH), Bergstrom Air Force Base, Tex., for the following AFRES units: Buildings: 1601, 4202, 4526, 4527, 4534, 4535, 4547, 4562 and Apron "D."

C.W. FLETCHER,
Executive Director.

[FR Doc. 78-13603 Filed 5-18-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletions from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 commodities produced by workshops for the blind or other severly handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 21, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 7220

Mat, Coir fiber, 7220-00-224-6491, 7220-00-205-3100.
Mat, Rubberized fabric, 7220-00-224-6488.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-13604 Filed 5-18-78; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army

TOOELE ARMY DEPOT, UTAH

Filing of Draft Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on May 12, 1978 provided the Environmental Protection Agency with the Draft Environmental Impact Statement concerning Disposal of Hydrogen Cyanide at Tooele Army Depot, Utah.

Copies of the statement have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Project Manager for Chemical Demilitarization and Installation Restoration, Building E-4585, Attn: DRCPM-DR-T (LTC Robert L. Hanson), Aberdeen Proving Ground, Md. 21010, Phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310 Phone 202-694-1163.

Dated: May 11, 1978.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs Office of the Assistant Secretary of the Army (Civil Works).

[FR Doc. 78-13606 Filed 5-18-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SOVIET MISSILE DEFENSE

Advisory Committee Meeting

The Defense Science Board Task Force on Soviet Missile Defense will meet in closed session 14-15 June 1978 at the Offices of the Institute for Defense Analyses, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task force will review Soviet activities in ballistic missile defense and related subjects and will provide recommendations for appropriate U.S. responses.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5, of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Dod/WHS.

MAY 15, 1978.

[FR Doc. 78-13597 Filed 5-18-78; 8:45 am]

[3810-70]

DEFENSE SCIENCE BOARD TASK FORCE ON V/STOL AIRCRAFT

Advisory Committee Meeting

The Defense Science Board Task Force on V/STOL Aircraft will meet in closed session 8 June 1978, in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate the potential of V/STOL technology for future replacement of our conventional land-based and sea-based tactical aircraft.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives DoD/WHS.

MAY 15, 1978.

[FR Doc. 78-13596 Filed 5-18-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[DOE/EIS-0002]

PROPOSED ALLOCATION OF PETROLEUM FEEDSTOCK, BALTIMORE GAS AND ELECTRIC CO., SOLLERS POINT, MD. SNG PLANT

Availability of Final Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability of final environmental impact statement.

SUMMARY: The Department of Energy gives notice of the availability of the Final Environmental Impact Statement, Allocation of Petroleum Feedstock, Baltimore Gas and Electric Co., Sollers Point, Md., DOE/EIS-0002.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson, Economic Regulatory Administration, Department of Energy, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

Carol Borgstrom, Office of NEPA Affairs, Department of Energy, Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

J. Thomas Wolfe, Office of the General Counsel, Department of Energy, Room 7146, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION: The final environmental impact statement (EIS) was prepared pursuant to the National Environmental Policy Act of 1969 to support a future Department of Energy administrative decision relating to the proposed allocation of up to approximately 2.2 million barrels of naphtha per year for the production of synthetic natural gas (SNG) at the Baltimore Gas and Electric Co's (BG&E) Sollers Point, Maryland facility.

The plant is expected to operate no more than 180 days per year. Based upon its maximum capacity output of 60,000 Mcf of gas per day, the plant will produce up to 10,800,000 Mcf of SNG annually from naphtha feedstock supplied by the Amerada Hess Corp.

The draft EIS was issued on December 12, 1977. Comments received on that document were considered in the preparation of the final EIS.

Copies of the final EIS have been furnished to those who commented on the draft EIS as well as others who have requested copies. A limited number of single copies of the final EIS may be obtained from:

Office of Specialty Fuels, Room 6318, 2000 M Street NW., Washington, D.C. 20461, 202-254-3330.

In addition, copies may be obtained from:

Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tenn. 37830, 615-483-8611, ext. 34672.

Copies have also been placed in public reading rooms at the following DOE locations:

Library, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

Room 2107, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

DOE will take no administrative action with respect to the BG&E application prior to 30 days after publication of this notice in the FEDERAL REGISTER. (June 19, 1978)

Dated at Washington, D.C., this 16th day of May 1978.

For the U.S. Department of Energy.

WILLIAM P. DAVIS,
Deputy Director of Administration, Department of Energy.

[FR Doc. 78-13629 Filed 5-18-78; 8:45 am]

[3128-01]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

1. A meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 6 and 7, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:00 a.m. on June 6. The agenda for the meeting is as follows:

A. Opening remarks.
B. Review draft Appraisal Report of 1978 IEA Allocation Systems Test.
C. Future work program and schedule.

2. A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on June 7 and 8, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning following adjournment of the meeting of the Industry Supply Advisory Group which will be held at New York on June 6 and 7. The agenda for the meeting is as follows:

A. Opening remarks.
B. Review draft Appraisal Report of 1978 IEA Allocation Systems Test.
C. Future work program and schedule.

As provided in section 252(c)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public.

Issued in Washington, D.C., May 15, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-13558 Filed 5-18-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

[ERA Docket No. 78-003NG]

GREAT LAKES GAS TRANSMISSION CO.

Petition to Amend Its Authorizations to Transport and Deliver Canadian Natural Gas by Displacement

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of receipt of application and invitation to submit petitions to intervene in the proceeding.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of an application under sections 3 and 7 of the Natural Gas Act from Great Lakes Gas Transmission Co. (Great Lakes) to amend its authorizations to deliver imported Canadian natural gas to Northern Natural Gas Co. (Northern). Great Lakes proposes to transport and deliver to Northern up to 75,000 Mcf per day of displaced natural gas, purchased by Northern from Petrosar Limited, Corunna, Ontario. Delivery by Great Lakes to Northern would be made on an Mcf for Mcf basis by a reduction in deliveries by Great Lakes to TransCanada at the United States-Canadian Boundary near Sault Ste. Marie and St. Clair, Mich. Great Lakes currently transports for TransCanada up to 815,000 Mcf per day.

Petitions to intervene are invited.

DATES: Petitions to intervene: June 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Finn K. Neilsen, 2000 M Street NW., Room 6318, Washington, D.C. 20461, telephone 202-254-9730.

Mr. Barry Smoler, Office of General Counsel, 12th and Pennsylvania Avenue NW., Room 5116, Washington, D.C. 20461, telephone 202-566-9380.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 20, 1978, Great Lakes Gas Transmission Co. (Great Lakes), 2100 Buhl Building, Detroit, Mich., filed in Docket No. 78-003NG an application pursuant to sections 3 and 7 of the Natural Gas Act and Regulations thereunder requesting authorization to amend its authorizations in Federal Energy Regulatory Commission (FERC) Docket Nos. CP66-110, et al., to authorize the deliveries in Minnesota and Michigan of natural gas imported by displacement from Canada by Northern Natural Gas Co. (Northern), as more fully set forth in the application on file with the ERA. Great Lakes' application is open to public in-

spection in the Public Docket Room at 2000 M Street NW., Washington, D.C., Room B120, between the hours of 1 p.m. to 5 p.m., Monday through Friday, except for Federal holidays.

Great Lakes transports natural gas for the account of Northern from the Emerson interconnection to a point near Carlton, Minn. Great Lakes also transports natural gas for TransCanada Pipelines Limited (TransCanada), (up to 815,000 Mcf per day) from the Emerson interconnection to the United States—Canadian Boundary near Sault Ste. Marie and St. Clair, Mich.

This petition to amend is a companion filing to the application of Northern filed March 17, 1978, with the FERC at Docket No. CP78-237, and filed with the Economic Regulatory Administration (ERA) at Docket No. 78-002NG in which Northern requests authorization to import into the United States natural gas from Canada made available by displacing this volume with SNG produced at the Petrosar Limited plant in Corunna, Ontario. The 75,000 Mcf per day of such gas during the winter period, from November 1 through March 31, will be available each year for a period of five years commencing in November 1978.

By agreement dated March 15, 1978, (Operating Agreement), between TransCanada, Northern and Great Lakes, deliveries by displacement will be made as proposed in Northern's application and Great Lakes' application to amend. When directed, Great Lakes will deliver volumes during the winter months to Northern at Carlton, Minn., and by mutual agreement between the parties, at Grand Rapids, Minn., and Wakefield, Mich. Volumes so delivered to Northern will reduce the volumes Great Lakes delivers to TransCanada at St. Clair under the TransCanada Transportation Contract (FERC Rate Schedule T-4). Great Lakes will not import or export any additional volumes due to this proposed amended service.

By letter agreement dated March 27, 1978, TransCanada and Great Lakes agreed to include the points for redelivery under the TransCanada Transportation Contract dated September 12, 1967, of interconnection with Northern at Carlton, Minn., Grand Rapids, Minn., and Wakefield, Mich. For billing purposes the gas delivered to Northern under the March 15, 1978, agreement shall be included as gas delivered by Great Lakes to TransCanada at St. Clair, Mich.

By letter agreement dated March 29, 1978, Great Lakes and Northern have agreed that volumes delivered by Great Lakes to Northern at the three delivery points shall first be applied against the volumes authorized under Great Lakes' Rate Schedule T-5 under which Great Lakes is currently providing transportation service to Northern. Any volumes in excess of those provided by Rate Schedule T-5 will be considered to be under the proposed Operating Agreement.

The ERA is not, at this time, asking for comments on the petition or for petitions for a hearing, preferring to wait until supplemental filings, related to the instant application, have been filed and ERA has made the determination that Great Lakes' and other related petitions are sufficiently complete to elicit reasoned arguments. At that time the ERA will set a filing date of intervenors desiring to be heard or to make any protest with reference to said application. The ERA is at this time inviting petitions for intervention to be filed with the Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure (18 CFR 157.10). Such petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., e.d.t., June 2, 1978, and are for the purpose of establishing an official service list.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened therein must file a petition to intervene in accordance with the above mentioned rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the ERA by Section 3 of the Natural Gas Act and the rules of practice and procedure, a formal hearing will not be held on this application if no petition to intervene is filed with the time required, or if the ERA on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. However, if during the appropriate comment period a motion for such hearing is timely filed by an intervenor and is granted by ERA, or if the ERA on its own motion believes that such a hearing is required, further notice of such hearing will be duly given.

Issued in Washington, D.C. on May 12, 1978.

BARTON R. HOUSE,
Assistant Administrator, Fuels Regulation, Economic Regulatory Administration.

[FR Doc. 78-13357 Filed 5-18-78; 8:45 am]

[3128-01]

[ERA Docket No. BPA 78-2]

TRANSMISSION RATES BONNEVILLE POWER ADMINISTRATION

Notice of Intent To Act on Request for Extension of Bonneville Power Administration's Conditionally Approved Transmission Rates

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: On May 2, 1978, the Deputy Assistant Secretary for Power Applications, Resource Applications, requested the Administrator of the Economic Regulatory Administration (ERA) to extend the Bonneville Power Administration's conditionally approved transmission rates until such time as final transmission rates have been either approved or rejected. The purpose of this notice is to advise the public that the Administrator of ERA intends to act on the request and to invite interested persons to submit written comments relevant to the proposed extension. An opportunity for an oral presentation will be afforded upon request.

DATES: Written comments are due on or before June 20, 1978. Requests for an oral presentation are due May 30, 1978. If a public hearing is requested it will be held in Portland, Oreg., June 1, 1978, and/or Washington, D.C., June 6, 1978. Speakers may submit written copies of their oral presentation at the hearing.

ADDRESSES: Requests for an oral presentation and/or 10 copies of written comments shall be submitted to: Office of Public Hearing Management, Box TM, Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461. The public hearing, if held, will be in: Bonneville Power Administration, Headquarters Auditorium, Portland, Oreg. (June 1), Room 3000A, Department of Energy, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. (June 6).

FOR FURTHER INFORMATION CONTACT:

Jerry Nicholas, Office of Utility Systems, Economic regulatory Administration, 1111 20th Street NW., Room 550, Washington, D.C. 20461, phone 202-254-9690.

Richard W. Manning, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 6146, Washington, D.C. 20461, phone 202-566-9653.

SUPPLEMENTARY INFORMATION: Pursuant to section 301(b) of the Department of Energy Organization Act (Pub. L. 95-91), the function to con-

firm and approve power and transmission rates for the Bonneville Power Administration was transferred to the Secretary of Energy. By delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated his confirmation and approval authority to the Administrator of the Economic Regulatory Administration (ERA).

On July 30, 1976, pursuant to the Federal Columbia River Transmission System Act of October 18, 1974 (16 U.S.C. 838), the Secretary of Interior filed with the Federal Power Commission (FPC) a request for the confirmation and approval of certain rate schedules for the transmission of non-Federal electric power and energy over BPA's transmission facilities (FPC Docket No. E-9563). Public notice of Interior's filing invited comment from interested persons. The FPC determined that a substantial amount of analysis would be required before it could fully review the proposed transmission rates and ordered a hearing before an administrative law judge. On January 19, 1977, Interior submitted an amendment to the filing requesting the FPC to confirm and approve the proposed rates on an interim basis subject to retroactive adjustment with interest on the ground that each day of delay in adopting new rates caused a loss of approximately $15,000 in revenue. On June 10, 1977, the FPC conditionally confirmed and approved the proposed transmission rates through June 30, 1978, subject to retroactive adjustment with interest. Review of this matter passed to ERA on October 1, 1977, before a hearing on the merits of the proposal had been conducted by the FPC.

Since final transmission rates have not been confirmed and approved, the Deputy Assistant Secretary for Power Applications, Resource Applications, has requested the Economic Regulatory Administration to extend the Bonneville Power Administration's conditionally approved transmission rates until such time as final transmission rates have been either confirmed or rejected. It is ERA's intention to extend the conditionally approved transmission rates for an interim period not to exceed 1 year. This establishment of interim rates is consistent with the policy of ERA as expressed in the procedures applicable to the Western Area Power Administration, 43, FR 12076 (March 23, 1978).

Comment Procedures: Interested persons are invited to submit comments with respect to the subject matter set forth in this notice to: Public Hearings Management Box TM, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.d.t., on June 20, 1978.

Any person who has an interest in this matter or is a representative of a group or class of persons that has an interest in it may make a written request for an opportunity to make an oral presentation at a public hearing. Such a request can be mailed or hand delivered to: Public Hearing Management, Box TM, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461 and must be received before 4:30 p.m., e.d.t. on May 30, 1978.

The request shall state the name of the person making the request, identify the interest represented and if appropriate state why he or she is a proper representative of a group or class of persons that has an interest, give a concise summary of the proposed oral presentation, give a telephone number where the person may be contacted, and set forth the location at which it is desired to make the oral presentation.

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

The public hearing, if any, will not be adjudicated in nature. A DOE official will be designated to preside at the hearing, if one is held. Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding official.

The hearings, if held, will begin at 9:30 a.m., on June 1, 1978, in the Bonneville Power Administration Headquarters Auditorium, Portland, Oreg., and/or on June 6, 1978, in room 3000A, Department of Energy (Federal Building), 12th and Pennsylvania Avenue NW., Washington, D.C.

Public comments, if any, and the hearing record, if any, will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., on May 15, 1978.

HAZEL R. ROLLINS,
Deputy Administrator, Economic Regulatory Administration, Department of Energy.

[FR Doc. 78-13577 Filed 5-18-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G-14225, etc.]

MOBIL OIL CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 11, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-14225, D, May 1, 1978	Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Columbia Gas Transmission Corp., South Thornwell field, Jefferson Davis Parish, La.	(1)	
CI61-1284, D, Apr. 27, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Arkansas Louisiana Gas Co., Vixon field, Caldwell Parish, La.	(2)	
CI63-234, D, Apr. 24, 1978	Mobil Oil Corp	Arkansas Louisiana Gas Co., Red Oak field, Latimer, et al., Counties, Okla.	(3)	
CI72-311, D, Apr. 24, 1978	do	Arkansas Louisiana Gas Co., Waveland (Arkoma) field, Yell and Logan Counties, Ark.	(4)	
CI72-311, D, Apr. 24, 1978	do	Arkansas Louisiana Gas Co., Waveland (Arkoma) field, Yell County, Ark.	(5)	
CI76-38, C, Mar. 13, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Transwestern Pipeline Co., South Empire deep unit Nos. 6 and 10, Eddy County, N. Mex.	(6)	14.65
CI77-331, C, Oct. 11, 1977	Placid Oil Co. (operator), et al., 1600 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., block, 291, ship shoal area, south addition, to block 207, ship shoal area, offshore Louisiana.	(7)	15.025
CI77-344, C, May 1, 1978	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	Panhandle Eastern Pipe Line Co., Shannon sandstone formation from the Hartzog Federal No. 1-28 well located in the NE/4 of sec. 28, T45N, R75W, Campbell County, Wyo.	(8)	15.025
CI78-664, B, Apr. 19, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Colorado Interstate Gas Co., Wilburton field, Morton County, Kans.	(9)	
CI78-690, A, Apr. 27, 1978	Tenneco Oil Co., P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., "C" platform located on block 61 and attributable to block 60, South Marsh Island area, offshore Louisiana.	(10)	15.025
CI78-699, A, Apr. 27, 1978	The Louisiana Land & Exploration Co., 225 Baronne St., P.O. Box 60350, New Orleans, La. 70160.	Consolidated Gas Supply Corp., certain acreage in block 267, south half, Vermillion area, offshore Louisiana.	(10)	15.025
CI78-700, A, Apr. 28, 1978	Napeco Inc., 122 South Michigan Ave., Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Keystone No. 1 well, Eddy County, N. Mex.	(10)	14.65
CI78-701, A, Apr. 27, 1978	Prosper Energy Corp. (successor in interest to Hunt Oil Co.), 2900 1st National Bank Bldg., Dallas, Tex. 75202.	Michigan Wisconsin Pipe Line Co., Eugene Island SA block 296 ("X" and "10" sands), offshore Louisiana.	(10)	14.73
CI78-702, A, Apr. 27, 1978	Ocean Production Co., et al., P.O. Box 61780, New Orleans, La. 70161.	Tennessee Gas Pipeline Co., south half of block 246, ship shoal area, in the Gulf of Mexico, offshore Louisiana.	(10)	15.025
CI78-703 (CI64-1403) (G-3054), B, Apr. 28, 1978.	T.E.L. Oil & Gas Corp., et al., P.O. Box 292, Guymon, Okla. 73942.	Western Gas Interstate, Hugoton field Texas County, Okla.	Uneconomical	
CI78-706 (CI67-1642), B, Apr. 20, 1978.	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Natural Gas Pipeline Co. of America, Harry Butler unit well No. 2, sec. 8-17N-16W, Putnam field, Dewey County, Okla.	Lease contributed to unit lapsed by own terms, plugged and abandoned and final sale of gas was January 1970.	
CI78-707 (CI73-3), B, Apr. 24, 1978.	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	El Paso Natural Gas Co., Cha Cha Gallup field, San Juan County, N. Mex.	Plugged and abondoned	
CI78-708, A, Apr. 24, 1978	American Natural Gas Production Co., 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Tex. 77056.	Michigan Wisconsin Pipe Line Co., certain acreage located in Beckham County, Okla.	(10 11)	14.65
CI78-709, A, Apr. 24, 1978	American Natural Gas Production Co.	Michigan Wisconsin Pipe Line Co., certain acreage located in Beckham County, Okla.	(10 11)	14.65
CI78-710, A, Apr. 24, 1978	do	Michigan Wisconsin Pipe Line Co., certain acreage located in Roger Mills County, Okla.	(10 11)	14.65
CI78-711, A, Apr. 24, 1978	do	Michigan Wisconsin Pipe Line Co., certain acreage located in Canadian County, Okla.	(10 11)	14.65
CI78-712 (CI63-1437), B, Apr. 27, 1978.	Atlantic Richfield Co	Arkansas Louisiana Gas Co., West Vixen field, Caldwell Parish, La.	Acreage released, final sale reported was in 1975, plugged and abandoned.	
CI78-713, A, Apr. 28, 1978	Champlin Petroleum Co., P.O. Box 1257, Englewood, Colo. 80150.	Colorado Interstate Gas Co., certain acreage in the Wamsutter area, Sweetwater and Carbon Counties, Wyo.	(10)	14.65
CI78-714, A, Apr. 28, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Midwest Federal "A" No. 1 well, SW/4 sec. 10, T14S, R28E, Chaves County, N. Mex., limited to the premier zone of the Grayburg formation.	(12)	14.65
CI78-715 (CI69-383), B, May 1, 1978.	Otis Russell, P.O. Box 1447, Bay City, Tex. 77414.	Tennessee Gas Pipeline Co., South Lissie field, Wharton County, Tex.	Depleted, production ceased August 1977, leases reverted to owners, plugged and abondoned.	
CI78-716, A, May 1, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Lake Raccourci field, LaFourche Parish, La.	(10)	14.73
CI78-717, A, May 1, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	United Gas Pipe Line Co., Dubina area, Colorado County, Tex., limited to the interval between the surface and the base of the Wilcox formation.	(10)	14.65

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-718, A, May 1, 1978	Cotton Petroleum Corp., 4200 1 Williams Center, Tulsa, Okla. 74103.	Kansas-Nebraska Natural Gas Co., Inc., certain acreage in the Thorpe field, Kimball County, Nebr.	(10)	15.025
CI78-719, A, May 1, 1978	Cotton Petroleum Corp	Panhandle Eastern Pipeline Co., certain acreage in the Wattenberg field, Weld County, Colo.	(10)	15.025
CI78-722 (CI67-867), B, May 3, 1978.	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Southern Natural Gas Co., Franklin field, St. Mary Parish, La.	Leases released, no economical recoverable reserves underlying released leases, plugged and abandoned.	.....

[1]Effective Oct. 31, 1977, certain nonproducing leases were released and were deleted from the commitment to the contract which expired under its own terms on Nov. 1, 1977. The remaining acreage is now committed to replacement contract dated Jan. 20, 1978.

[2]There are no known economical reserves underlying released leases. Partial release of oil and gas leases, plugged and abandoned. Applicant retains interest in lease on acreage enclosed within the geographical bounds of Shell Oil Co.'s Hosston 8,650 ft san unit. Totalling 34.2 acres.

[3]By partial assignment of oil and gas leases (S-6206-DW), effective Feb. 3, 1978, Mobil assigned to Samson Resources Co., small producer in docket No. CS74-86, all of its right, title, and interest in and to that certain acreage fully described in said partial assignment of oil and gas leases. Applicant requests its certificate of public convenience and necessity be amended by deleting a portion of the commitment to the extent, and only to the extent, that the same covers the leases referred to above.

[4]By assignment and agreement effective Oct. 1, 1975, Mobil assigned to CSG Exploration Co. all of its right, title, and interest in and to that certain producing acreage fully described in said assignment and agreement.

[5]By assignment and agreement effective Jan. 1, 1976, Mobil assigned to Rex Oil Co. all of its right, title, and interest in and to that certain acreage fully described in said assignment and agreement. Said assigned acreage nonproducing at time of assignment. Last production was in 1975.

[6]Applicant is filing under gas purchase agreement dated July 2, 1975, amended by letter agreement dated Sept. 30, 1977.

[7]Applicant is filing pursuant to the terms of a transportation service agreement dated Jan. 28, 1977, amended by letter agreement dated Aug. 9, 1977.

[8]Applicant is filing under gas purchase and sales agreement dated Sept. 24, 1976, amended by addendum to gas purchase and sales agreement dated Apr. 10, 1978.

[9]Exxon has terminated a percentage-type contract with Cities Service Co. and is proposing to sell the gas directly to Colorado Interstate Gas Co., under a fix priced contract.

[10]Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.

[11]Applicant and purchaser are affiliated.

[12]Applicant is filing under gas purchase agreement dated Feb. 3, 1978.

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 78-13506 Filed 5-18-78; 8:45 am]

[6740-02]

WESSELY EXPLORATION, INC., ET AL.

[Docket Nos. CS78-403, etc.]

Applications for "Small Producer" Certificates [1]

MAY 11, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests 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. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 procedures, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own moton 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.

[1]This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket Number, Date Filed and Applicant

CS78-403, April 24, 1978, Wessely Exploration, Inc., 2001 Bryan Tower, Suite 953, Dallas, Tex. 75201.

CS78-404, April 24, 1978, Gary D. Turner d.b.a. Turner Properties, P.O. Box 2509, Big Spring, Tex. 79720.

CS78-405, April 24, 1978, Nowata Gathering, Ltd., 2431 East 51st Street, Suite 401, Tulsa, Okla. 74105.

CS78-406, April 24, 1978, M. P. & R. Production Co., P.O. Box 6, Shawnee, Okla. 74801.

CS78-407, April 24, 1978, Birch Gas Limited Partnership 1977, 5660 South Syracuse Circle, Suite 200, Englewood, Colo. 80110.

CS78-408, April 24, 1978, Oil Country Exploration & Recovery, Inc., 5625 FM 1960 West, Suite 617, Houston, Tex. 77069.

CS78-409, April 24, 1978, The Boston Co. of Texas, General Partner for Boston Oil Ltd. 1972, 1116 Southwest Tower, Houston, Tex. 77002.

CS78-410, April 24, 1978, Rudy E. Vodicka, P.O. Box 52396, Lafayette, La. 70505.

CS78-411, April 24, 1978, William K. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-412, April 24, 1978, Frank G. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-413, April 24, 1978, George M. Young, 750 West Fifth Street, Fort Worth, Tex. 76102.

CS78-414, April 24, 1978, Hawkins Farms, An Oklahoma Partnership, 4701 Free Ferry Road, Fort Smith, Ark. 72903.

CS78-415, April 24, 1978, Robert Lee Hudson, 2001 Kirby Drive, Suite 913, Houston, Tex. 77019.

CS78-416, April 24, 1978, E. J. Hudson, Jr., 2001 Kirby Drive, Suite 913, Houston, Tex. 77019.
CS78-417, April 25, 1978, Aubert D. Talbot, P.O. Drawer 97, Napoleonville, La. 70390.
CS78-418, April 25, 1978, Robert C. Martin, Jr., Route 2, Box 439, Napoleonville, La. 70390.
CS78-419, April 25, 1978, Ester Fulton, Fourth Floor, Warren Office Complex, Garden City, Kans. 67846.
CS78-420, April 27, 1978, Esperanza Oil & Gas Co. (Successor in Interest to J. and J. Operating Co.), P.O. Box 1050, Corpus Christi, Tex. 78403.
CS78-421, April 28, 1978, M. M. Mahaffey, Box 1547, Riverton, Wyo. 82501.
CS78-422, April 28, 1978, Margaret King, Box 3448, Enid, Okla. 73701.
CS78-423, April 27, 1978, Pacific Oil & Gas Co., 1220 Liberty Tower, Oklahoma City, Okla. 73102.
CS78-424, April 28, 1978, The C. Crady Davis Trust, 4545 South High Street, Denver, Colo. 80110.
CS78-425, April 28, 1978, The Davis Co., 4545 South High Street, Denver, Colo. 80110.

[FR Doc. 78-13505 Filed 5-18-78; 8:45 am]

[6560-01

ENVIRONMENTAL PROTECTION AGENCY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Receipt

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from May 8, 1978, through May 12, 1978. The date of receipt for each statement is noted in the statement summary. Under the guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comments is July 3, 1978. The thirty (30) day period for each final statement begins the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: May 2, 1978.

JOSEPH M. MCCABE
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities; U.S. Department of Agriculture, Room 412A, Administration Building, Washington, D.C. 20250, 202-447-3965.

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Tyrone Energy Park, Unit 1, Loan Grarantee, Dunn County, Wis., May 11: This action concerns the issuance of Rea-guaranteed loan funds to finance the Dairyland Power Cooperative and Co-operative Power Association in a 30.4 percent individual ownership interest of Tyrone Energy Park, unit 1, Dunn County, Wis. A total of 4,600 acres of land will be used for the park site and would consist of one pressurized, water reactor producing up to 3,411 megawatts thermal steam turbine generators would use this heat to produce 1,150 megawatts of electrical power capacity per unit. The final EIS prepared by the NRC on the construction permit has been adopted as part of this EIS. (USDA-REA-EIS(ADM)78-5-D.) (ELR Order No. 80492.)

Final

Antelope Valley Station, 455 MW, Mercer County, N. Dak., May 12: Proposed is the use of rea-quaranteed loan funds to finance the proposed new Antelope Valley Station (Two 455 MW (nameplate) rating lignite fired steam electric generating units). Makeup water will be pumped through a pipeline from Lake Sakakawea. The primary fule is planed to come from neary new lighite mines, Two new 26-miles, 345-kV transmission lines will be constructed to inter connect the proposed plant with the substation at Basin's Leland Olds plant in Oliver County, N. Dak., and will cross Mercer County. Adverse effects include release of ozides of nitrogen and sulphur, as well as small quantities of particulate matter. Comments made by: USDA, DOT, HEW, FERC, DOI, EPA, COE, State and local agencies, individuals. (ELR Order No. 80503.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn.: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Final

Auasi Harbor, American Samoa, American Samoa, May 11: Proposed are navigation improvements at Auasi, Tutuila Island, American Samoa. The improvements consist of the development of: (1) A small boat harbor, (2) deepening and widening of an existing channel, (3) dredging of a rectangular turning and mooring basin, and (4) protective works. The harbor will be located at Auasi village, between Taugamalama Point on the west and Maatulaumea Point on the east. Adverse effects include changes in water quality and circulation, changes to biota, and commitment of natural resources. (San Francisco District.) Comments made by: DOC, DOI, USCG, local government. (ELR Order No. 80490.)

Pohoiki Bay Navigation Improvements Project, Hawaii County, Hawaii, May 11: Proposed is a Federal and State planned and funded project to provide navigational protection for the launching and recovery of commercial fishing boats at the Pohoiki launch ramp, Island of Hawaii, Hawaii. Three alternatives are proposed: (1) A breakwater, (2) a breakwater with a relocated ramp, and (3) a breakwater with an entrance channel. Adverse effects include the destruction of 8,000 square feet of marine habitat due to breakwater construction, construction-related pollution, and the degradation of inner bay waters. Plan No. 3 would also modify the water chemistry and affect marine biota. (Honolulu District.) Comments made by: DOI, DOC, USCG, EPA, USN, DOD, State and local agencies, groups. (ELR Order No. 80491.)

Coralville Dam and Lake, Operation, Johnson, Iowa, and Linn Counties, Iowa, May 9: The primary purpose of Coralville Lake project is flood control with recreation and wildlife as secondary purposes. The proposed action consists of maintaining lake levels and out flow release rates within the framework of the authorized regulation plan, and to continue the physical maintenance of the project lands at the current level of efficiency. No construction or alterations are planned at this time. Coralville Lake is located in eastern Iowa on the Iowa River. The dam is situated on the Iowa River about 5 miles upstream from Iowa City in Johnson County, Iowa. (Rock Island District.) Comments made by: EPA, DOI, USDA, DOT, HUD, HEW, State and local agencies, groups and individuals. (ELR Order No. 80481.)

DEPARTMENT OF DEFENSE, ARMY

Contact: George Q. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, 202-694-4269.

Draft

Disposal of Hydrogen Cyanide, Tooele Army Depot, Tooele County, Utah, May 12: The proposed action consists of detoxifying 281 pounds of the chemical agent hydrogen cyanide which is stored in two bombs at Tooele Army Depot, Tooele County, Utah. The two bombs will be moved to an incinerator facility where the hydrogen cyanide will be removed by pressurization of the bombs with nitrogen and introduced via a feed/control system into the incinerator which will be operated at a temperature of 1100° F. Effluent gases from the incinerator will pass through an afterburner and discharged into the atmosphere. (ELR Order No. 80497.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Coastal Zone Management Program, Hawaii, several counties in Hawaii, May 12: Proposed is the approval of a coastal zone management program for the State of Hawaii. Approval of the program and implementation would allow program administration grants to be awarded to the State and require that Federal actions be consistent with the program. Through this program the State of Hawaii would establish policies and standards to condition, restrict or prohibit some uses in parts of the coastal zone and encourage development in others through coordinated actions of State and local authorities. (ELR Order No. 80498.)

DEPARTMENT OF ENERGY

Contact: Mr. Robert Stern, Department of Energy, 1200 Pennsylvania Avenue NW., Room 7119, Washington, D.C. 20461, 202-566-9760.

Final

Allocation of Petroleum Feedstock, Sollers Point, Baltimore County, Md., May 8: The Economic Regulatory Administration (ERA) is considering an allocation of naphtha feedstock of approximately 1,000,000 barrles per year until the spring of 1978 and 2,186,000 barrels per year thereafter. This feedstock will be used by Baltimore Gas & Electric Co. (RG&E) to operate its already constructed SNG facility, located on Sollers Point in Baltimore County, Md. DOE/EIS-0002. Comments made by: DOE, DOI, DOC, EPA, local agencies, groups, individuals, and businesses. (ELR Order No. 80478.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308, 404-881-7458.

Draft

Cement Plant and Limestone Quarry, Permit, Mobile and Monroe Counties, Ala., May 12: The proposed action is the issuance of a NPDES permit and other necessary certificates and permits to the ideal basic industries for construction and operation of a cement plant and limestone quarry. The plant will be located in the Theodore Industrial Park, Mobile County, Ala., on 50 acres and will include docking facility, grinding mills, kilns, storage and mixing silos, storage tanks, and raw material storage piles. The quarry will be located in Monroe County, Ala. on a 4,035 acre site and will consist of in part, docking and loading facilities, clarification basins, limestone storage piles, and fuel tanks. (EPA 904/9-78-005.) (ELR Order No. 80495.)

Contact: Mr. Clinton Spotts, Region VI, Environmental Protection Agency, First International Building, 1201 Elm Street, Dallas, Tex. 75270, 214-767-2716.

Draft

Independence Steam Electric Station, Independence County, Ark., May 9: The proposed action is the issuance of a new source NPDES permit for wastewater discharge from the proposed Independence Steam Electric Station into the White River. The applicants, Arkansas Power & Light Co., Arkansas Electric Cooperative Corp., and the City Water & Light Plant of the city of Jonesboro, proposed to construct and operate a coal-fired steam electric station in Independence County, Ark. Considered alternatives to the proposed project falls into two major categories: Those requiring no new generating capacity, and those requiring the construction of new capacity. (ELR Order No. 80480).

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Draft

Federal Office Building and Parking, Savannah, Chatham County, Ga., May 9: The proposed action involves the construction of a Federal office building, and parking facility in Savannah, Chatham County, Ga. The new facility would provide space for the COE and 10 other Government agencies presently housed in 10 general-purpose leased locations. The proposed building would provide approximately 173,000 occupiable square feet and about 99,000 square feet for parking, including motor pool space. The facility would be located in or near Savannah's central business district. A site has not yet been selected. (EGA 78000.) (ELR Order No. 80484.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Heritage Park Subdivision, Harris County, Tex., May 9: The proposed action is for the Department of HUD to accept for HUD/FHA mortgage insurance purposes the 671-acre Heritage Park Subdivision located in Harris County, Tex. When completed in approximately 6 years, the subdivision will contain approximately 2,447 single-family homes plus some attached single-family and multi-family housing and shopping and recreational facilities. Adverse effects include the removal of open areas and an increased demand for fossil fuels through heavy dependence on the automobile for transportation, (HUD-R06-EIS-78-13F.) (ELR Order No. 80483.)

Final

The Knolls, Willowbrook, Du Page County, Ill., May 12: Proposed is the provision of HUD mortgage insurance for a 49.28-acre development in Willowbrook, Ill., the proposed development contains 1,200 multifamily apartment units built in four phases. Adverse effects of development include increased traffic and dependence on the automobile, and depletion of ground water resources, (HUD-R05-EIS-77-07F.) Comments made by: COE, USDA, EPA, DOI, DOT, local agencies, and individuals. (ELR Order No. 80501.)

Elmwood III Development, Wayne County, Mich., May 11: Proposed is the construction, by the city of Detroit, of 2,100 dwelling units as the final development phase in a cleared 188 acre urban renewal site for subsidized and non-subsidized rental and sales housing in townhouse, garden apartment, and mid- and hi-rise structures. A community center, institutional uses and recreational space are included. Adverse impacts include construction-related pollution, increased noise and air pollution, and redistributed loads on city services, (HUD-R05-EIS-78-1-F.) Comments made by: DOI, USDA, COE, FERC, State and local agencies. (ELR Order No. 80504.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bulding, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

1979 OCS Oil and Gas Sale No. 49, Mid-Alantic, New Jersey and Delaware, May 12: The proposed action is the leasing of one hundred and thirty-six tracts, totaling 774,273 acres, of OCS lands off the coasts of New Jersey and Delaware in an area known as the Baltimore Canyon through the tracts vary from 50 to 100 miles off shore with depths from 115 to 4,100 feet. The proposal is to lease these tracts for exploration, development, and production of potential oil and gas resources. If implemented, this sale is tentatively scheduled to be held in spring of 1979. (DES-78-20) (ELR Order No. 805000.)

Draft

500 MW Coal Fired Generating Station, Humboldt County, Nev., May 11: This action proposes the construction of two 250 megawatt coal-fired steam-electric generating units in Humbolt County, Nev. by the Sierra Pacific Power Co. This project would encompass approximately 3,100 acres, 940 of which are federally administered. The construction of the proposed power plant, in part, would also include 2 coal-fired boilers, a turbine-generator unit, a baghouse, a mechanical draft cooling tower, well field, coal storage area, evaporation pond for waste disposal, land fill for ash disposal, a railroad spur, an access road, a transmission system, a 500-foot stack, a warehouse, and an administration building. (DES-78-18) (ELR Order No. 80489.)

Final

San Luis Resource Area, Grazing Management, Colorado, May 12: Proposed is a grazing management program on national resource lands in the San Luis Valley, located in southcentral Colorado. The components of the proposal are: (1) intensive management of grazing (allotment management plans of amps) on 473,916 acres, (2) custodial management of grazing on 16,625 acres, (3) elimination of grazing on 5,930 acres, and (4) continuation of unallotted status of range on 19,900 acres. Construction of various range improvements would be required to implement the amps, and fencing would be required to eliminate grazing in some areas, (FES-78-8). Comments made by: DOI, EPA, HUD, USDA, HEW, FPC, State and local agencies, groups and individuals. (ELR Order No. 80496.)

Rio Puerco Livestock Grazing Program, New Mexico County: Sandoval and McKinley County, N. Mex., May 12: Proposed is the initiation of an intensive livestock grazing management program through the implementation of allotment management plans on 393,083 acres of public land in the Rio Puerco Resource Area, Albuquerque district. The proposed action would include consolidation of 96 existing allotments into 61. Grazing systems which reserve sufficient forage for wildlife would be implemented and range improvements would be constructed to facilitate these systems. By the year 2000, the proposed action would approximately double forage production in the Rio Puerco ES area (FES-78-9). Comments made by: DOI, AHP, DOT, USDA, State and local agencies, groups and individuals. (ELR Order No. 80499.)

HERITAGE CONSERVATION AND RECREATION SERVICE

Draft

Owyhee River, Wild and Scenic Designation, Several Oregon and Idaho Counties, May 10: The action concerns a proposal which recommends that a 192 mile segment of the Owyhee River and approximately 69,120 acres comprising its immediate environment in Oregon and Idaho be included into the National Wild and Scenic Rivers

systems. Segments of the river from the Duck Valley Indian Reservation downstream to China Gulch and from Crooked Creek to the Owyhee Reservoir would be added to the system by Congress. The segment from China Gulch to Crooked Creek would be added first to the Oregon Scenic Waterways system and then to the National system by the Secretary of the Interior. (DES-78-17) (ELR Order No. 80486.)

BUREAU OF RECLAMATION

Draft

Paradox Valley Unit, Salinity Control Program, Montrose and San Miguel Counties, Colo., May 11: This action involves the construction and operation of the Paradox Valley unit of the Colorado River basin salinity contol project located in Montrose and San Miguel Counties in Colorado. The unit would involve pumping brine groundwater from a series of wells along the Dolores River in Paradox Valley to reduce the influx of salt to the river by an estimated 180,000 tons. The brine would be piped to a nearby hydrogen stripping plant and then piped to the radium evaporation pond in the Dry Creek basin. (DES-78-19) (ELR Order No. 80493.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Draft supplement

Floating Nuclear Power Plants, Part III, (S-1), Florida, May 10: This EIS supplements a draft filed with CEQ in October 1976. This supplement differs from the original draft in that it considers the overall risk and consequences to the environment. Furthermore, it presents an integrated cost-benefit analysis as related to the proposed manufacturing license action, considering the conclusions reached in each of the three parts of the environmental statement, (NUREG-0127, Revision 1) (ELR Order No. 80485.)

STATE DEPARTMENT

Contact: Mr. Cameron Sanders, Office of Environmental Affairs, Department of State, Washington, D.C. 20520, 202-632-9169.

Draft

High Seas Fisheries, North Pacific Ocean Renegotiation, May 11: The proposed action is the adoption of a U.S.-Canada-Japan protocol to amend the International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC), with annex and agreed minutes, a U.S.-Canada-Japan Memorandum of Understanding on Salmon, and a U.S.-Japan Memorandum of Understanding on Marine Mammals. The purpose of the action is to reduce interceptions of North American origin salmon by Japanese fisheries, development of cooperative research on marine mammals, and eliminate the incidental catch of marine mammals in the North Pacific Ocean and the Bering Sea through international agreements. (ELR Order No. 80494.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

The Greater Rockford Airport, Winnebago County, Ill., May 12: This action involves an airport development plan for the Greater Rockford, Winnebago County, Ill. the proposed improvements include in part; (1) Lengthening of runway 6-24 by 1,000 feet, (2) construction of a parallel taxiway on the taxiway on the north side of runway 6/24, (3) lighting on runway 6-24 is to be upgraded to HIRL, (4) runway 18-36 is to be extended by 800 feet, (5) a new basis utility runway (6R-24L) is to be constructed, and (7) a new terminal building and air carrier apron will be built. Acquisition of approximately 212 acres would be required. (ELR Order No. 80502.)

Final

Asheville Airport Expansion, Buncombe County, N.C., May 9: Proposed is the expansion and improvement of Asheville Airport in Asheville, N.C. The proposed project calls for the construction of a 1500-foot runway and parallel taxiway extension on the north end of the existing 6500-foot runway, and the following associated items: land acquisition for a runway and parallel taxiway extension, construction and lighting of the 150-foot x 1500-foot runway and parallel taxiway extension, and construction of glide slope and localizer site. The VASI-4 will be relocated on runway 1. Comments made by: USDA, DOI, HEW, HUD, EPA, State and local agencies, individuals. (ELR Order No. 80482.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

West of Grand Junction, Study Area, CO-340, Mesa County, Colo., May 10: The proposed project is located in Mesa County, Colo., and identified as project CS 08-0340-14, west of Grand Junction. The proposal includes the study and evaluation of upgrading the transportation system in the southwest quadrant of Grand Junction. Specifically, this study evaluates the existing transportation system serving the redlands areas, particularly SH 340 which presently provides the only access to or from the redlands area. (FHWA-COLO-EIS-77-03-D) (ELR Order No. 80487.)

Final

Del Monte Ave., Washington St.—Monterey, Monterey County, Calif., May 8: The proposed project involves improvements, in two phases, to Del Monte Avenue in the city of Monterey, Calif., phase I starts at Washington Street and runs four blocks to Camino El Estero phase II extends from Camino El Estero to Ramona Avenue near the highway I freeway ramp. Project plans call for widening Del Monte Avenue, and adding travel lanes, median with turn pockets and parking lanes, and sidewalks in appropriate areas. (FHWA-CA-EIS-76-03-F) Comments made by: DOT, EPA, DOI, State and local agencies. (ELR Order No. 80479.)

Sunrise Highway, Suffolk County, N.Y., May 8: This action involves the improvement and reconstruction of a portion of Route 27 as a six lane express facility with parallel service roads from the vicinity of Phyllis Drive in the town of Brookhaven in Suffolk County, N.Y., the proposed expressway facility will provide a 6-lane divided highway (3 lanes in each direction) seperated by a median and flanked by one-way, parallel two-lane service roads on each side of the expressway. (FHWA-NY-EIS-71-44F) Comments made by: DOT, DOC, USDA, EPA, DOI, and State and local agencies. (ELR Order No. 80477.)

S.T.H. 29 (Wausau-Wittenberg Road), Marathon and Shawano Counties, Wis., May 10: Proposed is the construction, on new location, of about 10.6 miles of controlled access four lane freeway together with the necessary local road alterations to provide for the reasonable continuation of local traffic patterns, this central segment, from business highway 51 to 0.9 mile east of Ringle, receives the majority of the environmental analysis in this statement though the project does include two other segments. The proposed project is located in Marathon and Shawano Counties, Wis. (FHWA-WISC-EIS-75-14-F) Comments made by: DOT, USDA, HEW, EPA, DOI, and State agencies. (ELR Order No. 80488.)

OFFICIAL EXTENSION OF REVIEW PERIOD

The review period for the final supplement EIS filed with EPA on April 13, 1978, under the Community Development Block Grant program entitled "Marrero to Lafitte Water Line, Jefferson Parish, La." (ELR No. 80361) has been extended to May 27, 1978.

[FR Doc. 78-13689 Filed 5-18-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

In addition, notice is also given that the operators indicated by an asterisk (*) have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of Section 204 Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipeline) pursuant to Part 543 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
01988	Brostroms Rederi AB: *Dalsland, Columbialand.*
02449	A/S Ivarans Rederi: *Santa Fe.*
02582	Jugoslavenska Tankerska Plovidba Oour Jugotanker: *Rudo.*
02930	Compania Sub-Americana De Vapores: *Tubul.*
03428	Hachiuma Kisen K.K.: *Osumi Maru*
04126	Jugolinija Rijekeka: *Baska.*
04145	Olymbos Shipping Corporation Monrovia: *Aphrodite.*
05529	Julio Zakzuk: *Don Alejo.*
05692	Fuel Services, Inc.: *FS 30.*
06038	Suomen Hoyrylaiva Osakeyhtio Finska: Angfartygs Aktiebolaget: *Astrea.*

Certificate No.	Owner/operator and vessels
06248	Commercial Corporation Sovrybflot: *Gektor, Leningrad.*
07574	Georgian Shipping Co.: *Pobeda Oktyabrya; Velikiy Oktyabr.*
07791	Sammisa Co.,.Ltd.: *Buffalo.*
08103	Spartan Shipping, Inc.: *Phoenix Star.*
08948	Veb Deutfracht/Seereederei rostock: *Gerhart Hauptmann, Brocken.*
09301	Scott Chotin, Inc.: *SC 306 L, SC 308 S.*
09415	Hang Ong Shipping Co. S.A.: *NS-Pioneer.*
09608	Fukuichi Gyogyo Kabushiki Kaisha: *Fukuichi Maru No. 73.*
09763	Atlas Maritime Co. S.A.: *Star Dorian.*
09792	United Fair Agencies Ltd.: *Havmann.*
10391	Norman Wooten Inc. d.b.a. Wooten's River Service and Supply: *Chem 7, Commercial Express.*
12635	Estelina Navigation S.A.: *Bright Peak.*
12676	Oriental Pearl Line Kabushiki Kaisha: *Mayay.*
13249	Keppel Shipyard Ltd: *Keyaki.*
13300	Alaska Marine Shipping: *Snow Bird, Aleut Packer.*
13368	Sanko Kisen (Cayman), Ltd: *Mammoth Monarch.*
13387	Lorelei Shipping Corp.: *Alexa I.*
13519	Crisantema Line S.A.: *Bela rozo, Bela Kosmo, Bela Nickerie.*
13564	Ogden Ebro Transport, Inc.: *Ogden Ebro.*
13571	C. W. Elermann and Houston Barge Rentals Inc.: *HBR-3.*
13618	Maryol Enterprises, Inc.: *Onyx Islands.*
13645	Caddell Dry Dock and Repair Co., Inc.: *Jay Bee VI.*
13662	Western Steel International Corp.: *KTC No. 1.*
13669	Apollon Shipping and Trading Corp. S.A.: *Petrola 27.*
13670	Green Star Shipping and Trading Corp. S.A. Panama: *Petrola 26.*
13687	Canipel S.A.: *Star 1.*
13688	Anangel Might Compania Naviera S.A.: *Anangel Might.*
13695	American Construction Co. Inc.: *Palouse, Mukilteo, Skykomish, Everett.*
13696	Green Mast Shipping Co. S.A.: *Saronikos.*
13707	San Inez Sociedad Argentina de Bugues Frigorificos, Ltd.: *Wittsand.*
13718	Calvin Maritime Co.: *Calvin.*
13727	Pythia Compania Naviera S.A.: *Meridian Ice.*
13728	Maritime Co. Mentor S.A.: *Kimko Stork.*
13733	Fintias S.A.: *Meridian Frio.*
13734	Interstate Bridge Co. of Maryland, Inc.: *Barge 149.*
13735	Sevenseas Petroleum Carriers, Inc.: *Oriental Wisdom.*
13737	Oak Ridge Barge Co.: *Roy, J.O.*
13740	Industrial Navigation Co., Inc.: *Seamaster I.*
13741	El Capitaine Inc.: *Captain John G. P. Livanos.*
13742	Preferred Shipping, Ltd.: *Sea Lion.*
12743	Neuva Esperanza Corp.: *Nea Elpis.*
13745	Navale Spartivento S.P.A.: *Onorato.*
13746	G. S. Maritime Private Ltd.: *Goldensari II.*
13750	Aspera Compania Naviera S.A.: *Fay C.*
13751	Distra Compania Naviera S.A. Panama: *Fauskanger.*
13753	United International Container Transports Ltd.: *Dart Canada.*
13754	Sociedad Co-op Production Pesquera General Lazaro Cardenas Del Rio S.C.L.: *Lazaro Cardenas.*
13755	Southrong Shipping (PTE), Ltd.: *Nan Feng.*
13757	Servicios Maritimos Mexicanos S.A.: *Colima.*
13758	Ms Norburg Schiffahrtsbeteiligungsgesellschaft MBH & Co.: *Norburg.*
13759	Prospect Bay Shipping Co., Ltd.: *Salambo.*
13760	Paneios Shipping Corp.: *Mount Othrys.*
13761	Arctic Ocean Steamship Co., Ltd.: *Arctic Ocean.*
13762	Indian Ocean Steamship Co., Ltd.: *Indian Ocean.*
13763	K. & P. Compania Naviera S.A.: *Lagada Bay.*
13764	Eurofiot S.A.: *Galia.*
13765	River Co-op Co., Ltd.: *Slurry Express.*
13767	Honma Suisan Kabushiki Kaisha: *Katsu Maru No. 81.*
13769	Korea Express Shipping Co., Ltd.: *Dong Woon, Se Woon.*
13771	Raven Bay Shipping Co., Ltd.: *Elkina.*
13772	S.P.A. Copesca: *Gabriella C., Maria C., Giovanni Cefalu.*
13773	Booth Nicaragua S.A.: *Albert J. Ruppel.*
13774	Team Ship VII Ltd.: *Britannia Team, Gothia Team.*
13775	Marcovista Shipping Corp.: *Markos.*
13776	Chagres Compania Naviera S.A.: *Jonni.*
13777	Maritima Ordaz C.A.: *Simms 2, Simms 3, Simms 4.*
13778	Kommanditselskabet Scandinavian Partnership II: *Panstar, Danstar.*
13779	Partenreederei Ms Sonne: *Sonne.*
13789	G. C. Service Co., Inc.: *MST-17.*
13781	Navios Merchant, Inc.: *Navios Merchant.*
13782	Daiei Kaiun Sangyo Kabushiki Kaisha: *Tokyo Reefer.*
13783	South Fortune Shipping, Inc.: *South Fortune.*
13784	A. Radcliffe Steamship Co., Ltd.: *Stolt Llandaff.*
13785	Great American Lines, Inc.: *Sunbelt Dixie.*
13787	Tsuneishi Kaiun Yugen Kaisha: *Harima Maru, Scandinavia Maru.*
13788	Eisho Sangyo K.K.: *Northern Highway.*
13791	Ever Voyager Line Corp.: *Ever Voyager.*
13792	Elounda Shipping Corp.: *Elounda.*
13793	Rutherford Shipping, Inc.: *Levant.*
13794	Korea Shipbuilding and Engineering Corp.: Oration: *Stolt Seoul.*
13796	Avior Maritime Corp.: *Mount Olympos.*
13797	Galleon Shipping Corp.: *Galleon Pearl.*
13798	Saint Mary S.A.: *Saint Chris.*
13802	Mark Shipping Corp.: *Elka.*
13806	Shipmonde Fourth Shipping Co. S.A.: *Baltic Freezer.*
13808	Varassova Shipping Co. S.A.: *Falcon.*
13809	Odin Shipping Co. Pte. Ltd.: *Cherry Vesta.*
13810	Marcoluna Shipping Corp. S.A. Panama: *Angelina The Great.*
13813	Ashleam Bay Shipping Co., Ltd.: *African Violet.*
13814	Kommanditselskapet A/S Motore: *Seahorse.*
13815	Waltham Maritime, Inc. Co. Ltd.: *Blue Sky.*
13816	Kentavros Shipping Co. S.A. Panama: *Anastasios C.*
13819	Maritime Co. Pandora S.A.: *Christina C.*
13820	Schelde Sleepvaart Bedrijf N.V.: *OSA Ghent, OSA Ostend.*
13826	Good Faith Navigation Co., Inc.: *Young Statesman.*
13833	Sohtorik (Shipping and Trading), Inc.: *Norse Transporter.*
13837	West Pacific Carriers, Inc.: *Hawaiian Sun.*
13885	Foyle Navigation Co., Inc.: *Maritime Noble.*
13887	Marine Fueling Service Inc.: *Luminetta.*
99008	American Trading Transportation Co., Inc.:* *Baltimore Trader.*
99017	B. P. Tanker Co., Ltd.:* *British Renown.*
99049	Third Shipmor Associates:* *Overseas New York.*
99050	West Coast Shipping Co.:* *Avila, Lompoc, Santa Maria, Santa Paula, Sansinena II.*
99051	Bulk Food Carriers, Inc.:* *Michelle F.*
99052	Fourth Shipmor Associates:* *Overseas Washington.*
99053	Chestnut Shipping Co.:* *Chestnut Hill.*
99054	Interocean Tanker Corp.:* *Southern Lion.*
99055	Ocean Tankships Corp.:* *Overseas Vivian.*
99056	Ocean Transportation Co., Inc.:* *Overseas Aleutian, Overseas Ulla.*
99058	Ingram Ocean Systems Inc.:* *Carole G. Ingram, Martha R. Ingram, IOS 3301, IOS 3302.*
99059	Interstate and Ocean Transport Co.:* *Interstate 50. Interstate 52, Interstate 53, Interstate 54.*
99060	Newport Tankers Corp.:* *Achilles.*

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13626 Filed 5-18-78; 8:45 am]

[6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to part 542 of title 46 CFR.

Certificate No.	Owner/Operator and Vessels
01055	Farrell Lines Inc.: *Adm. Wm. H. Callaghan, Export Freedom, Export Leader, Export Patriot, Lightning, Staghound, Red Jacket, Defiance, Great Republic, Young America, Export Courier, Export Agent, Export Aide, Export Challenger, Export Champion, Export Banner, Export Bay, Export Builder, Export Buyer, Export Defender, Export Diplomat, Export Democracy, Export Ambassador, Export Adventurer, Export Commerce.*
01069	Oglebay Norton Co.: *Ernest T. Weir.*
01116	Trade Ambassador Line Inc.: *Pericles G. C.*
01557	Knut Knutsen O.A.S.: *John Bakke.*
01582	Biboiini Societa Di Navigazione S.P.A.: *Sextum.*
01841	Chas. Kurz. & Co. Inc.: *Chilbar.*
02138	SCNO Barge Lines Inc.: *M/V Bronville, M/V Crescent City, M/V Fort Pierre, M/V Jefferson City, M/V Kansas City, M/V Lexington, Mr. Cole, M/V Nebraska City, M/V Omaha, M/V Robert Crown, M/V Sioux City, M/V Brother Collins, SCNO-1101, SCNO-1102, SCNO-1201, SCNO-1202, SCNO-1203, SCNO-1204, SCNO-1250, SCNO-1251, SCNO-1301, SCNO-1302, SCNO-1303, SCNO-1304, SCNO-1305, SCNO-1306 SCNO-1307, SCNO-1308, SCNO-1309, SCNO-1310, SCNO-1311, SCNO-1312, SCNO-1313, SCNO-1314, SCNO-1315, SCNO-1316, SCNO-1317, SCNO-1318, SCNO-1319, SCNO-1320, SCNO-1321, SCNO-1322, SCNO-1323, SCNO-1324, SCNO-1325, SCNO-1326, SCNO-1601, SCNO-1602, SCNO-1603, SCNO-1327B.*
02168	D/S A/S Vestland: *Sagaland.*
02461	Puget Sound Freight Lines: *Barkley Sound.*
02551	Ellerman Lines, Ltd.: *City of Durban.*
02582	Jugoslauenska Tankerska Plovidba Oour Jugotanker: *Nin.*
02604	Rever Sugar Refinery (a subsidiary of Ingredient Technology Corp.: *Revere Barge No. 1.*
02611	Franz Hagen: *Negah.*
03074	Montemar S.A.: *Sudelmar II.*
03139	Offshore Marine, Ltd.: *Dee Shore.*
03256	Riverway Co.: *Mary L, Hornet.*
03501	Osaka Shosen Mitsui Senpaku K.K.: *Atlas Maru, Suzukasan Maru.*
03517	Tokyo Kaiji Kabushiki Kaisha: *Sendan Maru, Byakudan Maru.*
03614	A/S Kristian Jebsens Rederi: *Frines.*
03893	Skaarup Shipping Corp.: *Gold Bond Trailblazer.*
04081	Jugoslavenska Oceanska Plovidba Kotor: *Kordun.*
04184	M/G Transport Service, Inc.: *Hugh B. Steger.*
04260	Atlantic Navigation Corp. Ltd.: *Theresa.*
04283	Gulf of Georgia Towing Co., Ltd.: *Seaspan Commander.*
04398	Hapag-Lloyd Aktiengeselischaft: *Nurnberg Express.*

Certificate No.	Owner/Operator and Vessels
04502	Kotoshiro Gyogyo Kabushiki Kaisha: *Kotoshiro Maru No. 38.*
04562	Okada Kaiun Kabushiki Kaisha: *Mighty, Gallant, Hiroshima Maru, Bravery, North Atlantic Maru.*
04834	Tidewater Barge Lines, Inc.: *64.*
05123	Kinkai Yusen Kabushiki Kaisha: *Hokuto Maru.*
05537	Empresa Navegacion Mambisa: *Sandino, Xi Festival.*
05579	Black Sea Shipping Co.: *Unan Avetisyan, Petr Starostin, Andrian Goncharov, Inzhener Yamburrenko.*
05792	Korea Wonyang Fisheries Co., Ltd.: *Beag Du San No. 6.*
06248	Commercial Corp. Sovrybflot: *Vasily Polenov, 18 Siezd Viksm.*
16510	Compagnie Nationale Algerienne De Navigation C.N.A.N.: *Batna.*
06709	Ahjin Haewoon Jushik Hosea: *Harngjin, Yoonjin.*
06906	Directia Navigatiei Maritime Navrom: *Lotru, Motru, Salva, Viseu, Agnita, Calan, Cimpulung, Muscel, Focsani, Segarcea, Soveja, Saliste, Alba Iulia, Busteni, Dej, Fagaras, Fagel, Faurei, Filiasi, Floresti, Frasinet, Snagov, Tirnaveni, Topoloveni, Frunzanesti, Olanesti, Simeria, Teleorman, Neptun, Dumbraveni, Gheorghieni, Plopeni, Sadova, Sadu, Sachele.*
06995	Novrossiisk Shipping Co.: *Boris Butoma.*
07215	Iwate Prefectural Goverment: *Riasu Maru No. 1.*
07366	Compagnie Maritime Des Chargeurs Reunis: *Cap Taillat.*
08323	Marifran S.A.: *Ceibo, Santisima Trinidad.*
08617	Fairmont Enterprises, Ltd.: *Pacific Glory, Hudson Bay, Oriental Merchant, Pacific Pride.*
08699	Taikyu Suisan Kabushiki Kaisha: *Koyo Maru No. 15.*
09189	Government of the Trust Territory of the Pacific Islands: *Micro Trader, Micro Spirit.*
09301	Scott Chotin, Inc.: *Sugarland.*
09516	Filadelfos Cia De Navegaceon S.A.: *Filadelfos.*
10253	Tenn-Tom Towing, Inc.: *B 12, JGH, 33, RWH 43.*
10260	Hollywood Marine, Inc.: *Hollywood 1001.*
10829	Egyptian Navigation Co.: *Al Anfushi.*
10771	Alexandria Shipping & Navigation Co.: *Eihab I.*
11243	Compania Naviera Garoufalia S.A.: *Thistle Star.*
11286	Binion Marine Service, Inc.: *Binmar 2101, Binmar 2102, Binmar 1301.*
11590	Leo Shipping Co., Ltd.: *Oriental Forest.*
11646	Swift Marine, Inc.: *SM-8, SM-9.*
11755	Newgate Shipping Co., Ltd.: *Sunnyway.*
11787	Inlet Marine, Inc.: *Miami, 22, Beluga.*
11873	Columbia Marine Lines, Inc.: *603.*
11937	Latonia Marine Co., LD.: *Hope.*
12051	Asahi Gyogyo Kabushiki Kaisha: *Tomi Maru No. 88.*
12962	Radiant Navigation Co., Ltd., S.A.: *Abs.*
13573	Silver Wind Shipping Co. S.A. of Panama: *Silver Wind.*
13803	Destiny Shipping Corp.: *Oinoussian Destiny.*
13804	Castor Maritime, Inc.: *Ai-Nikolas.*
13805	Transvenezuelian Shipping Co. S.A.: *Caribbean Memories.*
13602	Empresa Antillana De Salvamento: *Siboney, Caribe.*
13874	River & Gulf Transportation Co.: *RGT 917, RGT 918, RGT 919, RGT 920, RGT 921, RGT 922, RGT 1011, RGT 1015, RGT 903, RGT 1003, RGT 1007, RGT 901, RGT 902, RGT 926, RGT 927, RGT 928, RGT 1001, RGT 1005, RGT 1009, RGT 1013, RGT 1010, RGT 1014, RGT 1012, RGT 1016, RGT 1004, RGT 1008, RGT 1002, RGT 1006, Steel Explorer, Steel Rover, RGT 900, Steel Ranger, Steel Trader, Steel Express, Steel Clipper, Steel Pioneer, RGT 923, RGT 924, RGT 925, Steel Patriot, RGT 904, RGT 911, RGT 912, RGT 913, RGT 914, RGT 915, RGT 916, RGT 905, RGT 906, RGT 907, RGT 908, RGT 909.*
13880	Ocean Oil Tankship Corp.: Golar Petrosun.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-13627 Filed 5-18-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1174]

SPIES SHIPPING CORP.

Order of Revocation

On May 15, 1978, Spies Shipping Corp., 26 Broadway, New York, N.Y. 10004, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1174 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1174 issued to Spies Shipping Corp. be and is hereby revoked effective May 15, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Spies Shipping Corp.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification and Licensing.

[FR Doc. 78-13675 Filed 5-18-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

P. M. FINANCIAL CORPORATION, INC.

Formation of Bank Holding Company

F. M. Financial Corp., Inc. Claflin, Kans., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1) to become a bank holding company by acquiring 88.66 percent of the voting shares of The Farmers and Merchants State Bank, Claflin, Kans. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 7, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 13676 Filed 5-18-78; 8:45 am]

[6210-01]

FIRST CORPORATION

Formation of Bank Holding Company

First corporation, Henderson, Ky., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of The First National Bank of Henderson, Henderson, Ky. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c).

First Corporation, Henderson, Ky., has also applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire voting shares of Peoples Security Finance Co., Inc., and Peoples Security Investment, Inc., both located in Madisonville, Ky. Notice of the application was published on April 1, 1978, in The Gleaner Journal, a newspaper circulated in Henderson, Ky.; on April 2, 1978, in Messenger-Inquirer, a newspaper circulated in Owensboro, Ky.; on April 3, 1978, in The Paducah Sun-Democrat, a newspaper circulated in Paducah, Ky., in The Messenger, a newspaper circulated in Madisonville, Ky., and in Kentucky New Era, a newspaper circulated in Hopkinsville, Ky.; on April 5, 1978, in Times Argus, a newspaper circulated in Central City, Ky.; and on April 6, 1978, in Franklin Favorite, a newspaper circulated in Franklin, Ky., and in Logan Leader and News Democrat, a newspaper circulated in Russellville, Ky.

Applicant states that the proposed subsidiary would engage in the activities of entering into consumer extensions of credit and acting as insurance agent with respect to the sale of credit life and credit accident and health insurance in connection with consumer extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound, banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at

the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 14, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13677 filed 5-18-78; 8:45 am]

[6210-01]

VILLA GROVE BANCSHARES, INC.

Formation of Bank Holding Company

Villa Grove Bancshares, Inc., Villa Grove, Ill., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of Villa Grove State Bank, Villa Grove, Ill. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Federal Reserve Bank, to be received not later than June 9, 1978.

Board of Governors of the Federal Reserve System, May 15, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-13678 Filed 5-18-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on May 11, 1978 (FMC, FTC), and May 12, 1978 (NRC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FMC, FTC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before June 6, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL MARITIME COMMISSION

The FMC requests an extension, without change, clearance of General Order 14—Shippers' Requests and Complaints Report (46 CFR 527). The report is submitted quarterly to the Commission by each conference and each other body with ratemaking authority under an approved agreement and covers all shippers' requests and complaints received during the preceding 3-month period and the disposition of such requests or complaints. The information furnished assists the Commission in determing the adequacy of the handling of shippers' requests and complaints in the foreign commerce of the United States. The FMC estimates there is a universe of approximately 100 respondents filing 4 reports each year with an estimated reporting time which averages 10 hours per reponse.

The FMC requests an extension, without change, clearance of voluntary Form FMC-9, Information Circular, This circular requests information concerning the methods of operation and the business status of common carriers by water and others engaged in the foreign commerce of the U.S. subject to the Shipping Act, 1916. The information furnished assists the Commission in its daily operations through knowledge of those it regulates. The FMC estimates there is a universe of approximately 500 respondents filing one report per year (or as the occasion requires), with an estimated reporting time of 3 hour per report.

FEDERAL TRADE COMMISSION

The FTC requests clearance of a new, single-time, voluntary questionnaire to be sent to approximately 17 major automobile lessors. The questions in the questionnaire relate primarily to the disclosures made to customers at the time leases are transacted, the terms of the leases, and the methods by which leased automobiles are appraised. The survey is being conducted to determine the extent of the automobile leasing industry's compliance with the Consumer Leasing Act, Pub. L. 94-240, 90 Stat. 257 (1976) (to be codified at 15 U.S.C. §§ 1667-1667e). The Act constitutes Chapter 5 of the Federal Truth in Lending Act. It applies to companies leasing personal property to consumers for personal, family or household purposes. The FTC bears enforcement responsibility for the Consumer Leasing Act vis-a-vis most non-bank lessors. Response to the questionnaire is requested within 30 days from its date of receipt. The FTC estimates reporting time will average approximately 12 hours per response.

The FTC requests clearance of a new, single-time, voluntary Warranty Information Letter, pursuant to the authority granted in the Magnuson-Moss Warranty—Federal Trade Commission Act, (15 U.S.C. 2301 et seq). The FTC's Bureau of Consumer Protection, Division of Product Reliability, will mail this letter to a maximum of 500 consumer product manufacturers throughout the United States. This universe represents an average of 50 manufacturers within a potential maximum of 10 consumer product industries. The inquiry will identify those manufacturers whose written warranties do not comply with abovementioned statutes or the Commission's Rules promulgated thereunder. The Federal Trade Commission estimates that the burden to respondents will average 4 hours per response.

NUCLEAR REGULATORY COMMISSION

The NRC requests an extension, without change, clearance of Form NRC-2, Application for Source Material License. This application form requires specific information relating to the quantity and type of source material to be possessed, the purpose for which the material will be used, an evaluation of the potential radiation hazards associated with each step of the proposed process, training and experience of applicant or his personnel and a description of applicant's equipment and facilities which will be used to protect health and minimize danger to life or property. Potential respondents are commercial and industrial firms, universities and individuals. The NRC estimates it will receive approximately 20 applications annually and reporting burden will average 8 hours per application, and 100 renewals will be filed for which reporting burden will average 1 hour per response.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-13628 Filed 5-18-78; 8:45 am]

[6280-24]

GENERAL SERVICES ADMINISTRATION

[Intervention Notice 64; Docket No. INS 1200]

PUBLIC UTILITIES COMMISSION OF COLORADO

Proposed Intervention Utility Rate Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Public Utilities Commission of Colorado involving an application of Public Service Co. of Colorado for an increase in rates charged for gas and electric service. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquiries of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, within thirty (30) days of the publication of this notice in the FEDERAL REGISTER, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: May 9, 1978.

JAY SOLOMON,
Administrator of General Services.

[FR Doc. 78-13565 Filed 5-18-078; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

Meeting Change

INFR Document 78-9596 appearing on page 15776 in the issue of Friday, April 14, 1978, the dates for the meeting of this committee have been changed from May 25-27, 1978, to May 24-27, 1978. As a result the meeting will be open to the public from 9 to 9:30 a.m., May 24 instead of May 25 as previously announced. All other arrangements for the meeting remain as announced April 14.

Dated: May 11, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-13354 Filed 5-18-78; 8:45 am]

[4110-86]

Center for Disease Control

CENTER FOR DISEASE CONTROL (CDC) PROGRAMS AND POLICIES ADVISORY COMMITTEE (AD HOC)

Extension

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, the CDC announced the establishment by the Secretary of Health, Education, and Welfare, on December 19, 1977, of the CDC Programs and Policies Advisory Committee (Ad Hoc). Notice was announced in FEDERAL REGISTER, Vol. 43, No. 14, pages 2940-2941, January 20, 1978.

On May 1, 1978, the Secretary of Health, Education, and Welfare approved an extension of the committee from May 1 through June 30, 1978. Authority for this committee will expire June 30, 1978, unless the Secretary formally determines that continuation is in the public interest.

Dated: May 11, 1978.

WILLIAM H. FOEGE,
Director, Center for Disease Control.

[FR Doc. 78-13619 Filed 5-18-78; 8:45 am]

[1110-03]

Food and Drug Administration

[Docket No. 77N-0085]

COMMITTEE FOR A STUDY ON SACCHARIN AND FOOD SAFETY POLICY

Meeting on Saccharin and Its Salts

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that the National Academy of Sciences/National Research Council (NAS/NRC) Committee for a Study on Saccharin and Food Safety Policy will hold a public meeting to receive the views of all interested persons on the subject of saccharin and its impurities. This public meeting will be held in the auditorium of the National Academy of Sciences Building, 2101 Constitution Ave. NW., Washington, D.C. 20418, from 9 a.m. to 3 p.m. on June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

David Goldsmith, National Academy of Sciences (NAS-341), 2101 Constitution Ave. NW., Washington, D.C. 20418, 202-389-6907.

SUPPLEMENTARY INFORMATION: The Saccharin Study and Labeling Act (SSLA), Pub. L. 95-203, became law on November 23, 1977. Among its provisions, the SSLA, which requires a warning on the label and labeling of food containing saccharin, placed an 18-month moratorium on FDA action concerning saccharin. The SSLA also directs FDA first to request NAS to conduct saccharin studies and, if NAS agrees, to enter into an agreement to implement the studies. The studies will include an evaluation of available information on saccharin and its impurities and an assessment of current food safety policy.

This notice announces that the NAS/NRC Committee for a Study on Saccharin and Food Safety Policy will conduct a public meeting on June 19, 1978 from 9 a.m. to 3 p.m. in the auditorium of the National Academy of Sciences Building, on the exclusive subject of saccharin and its impurities. A future meeting will address other issues dealing with food safety policy.

To schedule the public meeting, the committee must be informed of the number of persons who wish to participate and the amount of time requested to give their views. Accordingly, any interested person who wishes to appear at the public meeting to make an oral presentation should send a written request by June 12, 1978 to Mr. David Goldsmith, National Academy of Sciences (NAS-341), 2101 Constitution Ave. NW., Washington, D.C. 20418. Requests must be postmarked before June 12, 1978, and should state the subject of the presentation. Depending on the number of requests, the committee may impose a time limit for each presentation. Individuals and organizations with common interests are urged to consolidate their presentations. Committee and panel members and Academy staff will respond to questions from the floor during a question and answer period.

All submitted material will be incorporated in the record of committee activities. A copy of each request to participate should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and will be placed on public display in that office.

Any interested person may, in lieu of an oral presentation, submit written views, which will become part of the committee record.

Written views should be addressed to Mr. David Goldsmith at the address noted above, and must be postmarked before June 12, 1978. A copy of any

written views should be sent to the Hearing Clerk, Food and Drug Administration, to be placed on public display in that office.

Dated: May 16, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 78-13705 Filed 5-18-78; 8:45 am]

[4110-03]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This document announces a forthcoming Consumer Representative Ad Hoc Meeting in Baltimore, Md. The agenda will include the following:

(1) Overview of the Food and Drug Administration;
(2) Current information on food;
(3) Drug labeling;
(4) Cosmetic new ingredient labeling;
(5) Medical devices:
(a) Hearing aids;
(b) Quackery;
(6) Radiation—benefits and risks.

DATE: The meeting will be held from 9 a.m. to 12:30 p.m., Wednesday, June 7, 1978.

ADDRESS: The meeting will be held in the Maryland State Highway Hearing Room, 300 West Preston Street, Room 100, Baltimore, Md. 21201

FOR FURTHER INFORMATION CONTACT:

Alexander Grant, Special Assistant for Consumer Affairs (HFG-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

Dated: May 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-13590 Filed 5-18-78; 8:45 am]

[4110-03]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Representative Ad Hoc Meeting in Charleston, WV. The agenda will include the following:

(1) Overview of the Food and Drug Administration (FDA);
(2) FDA interactions;
(3) Estrogen;
(4) Brand vs. generic drugs;
(5) Drug labeling;
(6) Food additives;
(7) Cosmetics.

DATE: The meeting will be held from 9 a.m. to 2:30 p.m. on Thursday, June 1, 1978.

ADDRESS: The meeting will be held in the Auditorium of the West Virginia University Medical Building, 3110 MacCorkle Avenue SE., Charleston, W. Va. 25304.

FOR FURTHER INFORMATION CONTACT:

Alexander Grant, Special Assistant for Consumer Affairs (HFG-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-1547.

Dated: May 15, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Regulatory Affairs.

[FR Doc. 78-13591 Filed 5-18-78; 8:45 am]

[4110-03]

[Docket No. 78F-0141]

MARSHALL MINERALS, INC.

Filing of Petition for Food Additive Permitted in Animal Feed

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Marshall Minerals, Inc., has submitted a petition proposing that the regulations be amended to provide for the safe use of gentian violet as an aid in controlling fungus and mold growth in poultry feed.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (MF-3703) has been submitted by Marshall Minerals, Inc., P.O. Box 506, Bainbridge, Ga. 31717, proposing that the food additive regulations under part 573 (21 CFR Part 573) be amended to provide for the safe use of gentian violet in a feed premix at a level of 1.60 percent to be added to feed at a rate of 1 pound per ton as an aid in controlling fungus and mold growth in poultry feed.

The petition had been found inadequate for filing under § 571.1 (21 CFR 571.1) of the food additive regulations. However, as a result of an action brought by Marshall Minerals, Inc., filed on December 13, 1977 and in conformity with the judgment entered on April 19, 1978 by the United States District Court for the Middle District of Georgia, the petition is deemed to be filed and this notice has been issued. (See *Southeastern Minerals, Inc. and Marshall Minerals, Inc.* v. *Califano et al.*, Civil Action No. 77N-51 (M. D. Ga. April 19, 1978). The government disagrees with the decision in this case and is considering an appeal.)

The environmental impact analysis report submitted by the petitioner under § 25.1(b)(11) (21 CFR 25.1(b)(11)) has been found incomplete in the absence of specific data supporting safety of gentian violet and specific details of the blending process.

Dated: May 12, 1978.

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

[FR Doc. 78-13474 Filed 5-18-78; 8:45 am]

[4110-03]

[Docket No. 78G-0133]

PROCTER & GAMBLE CO.

Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Procter & Gamble Co. has filed a petition (GRASP MF-3710) proposing affirmation that cellulose fines used as a feedstuff for livestock are generally recognized as safe (GRAS).

DATE: Comments by July 18, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food an Drug Administration, Rm. 4-65, 5600 fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William D. Price, Bureau of Veterinary Medicine (HEV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 as amended (21 U.S.C.

321(s), 348, 371(a))) and the regulations for affirmation of GRAS status (§ 570.35 (21 CFR 570.35)), notice is given that a petition (GRASP MF-3710) has been filed by Procter & Gamble Co., 6100 Center Hill Rd., Cincinnati, Oh 45224, and placed on public display at the office of the Hearing Clerk, proposing affirmation that cellulose fines used as a source of carbohydrates in feeds for ruminants are generally recognized as safe (GRAS).

The petition states that cellulose fines are a byproduct of the production of wood pulp from hardwoods by the sulfite process and that they consist of short fibers separated from the wood pulp after most of the lignin and hemicelluloses have been removed by treatment with acid sulfite cooking liquor and washing. The petition proposes that cellulose fines shall consist predominantly of cellulose and may also contain hemicelluloses, lignin, lipids derived from the wood, mineral matter, lignin sulfonates, not more than 0.5 percent guar gum modified with 2, 3-epoxypropyltrimethyl ammonium chloride, and trace impurities consistent with good manufacturing practices. The petition also proposes that cellulose fines may be supplied for use in feed in a wet or dry state, but on a dry matter basis must contain at least 75 percent total carbohydrates and not more than 6 percent ash.

Any petition that meets the format requirements outlined in § 570.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS a affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before July 18, 1978, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Dated: May 12, 1978.

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

[FR Doc 78-13475 Filed 5-18-78; 8:45 am]

[4110-92]

Office of Human Development Services

[Program Announcement No. 13628-781]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Research Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of availability of grant funds for fiscal year 1978 Child Abuse and Neglect Grants program research grants.

SUMMARY: The Administration for Children, Youth and Families announces that applications are being accepted for research grants for fiscal year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended. (Pub. L. 93-247.) Regulations applicable to this program are 45 CFR part 1340 and 45 CFR part 220.

DATES: The closing dates for receipt of applications are July 14, 1978, and September 30, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the Child Abuse and Neglect Grants program:

Research grants. These grants were identified under the child abuse and neglect research and demonstration priority statement published in the FEDERAL REGISTER, January 23, 1978. These projects reflect a need to address gaps in knowledge about the causes and effects of child abuse and neglect, as well as to support creative approaches initiated by social scientists in the field.

A. PROGRAM PURPOSE

The primary purpose of the child abuse and neglect research grants is to support the development of new knowledge which will aid in efforts to prevent and treat child abuse and neglect.

B. ELIGIBLE APPLICANTS

Public and private nonprofit organizations and institutions of higher learning may apply for a grant under this announcement.

C. AVAILABLE FUNDS AND GRANTEE SHARE OF PROJECT

The total appropriation for the fiscal year 1978 Child Abuse and Neglect program is $18.928 million. The amount requested for fiscal year 1979 is approximately $21.3 million. Of these amounts, approximately $100,000 of fiscal year 1978 funds and $500,000 of fiscal year 1979 funds have been allocated for new research projects. A non-Federal share of 5 percent of the total cost of each research project is required as a part of this grants program. Grantees' shares may be in the form of cash or in-kind contributions. Projects will be supported for a period sufficient to allow the research efforts to produce significant findings. Initial project periods may be from one to three years; additional support will be based on a competitive review with new and other continuing applicants. The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon the satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. *For field-initiated research projects.* To advance the understanding of child maltreatment, contribute to the improvement of current programs and provide insights into new approaches to preventing and reducing the problem and its consequences. (As part of the International Year of the Child, ACYF will welcome proposals addressing comparative multinational research projects on the handling of known and suspected cases of child abuse and neglect.)

2. *For longitudinal research on the causes and effects of child maltreatment.* To develop explanatory theories of child maltreatment and its consequences based on holistic, rather than reductionist, explanations of the multiple factors involved over time for more than one generation.

Additional information is provided in the program guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

Application submission. In order to be considered for a grant under the Child Abuse and neglect Grants program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Buyilding, Grants management Branch—Room 1457, 330 C Street SW., Washington, D.C. 20201.

Application consideration. The Commissioner for Children, Youth, and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the HEW regional offices and headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources.

3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.

4. That the applicant's project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement and the program guidance.

5. That the applicant has included all necessary formal agreements with cooperating agencies.

6. That the proposed project period is reasonable, considering anticipated results.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing dates for receipt of applications under this program announcement are:

1. *For field-initiated research projects.* July 14, 1978.

2. *For longitudinal research on the causes and effects of child maltreatment.* September 30, 1978.

Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitive review process is scheduled to be completed and grant awards made: (1) for field-initiated research projects, in September 1978; and (2) for longitudinal research on the causes and effects of child maltreatment, in November 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, and September 27, 1978, for the respective sets of projects, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427 Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (eastern time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program Number: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth, and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13667 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-782]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Demonstration Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of availability of grant funds for fiscal year 1978 child abuse and neglect grants program demonstration grants.

SUMMARY: The Administration for children, youth, and families announces that applications are being accepted for demonstration grants in fiscal year 1978. This program is authorized by the Child Abuse and Neglect Prevention and Treatment Act, as amended (Pub. L. 93-247). Regulations applicable to this program are 45 CFR Part 1340 and 45 CFR Part 220.

DATES: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the child abuse and neglect grants program: *Demonstration projects.* These projects reflect emphases which are built upon past demonstration activities supported by the National Center on Child Abuse and Neglect. These emphases include support of projects with modest budgets to allow for potential institutionalization into on-going service programs, a shift from increasing public awareness to the improvement of prevention and treatment services, a focus on treatment for children, as well as parents, improvement of public child protective services, and a particular sensitivity to the special cultural and linguistic needs of minority children and families. The projects included in this program announcement include ones which address: (1) treatment of specific forms of child maltreatment; (2) remedial services for abused and neglected children; (3) court handling of child maltreatment cases; (4) development of improved procedures for the investigation and correction of the abuse and neglect of children in residential institutions; and (5) targeting of resource development and enhancement for specific professional groups and minority populations (including migrant farmworkers). A related program announcement (program announcement No. 13628-783) includes additional sets of projects aimed at the provision of services for abused and neglected children and their families through the auspices of public child protection agencies and community-based human service agencies (including social service, medical, mental health, educational and law enforcement agencies).

Funding procedures will be designed to achieve an equitable distribution of grants among the States, among geographic areas of the Nation and among urban and rural areas.

A. PROGRAM PURPOSE

The primary purpose of the Child Abuse and Neglect Demonstration Grants is to support the operational design, testing and evaluation of new and refined service techniques and service delivery approaches in preventing and treating child abuse and neglect.

B. ELIGIBLE APPLICANTS

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—Public and private nonprofit organizations currently providing services to children and families may apply for a grant under this announcement. In the case of Child Sexual Abuse projects, hospital-based agencies may not apply, though hospital-associated agencies may do so. In the case of substance abuse-related child maltreatment projects, only ongoing drug or alcohol treatment service agencies or child protection agencies may apply.

2. *Clinical demonstration of remedial services for abused and neglected children.*—Public and private nonprofit organizations currently providing therapeutic, developmental or educational services to children or providing child protective services may apply for a grant under this announcement.

3. *Improved juvenile court handling of child protective cases, including provision of legal counsel and guardian Ad Litem.*—Juvenile or family courts (or other civil courts having jurisdiction over child neglect, child abuse and dependency cases) may apply for a grant under this announcement.

4. *Investigation and correction of child abuse and neglect in residential institutions.*—State agencies cited in accordance with the eligibility requirements of Pub. L. 93-247 as the properly constituted authority for the investigation of child abuse and neglect in residential institutions or any other State agencies, independent of service delivery agencies, with legal authority for the investigation and correction of child abuse and neglect in residential institutions may apply for a grant under this announcement.

5. *National resource centers for professional and minority populations.*—National professional membership associations in fields serving children and families (including social welfare, education, health, judicial, and law enforcement) and minority group organizations (including migrant farmworker organizations) with capability for national program implementation may apply for a grant under this program announcement.

C. AVAILABLE FUNDS

The total appropriation for the fiscal year 1978 child abuse and neglect program is $18.928 million. Of that amount, approximately $4,280,000 has been allocated to the child abuse and neglect demonstration grants program. Projects will be supported in the amount and for the period specified below:

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—Approximately 12 projects in amounts ranging from $90,000 to $130,000 each per year for a project period of 3½ years.

2. *Clinical demonstration of remedial services for abused and neglected children*—Approximately four projects in amounts ranging from $90,000 to $130,000 each per year for a project period of 3½ years.

3. *Improved juvenile handling of child protective cases, including provision of legal counsel and guardian ad litem.*—Approximately four projects in amounts ranging from $100,000 to $200,000 each for the first 2 years, $80,000 to $160,000 each for the third year, and $65,000 to $130,000 each for the fourth year, for a total project period of 4 years.

4. *Investigation and correction of child abuse and neglect in residential institutions.*—Approximately four projects in amount ranging from $65,000 to $80,000 each per year for a total project period of 3 years.

5. *National resource centers for professionals and minority populations.*—Approximately six projects in amounts ranging from $100,000 to $150,000 each per year for a total project period of 3 years.

The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. *Clinical demonstration of specialized treatment of: child sexual abuse, adolescent maltreatment, substance abuse-related child maltreatment, and child neglect.*—a. To generate additional knowledge about the nature, causes effects and promising preventive, treatment and child protective approaches to the specified form of child maltreatment.

b. To develop new or the refine existing service techniques for dealing with the unique needs of the children and families involved in the specified form of child maltreatment.

c. To develop and test new or refined approaches to the delivery of services needed by children and families involved in the specified form of child maltreatment.

d. To meet the preventive, treatment and child protective service needs as well as other indentified service needs of the children and families served by the projects.

e. To identify resource needs associated with the specified form of child maltreatment including staff qualifications and configurations, staff training, management and administrative processes and program funding.

2. *Clinical demonstration of remedial services for abused and neglected children.*—a. To generate additional knowledge about the nature, causes, effects and promising approaches to the remendiation of the effects of maltreatment on children.

b. To develop new or to refine existing service techniques for dealing with the unique needs of abused and neglected children.

c. To develop and test new or refined approaches to the delivery of services needed by abused and neglected children.

d. to meet the need of abused and neglected children for remedial services as well as to meet the other identified service needs of the children and families served by the projects.

e. To identify resource needs associated with services to remediate the effects of maltreatment on children, including staff qualifications and configurations, staff training, management and administrative processes and program funding.

3. *Improved juvenile court handling of child protective cases, including the provision of legal counsel and guardian ad litem.*—a. To generate additional knowledge about the mission and capabilities of juvenile courts and related services to assist community-wide efforts to identify and treat child abuse and neglect.

b. To identify and demonstrate methods of improving the handling of child protective cases by juvenile courts.

c. To identify and demonstrate methods of providing counsel for the parties and counsel or caseworker/guardian *ad litem* for the children in child protective proceedings.

d. To identify and demonstrate guidelines for improved judicial decision-making in child protective proceedings.

e. To identify and demonstrate methods of improving the management of court records through the use of modern technology (such as word processing and statistical systems).

4. *Investigation and correction of child abuse and neglect in resedential institutions.*—a. To generate additional knowledge about the nature, causes, effects and promising preventive, treatment and child protective approaches to the abuse and neglect of children in residential institutions.

b. To identify and demonstrate methods of encouraging reports of known and suspected child abuse and neglect in all types of residential institutions.

c. To identify and demonstrate methods of receiving reports of known and suspected child abuse and neglect and their investigation by an independent agency.

d. To identify and demonstrate methods of taking corrective action in substantiated cases of child abuse and neglect in all types of residential institutions.

e. To identify methods that other State, local and citizen groups may use to prevent the abuse and neglect of children in all types of residential institutions.

5. *National resource centers for professionals and minority populations.*—a. To identify and demonstrate methods of raising professional awareness of child abuse and neglect issues and service needs.

b. To identify and demonstrate methods of improving professional skills in dealing with child abuse and neglect.

c. To identify and demonstrate methods of fostering interdisciplinary cooperation.

d. To identify and demonstrate methods of increasing the cultural and linguistic sensitivity of existing agencies and professionals dealing with child abuse and neglect.

e. To identify and demonstrate methods of improving and expanding minority participation in child abuse and neglect prevention and treatment efforts.

Additional information is provided in the Program Guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms: Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 Clearinghouse Notice: In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the state Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission: In order to be considered for a grant under the Child Abuse and Neglect Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the Program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch-Room 1457, 330 C Street SW., Washington, D.C. 20201.

Application consideration: The Commissioner for Children, Youth and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 Clearinghouses, the HEW Regional Offices and Headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of the funds granted, the terms or conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities.

3. That the proposed procedures or work programs, if well executed, will be capable of attaining project objectives.

4. That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.

5. That the applicant has included all necessary formal agreements with cooperating agencies and certifications of agreement to cooperate with NCCAN-initiated evaluations of the demonstration program.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is July 14, 1978. Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitve review process is scheduled to be completed and grant awards made in September 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427 Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (e.s.t.), except Saturdays, Sundays and Federal holidays.

(Catalog of Federal Domestic Assistance Program Number: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

Approved: May 15, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth and Families.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13668 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-783]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Service Improvement Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau, ACYF, HDS, HEW.

SUBJECT: Announcement of Availability of Grant Funds for fiscal year 1978 child abuse and neglect grants program, Service Improvement Grants.

SUMMARY: The Administration for Children, Youth, and Families announces that applications are being accepted for service improvement grants for fiscal year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended (Pub. L. 93-247). Regulations applicable to this program are 45 CFR part 1340 and 45 CFR part 220.

DATES: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the child abuse and neglect grants program, Service Improvement Projects. These projects were identified under the Child Abuse and Neglect Research and Demonstration priority statement published in the FEDERAL REGISTER, January 23, 1978. These projects reflect the need to provide support for service improvements and service expansion in preventing and treating child abuse and neglect. Funding procedures will be designed to achieve an equitable distribution of grants among States, among geographic areas of the Nation, and among rural and urban areas.

A. PROGRAM PURPOSE

The primary purpose of the Child Abuse and Neglect Service Improvement Grants is to support the implementation of effective, proven program components by existing child protection and other human service agencies (including medical, social service, educational, mental health, and law enforcement agencies) which have the potential for providing services to prevent and treat child abuse and neglect.

B. ELIGIBLE APPLICANTS

1. Child protection agency program improvements. Public Child Protection Agencies at the State, sub-State regional and metropolitan or local levels may apply for a grant under this announcement.

2. Community-based prevention and treatment. Public and private nonprofit agencies providing direct services to children and families may apply for a grant under this announcement to support services consistent with their overall missions. Such agencies are defined to include health, mental health, school. law enforcement, child care, and other human service agencies.

C. AVAILABLE FUNDS AND GRANTEE SHARE OF PROJECT

The total appropriation for the fiscal year 1978 child abuse and neglect program is $18.928 million. Of this amount, approximately $2.4 million has been allocated for Child Abuse and Neglect Service Improvement projects. A non-Federal share of project financial support is required in the case of the Community-Based Prevention and Treatment projects, as described below. The non-Federal share may be in the form of cash or in-kind contributions.

Projects will be supported in the amount and for the period specified below:

1. *Child protection agency program improvements.* Approximately 10 projects in amounts ranging from $80,000 to $120,000 each per year for a project period of 2 years.

2. *Community-based prevention and treatment.* Approximately 10 projects in amounts ranging from $80,000 to $120,000 each for the first year, $60,000 to $100,000 each for the second year, and $40,000 to $60,000 each for the third year, for a project period of 3 years. The non-Federal share of project budgets will be 0 percent in the first year, 20 percent in the second year, and 50 percent in the third and final year of the project period.

The initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicated for projects which reflect the following program objectives:

1. For child protection agency program improvements. To improve the delivery of child protective services through the installation of additional or modified program components in child protection agencies.

2. For community-based prevention and treatment. (a) To prevent child abuse and neglect by providing services to the host agency's general clientele which improve family capacities to adequately care for children.

(b) To prevent child abuse and neglect by encouraging self-referrals and providing early preventive services to vulnerable families.

(c) To assist public child protection agencies through prompt identification and reporting of known and suspected cases of child abuse and neglect.

(d) To assist diagnostic and treatment efforts of child protection agencies by accepting referrals from them to provide necessary family-supportive services.

Additional information is provided in the program guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 clearinghouse notice. In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and areawide A-95 clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State clearinghouse. Some State and area clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission. In order to be considered for a grant under the child abuse and neglect grants program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch, Room 1457, 330 C Street SW., Washington, D.C. 20201, 13628—783.

Application consideration. The Commissioner for Children, Youth, and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 clearinghouses, the HEW Regional Offices and headquarters program office. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application,

unsuccessful applicants are notified in writing of that decision. Succesful applicants are notified through issuance of a notice of grant awarded which sets forth the amount of funds granted, the terms or conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected, and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.
2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities.
3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.
4. That the project objectives are identical or are capable of achieving the specific program objectives defined in the program announcement and the program guidance.
5. That the applicant has included all necessary formal agreements with cooperating agencies.
6. That the applicant has included a definite plan for the institutionalization of the program components to be funded by the grant; and, in the case of community-based prevention and treatment applications, that the applicant has included a definite plan for the assumption of the increased non-Federal share during the second and third years of the project period.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this program announcement is July 14, 1978. Applications received after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed and evaluated. The competitive review process is scheduled to be completed and grant awards made in September 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

(a) The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (eastern time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program No.: 13.628—Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 78-13669 Filed 5-18-78; 8:45 am]

[4110-92]

[Program Announcement No. 13628-784]

CHILD ABUSE AND NEGLECT GRANTS PROGRAM

Fiscal Year 1978 Regional Child Abuse and Neglect Resource Center Grants

AGENCY: National Center on Child Abuse and Neglect/Children's Bureau ACYF, HDS, HEW.

SUBJECT: Announcement of Availability of Grant Funds for Fiscal Year 1978 Child Abuse and Neglect Grants Program: Regional Child Abuse and Neglect Resource Center Grants.

SUMMARY: The Administration for Children, Youth and Families announces that applications are being accepted for Regional Child Abuse and Neglect Resource Center grants for Fiscal Year 1978. This program is authorized by the Child Abuse Prevention and Treatment Act, as amended. (Pub. L. 93-247.) Regulations applicable to this program are 45 CFR Part 1340 and 45 CFR Part 220.

DATE: The closing date for receipt of applications is July 14, 1978.

SCOPE OF THIS PROGRAM ANNOUNCEMENT

This program announcement is one of four for the Child Abuse and Neglect Grants Program: Regional Child Abuse and Neglect Resource Centers. These centers are authorized by Sections 2(b), 4(a), and 5 of Pub. L. 93-247. The National Center on Child Abuse and Neglect supported 16 demonstration resource centers between December 1974 and June 1978. In planning for future Federal efforts to prevent and treat child abuse and neglect, NCCAN determined that certain crucial activities could best be undertaken by a modified continuation of the resource center program. Budgetary constraints led to a decision to reduce the number of resource centers from 16 centers to 10 centers.

A. PROGRAM PURPOSE

The primary purpose of the Regional Child Abuse and Neglect Resource Centers is to support State and local efforts to prevent and treat child abuse and neglect. One Regional Child Abuse and Neglect Resource Center will be established by a grant awarded on a competitive review basis in each of the ten HEW Federal Regions. (See Appendix 1.)

B. ELIGIBLE APPLICANTS

Public and private nonprofit organizations or institutions of higher learning may apply for a grant under this announcement. Applicants must be physically located within the geographical Region which they propose to serve at the time application is submitted, and must have the capability of serving all parts of the Regional (multi-state) jurisdiction, including Indian reservations, military installations and migrant farm worker communities. Applications for grants to serve in geographical Regions other than the ones from which the applications are submitted will be considered ineligible and will not be reviewed.

C. AVAILABLE FUNDS

The total appropriation for the fiscal year 1978 Child Abuse and Neglect program is $18.928 million. Of that amount, $2.5 million has been allocated to the Regional Child Abuse and Neglect Resource Center grants program. Funds available for each Regional Resource Center are based upon a formula that includes consideration of child population (under age 18) and geographical/travel requirements. The anticipated funding for fiscal year 1978 is the following:

Region I	$223,220
Region II	240,324
Region III	248,820
Region IV	295,492
Region V	302,407
Region VI	261,420
Region VII	220,442
Region VIII	241,090
Region IX	257,414
Region X	209,369

A local match is not required as a part of this grant program. Projects will be supported for a period not to exceed four years and the initial grant will sustain the Federal share of the budget for the first year of the project. Continuation funding depends upon the satisfactory performance of the project and the availability of funds.

D. PROGRAM OBJECTIVES

Applications are solicited for projects which reflect the following program objectives:

1. To act as Regional libraries of printed and audiovisual materials and as disseminators of information and materials on the prevention, identifi-

cation and treatment of child abuse and neglect.

2. To facilitate interstate sharing and coordination of program innovations and child protection planning processes.

3. To assist in establishing and improving training programs, with specific focus on improving the capabilities of professionals and paraprofessionals with child protective service responsibilities to respond with sensitivity to cultural and linguistic minority group clients.

4. To assist state and local agencies and organizations within each Region to address Region-specific objectives for improving and expanding child abuse and neglect prevention and treatment services. (Development of subobjectives to implement this objective will be deferred to the first quarter of the grant year.)

5. To organize and facilitate the provision of multidisciplinary child abuse and neglect case consultation, especially to small communities where such consultation is not otherwise readily available.

These objectives are meant to be multidisciplinary and to assist States and local communities in developing, expanding and improving their child protective systems.

Additional information is available in Program Guidance which accompanies the necessary application forms.

E. THE APPLICATION PROCESS

Availability of application forms. Organizations and agencies wishing to apply under this grant program may request application forms from:

National Center on Child Abuse and Neglect, Children's Bureau/Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013.

A-95 clearinghouse notice. In compliance with the Department of Health, Education, and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Areawide A-95 Clearinghouses of the intent to apply for Federal assistance. If the application is for a Statewide project which does not affect areawide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at 42 FR 2210, January 10, 1977) for information on how they can meet the A-95 requirements.

Application submission. In order to be considered for a grant under the Child Abuse and Neglect Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations of the Program.

One signed original and two copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services/Switzer Building, Grants Management Branch, Room 1457, 330 C Street SW., Washington, D.C. 20201, 13628-784.

Application consideration: The Commissioner for Children, Youth and Families determines the final action to be taken with respect to grant applications. All applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the program office. The results of the review assist the Commissioner in considering competing applications. The Commissioner's consideration also takes into account comments of the A-95 Clearinghouses, the HEW Regional Offices and Headquarters program offices. Comments may also be requested from appropriate specialists and consultants inside and outside the Federal Government.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, unsuccessful applicants are notified in writing of that decision. Successful applicants are notified through issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which support is given, the total grantee participation expected, and the total period for which support is contemplated.

F. CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Competing grant applications will be reviewed and evaluated by a panel of reviewers/field readers against the following criteria:

1. That the estimated cost to the Government of the project is reasonable considering the anticipated results.

2. That project personnel are or will be well qualified and the applicant organization has or will have adequate facilities and resources.

3. That the proposed procedures or work program, if well executed, will be capable of attaining project objectives.

4. That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.

5. That the applicant demonstrates familiarity, experience, and effectiveness in assisting service-providers to enhance prevention and treatment of child abuse and neglect in the Region within which it is to serve.

6. That the applicant certifies willingness to cooperate with established procedures to measure and evaluate performance.

G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications for this program announcement by July 14, 1978. Applications submitted after the closing date, at 5:30 p.m., will be considered ineligible and will not be reviewed. The competitive review process is scheduled to be completed and grant awards are to be made in August 1978.

An application sent by mail will be considered to be received on time by ACYF, if:

a. The application was sent by registered or certified mail not later than July 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

b. The application is received on or before the closing date by the DHEW mail room in Washington, D.C.

An application delivered by hand must be taken to OHDS, Room 1427, Switzer Building, 330 C Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (Eastern Time), except Saturdays, Sundays, and Federal holidays.

(Catalog of Federal Domestic Assistance Program No. 13.628, Child Abuse and Neglect Prevention and Treatment.)

Dated: April 17, 1978.

BLANDINA CARDENAS,
Commissioner, Administration for Children, Youth, and Families.

Approved: May 15, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX 1—THE FEDERAL HEW REGIONS

Region I—Connecticut, New Hampshire, Maine, Vermont, Massachusetts, and Rhode Island.

Region II—New Jersey, New York, the U.S. Virgin Islands, and Puerto Rico.

Region III—Maryland, Delaware, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

Region IV—North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, and Kentucky.

Region V—Ohio, Indiana, Illinois, Wisconsin, Michigan, and Minnesota.

Region VI—Louisiana, Arkansas, Oklahoma, Texas, and New Mexico.
Region VII—Kansas, Missouri, Iowa, and Nebraska.
Region VIII—Colorado, Utah, Montana, Wyoming, North Dakota, and South Dakota.
Region IX—Arizona, Nevada, California, Hawaii, Guam, and the Pacific Trust Territories.
Region X—Alaska, Idaho, Oregon, and Washington.

[FR Doc. 78-13670 Filed 5-18-78; 8:45 am]

[4110-02]

Office of Education

DESEGREGATION OF PUBLIC EDUCATION

Extension of Closing Date for Receipt of Applications

The Commissioner of Education extends the May 19, 1978 deadline for filing applications for awards under Title IV of the Civil Rights Act of 1964. This deadline was published in the FEDERAL REGISTER on March 20, 1978 (43 FR 11686). The new deadline will be 30 days following publication of final regulations governing awards under Title IV. Proposed regulations for Title IV were published in the FEDERAL REGISTER on March 20, 1978. The proposed regulations are being reviewed in light of public comment on them. The deadline is being extended to give applicants sufficient time to submit or amend their applications to take into account any changes in the regulations when they are published in final form.

The Commissioner will publish a new notice of closing date with the final regulations. That notice will include instructions for submitting applications and program information.

FOR INFORMATION CONTACT:

Mr. Elton W. Ridge, Room 2001, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-8484.

(Catalog of Federal Domestic Assistance Number 13.405, Civil Rights Technical Assistance and Training Programs.)

Dated: May 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-13993 Filed 5-18-78; 8:45 am]

[4110-02]

VETERANS' COST-OF-INSTRUCTION PAYMENTS PROGRAM—PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in section 420 of the Higher Education Act of 1965, applications for funds are being accepted from institutions of higher education under the Veterans' Cost-of-instruction Payments Program.

Applications must be received by the Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education on or before June 19, 1978.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education, Bureau of Higher and Continuing Education, Room 3514, ROB Three, Seventh and D Streets, SW., Washington, D.C. 20202. Attention: 13.540. An application sent by mail will be considered to be received on time by the Veterans' Cost-of-Instruction Program Branch if: (1) The application was sent by registered or certified mail not later than June 14, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or (2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Veterans' Cost-of-Instruction Program Branch, Room 3514, ROB 3, Seventh and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. up to and including the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Veterans' Cost-of-Instruction Program Branch, U.S. Office of Education, Bureau of Higher and Continuing Education, Room 3514, ROB 3, Seventh and D Streets, SW., Washington, D.C. 20202.

D. *Applicable regulations.* The regulations applicable to this program appear at 45 CFR Part 189, and amendments published on November 3, 1977 (42 FR 57638).

(20 U.S.C. 1070e-1)

(Catalog of Federal Domestic Assistance Program Number 13.540; Higher Education—Cost of Veterans' Instruction (VCIP).)

Dated: May 16, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-13994 Filed 5-18-78; 8:45 am]

[4110-08]

National Institutes of Health

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Carcinogenesis Program Scientific Review Committee, June 14, 1978, Landow Building, Room 4C18, Woodmont Avenue, Bethesda, Md. 20014. The meeting will be open to the public on June 14, 1978, from 8:30 to 9 a.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 14, 1978, from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information about individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Carl E. Smith, Executive Secretary, National Cancer Institute, Landow Building, Room 8C37, National Institutes of Health, Bethesda, Md. 20014, 301-496-4141, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.393, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-13390 Filed 5-18-78; 8:45 am]

[4110-08]

GENERAL RESEARCH SUPPORT PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Program Advisory Committee, Division of Research Resources, June 13 and 14, 1978, in Conference Room 6, Building 31-C, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public from 9 to 11 a.m. on June 13 to discuss administrative matters relating to the biomedical research support

program and the biomedical research development program.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 13, 1978, from 11 a.m. to 5 p.m. and on June 14 from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications submitted to the biomedical research development program. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, Building 31, Room 5B-13, National Institutes of Health, Bethesda, Md. 20014, 301-496-5545, will provide summaries of the meeting and rosters of the committee members. Dr. Sidney A. McNairy, Jr., Executive Secretary of the General Research Support Program Advisory Committee, Room 5B-31, Building 31, National Institutes of Health, Bethesda, Md. 20014, 301-496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.337, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13388 Filed 5-18-78; 8:45 am]

[4110-08]

BIOMEDICAL LIBRARY REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, on June 19-20, 1978, from 8:30 a.m. to 5 p.m. on June 19, and from 8:30 a.m. to adjournment on June 20, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Md.

This meeting will be open to the public from 8:30 to 11 a.m. on June 19 for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 19 from 11 a.m. to 5 p.m., and from 8:30 a.m. to adjournment on June 20 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Dr. Roger W. Dahlen, Executive Secretary of the Committee, and Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Md. 20014, telephone: 301-496-4191, will provide summaries of the meeting, rosters of committee members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13391 Filed 5-18-78; 8:45 am]

[4110-08]

NATIONAL COMMISSION ON DIGESTIVE DISEASES

Amended Notice of Meeting

Notice is hereby given of a date correction in one of the three National Commission on Digestive Diseases meetings published in the FEDERAL REGISTER on May 5, 1978, 43 FR 19465.

The first of the three meetings was inadvertently published as being held July 1-4, 1978, and should have been published as being held June 1-4, at the Cherry Hill Inn, Cherry Hill, N.J. The remaining two meetings will be held as originally published; that is, July 20-22, Coolfont Conference Center, Berkeley Springs, W. Va., and August 17-19, Minary Conference Center, Dartmouth College, Hanover, N.H., for the purpose of drafting and reviewing the draft of the long range plan. The three meetings are open to the public.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13384 Filed 5-18-78; 8:45 am]

[4110-08]

COMMUNICATIVE SCIENCES STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date and time of the Communicative Sciences Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18260).

The Communicative Sciences Study Section was originally scheduled to meet June 14-16, 1978, but will meet June 13-16, 1978, in Conference Room 7, Building 31, National Institutes of Health, Bethesda, Md., the same location for which it was originally scheduled.

The meeting will convene on June 13, 1978, at 6 p.m. The open portion of this meeting will be held at this time for approximately 1 hour. The following sessions (June 14, 15, 16) will convene at 8:30 a.m.

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13389 Filed 5-18-78; 8:45 am]

[4110-08]

POPULATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Population Research Committee, National Institute of Child Health and Human Development, on June 7-9, 1978, in the Landow Building, Room 4C-18, 7910 Woodmont Avenue, Bethesda, Md.

This meeting will be open to the public on June 7, from 9 to 10:30 a.m. to discuss the program status, new developments and projections for population research centers, program projects and institutional fellowships. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Title 5, U.S. Code 552(c)(4) and 552b(c)(6) and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 7 from 10:30 a.m. to adjournment on June 9 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Md., Area Code 301-496-1848, will provide a summary of the meeting and a roster of committee members. Dr. William A. Sadler, Executive Secretary of the Population Research Committee, NICHD, Landow Building, Room 7C-33, National Institutes of Health, Bethesda, Md. Area Code 301-496-6515, will furnish substantive program information.

(Catalog of Federal domestic Assistance Program No. 13.864, National institutes of health.)

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13387 Filed 5-18-78; 8:45 am]

[4110-08]

MEETINGS

Amended Notice

Notice is hereby given of a change in the meeting dates of the following National Institutes of Health Study Sections which were published in the FEDERAL REGISTER on April 28, 1978 (43 FR 18260):

The Cardiovascular and Pulmonary Study Section was to have met June 13-17, 1978, but will meet June 14-17, 1978, at 8 a.m. at the DuPont Plaza Hotel, Washington, D.C., the same time and location for which it was originally scheduled.

The Cardiovascular and Renal Study Section was to have met June 7-10, 1978, but will meet June 7-9, 1978 at 9 a.m. at the Holiday Inn, Bethesda, Md., the same time and location for which it was originally scheduled.

The Metabolism Study Section was to have met June 21-24, 1978, but will meet June 22-24, 1978, at 8:30 a.m. in Conference Room 10, Building 31, National Instututes of Health, Bethesda, Md., the same time and location for which it was originally scheduled.

The Neurology A Study Section was to have met May 31-June 3, 1978, but will meet May 31-June 2, 1978, at 9 a.m. in Conference Room 8, Building 31, National Institutes of Health, Bethesda, Md., the same time and location for which it was originallly scheduled.

These meetings will be open to the public for approximately 1 hour at the beginning of the first session of the first day of the meeting.

Dated: May 9, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-13383 Filed 5-18-78; 8:45 am]

[4410-08]

REPORT ON BIOASSAY OF 3-NITROPROPIONIC ACID FOR POSSIBLE CARCINOGENICITY

Availability

3-Nitropropionic acid (CAS 504-88-1) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of 3-nitropropionic acid (95% pure) for possible carcinogenicity was conducted by administering the test chemical by gavage to Fischer 344 rats and B6C3F1 mice.

Groups of 50 rats and 50 mice of each sex were administered 3-nitropropionic acid at one of the following doses by gavage 5 days per week. For male rats, the doses were 0.425 or 0.85 mg/animal/day; for females, they were 0.6 or 1.2 mg/animal/day. For both sexes of mice, the doses were 0.375 or 0.75 mg/animal/day. The rats were administered the chemical for 110 weeks and the mice for 104 weeks. The controls consisted of 50 untreated rats and 50 untreated mice of each sex. All surviving rats were killed at 111 weeks and all surviving mice at 104 or 105 weeks.

Mean body weights and mortality of the dosed animals were not markedly affected by 3-nitropropionic acid under the conditions of this bioassay, indicating that the maximum tolerated dose may not have been reached. The various clinical signs observed were common to both dosed and control groups.

It is concluded that under the conditions of this bioassay, there was an elevated incidence of hepatocellular neoplasms, primarily benign, and of islet-cell adenomas of the pancreas in male Fischer 344 rats receiving 3-nitropropionic acid as compared with controls; however, there was no conclusive evidence that 3-nitroproponic acid was carcinogenic in these animals. The chemical was not carcinogenic in female rats or in male or female B6C3F1 mice.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-13382 Filed 5-18-78; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF 2,4-DINITROTOLUENE FOR POSSIBLE CARCINOGENICITY

Availability

2,4-Dinitrotoluene (CAS 121-14-2) has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Testing Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

Summary: A bioassay of practical-grade 2,4-dinitrotoluene for possible carcinogenicity was conducted using Fischer 344 rats and B6C3F1 mice. 2,4-Dinitrotoluene was administered in the feed, at either of two concentrations, to groups of 50 male and 50 female animals of each species. For male and female rats, the high and low time-weighted average dietary concentrations of 2,4-dinitrotoluene were 0.02 and 0.008 percent, respectively. For male and female mice, the high and low time-weighted average concentrations were 0.04 and 0.008 percent, respectively. After a 78-week period of compound administration, observation of the rats continued for an additional 26 weeks and observation of the mice continued for 13 additional weeks.

For the chronic rat bioassay, 25 rats of each sex were placed on test as high dose controls, and 50 rats of each sex served as the low dose controls. For the mice, 50 males and 50 females were placed on test as controls for each of the high dose and low dose groups.

In both species the survival in all groups was adequate for statistical analysis of late-appearing tumors.

Under the conditions of this bioassay dietary administration of 2,4-dinitrotoluene to Fischer 344 rats induced benign tumors (i.e., fribroma of the skin and subcutaneous tissue in males and fibroadenoma of the mammary gland in females). No evidence was provided for the carcinogenicity of the compound in B6C3F1 mice of either sex.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: May 11, 1978.

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc. 78-13381 Filed 5-18-78; 8:45 am]

[4110-12]

Office of the Secretary

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Family Policy Task Force meeting on Thursday, June 8, 1978 from 7 p.m. to 10 p.m., and, on Friday, June 9, 1978 from 9 a.m. to 3 p.m., in Room 423-A, HEW-

Herbert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include a discussion of day care, White House Conference on Families, domestic violence, social security, and other issues within health, education, and welfare pertaining to family policy.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: May 11, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-13631 Filed 5-18-78; 8:45 am]

[4110-12]

SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health, Education, and Welfare on the impact of the policies, programs, and activities of the Department on the status of women, will hold its Health Task Force meeting on Thursday, June 8, 1978 from 7 p.m. to 10 p.m., and, on Friday, June 9, 1978 from 9 a.m. to 3 p.m., in Room 425—A, HEW-Hurbert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. The agenda will include a discussion of Departmental initiatives including women and youth and alcoholism, teenage pregnancy, national health insurance, and other issues within health, education, and welfare pertaining to health.

Further information on the Committee may be obtained from: Susan C. Lubick, Executive Secretary, telephone 202-245-8454. These meetings are open to the public.

Dated: May 11, 1978.

SUSAN C. LUBICK,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 78-13630 Filed 5-18-78; 8:45 am]

[4110-39]

National Institute of Education

INFORMATION AND DATA ACQUISITION ACTIVITY

Collection; Opportunity for Comments

Pursuant to section 406g(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Institute of Education is proposing an information and data acquisition activity which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity, during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

This data acquisition activity as described below is also subject to review by the HEW Education Data Acquisition Council.

Written comments on the proposed activities are invited. Comments should refer to the form number and must be received on or before (insert date 30 days from date of publication), and should be addressed to the Administrator, National Center for Education Statistics, Attn: Management Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue SW., Washington, D.C. 20202.

Further information may be obtained from the Project Officer, John Egermeier, Dissemination and Resources Group, National Institute of Education, 202-254-5928.

Dated: May 18, 1978.

RICHARD S. WERKSMAN,
Forms Clearance Officer, National Institute of Education.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. Agency/Bureau/Office: National Institute of Education
2. Agency Form Number: NIE 196
3. Title of Proposed Activity: Evaluation of State Capacity Building Program in Dissemination
4. Legislative Authority for this Activity:

"The Institute shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Institute on the following priority research and development needs—* * *

"(E) *improved dissemination of the results of, and knowledge gained from, educational research and development, including assistance to educational agencies and institutions in the application of such results and knowledge.*" (emphasis added) (Section 405(b)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

"In order to carry out the objectives of the Institute, the Director is authorized, through the Institute, to conduct educational research; collect and disseminate the findings of eductional research; train individuals in educational research; assist and foster such research, collection, dissemination, or training through grants, or technical assistance to, or jointly financed cooperative arrangements with, public or private organizations, institutions, agencies, or individuals." (Section 405(3)(2) of the General Education Provisions Act as amended, 20 U.S.C. 1221e.)

5. Voluntary/Obligatory Nature of Response: Voluntary.

6. How Information to be Collected Will Be Used:

Background

The proposed study is an evaluation of the State Capacity Building Program in Dissemination. This program offers support to States to improve their dissemination programs. The concept of State dissemination capacity involves:

(a) A comprehensive set of resources
(b) Means of linking the client group to the resource base
(c) Leadership and management relations which facilitate provision of services.

At present, 29 States and Territories are involved in the program.

Evaluation

This study, a comprehensive effort to determine whether or not the program is meeting its goals, is designed to answer two basic questions:

(a) Is dissemination capacity being built? If so, how?
(b) Is the State Capacity Program having an effect? If so, what is the nature of the effects?

In order to answer these questions, it is necessary for the study to have a longitudinal focus and necessarily will include: (1) interviews and questionnaires with State project directors, (2) validation telephone interviews with heads of information resource centers and linking agents; (3) structured interviews with a sample of SEA officials; and (4) longitudinal surveys of users.

Use

The data collected by this effort will be used by the National Institute of Education for policy and planning development in the area of dissemination. The results of this study will provide Congress and other decisionmakers at the State and Federal levels with an evaluation of the effectiveness of the State Capacity Building Program in building the capacity of the States in educational dissemination. States have indicated that the data will be useful for their own internal evaluation and program planning. Client assessment information will fill a void in some States and supplant present instrumentation in other States and will provide project directors with information on which to base decisions concerning their projects.

7. a. Method of Collection: Mail and Interview.
b. Time of Collection: Fall 1978.
c. Frequency: Single time.
8. a. Type: Project Directors SEA.
b. Number: Universe 29.
c. Estimated Average Person-Hours Per Respondent: 2.58.
a. Type: Resource Base Administrators.
b. Number: Universe 29-35.
c. Estimated Average Person-Hours Per Respondent: 0.33.
a. Type: Linkers.
b. Number: Sample 70-90.
c. Estimated Average Person-Hours Per Respondent: 0.25.

a. Type: SEA.
b. Number: Sample 145.
c. Estimated Average Person-Hours Per Respondent: 0.25.
a. Type: Linkers.
b. Number: Sample 70–90.
c. Estimated Average Person-Hours Per Respondent: 0.06.
a. Type: Linkers.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.08.
a. Type: Resource Base Personnel.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.05.
a. Type: Clients.
b. Number: Sample 1730.
c. Estimated Average Person-Hours Per Respondent: 0.08.
a. Type: Clients.
b. Number: Sample 600.
c. Estimated Average Person-Hours Per Respondent: 0.25.

9. Information to be Collected:

Project Directors. The questionnaire, Capacity Building Indicants exercise, and interview are complementary instruments designed to obtain detailed information on all aspects of the project. The questionnaire is designed to provide information on the Contextual Characteristics, System Characteristics, and Outputs in the domains of Leadership/Management, Information Resources, Linkages and Clients. It also contains items surveying NIE program design. The interview is also designed to amplify and extend upon the information provided in the questionnaire and to provide more qualitative information than is possible with a structured questionnaire. The Capacity Building Indicants exercise is designed to measure movement towards capacity building in each of the following areas: Comprehensive Resource Base, Coordinated Resource Base, Comprehensive Linkages, Coordinated Linkages, Institutionalization and Equal Access/Equal Opportunity.

Resource Base Administrators. This individual will be asked to validate and, where necessary, elaborate upon the Project Director's responses to questions dealing with the resource base.

Linkers. This individual will be asked to validate and, where necessary, elaborate upon the Project Director's responses relative to the domain of linkage.

SEA Administrators. This interview guide is designed to collect additional confirmatory information beyond that collected from the Project Director regarding the SEA organizational climate and the perceived relationship of the SEA to LEA's.

Client Assessment Package. The remaining instruments in this package are designed to be completed on a sample basis to detail all the parameters surrounding an individual client's request for information and/or assistance. All forms will be utilized on a volunteer basis by participating States, and are designed to meet individual State project management needs as well as evaluation needs. The Client Assessment Package will either supplant or fill a void in those States whch have volunteered to participate in this part of the study. Participating States have rigorously reviewed the instrumentation.

Linkers. This form is designed to gather information concerning the linker's expertise (content knowledge, educational level, and experience) and demographic information (linker's position and function).

Linkers. This instrument is used to collect information concerning the client's request for service including dates, problem statement, purpose statement, information area, grade level, time span client position and status and client location. Through coding it will be possible to link the search with client utilization and satisfaction data.

Resource Base Personnel. The purpose of this instrument is to capture information about the information and/or resource search process in response to a service request.

Clients. For a sample of clients, an immediate feedback form will be sent which deals with the information and/or assistance received (timeliness, relevancy, usefulness, completeness) and overall satisfaction (would reuse services, would recommend services).

Clients. A longer form for obtaining client information will be sent to a subsample of the above mentioned clients. This form will collect information on the intensity of linker/client interactions, information utilization, client follow-up, and the need for information/assistance.

[FR Doc. 78-14224 Filed 5-18-78; 11:36 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 33332, 33351, 33360, 33363, 33364 and 33365]

NEW MEXICO

Notice of Applications

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,
Sec. 3, lots 1, 4, N½SE¼ and SW¼SE¼.
T. 29 N., R. 9 W.,
Sec. 11, NE¼NE¼ and N½SW¼;
Sec. 14, NW¼NW¼.

These pipelines will convey natural gas across 0.873 of a mile of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-13567 Filed 5-18-78; 8:45 am]

[4310-84]

[NM 33335]

NEW MEXICO

Notice of Application

MAY 10, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 8 W.,
Sec. 6, lot 1.

This pipeline will convey natural gas across 0.185 miles of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 13568 Filed 5-18-78; 8:45 am]

[4310-84]

[Colorado 25379 I]

NORTHWEST PIPELINE CORP.

Notice of R/W Application for Pipeline

MAY 11, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way for 4½" & 6⅝" o.d. natural gas pipeline for the Trail Canyon Gathering System approximately 1.0 mile long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLO.

T. 3 S., R. 100 W.
Sec. 30: SE¼NE¼, N½SE¼, SW¼SE¼.
Sec. 31: NW¼NE¼, NE¼NW¼.

The above-named gathering system will enable the applicant to collect natural gas in the area through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau

of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

ANDREW W. HEARD, Jr.,
Leader, Craig Team,
Branch of Adjudication.

[FR Doc. 78-13566 Filed 5-18-78; 8:45 am]

[4310-84]

ROCK SPRINGS DISTRICT GRAZING ADVISORY BOARD

Meeting

MAY 9, 1978.

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Rock Springs District Grazing Advisory Board will be held on June 16, 1978.

The meeting will begin at 9 a.m. in the conference room of the Bureau of Land Management office on Highway 187 North, Rock Springs, Wyo.

The agenda for the meeting will include: (1) review of charter and Board functions; (2) discussion of the status of the sandy grazing Environmental Statement and proposed Allotment Management Plans; (3) a presentation of other scheduled grazing Environmental statements and the proposed procedures; (4) utilization of range betterment funds; (5) availability of State Advisory Board funds; (6) an election of officers; (7) arrangements for the next meeting, and; (8) a reading of letters and public comment period.

The meeting is open to the public. Interested persons may make oral statements to the board during the public comment period, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901 by June 9, 1978. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproductions (during regular business hours) within 30 days following the meeting.

DONALD D. RIDDLE,
Acting District Manager.

[FR Doc. 78-13569 Filed 5-18-78; 8:45 am]

[4310-70]

National Park Service

FORT DUPONT PARK

Intention to Renew Concession Permit

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice (June 19, 1978), the Department of the Interior, through the Director of the National Park Service, proposes to renew the concession permit with Joseph O. Thompson, authorizing him to continue to provide mobile food service facilities and services for the public at Fort Dupont Park for a period of approximately six (6) months, from June 15, 1978, through October 30, 1978.

It has been determined that the proposed renewal of this permit does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed his obligations to the satisfaction of the Secretary under a permit, which expired by limitation of time on August 22, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. This provision, in effect, grants Joseph O. Thompson, as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new permit and a preference in the award of the permit, if the offer of mobile vending food service is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before June 19, 1978.

Interested parties should contact the Superintendent, National Capital Parks-East, 5210 Indian Head Highway, Oxon Hill, Md. 20021, Telephone: 301-563-1770; for information as to the requirements of the proposed permit.

EUGENE J. COLBERT,
Superintendent,
National Capital Parks-East.

MAY 5, 1978.

[FR Doc. 78-13624 Filed 5-18-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[AA1921-181]

RAYON STAPLE FIBER FROM BELGIUM

Notice of Investigation and Hearing

Having received advice from the Department of the Treasury on May 2, 1978, that rayon staple fiber from Belgium is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on May 15, 1978, instituted investigation No. AA1921-181 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held on Tuesday, June 20, 1978, in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 9:30 a.m., e.d.t. All persons shall have the right to appear in person or by counsel, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, June 15, 1978.

By order of the Commission.

Issued: May 15, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-13675 Filed 5-18-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES v. EVEREST & JENNINGS INTERNATIONAL, EVEREST & JENNINGS, INC., AND THE JENNINGS INVESTMENT CO.

Proposed Consent Judgment Agreement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed consent judgment

agreed to by the United States, Everest & Jennings International, Everest & Jennings, Inc. and The Jennings Investment Co. and a competitive impact statement (both of which are set forth below) have been filed with the United States District Court for the Central District of California in the case of *United States* v. *Everest & Jennings International, et al.*, Civil Action No. 77-1648-R.

The complaint in this action alleged that defendants (referred to collectively as "Everest & Jennings") violated Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing and attempting to monopolize the manufacture and sale of wheelchairs and submarkets thereof in the United States. In partnership with an American manufacturer of rehabilitation and fracture equipment, Franklin I. Saemann ("Saemann"), Everest & Jennings participated in foreign joint ventures, Zimmer Orthopaedic Ltd. in Great Britain and Ortopedia G.m.b.H. in West Germany, both of which manufactured wheelchairs after 1955. The complaint alleged, among other things, that Everest & Jennings entered into understandings that the joint ventures would not export wheelchairs to the United States, where Everest & Jennings has had a dominant market position. It was also alleged that Everest & Jennings agreed with Saemann that Saemann's Company, Orthopedic Equipment Co. of Bourbon, Ind., would not manufacture wheelchairs. Everest & Jennings, pursuant to settlement of litigation with Saemann, in 1975 assumed full control of Ortopedia G.m.b.H., which has continued to refrain from exporting wheelchairs to the United States. Saemann since 1975 has assumed full control of Zimmer Orthopaedic Ltd. Everest & Jennings also has fully-owned subsidiaries in Canada, Everest & Jennings Canadian, Ltd.; in Mexico, Arva-Everest & Jennings S.A. de C.V.; and in Great Britain, Everest & Jennings Ltd. All of these manufacture wheelchairs, but do not export them to the United States.

The proposed Final Judgment enjoins Everest & Jennings from entering into or enforcing any agreement with any other person, including with its foreign subsidiaries, to restrict imports of wheelchairs to the United States, to allocate customers or markets within the United States, and to refuse to sell to any person in the United States. Everest & Jennings is also enjoined from preventing its foreign subsidiaries from exporting wheelchairs to the United States, and is required to inform its foreign subsidiaries not to restrict export sales to the United States and to actively seek opportunities for such sales. The Final Judgment is to be effective for ten years and imposes reporting requirements on Everest & Jennings to insure compliance.

Public comment is invited within the statutory 60 day comment period. All comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Douglas E. Rosenthal, Chief, Foreign Commerce Section, Antitrust Division, Department of Justice, Washington, D.C. 20530.

Dated: May 10, 1978.

CHARLES F. B. MCALEER,
Special Assistant for Judgment Negotiations Office of Operations.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International, Everest & Jennings, Inc. and the Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.

Filed: May 10, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings: *Provided*, That plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice on the defendant and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this stipulation, this stipulation shall be of no effect whatever, and the making of this stipulation shall be without prejudice to plaintiff and defendants in this or any other proceeding.

Dated: May 10, 1978.

For Plaintiff: John H. Shenefield, Assistant Attorney General; William E Swope, Charles F. B. McAleer, Douglas E. Rosenthal, Carl A. Cira, Jr., Richard E. Grimm, O. Russel Murray, David J. Eiseman, Carolyn D. Wulfsberg.

For Defendants: Walter T. Kuhlmey, John S. Wilson, Jr., Thomas P. Coffey, Volney F. Morin, Volney F. Morin, Jr.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International; Everest & Jennings, Inc., and the Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.

Filed: May 10, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its complaint herein on May 6, 1977; plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any party hereto with respect to any such issue; and this Court having determined that there is no just reason for delay in entering a Final Judgment against the consenting defendants:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence or admission by any pary hereto with respect to any such issue, and upon consent of the parties hereto it is hereby

Ordered, adjudged and decreed as follows:

I

JURISDICTION AND VENUE

1. This Court has jurisdiction of the subject matter hereof and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against the defendant under Section 2 of the Sherman Act (15 U.S.C. 2)

2. Each of the defendants transacts business and is found within the Central District of California.

II

DEFENDANTS

As used in this Final Judgment, "defendants" means:

1. Everest & Jennings International ("E&J International"), a California corporation formed September 15, 1967 with its present principal place of business in Los Angeles, California.

2. Everest & Jennings, Inc. ("E&J Inc."), a California corporation formed in 1946 and engaged in the manufacture and sale of wheelchairs in the interstate and foreign commerce of the United States with its present principal place of business in Los Angeles, California. E&J Inc. is presently 100 percent owned by E&J International.

3. Jennings Investment Company ("Jennings"), a California corporation, formed in 1955, with its present principal place of business in Los Angeles, California. Jennings is presently 100 percent owned by E&J Inc.

III

The provisions of this Final Judgment shall apply to defendants and to each of their directors, officers, agents, employees, subsidiaries, and the successors and assigns of each, and to all persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

DEFINITIONS

As used in this Final Judgment:

1. A wheelchair is a chair-like device, mounted on wheels, which provides handicapped persons with mobility, and which most commonly consists of a seat and accessories mounted on two sets of wheels, two large spoked wheels on either side of the seat and two small caster-type wheels in front. A wheelchair may be of various weights, constructed with various materials and incorporate various characteristics, such as foldability for ease handling. A wheelchair may also be electrically powered. The term "wheelchair" as used in this Final Judgment shall include wheelchairs, attachments and accessories as well as replacement parts.

2. Person means any individual, firm, partnership, corporation, or other entity.

V

Defendant are enjoined and restrained from directly or indirectly entering into, adhering to, enforcing, claiming any rights under or in any way maintaining or attempting to secure any contract, agreement or understanding with any other person, including any of their foreign subsidiaries, with respect to the manufacture or sale of wheelchairs:

1. To limit or restrict imports into the United States,

2. To allocate, divide or restrict customers, sales territories or product markets in the United States, or

3. To refuse to sell to any person in any sales territory or geographic market in the United States.

VI

Defendants are enjoined and restrained from directly or indirectly preventing or inhibiting their foreign subsidiaries from:

1. Exporting wheelchairs to the United States,

2. Selling wheelchairs to any person or entity for shipment to the United States.

VII

Within 10 days of the entry of the Final Judgment, defendants shall, in the form of the letter attached hereto, inform the management and directors of each of their foreign subsidiaries that defendants have established the following policies, which shall remain in effect for a period of 10 years:

1. Export sales to the United States of wheelchairs manufactured by those subsidiaries are not to be restricted in any way;

2. Any arrangements between any such subsidiaries and defendants, whereby E&J, Inc. or any other defendant has exclusive distribution rights in the United States for wheelchairs manufactured by such subsidiary, are terminated, and no such arrangements shall exist for the term of this Final Judgment;

3. Opportunities to export wheelchairs manufactured by each subsidiary to the United States shall actively be sought by the management of each;

4. Each subsidiary shall have full discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales;

6. Each subsidiary is free to use trademarks other than trademarks owned by Everest & Jennings for wheelchairs to be sold into the United States; and

7. Each subsidiary shall inform its management and sales employees of these policies.

VIII

Annually, on the anniversary of the entry of this Final Judgment, defendants shall submit a written report to the plaintiff as follows:

1. For each foreign subsidiary which has not yet commenced sales of wheelchairs into the United States, defendants shall report:

(a) The reasons why such sales have not been made,

(b) The efforts made during the reporting year to explore and develop such sales possibilities, and

(c) All inquiries received concerning U.S. sales together with the response to each;

2. For each foreign subsidiary which shall have made U.S. wheelchair sales in the reporting year:

(a) The numbers and lines, types, or models sold,

(b) The persons in the United States to whom or through whom such sales were made, and

(c) The dollar amount of such sales.

IX

Defendants are enjoined and restrained from preventing or restraining, by agreement or otherwise, any person from acting as a dealer or distributor in the United States of wheelchairs made or sold by any person (including any of defendants' foreign subsidiaries) other than defendants.

X

For a period of one year from the date of entry of this Final Judgment, defendants shall immediately provide a copy of a current list of all of their dealers in the United States to any person who requests one at no cost to the requestor.

XI

Defendants and their subsidiaries are enjoined from the acquisition of any financial, equity or management interest in any other person manufacturing or selling wheelchairs in the United States, Canada, Western Europe or the British Isles without the prior approval of the plaintiff.

XII

Defendants shall provide a copy of this Judgment to all of their dealers, all of defendants' subsidiaries, and to all Veterans Administration Hospitals within 60 days of its entry by the Court. For a period of five years thereafter, defendants shall, within 30 days of the appointment of any new dealer, provide such dealer with a copy of this Final Judgment.

XIII

On the basis of this Final Judgment the Department of Justice will not recommend the filing, on behalf of any other agency of the United States Govenment, of any antitrust action based on the allegations of the complaint in this action.

XIV

A. For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, partners, or employees of such defendant, who may have counsel present, regarding any such matters.

B. A defendant, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Divisioin, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

C. No information obtained by the means provided in this Section XIV or by Section VIII above shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States Government, except in the course of legal proceedings in which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or for law enforcement purposes, or as otherwise required by law.

D. If at the time informatioin or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or ducumentds which is of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Rule 26(c)(7) protection claimed", then ten (10) days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which that defendant is not a party.

XV

Jurisdiction is retained by this Court for the purpose of enabling any of the parties consenting to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XVI

This Judgment shall be of no force or effect beyond ten years from the date of its entry.

XVII

Entry of this Judgment is in the public interest.

Dated: Los Angeles, Calif., ————————, 1978.

————————,

United States District Judge.

ATTACHMENT

[Everest & Jennings International letterhead]

DEAR ————: Pursuant to Paragraph VII of the Final Judgment entered by the Court settling the law suit brought by the U.S. Department of Justice, a copy of which is attached, you are informed that Everest & Jennings International, Everest & Jennings, Inc., and The Jennings Investment Co. have established the following policies, which will remain in effect for a period of 10 years:

1. Export sales to the United States of wheelchairs manufactured by Ortopedia GmbH, Everest & Jennings Canadian Ltd., Everest & Jennings Ltd. (England), and Arva-Everest & Jennings S.A. de C.V. are not to be restricted in any way;

2. Any arrangements between any or all of the four subsidiaries and Everest & Jennings International, Everest & Jennings, Inc., or The Jennings Investment Co. whereby any of the latter have exclusive distribu-

tion rights in the United States for wheelchairs manufactured by any of the four subsidiaries are terminated, and no such arrangements shall exist for a period of 10 years;

3. The management of each subsidiary is directed to actively seek opportunities to export wheelchairs to the United States;

4. Each subsidiary shall have full discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales; and

6. Each subsidiary is free to use trademarks other than Everest & Jennings trademarks for wheelchairs sold into the United States.

You are to inform all management and sales personnel of these policies. In addition, you are directed to maintain records of export sales of wheelchairs to the United States by lines, types or models sold and the names of the persons in the United States to whom or through whom such sales were made, records of your efforts during each year to explore and develop such sales, and records of all inquiries received concerning U.S. sales together with your response to each such inquiry.

Sincerely,

BRUCE C. BLICKENSDERFER,
Executive Vice President.

Carl A. Cira, Jr., Richard E. Grimm, O. Russel Murray, David J. Eiseman, *Antitrust Division*, U.S. Department of Justice, Washington, D.C. 20530, telephone 202-739-4428.

Carolyn D. Wulfsberg, *Antitrust Division*, U.S. Department of Justice, 3101 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012, telephone 213-688-2504, *Attorneys for Plaintiff.*

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Everest & Jennings International, Everest & Jennings, Inc.*, and *The Jennings Investment Co.*, Defendants.

Civil No. 77-1648-R.
Filed: May 10, 1978.

COMPETITIVE IMPACT STATEMENT

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INTRODUCTION

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), the United States of America files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

The three defendants, though distinct corporate entities, are essentially operated as one firm by their officers and directors. The three corporations are indistinguishable for all purposes of this Final Judgment and as used herein the term "Everest & Jennings" refers to any or all of the defendants.

The United States and the defendants have agreed, in a Stipulation, that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16(e)), entry of the Judgment by the Court is conditioned upon its determination that the Judgment is in the public interest.

THE NATURE AND PURPOSE OF THE PROCEEDING

The complaint, filed May 6, 1977, charges Everest & Jennings with violating Section 2 of the Sherman Act, 15 U.S.C. 2, by monopolizing and attempting to monopolize since 1955 the manufacture and sale of wheelchairs and submarkets thereof in the United States. The complaint sought equitable relief under 15 U.S.C. 4 to prevent continuing violations of the Sherman Act by Everest & Jennings, the effects of which have been to restrain actual and potential competition in the manufacture and sale of wheelchairs in the United States.

II

EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

By the early 1950's, Everest & Jennings sold more than 70 percent, in both unit and dollar volume, of all wheelchairs marketed in the United States. At trial, the United States would have contended that since 1955 Everest & Jennings has engaged in conduct intended to prevent its dominant market postition from being eroded by competition from new entrants into the United States wheelchair market.

The foremost example of such conduct involved Everest & Jennings' dealings with Franklin I. Saemann. In 1955, Saemann was a successful manufacturer of rehabilitation equipment in the United States and England. He owned two rehabilitation or orthopedic equipment manufacturing companies—Orthopedic Equipment Co., Bourbon, Ind., and Zimmer Orthopaedic Ltd., England—and had begun formation of a third such company, Ortopedia in Germany.

From the early 1950's, Mr. Saemann had planned to begin manufacturing wheelchairs in Europe. Since wheelchairs and rehabilitation equipment are marketed in similar manners, Mr. Saemann's considerable expertise in the manufacture and sale of rehabilitation equipment rendered him well qualified to engage in the manufacture and sale of wheelchairs.

In April, 1955, Everest & Jennings entered into agreements with Saemann which transformed Zimmer and Ortopedia into joint ventures for the manufacture of wheelchairs as well as rehabilitation and orthopedic equipment. Under the agreements, Everest & Jennings acquired 50 percent voting interests in both companies and the exclusive distributorship rights in the United States and Canada for wheelchairs manufactured by the joint ventures. The agreements also provided for the exchange of know-how and other assistance in the parties' respective areas of expertise.

At trial, the United States would have contended that a parol agreement not to compete in their respective product areas in the United States accompanied the formal joint venture agreement. The existence of such an understanding was evidenced by the subsequent actions and statements of the parties.

By 1960, only five years after their formation, the two joint ventures were the largest volume wheelchair manufacturers in Europe and were among the largest in the world. Although both companies have exported large volumes of wheelchairs throughout the world, Everest & Jennings did not permit them to export wheelchairs into the United States or Canada during their 20-year life.

The complaint in this action alleged that by entering into the joint venture agreements with Saemann, Everest & Jennings intended to prevent him from entering the United States market with foreign- or domestic-made wheelchairs.

A second instance of exclusionary conduct by Everest & Jennings involved its 1962 acquistion of the Johnson Wheelchair Manufacturing Co., Ltd. ("Johnson"), then Canada's only wheelchair manufacturer. At the time of the acquistion, Johnson, which has been known as Everest & Jennings Canadian, Ltd. since the acquistion, was a potential entrant into the United States wheelchair market. Since 1962, the new company has not sold any wheelchairs in the United States.

In 1969, Everest & Jennings acquired control over Mexico's only significant wheelchair manufacturer, Industrias Arva, S.A. which is now known as Arva-Everest & Jennings S.A. de C.V. Like Everest & Jennings Canadian, Ltd., Arva-Everest & Jennings has not exported any wheelchairs into the United States.

Finally, in 1967, Everest & Jennings embarked on an effort to gain full control over the Zimmer and Ortopedia joint ventures. This effort was opposed by Saemann and litigation resulted. This litigation was settled in 1975 by an agreement under which Everest & Jennings took full control over Ortopedia, and Mr. Saemann took over full ownership of Zimmer, the smaller of the two companies. The settlement left Everest & Jennings at the helms of two of the world's three largest manufacturer's of wheelchairs, including the largest in Europe and the largest in North America. Consistent with its conduct prior to the settlement, Ortopedia has not entered the United States wheelchair market following the settlement.

As a result of the above-described conduct, Everest & Jennings has been able to retain its dominant position in the United States wheelchair market and in submarkets for the production and sale of relatively expensive wheelchairs sold to long-term handicapped individuals. Only eight manufacturers have made wheelchairs in any significant quantities in the United States since 1950. The seven companies still in business sold $44.9 million in wheelchairs, including parts and accessories, in 1976, of which total more than half was accounted for by Everest & Jennings. Invacare Corp. of Elyria, Ohio, the largest manufacturer after Everest & Jennings, accounts for substantially less than half of Everest & Jennings' sales volume in dollars. The six other manufacturers combined have only about 15 percent of the market. Only two of Everest & Jennings' six American competitors, Invacare

and Stainless, have ever manufactured or sold premium, custom and prescription wheelchairs in more than a negligible volume. The only foreign company which is a factor in the United States is Biddle Engineering Co. of Britain which sells a limited number of specialized motorized wheelchairs.

Everest & Jennings' share of the overall United States wheelchair market has declined from a level of approximately 70 percent in the 1950's and 1960's to about 60 percent in dollar sales over the last five years. Such a decline has not been evident in its share of the submarkets consisting of the production and sale of premium, custom and prescription wheelchairs. Everest & Jennings' power in these submarkets has been maintained largely through concentrating its major marketing efforts on dealer, doctor and therapist indoctrination. Its entrenched position with the country's major medical equipment dealers has also been a key factor in Everest & Jennings' ability to maintain its market and submarket strength.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed judgment seeks to dissipate the effects of the above-described conduct and to ensure that Everest & Jennings' subsidiaries, as well as other domestic and foreign wheelchair manufacturers, can compete freely in the United States. The judgment's main thrust is to encourage and enable Everest & Jennings' independently managed foreign subsidiaries to actively compete in the United States. This is an innovative form of relief which should serve as a precedent in future cases where dominant United States firms have ownership interests in potential competitors abroad. The relief embodied in the proposed judgment should serve the public interest by providing additional alternatives to United States wheelchair purchasers.

Section V of the proposed judgment proscribes certain types of agreements between Everest & Jennings and other persons, including any of Everest & Jennings' own foreign subsidiaries. Specifically forbidden are agreements which (1) limit or restrict imports into the United States, (2) allocate sales markets, whether by customer, territory or products, in the United States, or (3) prevent sales to certain customers or in certain territories in the United States.

Section VI of the proposed judgment prohibits unilateral conduct which would prevent or inhibit any foreign subsidiary of Everest & Jennings from exporting wheelchairs into the United States or from selling wheelchairs in a foreign country for shipment into the United States.

The principles embodied in the proscriptions of Section VI are imposed affirmatively in Section VII. Everest & Jennings is required to adopt certain policies and communicate those policies to its foreign subsidiaries in a letter, the form of which is attached to the proposed judgment. These policies are that:

1. Export sales to the United States of wheelchairs manufactured by Ortopedia G.m.b.H., Everest & Jennings Canadian, Ltd., Everest & Jennings, Ltd. (England), and Arva-Everest & Jennings S.A. de C.V. are not to be restricted in any way;

2. Any arrangements between any or all of the four subsidiaries and Everest & Jennings International, Everest & Jennings Inc., or Jennings Investment Co. whereby any of the latter have exclusive distribution rights in the United States for wheelchairs manufactured by any of the four subsidiaries are terminated, and no such arrangements shall exist for a period of 10 years;

3. Opportunities to export to the United States wheelchairs manufactured by each subsidiary shall actively be sought by the management of each;

4. Each subsidiary shall have complete discretion concerning the prices, terms, and conditions of export sales of wheelchairs into the United States;

5. Each subsidiary shall have full discretion to designate its own distributors and dealers for United States sales; and

6. Each subsidiary is free to use trademarks other than Everest & Jennings trademarks for wheelchairs sold into the United States.

Perhaps the most significant provision of Section VII is the requirement that defendants direct the subsidiaries to actively seek opportunities to export to the United States.

Section VIII is an annual reporting provision to enable the Justice Department to monitor compliance with the provisions of Sections V, VI, and VII. Each year, Everest & Jennings must report the activity and progress of its foreign subsidiaries in attempting to sell wheelchairs in the United States. If a subsidiary has not as of the date of the report made such sales, Everest & Jennings is required to report the reasons why no sales were made, the efforts made during the reporting year by the subsidiary to explore and develop sales in the United States, and the disposition of every inquiry received by the subsidiary concerning sales in the United States. If a subsidiary has made sales in the United States during the reporting year, Everest & Jennings shall report the number of chairs sold by specific line, type or model and the dollar amounts, plus the direct purchasers or agents for the subsidiary's sales in the United States.

Section IX of the Judgment bars Everest & Jennings from discouraging wheelchair dealers in the United States from carrying wheelchairs manufactured by any competitor, including any of defendants' foreign subsidiaries. Discovery has indicated to the Justice Department that the extensive sales network of loyal dealers that Everest & Jennings has developed over the years may inhibit sales penetration by smaller competitors and potential entrants. While the Justice Department has no reason to believe that Everest & Jennings has required dealers to discriminate against competitors, this measure is imposed as a safeguard for the future to prevent Everest & Jennings from capitalizing for anticompetitive purposes on its relatively entrenched position with dealers.

Section X of the decree obliges Everest & Jennings for one year to give an up-to-date copy of a list of its dealers in the United States to anyone who seeks it. The list must be provided immediately upon request and at no cost to the requestor. This measure is intended to facilitate competition by manufacturers for sales to major wheelchair dealers. Doctors, therapists and consumers interested in influencing dealers to carry a greater variety of wheelchairs could also find this list helpful.

Section XI enjoins Everest & Jennings and its subsidiaries from acquiring any interest in any other wheelchair manufacturer in the United States, Canada, Western Europe or the British Isles without advance Justice Department approval.

Section XII obligates Everest & Jennings to send a copy of the Final Judgment to each of its dealers, to each of its subsidiaries, and to all Veterans Administration hospitals. This requirement ensures that the Final Judgment's provisions will be known to the trade, to doctors and therapists, and to volume purchasers and that those most likely to be interested in exploring purchases of wheelchairs from Everest & Jennings' foreign subsidiaries will be alerted to the possibility.

Section XIII states that on the basis of the Final Judgment the Department of Justice will not recommend the filing, on behalf of any other agency of the United States Government, of any antitrust action based on the allegations of the complaint in this action. This was agreed upon, in large part, because of doubts about the appropriateness of subjecting defendants to a second wave of government litigation based upon the same alleged facts. Further, any damage action on behalf of the Veterans Administration (VA), the most important Federal purchaser of wheelchairs, raised possible defenses based on that agency's "Buy American" policy and the fact that most VA purchases of wheelchairs for individual veterans are made from dealers rather than from manufacturers.

Section XIV is a provision giving the Department of Justice visitation rights to request documents, interviews or reports from Everest & Jennings relating to any of the matters contained in the Final Judgment. This section also controls the use by the Justice Department of any materials or information obtained under Sections VIII and XIV.

Section XV provides that the Court will retain jurisdiction over the parties to the Judgment for enforcement purposes.

Section XVI is a provision terminating the Final Judgment's coverage after 10 years. After that point, it is expected that normal market forces will suffice to assure a competitive climate in this industry. If not, further action may be considered.

IV

EFFECTS OF THE PROPOSED JUDGMENT ON COMPETITION

The object of this Final Judgment is to improve competitive opportunities in the United States for domestic and foreign manufacturers of wheelchairs.

In addition to the general prohibitions against restraints of trade, which should encourage a healthy competitive environment in the relevant markets and submarkets, the Final Judgment anticipates certain specific procompetitive effects. The availability in the United States of wheelchairs manufactured by Everest & Jennings' foreign subsidiaries will help to dissipate the remaining restrictive effects of the 1955–1975 European joint venture agreements and the companion noncompetition agreement between Everest & Jennings and Franklin I. Saemann. Ortopedia and Everest & Jennings Canadian, Ltd. have long been vigorous, largely independent operations. They are capable, in the opinion of the Justice Department, of organizing and managing an export sales effort of the type needed to place their wheelchairs competitively in the United States market. Defendants' recently formed subsidiary in England, Everest &

Jennings Ltd., the managment of which is sophisticated in the production and marketing of wheelchairs, also should be capable of commencing export of wheelchairs to the United States within the period of this Judgment. The degree to which consumers stimulate demand for the subsidiaries' products will, of course, also be important in determining the ultimate extent of export activity by the subsidiaries.

Wheelchairs manufactured by the Mexican subsidiary and, especially, by the Canadian subsidiary should be price competitive in a wide geographic area with Everest & Jennings wheelchairs shipped from Los Angeles.

Wheelchairs made by Zimmer, now 100 percent owned by Saemann, have been exhibited and marketed in a preliminary manner in this country since mid-1977. There are also indications that Saemann's Orthopedic Equipment Co. of Bourbon, Ind. may be preparing to begin manufacturing wheelchairs in the United States. Potential sales of wheelchairs by Orthopedic Equipment Co. would inject further competition into the present U.S. market. The Final Judgment may well aid entry of Zimmer wheelchairs, as well as sales by other domestic and foreign competitors, by publicizing the availability of alternatives to Everest & Jennings.

The Judgment also assists present and future competitors in the United States market by assuring that Everest & Jennings will not move to cause its non-exclusive dealers to reject dealerships for other wheelchair manufacturers' products. This provision permits competitors, foreign and domestic, to compete for sales to successful and experienced wheelchair dealers.

V

REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Potential private plaintiffs who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and other equitable remedies that they would have had if the proposed Final Judgment had not been entered. However, pursuant to Section 5(a) of the Clayton Act, amended 15 U.S.C. 16(a), the judgment may not be used as *prima facie* evidence in private litigation.

DESCRIPTION OF PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment is subject to a stipulation by and between the United States and Everest & Jennings, which provides that the United States may withdraw its consent to the proposed Final Judgment at any time before the Court has found that its entry is in the public interest. By its terms, the Final Judgment provides for retention of jurisdiction of this action in order, among other things, to permit the parties to apply to the Court for such orders as may be necessary or appropriate for modification.

As provided by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), any person wishing to comment upon the Final Judgment may, for a 60-day period, submit written comments to Douglas E. Rosenthal, Chief, Foreign Commerce Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. The Department will file with the Court and publish in the FEDERAL REGISTER all such comments together with its response to them, and will carefully evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed Final Judgment.

VII

DESCRIPTION AND EVALUATION OF ALTERNATIVES TO THE PROPOSAL ACTUALLY CONSIDERED BY THE UNITED STATES

In formulating the proposed Final Judgment, the United States considered alternate provisions. The most significant was a requirement that Everest & Jennings divest itself of Everest & Jennings Canadian, Ltd. This would have created another viable independent wheelchair manufacturer, located closer to most major United States population centers than Everest & Jennings itself, capable of producing wheelchairs equal in quality to those of Everest & Jennings. However, divestiture would not have been attainable without a full trial. The opportunity to settle the litigation without divestiture, but on terms reasonably likely to dissipate the remaining anticompetitive effects from Everest & Jennings' activities, was in our judgment the proper alternative.

Our ability to prevail on the merits after a trial and to obtain the requested divestiture relief was called into some question by the decline of Everest & Jennings' share of the overall wheelchair market described above. Although this decline may have been offset factually by Everest & Jennings' continued dominance in the production and sale of premium, custom and prescription wheelchairs, our discovery to date has revealed the existence of substantial problems in establishing the existence and bounds of truly distinct submarkets in these types of specialized chairs.

Additionally, we believe the proposed Final Judgment further lessens the competitive need for divestiture, since wheelchairs manufactured by Everest & Jennings Canadian, Ltd. can reach the United States market under the requirements of Sections VI, VII, and VIII. Another recently formed and so far successful Canadian wheelchair manufacturer, Canadian Wheelchair Co., is also believed to be considering entry into the United States market. Thus, the major anticipated competitive benefit that might have resulted from divestiture of Everest & Jennings Canadian, Ltd. may be achieved by entry of these two firms into the United States market. Since divestiture would not have carried any guarantee that the divested company would enter the American market, the provisions of Sections VI, VII, and VIII come much closer to assuring new competition from abroad.

The Justice Department also considered a specific prohibition against resale price maintenance by Everest & Jennings on the basis of some limited evidence that Everest & Jennings may have pursued such a policy in the late 1950's and early 1960's. However, no evidence has been found that any such practice currently is being followed. Therefore, we have concluded that there is no compelling reason for such a provision in the Judgment.

VIII

OTHER MATERIALS CONSIDERED

There are no materials or documents which the Government considered determinative in formulating the proposed Final Judgment. Therefore, no such materials are being filed along with this Competitive Impact Statement.

Dated: Washington, D.C. May 10, 1978.

Respectfully submitted,

CARL A. CIRA, Jr.,
RICHARD E. GRIMM,
O. RUSSELL MURRAY,
DAVID J. EISEMAN,
CAROLYN D. WULFSBERG,
Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530, 202-739-2464.

[FR Doc. 78-13572 Filed 5-18-78; 8:45 am]

[4410-01]

Law Enforcement Assistance Administration

NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE

Notice of Solicitation

The National Institute of Law Enforcement and Criminal Justice announces a competitive research grant program to conduct an evaluation of a program to manage patrol operations (MPO).

The primary goals of the evaluation program are:

1. To assess the usefulness of a set of analytic techniques and a training program for identifying and defining patrol performance objectives and patrol strategies to meet those objectives.

2. To determine the degree to which the execution of these patrol strategies leads to the achievement of performance objectives.

3. To identify and describe the factors which hinder and facilitate successful implementation of the program.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be postmarked no later than June 22, 1978. All grants are planned for award in September 1978 with funding support not to exceed $425,000 or 24 months in duration for individual grants. Because this is a research grant program, profit making organizations are prohibited by LEAA policy from receiving funding support.

Further information and copies of the solicitation can be obtained by contacting Rosemary Murphy or Phillip Travers, Office of Program Evaluation, NILECJ, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3824.

BLAIR G. EWING,
Acting Director, NILECJ.

[FR Doc. 78-13570 Filed 5-18-78; 8:45 am]

[4410-01]

NATIONAL MINORITY ADVISORY COUNCIL ON CRIMINAL JUSTICE

Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will hold its regular quarterly meeting on June 9 and 10, 1978. The meeting will be held at the Atlanta American Motor Hotel, Atlanta, Ga. The meeting is scheduled to run from noon until adjournment on the 9th and from 9 a.m. until adjournment of the 10th. The two sessions will center on the methodology to be utilized on accomplishing the national needs assessment of minorities and their relationship with the criminal justice system. The meeting is open to the public.

Any one wishing additional information should contact Frank de la Fe, Project Monitor, 633 Indiana Avenue NW., Washington, D.C. 20531. Telephone number 202-376-3868.

FRANK DE LA FE,
Profect Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 78-13571 Filed 5-18-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within 2 weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 12th day of May 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAY 12, 1978

Name of applicant, location of enterprise, and principal product or activity

Robinson Nursing Home, Gardiner, Maine; nursing home care.
Aroostook Health Center, Mars Hill, Maine; nursing home care.
Douglas M. Rader, Summersville, W. Va.; restaurant.
Health Care Fund (Holbrook Nursing Home), Buckhannon, W. Va.; nursing home.
Sam George Kapourales, Williamson, W. Va.; bowling alley.
Hink's Foods, Inc., Somerset, Ky.; supermarket.
De Soto House, Inc., Galena, Ill.; tourist accommodations.
Clark Weatherwax, Jr., Moulton, Ala.; supermarket.
Atlas Pallet, Inc., Brandenburg, Ky.; manufacture of wooden pallets.
Schwerman Trucking Co., Russellville, Ky.; trailer repair and modification.
Modevco, Inc., Bowling Green, Madisonville, and Berea, Ky.; motels.
Lynn L. Thompson, Fulton, Ky.; motel.
Locke Industries, Inc., Bowling Green, Ky.; manufacture of brush block and wood and canvas chairs.
Cutrer Inc., Alma, Ga.; installation, repair and maintenance of heavy machinery and equipment.
Ducane Heating Corp. (tenant of town of Blackville), Blackville, S.C.; manufacture of heating furnaces.
Falcon Industries, Inc. (tenant of town of Estill), S.C.; manufacture of rubber and PVC coated fabric protective clothing.
Pine Grove Nursing Home, Soldiers Grove, Wis.; nursing home.
McNeilus Truck & Manufacturing, Inc., Dodge Center, Minn.; manufacture of concrete mixers.
Boylan Enterprises, Inc. Plainwell, Mich.; sales, leasing and service of golf cars.
Apache Stainless Equipment Corp., Beaver Dam, Wis.; design, manufacture and installation of food processing equipment.
Babbitt Hardware & Lumber, Inc., Babbitt, Minn.; sales of building material, hardware, home furnishings.
General Housing Corp., Bay City, Mich.; manufacture of modular houses.
East Central Farmers Union Grain Association; Cambridge, Minn.; grain handling and grain storage facility.
J&L Super Valu, Inc. Park Rapids, Minn.; supermarket.
W. Va. Welding Supply Co. & Clarksburg Compressed Gas Co., Clarksburg, W. Va.; welding supply and compressed gas company.
Country Squire Restaurant, Inc., Fairmont, Minn.; restaurant.
Le Sueur Cheese Co., Inc., Le Sueur, Minn.; manufacture of cheddar cheese.
Treeline Corp., Chippewa Falls, Wis.; construction—residential and commercial.
David Archie Keller, Bedford, Ind.; fast food service.
Arcadia Furniture Corp., Arcadia, Wis.; manufacture of vinyl covered fiberboard coffee tables and miscellaneous furniture.
Oilfield Production Specialists, Inc., Center, Tex.; manufacture of gas and gas oil well separation equipment, storage tanks and heater treaters.
Fasco Fabricators, Inc., Covington, La.; manufacture of stainless steel, aluminum, and steel enclosures.
Retzer & Retzer, Inc., Colfax, La.; manufacture of pine bark mulch and chips.
Pearson Enterprises, Inc., Pineville, La.; retail and wholesale of pharmaceutical drugs.
Wilds Fish Farm, Inc., El Reno, Okla.; restaurant, smoke house, and mill shed.
Bear Creek Inn, Junction, Tex.; motel.
Farmer Brown's, Inc., Dallas, Tex.; restaurant.
Rancher's Markets Athens Processing Plant, Inc., Athens, Tex.; beef slaughtering house.
D&J Electronics, Inc., Pittsburgh, Kans.; sales, service, installation of burglar alarm, fire alarm, music systems and other related electronic services.

L&K Manufacturing, Inc., Caruthersville, Mo.; manufacturer of gooseneck and bumper pull trailers.
Beto Junction Truck Plaza, Inc., Lebo, Kans.; sales of diesel fuel and gasoline.
Gunnison Valley Care Center, Inc., Gunnison, Utah; nursing home services.
Morrison Petroleum Co., Inc., Woods Cross, Utah; refining of crude oil into finished products.
Walter Karolak, Eloy, Ariz.; restaurant.

[FR Doc. 78-13507 Filed 5-18-78; 8:45 am]

[4510-43]

Mine Safety and Health Administration

ADVISORY COMMITTEE TO REVIEW ADVISORY METAL AND NONMETALLIC MINE HEALTH AND SAFETY STANDARDS

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, and under section 301(b)(2) of the Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95-164, enacted November 9, 1977, notice is hereby given that the Advisory Committee to Review Advisory Metal and Nonmetallic Mine Health and Safety Standards will reconvene beginning at 9 a.m. on Monday, June 5, 1978, and continue each day thereafter through Friday, June 9, 1978, at Conference Room S-52, New Labor Department Building, 3rd and C Streets NW., Washington, D.C. 20210.

It is possible that the Advisory Committee will complete its agenda during the meeting scheduled for May 22 through May 25, 1978. Notice of this meeting was published in the FEDERAL REGISTER on Friday, May 5, 1978 (43 FR 19477). Should the Advisory Committee complete all actions remaining on its agenda during the May meeting, a supplemental notice will be published in the FEDERAL REGISTER terminating the meeting of the Committee in June.

The meetings of the Advisory Committee are open to the public and approximately 50 seats are available on a first-come-first-served basis. Any member of the public may file a written statement with the Advisory Committee before and during the public meetings. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meetings.

Copies of the agenda are available for examination by the public at the office of Frank J. Delimba, Executive Secretary, Room 703, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, telephone 703-235-8597. For further information, or for submission of written statements and comments, contact the Executive Secretary.

Dated: May 15, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13711 Filed 5-18-78; 8:45 am]

[4510-43]

[Docket No. M-78-21-M]

ALBION VEIN SLATE CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Albion Vein Slate Co., Inc., Teel's Hill, R.D., Pen Argyl, Pa., has filed a petition to modify the application of 30 CFR 57.19-7 (hoists), to its Albion Vein Slate Quarry Mine, located in Northampton County, Pa., in accordance with section 1019c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) Petitioner proposes to use a second fully qualified hoist engineer when men are being lowered into or hoisted out of the quarry instead of using a mechanical device to prevent overspeed or overtravel. The auxiliary engineer would be stationed immediately next to the operating engineer as a standby in the event of a sudden health problem of the operating engineer.

(2) The danger of overtravel is more effectively removed by the presence of a standby engineer.

(3) The use of a mechanical device could cause the man box to be suspended in mid-air, thereby creating an increased and unnecessary hazard.

(4) There is no danger of overspeed because the speed of travel is less than 100 feet a minute.

(5) Friction bands on the hoist drum and endless drum provide a natural and constant braking power.

(6) For the reasons set forth above, the Petitioner requests that the requirements of 30 CFR 57.19-7 be modified for the Albion Vein Slate Quarry. The permanent variance would apply to the entire quarry hole; however, the raising and lowering of the hoist would occur only in that part of the hole that is being worked at any one time.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 19, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 10, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13686 Filed 5-18-78; 8:45 am]

[4510-43]

[Docket No. M-78-68-C]

HI TOP COAL CO., INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that Hi Top Coal Co., P.O. Box 430, Clintwood, Va. 24228, has filed a petition to modify the application of 30 CFR 75.1710-1 (cabs and canopies), to its No. 1 Mine, located in Wise County, Va., in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of Petitioner's statement is as follows:

(1) When tramming a shuttle car, the operator is forced to lean his head and shoulders outside of the canopy because his vision is obstructed.

(2) On the off-standard car, when the operator pulls under the boom of the miner, the miner helper is impossible to see.

(3) When a shuttle car is being loaded, the operator is forced to control his car by standing alongside it rather than from the driver's seat.

(4) For the reasons set forth above, Petitioner requests that modification of 30 CFR 75.1710-1 be granted so that shuttle cars at the No. 1 Mine can be operated without canopies.

REQUEST FOR COMMENTS

Persons interested in this petition may furnish written comments on or before June 19, 1978. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

Dated: May 10, 1978.

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.

[FR Doc. 78-13687 Filed 5-18-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Meeting

Notice is hereby given that the Standards Advisory Committee on Cutaneous Hazards will meet on May 30 and 31. On May 30, the Committee will meet in Greenfield Room No. 1 of

the Dearborn Inn, 20301 Oakwood Boulevard, Dearborn, Mich. A field trip is planned for the morning of May 31 to the General Motors Hydramatic Division, Willow Run, Mich. The Committee will return to Greenfield Room No. 1 of the Dearborn Inn for its afternoon meeting on May 31.

The Standards Advisory Committee on Cutaneous Hazards was established under section 7(b) of the Occupational Safety and Health Act of 1970 (Pub. L. 91-596) to assist the Secretary of Labor in his standards-setting function.

On May 30, the Committee will hear status reports from its three working groups. Also, representatives from the chemical industry will address the Committee about how they handle materials which may cause skin or eye problems. A portion of the afternoon session will be given to discussion in preparation for the next day's field trip. The meeting will begin at 9 a.m.

On May 31, the Committee will meet in the Manager's Conference Room at the General Motors Hydramatic Division at 9 a.m. After a briefing by plant personnel on the factory's operations and products, the Committee will tour the facility. When the tour has been completed, the Committee will return to the Manager's Conference Room to discuss what they have seen. At approximately 2 p.m., the Committee will reconvene in Greenfield Room No. 1 to continue discussion of the morning's plant visit.

Opportunity will be provided for participation by the public in the tour of the General Motors facility, to the extent feasible. Because of the limited number of seats in the vehicles to be used to transport the Committee, a maximum of three members of the public can be included in the tour. In order to determine which members of the public will participate, the Committee's staff will select names in a random drawing from those received by May 24. Anyone who wishes to accompany the Committee should submit his name by mail, telephone, or in person, along with his telephone number, to: Mr. Stephen Kaffee, OSHA Division of Consumer Affairs, Room N-3635, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8024.

To provide a permanent record of the tour for those unable to participate, a court reporter will accompany the Committee and prepare a verbatim transcript of the proceedings. In addition, detailed minutes of the tour will be prepared and made available to the public.

The Occupational Safety and Health Administration must reserve the right to close to the members of the public accompanying the Committee any portion of the tour where trade secrets might be jeopardized by public participation. The decision to exclude public participation will be made in compliance with section 8(d)(2) of OMB Circular A-63, according to the criteria established under 5 U.S.C. 552(b).

The public is invited to attend all other portions of the Committee's proceedings. For additional information contact Mr. Stephen Kaffee at the address and telephone given above.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation to the Committee should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

NOTE.—It was not possible to meet the requirement for 15 days' advance notice of this meeting because of difficulties encountered in arranging the plant visits which the Committee had requested for May 31. Negotiations with two corporations besides General Motors continued until May 15, when they were finally abandoned and the current plan determined. Because of the limited term of the Committee's charter and the other commitments of its members, it was not possible to reschedule the meeting or the tour.

Signed at Washington, D.C., this 16th day of May 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-13712 Filed 5-18-78; 8:45 am]

[4510-20]

Office of the Secretary

MINIMUM WAGE STUDY COMMISSION

Public Meeting

The first meeting of the Minimum Wage Study Commission will be held on May 24, 1978, at 1:30 p.m., in room S-3215, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting is open to the public.

It was impossible to give the required period of advance notice because of scheduling difficulties.

The Minimum Wage Study Commission was established by Public Law 95-151 on November 1, 1977, to conduct a study of the Fair Labor Standards Act of 1938 and the social, political, and economic ramifications of the minimum wage, overtime, and other requirements of the act.

The Commission will submit a final report to the President and to the Congress, and will cease to exist 30 days after submission of its final report.

The agenda for the meeting will be concerned with the organization of the Commission, the adoption of procedures and future plans for the work of the Commission.

Telephone inquiries and communications concerning this meeting should be directed to:

Mr. Hugh Conway, Labor Economist, Room C-3309, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Mr. Conway's telephone number is area code 202-523-8495.

Signed at Washington, D.C., 16th day of May 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-13685 Filed 5-18-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

LITERATURE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held June 2, 1978, from 9 a.m.-5:30 p.m.; June 3, 1978, from 9 a.m.-5 p.m.; and June 4, 1978, from 9 a.m.-5 p.m., in Portland, Oreg. On June 2 and 4, the meeting will be held at the Benson Hotel in Portland. On June 3, the meeting will be held on Room 229, of the Smith Center at Portland State University.

A portion of this meeting will be open to the public on June 3, 1978, from 2 p.m.-5 p.m. The topic of discussion will be policy.

The remaining sesssions of this meeting on June 2, 1978, from 9 a.m.-5:30 p.m.; June 3, 1978, from 9 a.m.-1 p.m.; and June 4, 1978, from 9 a.m.-5 p.m.

These meeting are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by

grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6070.

JOHN H. CLARK,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

MAY 11, 1978.

[FR Doc. 78-13622 Filed 5-18-78; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. A78-1]

GRESHAM, S.C., ROUTE NO. 1 (OLIN JONES, PETITIONER)

Filing of Appeal

MAY 11, 1978.

On May 2, 1978, Olin Jones (hereinafter, "Petitioner"), on behalf of himself and others similarly situated, filed an appeal pursuant to § 404(b) of the Postal Reorganization Act (39 U.S.C. 404(b)) from the action of the United States Postal Service in consolidating Route No. 1, Gresham, S.C., with Routes No. 3, Marion, S.C., and No. 2, Gresham, S.C. Petitioner also filed an Application for Suspension of the Postal Service's action during the pendency of his appeal, as permitted by 39 U.S.C. 404(b)(5) and § 114 of our rules of practice (39 CFR 3001.114).

Petitioner asserts as grounds for relief that: (i) the consolidation violates 39 U.S.C. 101(b) in that it is discriminatory against a rural area; (ii) no notice was given nor opportunity for hearing provided, contrary to § 404(b); (iii) that the action is arbitrary, capricious, and an abuse of discretion in that it favors an urban community while adversely affecting a rural area and producing no substantial savings for the Postal Service; (iv) the action was taken without observing procedures required by § 404(b); and (v) the action is not supported by substantial evidence, no evidentiary record having been made.

Petitioner asks that the Commission require the re-establishment of Routes No. 1 and No. 2, Gresham, S.C., as they were before April 22, 1978; or, in the alternative, that the Postal Service be required to give notice and provide a hearing before effectuating the consolidation.

The appeal papers appear to set forth the Postal Service action complained of in sufficient detail to make it apparent that a substantial legal issue is presented by the appeal. This issue is whether, under the terms of § 404(b) of the Act, the consolidation of one or more rural routes constitutes a matter reviewable by the commission under that section. The answer to this question is potentially dispositive of the entire appeal. For this reason, we are issuing the present Notice[1] to insure that, when they file briefs pursuant to § 115 of our rules of practice (39 CFR 3001.115), the parties will address the jurisdictional issue.

We are inclined to believe, on the basis of the appeal papers, that it is potentially of primary significance in this case to have an informative statement of the respective service functions of a post office and of a rural carrier. Accordingly, we wish the parties to attempt to develop promptly an agreed-upon statement of facts on this issue. If such a stipulation can be reached, it should be filed within 20 days from the publication of this notice. If the parties cannot agree, then they should, also within 20 days, file separate statements.

The Commission does not, by publishing this notice, either determine the existence of jurisdiction or express any views of a preliminary nature on that question. The issue remains entirely open and subject to appropriate legal argument by the parties, as it would if no notice were issued.

In view of the fact that the present notice is being published in the FEDERAL REGISTER and served on the parties, the Commission is concurrently taking the opportunity to issue a schedule of procedural dates in this proceeding for the guidance of the parties. The dates therein are subject to change upon a properly supported motion for such relief by a party. Parties should bear in mind, however, that the 120-day decisional time limit is a statutory requirement (*see* 39 U.S.C. § 404(b)(5)) which the Commission will not attempt to extend.

The act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.

PROCEDURAL SCHEDULE—DOCKET NO. A78-1

May 12, 1978—Postal Service answer to petitioner's application for suspension (see 39 CFR § 3001.114(b)).
May 17, 1978—Filing of record by Postal Service (see 39 CFR § 3001.113(a)).
May 22, 1978—Last day for filing of petitions to intervene (see 39 CFR § 3001.111(b)).
June 1, 1978—Petitioner's initial brief (see 39 CFR § 3001.115(a)).
June 16, 1978—Postal Service answering brief (see 39 CFR § 3001.115(b)).
July 5, 1978—(1) Petitioner's reply brief, if petitioner chooses to file such brief (see 39 CFR § 3001.115(c)).
(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.
Aug. 30, 1978—Expiration of 120-day decisional schedule (see 39 U.S.C. § 404(b)(5)).

DAVID F. HARRIS,
Secretary.

[FR Doc. 78-13573 Filed 5-18-78; 8:45 am]

[1]The Commission does not intend routinely to publish notices of the filing of appeals in § 404(b) cases. Such notice is not required by the Act or our rules of practice. It is appropriate here, however, because of the need to address the jurisdictional question at an early stage.

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 20542 (70-5949)]

ALABAMA POWER CO.

Proposal by Electric Utility To Amend Installment Sales Agreement With Municipal Agency Relating to Pollution Control Facilities

MAY 15, 1978.

Notice is hereby given that Alabama Power Co. ("Alabama"), 600 North 18th Street, Birmingham, Ala. 35291, an electric utility subsidiary company of the Southern Co., a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 9(a), 10, and 12(d) of the Act and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration for a complete statement of the proposed transaction.

On February 23, 1977, the Commission issued an order (HCAR No. 19900) authorizing Alabama to enter into an installment sale agreement dated as of February 1, 1977 ("agreement") with the Industrial Development Board of the Town of West Jefferson ("Board") to finance certain pollution control facilities at Alabama's Miller Steam Plant ("project"). Pursuant to such agreement the Board purchased the then existing portions of the project, undertook to complete its construction and to sell the completed project to Alabama for a purchase price payable in semi-annual installments over a term of years. To secure its obligations under the agreement, Alabama granted to the Board a security interest in the project subordinate to the lien of the indenture dated as of January 1, 1942, between Alabama and Chemical Bank, as trustee, as supplemented and amended. The Board issued its pollu-

tion control revenue bonds ("original bonds") pursuant to a trust indenture dated as of February 1, 1977 ("indenture"), in the aggregate principal amount of $40,000,000, The Board assigned all its rights, title, and interest in the agreement, including such subordinate security interest, to the revenue bond trustee as security for the pollution control revenue bonds, including the original bonds, to be issued under the indenture. The proceeds of the sale of the original bonds were deposited by the Board with the trustee under the indenture ("revenue bond trustee"). Such proceeds have been applied to payment of the cost of construction of the project. The total cost of construction of the project will exceed the proceeds of the original bonds. Consequently, Alabama proposes to request that the Board issue up to $60,000,000 in additional revenue bonds ("additional bonds"). Upon issuance of the additional bonds, Alabama's obligation under the agreement to make semi-annual purchase price payments will be increased to require additional payments sufficient (together with other moneys held by the revenue bond trustee under the indenture for that purpose) to pay the principal of and interest on the additional bonds as they become due and payable. The Board and the revenue bond trustee will enter into a supplement ("supplement") to the indenture providing for the additional bonds. The supplement will provide for redemption provisions for the additional bonds comparable to those provided for the original bonds. As in the original bonds, it is proposed that the additional bonds will mature not more than 30 years from the first day of the month in which they are initially issued and will be entitled to the benefit of serial maturities and/or a mandatory redemption sinking fund calculated to retire not less than 25 percent of the aggregate principal amount of the additional bonds prior to maturity.

It is contemplated that arrangements will be made by the Board with one or more investment bankers providing for the placement or underwriting of the additional bonds. Alabama will not be party to such arrangements. In accordance with the laws of the State of Alabama, the interest rate to be borne by the additional bonds will be fixed by the Board. Bond counsel will issue an opinion that interest on the additional bonds presently is exempt from Federal income taxation. Alabama has been advised that the annual interest rates on obligations, the interest on which is tax exempt, historically have been and can be expected at the time of issue of the additional bonds to be 1½ percent to 2½ percent lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation.

A statement of the fees, commissions, and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The issuance of the additional bonds is subject to the jurisdiction of the Alabama Public Service Commission. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 8, 1978, 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 the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13647 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 20539; (70-6162)]

AMERICAN ELECTRIC POWER SERVICE CORP. AND AMERICAN ELECTRIC POWER CO., INC.

Proposed Bank Borrowing by Subsidiary Service Company and Guaranty Thereof by Holding Company

MAY 9, 1978.

Notice is hereby given that American Electric Power Co., Inc. ("AEP"), a registered holding company, and American Electric Power Service Corp. ("Service Company"), 2 Broadway, New York, N.Y. 10004, a service company subsidiary of AEP, have filed with this Commission a declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, and 12 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Service Company and AEP propose to enter into a loan agreement ("agreement") with the Chase Manhattan Bank, N.A. ("Chase"), concerning borrowings by Service Company of up to $10,000,000 and a guaranty of such indebtedness by AEP. The agreement, to be dated as of May 1, 1978, provides that the notes to be issued thereunder will mature on May 1, 1985, that the borrowings shall bear interest at an annual rate of 105 percent of the Chase's prime rate until May 31, 1979, and at an annual rate of 108 percent of its prime rate from May 31, 1979, until maturity, that Service Company will pay quarterly each year a substitute interest at the rate of ½ of 1 percent per annum on the daily average unused amount of the $10,000,000 credit made available and that prepayment may be made at any time without premium or penalty. There are no fees or charges to be paid to the Chase in connection with the borrowings, and no compensating balances are required. The interest to be paid by Service Company in connection with borrowings under the Agreement will be allocated to member companies of the AEP system in the same manner as expenses are allocated pursuant to the various service agreements in effect between Service Company and such companies.

It is stated that the purpose of the proposed transaction is to provide cash working capital for Service Company and to provide a portion of the funds necessary to finance the construction of a proposed new computer center for Service Company to be built in Canton, Ohio, the cost of which is currently estimated at $4,000,000. It is estimated that a portion of the borrowings will be repaid from the proceeds of a sale-leaseback transaction involving the computer center, to be entered into upon its completion, which is currently estimated to occur in mid or late 1979. The balance of cash borrowings will be repaid with the proceeds of cash capital contributions or interest bearing open-account advances to be made to Service Comapny by AEP.

Declarants claim an exemption from the competitive bidding requirements of Rule 50 under the Act pursuant to Rule 50(a)(2).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $3,700, including legal fees of $500. It is stated that no State commission and no Federal

commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than June 5, 1978, 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 declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed, or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13648 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14757; File No. SR-CBOE-78-11]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

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, 61 (June 4, 1975), notice is hereby given that on May 10, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

CBOE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

New material is indicated by italics; material to be deleted is enclosed in brackets.

CHAPTER XVIII ARBITRATION

MATTERS SUBJECT TO ARBITRATION

Rule 18.1.(a) Any *dispute, claim or* controversy, *arising* between parties who are members,[1] or persons associated with a member which arises out of the Exchange business of such parties shall, at the request of any such party, be submitted for arbitration in accordance with these rules.

(b) Any *dispute, claim or* controversy, *arising* between a non-member and a member or persons associated with a member which arises out of the Exchange business of such member or a person associated with a member shall, at the request of such non-member, be submitted for arbitration in accordance with these rules.

(c) Any *dispute, claim, or* controversy between a member and an employee of such member which is related to such employment shall at the request of any such party be submitted for arbitration in accordance with these rules.

(d) (No change.)

* * * Interpretations and policies:

.01 No change.

.02 No change.

[INITIATION OF ARBITRATION PROCEEDINGS]

PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2.(a) A member, a person associated with a member, a non-member, or employee of a member who wishes to initiate arbitration proceedings in accordance with Rule 18.1. shall, within a reasonable time after the event giving rise to the controversy, file with the [Exchange Secretary a written statement requesting arbitration. Such statement shall include (a) a concise description of the controversy; (b) the matters to be arbitrated, and, if possible, the amount in dispute; (c) the names of the parties involved; (d) the names and addresses of counsel, if any, for the person requesting arbitration. The Secretary shall promptly furnish a copy of this statement to the responding party for reply.] *Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedy sought, and whether or not a hearing is demanded.*

(b) The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim.

(c) The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related third party claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a third party claim, the Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner herein provided for response to the Claim. The Secretary shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, third party claim or other responsive pleading, if any. The Claimant, if a counterclaim is asserted against him, shall within ten (10) calendar days file a Reply to any Counterclaim with the Secretary of the Exchange who will serve a copy of the Reply on the Respondent(s).

(d) In its discretion, the Arbitration Committee may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(e) The Secretary of the Exchange may grant extensions of time to file any pleading upon a showing of good cause.

(f) The Arbitration Committee shall be authorized to require the submission of further documentary evidence as it, in its sole discretion, deems advisable.

* * * Interpretations and Policies:

.01 For purposes of this Chapter an arbitration proceeding will be deemed to be initiated within a "reasonable time", if it is filed no later than one year from the date of the event giving rise to the *dispute, claim or* controversy; provided however, that the Committee may in the exercise of its discretion hear cases filed after the one-year period.

SELECTION OF ARBITRATORS

Rule 18.3. [18.5] (a) Member Controversies. *Any dispute, claim or* controversy between parties who are members, persons associated with a member or employees of members, shall be submitted for arbitration to a panel consisting of three members of the Arbitration Committee chosen by lot. [The party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitra-

[1] The term "member" as defined in the Constitution and used in the Rules includes a nominee of a member organization unless the context otherwise requires.

tion. Upon Committee approval the parties may proceed with arbitration at such alternative situs.] *Unless either party demands a hearing, or the panel calls a hearing, the panel shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Committee.*

(b) Non-Member *Controversies.* If one of the parties to the *dispute, claim, or* controversy is a non-member unless the [parties] *non-member* elects to have the panel of arbitrators selected in accordance with paragraph (a) of the Rule, the controversy shall be submitted for arbitration to a panel consisting of three arbitrators, one member of the Arbitration Committee and two non-members selected by lot from the non-member panel provided for by Rule 2.8. [Any party to the controversy may petition the Arbitration Committee for permission to arbitrate the controversy at an alternate situs for arbitration. Upon approval the parties may proceed with arbitration at such alternate situs.] *Unless either party demands a hearing, or the panel calls a hearing, the panel shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Committee.*

[(c) Optional Procedure. An initiating non-member party may at the discretion of the Arbitration Committee have any dispute of $1,000 or less determined solely upon documentary evidence submitted by the parties; provided however, that any explanations or arguments accompanying the documents submitted by any party under this procedure must be notarized.]

* * * *Interpretations and Policies:*

.01 The Arbitration Committee may either establish Exchange arbitration facilities outside the Chicago area or refer arbitration cases to other securities industry arbitration organizations. [where the parties have requested an alternative situs.] In the event a panel chosen in accordance with the provisions of this Chapter conducts the arbitration, such panel shall follow the procedures contained in this Chapter.

AMENDMENTS

Rule *18.4.* [18.6.] No amendment of any claim, reply or counterclaim shall be permitted except with the consent of the *Arbitration Committee* [arbitrators] and upon such terms and conditions as *it* [they] may direct.

TIME AND PLACE OF HEARING

Rule *18.5.* [18.7.] (a) The Chairman of the panel assigned to a particular matter shall appoint a time and place for the hearing and shall cause notice thereof to be given to each of the parties as provided in Rule *18.10.* [18.12.] Notice of the initial hearing shall be given at least 10 business days prior to the date fixed for the hearing, and notice shall be given of each subsequent hearing as determined by the *members of the Arbitration Panel.* [arbitrators.] Attendance at a hearing waives notice thereof.

(b) The arbitration panel may require the parties to post in advance with the Secretary of the Exchange a bond or other security in such amount as it deems necessary to defray expenses of the arbitration proceeding. Such bond or security shall promptly be returned to the parties upon the payment of fees or other costs assessed in compliance with Rule *18.9.* [18.11.]

REPRESENTATION BY COUNSEL

Rule *18.6.* [18.8.] Any party may elect to be represented by counsel at any stage of the arbitration proceedings. A party who is represented by counsel shall provide the [Arbitration Committee] *Secretary of the Exchange* with the name and address of his counsel, and thereafter, papers in the proceeding to be served upon such party shall be served upon his counsel.

ATTENDANCE AT HEARINGS

Rule *18.7.* [18.9.] All parties and their counsel shall be entitled to attend all hearings. If any of the parties, after due notice, fails to be present or represented at a hearing, the [arbitrators] *arbitration panel* may, in [their] *its* discretion, proceed with the adjudication of the controversy.

CONDUCT OF HEARINGS

Rule *18.8.* [18.10.] At the commencement of the hearing, an oath shall be administered to the [arbitrators] *members of the arbitration panel* by any person authorized by law to administer oaths, unless the same shall have been waived by the parties or their counsel. Witnesses, including parties who testify as witnesses, shall be sworn before testifying, unless the same is waived by the parties. Each of the parties shall be permitted to make an opening statement, present witnesses and documentary evidence, to cross-examine opposing witnesses and present closing arguments orally or in writing as determined by the [arbitrators] *arbitration panel.* Formal rules of evidence shall not apply at the hearing, provided that the [arbitrators] *arbitration panel* may exclude irrelevant or unduly repetitious evidence. The [arbitrators] *arbitration panel* shall have such powers of subpoena as may be provided by law.

AWARD OF [ARBITRATORS] ARBITRATION PANEL

Rule *18.9.* [18.11.] (a) Within 30 business days following the date that an arbitration hearing shall have been declared closed (unless the hearings are re-opened by the [arbitrators] *arbitration panel* upon a showing of good cause permitted by law), the [arbitrators] *arbitration panel* shall file with the Secretary of the Exchange a written award signed by a majority of the [arbitrators] *members of the arbitration panel,* and such award shall be served upon the parties by the Secretary of the Exchange in accordance with Rule [18.12] *18.10.* The [arbitrators] *arbitration panel* shall be empowered to assess any costs or fees in connection with the arbitration upon the parties in such manner as they deem to be appropriate. Except as otherwise directed by law, all awards rendered under this Chapter shall be deemed final and not subject to review or appeal.

(b) The [arbitrators] *arbitration panel* may fix in the award the amount of costs chargeable to the parties to cover the expense of the hearing(s) and shall determine the manner in which and by whom such costs shall be borne.

NOTICE

Rule *18.10.* [18.12.] Notices of hearings and of awards shall be *reduced to writing and shall be either served personally or by registered or certified mail upon the parties or their counsel.* [given to parties or their counsel in writing personally or by registered or certified mail.] Notice of an adjourned hearing may be given orally at any preceding hearing. All other notices and documents may be served upon any party by delivering or mailing the same to the party or his counsel.

FEES, COSTS AND EXPENSES OF ARBITRATION

Rule *18.11.* [18.13.] The following schedule shall be published and maintained on file with the Secretary of the Exchange and available to all interested parties.

SCHEDULE OF FEES

1. There shall be a filing fee of $10.00 to be imposed upon each of the parties to the arbitration. The said fee shall be imposed at the time the Submission Agreement is submitted and it shall not be refundable. *This paragraph shall not apply to claims arising under Rule 18.12.*

2. In addition to the filing fee, there shall be an additional amount chargeable to each party not to exceed the following:

If the amount (exclusive of interest and costs) involved is:

[$500 or less . . . $25 per matter]

[More than $500 to $1,000. . . $50 per matter]
[More than $1,000 to $2,500. . . $60 per matter]
$2,500 or less . . . $15 per matter
More than $2,500 to $5,000 . . . $90 per matter
More than $5,000 to $10,000 . . . $90 per hearing
More than $10,000 . . . $120 per hearing

The initiating party and the responding party shall each deposit the amount prescribed by the Schedule above. In the case of multiple hearings, the additional amounts required by the above Schedule shall be submitted in accordance with the direction of the panel of arbitrators presiding. A hearing for fee purposes shall include the proceedings conducted in any one calendar day.

3. The costs which the [arbitrators] *arbitration panel* are empowered to assess under Rule [18.11.] *18.9*(b) shall in no event exceed the maximum amount chargeable to the parties as set forth in the Schedule of Fees above.

4. If the dispute, claim or controversy does not involve or disclose a money claim, the initial amount to be deposited by each party shall be $50 or such amount as the Arbitration Committee or [the] panel [of arbitrators] presiding may from time to time thereafter require not to exceed $250 per hearing. *This paragraph shall not apply to claims arising under Rule 18.12.*

5. Any matter submitted and thereafter settled or withdrawn prior to the date of the first hearing, shall entitle the parties to a refund of all but $25 of the amount deposited with the Exchange [, exclusive of the filing fee].

6. Any matter submitted and thereafter settled or withdrawn on the date set for the initial hearing or subsequent thereto, shall be subject to such partial refund as the *arbitration* panel [of arbitrators] presiding may permit.

7. The *arbitration* panel [of arbitrators] presiding shall have the authority within the maximum and minimum limitations presceibed above to require such deposits or fix such assessments as they may reasonably deem the circumstances shall require.

SMALL CLAIMS

Rule *18.12*

(a) Any dispute, claim or controversy, arising between nonmember customer(s) and a member or a person associated with a member, required to be arbitrated under the Rules of the Chicago Board Options Exchange involving a dollar amount not exceeding $2500.00, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Secretary of the Exchange one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related Counterclaim and/or related third party claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a third party claim, the Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such third party who shall respond in the manner herein provided for response to the Claim. If the Respondent(s) files a related counterclaim exceeding $2500.00, the arbitrator may refer the claim, counterclaim and/or third party claim, if any, to a panel of three (3) arbitrators or, he may dismiss the counterclaim and/or third party claim without prejudice to the counterclaimant(s) and/or third party claimant(s) pursuing the counterclaim and/or third party claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $15.00.

(e) The Secretary of the Exchange shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (i) file a Reply to any Counterclaim with the Secretary of the Exchange who will serve a copy of the Reply on the Respondent(s) or (ii) if the amount of the Counterclaim exceeds the claim shall have the right to file a statement withdrawing the claim within such time. If the Claimant withdraws the claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Secretary of the Exchange. Unless the non-member customer demands or consents to a hearing, or the arbitator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Secretary of the Exchange.

(g) The Secretary of the Exchange may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) Upon the request of the arbitrator, the Secretary of the Exchange shall appoint two (2) additional arbitrators to the Panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) Except as otherwise provided herein, the general arbitration rules of the Chicago Board Options Exchange shall be applicable to proceedings instituted under this Rule.

CBOE'S STATEMENT OF BASIS AND PURPOSE

RULE 18.12 SMALL CLAIMS

The purpose of the proposed rule change respecting new Rule 18.12 is to provide investors with a simple and inexpensive procedure for the resolution of small claims against member firms. The procedures set forth in the proposed rule were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the New York Stork Exchange, Inc. and eight other self-regulatory organizations. The proposed rule would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. The participating self-regulatory organizations will offer hearing facilities in different parts of the country, so that a dispute can be heard in a location convenient to the claimant. A claimant will have the right to withdrew his claim without prejudice if a counterclaim in excess of his claim is interposed. The only expense will be filing fee of $15.

In order to be consistent and in conformity with new Rule 18.12, the Exchange has amended its rules relating to arbitration contained in Chapter XVIII.

RULE 18.1 MATTERS SUBJECT TO ARBITRATION

In particular, Rule 18.1 contains minor changes conforming the lan-

guage relating to a controversy with that contained in Rule 18.12.

RULE 18.2 PROCEDURE FOR ARBITRATION PROCEEDINGS

Rule 18.2, formerly "Initiation of Arbitration Proceedings," is renamed as "Procedure for Arbitration Proceedings". Rule 18.2 has also been amended to include subsections (a) through (f) which will conform procedures for arbitration proceedings with disputed dollar amounts in excess of $2,500 to those below $2,500. Our current rules do not provide that the claimant, in filing his statement of claim, file documents in support of that claim at the time of the initiation of the arbitration proceedings. The Exchange has amended Rule 18.2 to provide for such documentation at the time of initiation. Furthermore, our current rules do not provide for allowance of the respondent to respond 20 calendar days from receipt of service in filing his requisite papers. Rule 18.2 is amended to provide such additional time. At that time the respondent shall file together with his submission agreement one copy of his answer and other supporting documents. Our current rules do not set forth what should be contained in the respondent's answer, whereas, amended Rule 18.2(c) provides that the answer shall designate all available defenses to the claim and may set forth any related counterclaim and/or related third party claim the respondent(s) may have against the claimant or any other person. The rule further provides detailed procedure respecting possible third party claims.

RULE 18.3 SELECTION OF ARBITRATORS

Rule 18.5 has been renumbered as Rule 18.3 "Selection of Arbitrators". Besides conforming to the new Rule 18.12 with respect to member and non-member controversies by allowing the controversy to be solely decided upon the pleadings and evidence filed by the parties where neither party demands a hearing, the rule is additionally amended to omit confusion as to the process for selection of panels in non-member controversies. The old rule was vague and could be interpreted to read that where one of the parties to a controversy is a non-member, either party may elect to have a panel of arbitrators that are all members. This obviously was not the intention, and the rule has been amended to limit election of a panel of arbitrators consisting of all members to the non-member initiating the dispute. In addition, the subparagraph previously numbered as 18.5(c) has been deleted because of the adoption of new Rule 18.12.

RULE 18.4 AMENDMENTS

The rule relating to "Amendments" previously numbered 18.6 is now numbered Rule 18.4. This rule was amended to clarify the proper forum to consider the permissibility of amendments, replies of counterclaims regarding an ongoing arbitration.

RULE 18.5 TIME AND PLACE OF HEARING

The rule relating to "Time and Place of Hearing," previously numbered as Rule 18.7 is newly numbered Rule 18.5 and is amended to be consistent with the changes contained herein and additionally amended to clarify the meaning of the term "arbitrators" in order to eliminate confusion as to whether the term "arbitrators" applies to the Arbitration Committee or a panel.[2]

RULE 18.6 REPRESENTATION BY COUNSEL

The rule relating to "Representation by Counsel", previously numbered Rule 18.8 is newly numbered Rule 18.6 and is amended to provide the Secretary of the Exchange with notice of counsel, rather than the Arbitration Committee.

RULE 18.7 ATTENDANCE AT HEARINGS

Again, the rule relating to "Attendance at Hearings," previously numbered Rule 18.9 is newly numbered Rule 18.7.

RULE 18.8 CONDUCT OF HEARINGS

The rule relating to "Conduct of Hearings," previously numbered Rule 18.10 is newly numbered Rule 18.8.

RULE 18.9 AWARD OF ARBITRATION PANEL

The rule previously entitled "Award of Arbitrators", previously numbered 18.11 is amended and referred to as "Award of Arbitration Panel" and is renumbered Rule 18.9.

RULE 18.10 NOTICE

The rule relating to "Notice", previously numbered Rule 18.12 is renumbered Rule 18.10, and is amended to clarify that notice shall be reduced to writing.

RULE 18.11 FEES, COSTS, AND EXPRENSES OF ARBITRATION

The rule relating to "Fees, Costs and Expenses of Arbitration" previously numbered 18.3 is renumbered Rule 18.11. It is amended to conform with Rule 18.12 in that any arbitrations involving non-member controversies for $2500 or less shall be $15.00 per matter.

The basis under the Act for the proposed rule change is Section 6(b)(5). A uniform rule applicable to small claims by public customers will provide a more effective, efficient and economical dispute resolution system for public investors with small claims and thus will protect investors and the public interest. Additional amendments to the rules contained in Chapter XVIII, "Arbitration," further contribute to the more effective, efficient and economical dispute resolution system for public investors as well as for internal member controversies.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS

No comment has been solicited from the membership.

CBOE'S STATEMENT OF BURDEN ON COMPETITION

The Exchange does not believe that this proposed rule change imposes any burden upon competition.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by June 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 15, 1978

[FR Doc. 78-13660 Filed 5-18-78; 8:45 am]

[2]Such a clarification is included in the proposed amendments to Rules 18.7, 18.8, 18.9 and 18.11.

[8010-01]

[Rel No. 20538 (70-6153)]

CONSOLIDATED NATURAL GAS CO. ET AL.

Proposed Intrasystem Financing, Issuance, and Sale of Short-Term Notes to Banks and Commercial Paper by Holding Company, and Exemption from Competitive Bidding

MAY 8, 1978.

In the matter of Consolidated Natural Gas Co., 30 Rockefeller Plaza, New

York, N.Y. 10020, and CNG Coal Co., CNG Development Co. LTD., CNG Producing Co., CNG Research Co., Consolidated Gas Supply Corp., Consolidated Natural Gas Service Co., Inc., Consolidated System LNG Co., The East Ohio Gas Co., The Peoples Natural Gas Co., The River Gas Co., and West Ohio Gas Co.

Notice is hereby given that Consolidated Natural/Gas Co. ("Consolidated"), a registered holding company, and certain of its subsidiary companies, CNG Coal Co. ("Coal Company"), CNG Development Co. Ltd., CNG Producing Co. ("Producing Company"), CNG Research Co. ("Research Company"), Consolidated Gas Supply Corp. ("Gas Supply"), Consolidated Natural Gas Service Co., Inc., Consolidated System LNG Co. ("LNG Company"), The East Ohio Gas Co. ("East Ohio"), The Peoples Natural Gas Company ("Peoples"), The River Gas Company ("River"), and West Ohio Gas Co. ("West Ohio") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and rules 43, 45, and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated proposes, from time to time during 1978, to make loans aggregating up to $30,000,000 to three subsidiary companies in the amounts set forth in the table below, for the purpose of partially financing their 1978 capital expenditures. Capital expenditures for all of Consolidated's subsidiaries are estimated at $196,300,000 in 1978. Approximately $140,300,000 thereof is intended for developing additional gas supply sources. The loans will be evidenced by nonnegotiable, long-term notes proposed to be issued by the respective subsidiary companies and proposed to be acquired by Consolidated. the notes will bear interest at the rate of 8.25 percent per annum, which rate is predicated on and substantially equal to the effective cost of money to Consolidated through the issuance and sale by Consolidated of its 8⅛ percent Debentures due June 1, 1997, issued in 1977. The notes will be payable from 1983 through 1998 in approximately equal annual principal amounts.

Consolidated also proposes to issue and sell up to $100,000,000 of short-term notes to a group of banks during 1978. Such notes will bear interest at the prime commercial rate in effect from time to time at The Chase Manhattan Bank, N.A. ("Chase Manhattan"). Prepayments may be made in whole or in part, from time to time, upon 5 days' notice without penalty or premium. There will be no closing or related charges or commitment fee, and the notes will mature not more than 12 months from the date of the first borrowing. No compensating balance requirements will be imposed. The average of deposits regularly maintained by the Consolidated companies in the participating banks for normal operating purposes amounted to approximately $25,400,000 for 1977. It is stated that based on a requirement of 10 percent of the proposed credit line and 10 percent of average borrowings thereunder, the average compensating balances would have amounted to approximately $15,600,000 for the year 1977.

Consolidated proposes to use the proceeds from said bank borrowings to make open account advances to its subsidiary companies aggregating up to $100,000,000 for gas storage inventories, payable as gas is withdrawn and sold during the 1978–79 heating season. The advances to subsidiary companies will bear interest at the same rate as the related bank borrowings by Consolidated and will be made in amounts as set forth in the table below. Also shown in the following table are $40,000,000 of open account advances which Consolidated proposes to make from time to time up to May 31, 1979, to subsidiary companies for working capital requirements from part of the proceeds of Consolidated's proposed issuance and sale (described hereinafter) of up to $50,000,000 of commercial paper and/or notes to a bank. These advances will be repaid not more than 1 year from the date of the first advance to each subsidiary with interest at substantially the same effective rate as incurred by Consolidated on the related commercial paper sale and/or bank borrowings.

Subsidiary company	Long-term notes	Advances for seasonal increase in gas storage inventories	Advances for working capital requirements
Producing company	$27,000,000		$4,000,000
Gas supply		$70,000,000	20,500,000
LNG company			10,000,000
East Ohio		15,000,000	
Peoples		15,000,000	4,600,000
River	500,000		500,000
West Ohio	2,500,000		400,000
Coal company			
Research company			
Service company			
Total	30,000,000	100,000,000	40,000,000

Consolidated further proposes to acquire, and the subsidiary companies set forth below propose to issue and sell to Consolidated from time to time during 1978, capital stock up to the following amounts at the par value thereof:

	Number of shares[1]	Aggregate par value
Coal company	25,000	$2,500,000
Producing company	140,000	14,000,000
Research company	20,000	2,000,000
Gas supply	95,000	9,500,000
River	5,000	500,000
Total		28,500,000

[1]$100 par.

The proceeds derived from the proposed sale of stock will be used to finance, in part, the subsidiaries' 1978 capital expenditures. The purchase of said capital stock by Consolidated will be made principally with funds from internal cash genereation, and from the sale of common stock pursuant to its stockholder and employee stock plans. The authorized capital stock of River is not sufficient to cover the additional shares it proposes to issue. Therefore, in order to accommodate the proposed transaction and to provide for future issues, River proposes to amend its certificate of incorportation and increase the number of its authorized shares from 24,000 to 35,000.

As indicated above, Consolidated proposes to issue and sell commercial paper, in the form of short-term promissory notes payable to bearer, in the aggregate face amount not to exceed $50,000,000 outstanding at any one time to a dealer in commercial paper from time to time up to May 31, 1979. The commercial paper will have vary-

ing maturities of not more than 270 days after the date of issue and will be issued and sold in varying denominations of not less than $50,000 and not more than $5,000,000 directly to the dealer at a discount which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and like maturities. Consolidated proposes to sell commercial paper only so long as the effective interest cost for such commercial paper does not exceed the equivalent cost of borrowings from a commercial bank on the date of sale.

No commission or fee will be payable by Consolidated in connection with the issue and sale of such commercial paper notes. The dealer, as principal, will reoffer such notes at a discount not to exceed one-eighth of one percent per annum less than the prevailing discount rate to Consolidated. Such notes will be reoffered to not more than 200 identified and designated customers on a list (nonpublic) prepared in advance by the dealer and furnished to the Commission. It is anticipated that the commercial paper will be held by customers to maturity; however, if any commercial paper is repurchased by the dealer pursuant to a repurchase agreement, such paper will be reoffered only to others in the group of 200 customers. The issuance and sale of commercial paper is to provide $40,000,000 for working capital advances to subsidiary companies, and the balance of $10,000,000 is for working capital and contingent requirements of Consolidated during the year.

Consolidated proposes to the extent that it becomes impracticable to issue such commercial paper, to borrow, repay, and reborrow from Chase Manhattan, from time to time up to May 31, 1979, an aggregate principal amount not to exceed $50,000,000 outstanding at any one time, at the prime commercial rate of interest in effect on the date of each borrowing, upon the promissory note or notes of Consolidated having a maturity date not more than 90 days from the date of each borrowing, and with the right of prepayment, in whole or in part at any time or from time to time, without prior notice and without premium. The amount of commercial paper notes and said notes, if any, payable to Chase Manhattan will not collectively exceed $50,000,000 outstanding at any one time. There will be no closing or related charges and no commitment fee with respect to such bank loans, nor will there be any compensating-balance requirements.

Consolidated requests that, for the period commencing upon the date of the granting of this application-declaration and ending May 31, 1979, an exemption be allowed from the provisions of section 6(a) of the Act pursuant to the first sentence of section 6(b), relating to the issuance and sale of short-term notes, by increasing the 5 percent limitation on such notes to a maximum of 6 percent in order to permit Consolidated to have outstanding at any one time up to $50,000,000 principal amount of short-term notes during such period as proposed herein.

Consolidated requests exception from the competitive bidding requirements of Rule 50 with respect to the sale of commercial paper on the grounds that such commercial paper will have maturities of nine months or less, that current rates for commercial paper for prime borrowers, such as Consolidated, are published daily in financial publications, and that it is not practical to invite competitive bids for commercial paper. Consolidated also proposes that the Rule 24 certificates of notification regarding the issuance and sale of the commercial paper and all subsidiary company financings be filed on a quarterly basis.

It is stated that CNG Development Co. Ltd. and Consolidated Natural Gas Service Co., Inc., have no new financing requirements for 1978 at the time of filing and that if such requirements should arise, an amendment to that effect will be filed as part of this proceeding.

The application-declaration states that the Public Service Commission of West Virginia has jurisdiction over the proposed short-term borrowings and stock issuances of Gas Supply and that the Public Utilities Commission of Ohio has jurisdiction over the long-term borrowings of River and West Ohio and the stock issuance proposed by River. It is further stated that no other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed $12,500, including $10,000 for the system service company charges, at cost. All of such fees and expenses are to be paid by Consolidated.

Notice is further given that any interested person may, not later than June 1, 1978, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13649 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel Nos. 5930; 14745]

FOREIGN OPTIONS

MAY 11, 1978.

The Securities and Exchange Commission today issued this notice to investors and broker-dealers in connection with the opening of the European Options Exchange, which is located in Amsterdam, Holland. On April 4, 1978, trading began on that Exchange in nine classes of options, three of which are options on the securities of U.S. corporations. The European Options Clearing Corp. in Amsterdam is the issuer and guarantor of those options. Some of these options are on the same stocks and have the same expiration dates and exercise prices as options which are traded on American exchanges. In addition, several U.S. broker-dealer firms, or their affiliates, are member of that Exchange.

The stock options which are traded on the European Options Exchange, and which have been issued and guaranteed by the European Options Clearing Corp., are not included in an effective registration statement filed with the Commission pursuant to the provisions of the Securities Act of 1933. In the absence of such a registration statement or an appropriate exemption, the public offer, distribution, or sale of such options in the United States is unlawful. Such a violation would exist regardless of whether or not the options involved constitute interests on the stock of American issuers, foreign issuers, or foreign issuers whose stock is traded in the United States. All of the stock options traded on national securities exchanges in the United States are issued by the Options Clearing Corp. of Chicago, Ill., and are the subject of an effective reg-

istration statement with the Commission.

The Commission warned that if options, which are not the subject of an effective registration statement or which do not qualify for an exemption from the registration requirements of the Securities Act, are publicly offered, distributed, or sold within the United States, such options will be added by the Commission to its Foreign Restricted List of securities which may not be sold to the public or traded by broker-dealers in the United States. The primary purpose of the issuance of the restricted list is to alert not only public investors but also broker-dealer firms that the Commission has received information that particular foreign securities are being offered for public sale in this country in violation of the Securities Act registration requirements.

Broker-dealers who purchase for their own account options which are not the subject of an effective registration statement, nor exempted from the registration requirements of the Securities Act, are reminded that because such options are not readily marketable in the United States, Broker-dealers will receive no value on such options for net capital purposes.

Appropriate enforcement action may be taken against those involved in any illegal offer, distribution or sale of stock options which are not the subject of an effective registration or which do not qualify for an exemption from the registration requirements of the Securities Act. Any person having information concerning the offer, distribution, or sale of such options is requested to inform the Director of the Commission's Division of Enforcement at 500 North Capitol Street, Washington, D.C. 20549.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13657 Filed 5-18-78; 8:45 am]

[Administrative Proceeding File No. 3-5425; File No. 81-328]

LEXITRON CORP.

Application and Opportunity for Hearing

MAY 10, 1978.

Notice is hereby given that Lexitron Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for an order exempting the Applicant from the obligation to file an annual report on form 10-K for the year ended December 26, 1977, and all other reports required to be filed pursuant to sections 13 and 15(d) of the 1934 Act.

The Application states in part:

(1) As a result of a merger effected on January 12, 1978, Applicant became a wholly owned subsidiary of Raytheon Co. ("Raytheon") whose securities are listed on the New York Stock Exchange.

(2) There is no trading in Applicant's stock or any other security of the Applicant.

(3) Substantially all financial and other information concerning the Applicant which would appear in the form 10-K for the year ended December 26, 1977, was contained in the December 16, 1977, merger proxy statement which was distributed to shareholders.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person no later than June 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13650 Filed 5-18-78; 8:45 am]

[Administrative Proceeding File No. 3-5421; File No. 81-326]

MACRODATA CORP.

Application and Opportunity for Hearing

MAY 11, 1978.

Notice is hereby given that Macrodata Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On December 12, 1977, Applicant merged with and became a wholly owned subsidiary of Cutler-Hammer Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its form 10-Q for the period ended September 30, 1977, and a form 8-K to reflect said merger.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than June 5, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13651 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10240 (812-4238)]

NARRAGANSETT CAPITAL CORP.

Filing of Application for Order

MAY 12, 1978.

Notice is hereby given that Narragansett Capital Corp. ("Narragansett"), 40 Westminster Street, Providence, R.I. 02903 registered under the Investment Company Act of 1940 ("Act") as a closed-end, nondiversified management investment company, has filed an application on December 1, 1977, and amendments thereto on May 3, 1978, and May 12, 1978, pursuant to sections 17(b) and 17(d) of the Act and rule 17d-1 thereunder, for an order of the Commission exempting from the provisions of section 17(a) of the Act, and permitting pursuant to section 17(d) of the Act and rule 17d-1 thereunder, (1) a proposed sale of the C-K division of Photo Systems, Inc. ("Photo Systems"), a company controlled by Narragansett, and (2) the restructuring and refinancing of Narragansett's investment in Photo Systems. 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.

Narragansett, a federally licensed small business investment company, has authorized 2,000,000 shares of common stock, par value $1. As of March 31, 1977, 923,452 shares of that stock were issued and outstanding. Narragansett states that those shares are publically traded in the over-the-counter market and are held by approximately 1,450 shareholders.

Narragansett states that Photo Systems is a Michigan corporation comprised of three divisions. One division, the Unicolor Division, manufactures and sells darkroom equipment and photographic supplies from its plant located in Dexter, Mich. The other two divisions (Lyndon and C-K division) operate film processing laboratories in Dexter, Mich., and Edmonds, Wash., respectively. Photo Systems has authorized 1,200,000 shares of common stock, par value $.10, of which 1,050,000 shares are issued and outstanding. Of this latter amount, Narragansett owns 800,000 shares, or 76.2 percent, and the balance is held by 15 persons who were employees or spouses of employees of Photo Systems when it was organized. Photo Systems' shares are not publicly traded.

Narragansett asserts that, in addition to its equity investment in Photo Systems, it also holds a note of Photo Systems, in the amount of $1,500,000, which is subordinated to the approximately $950,000 indebtedness of Photo Systems to the Industrial National Bank of Rhode Island ("Inbank").

Photo Systems has five directors, three of whom (William P. Considine ("Considine"), Harvey J. Sarles, ("Sarles"), and Arthur D. Little ("Little")) are directors of Narragansett. In addition to serving as a director of Photo Systems, Considine is also that company's chief executive officer.

Narragansett states that, based on audited figures for the fiscal year ended June 30, 1977, Photo Systems had total net sales of $9,288,752, and net income (before taxes and extraordinary items) of $56,962. The audited balance sheet of Photo Systems as of June 30, 1977, shows total assets of approximately $4,924,949 and a total capital deficiency of approximately $19,943.

According to the application, the C-K division is managed and operated primarily by Pierre F. Wybo ("Wybo"), president of the division, and Paul R. Caisse ("Caisse"), vice-president of the division. Narragansett states that (1) neither Wybo or Caisse are officers or directors of Photo Systems, and (2) Wybo owns 10,000 shares of Photo Systems. Based on unaudited figures for the fiscal year ended June 30, 1977, the C-K division had net sales of $1,764,000 and earnings of $113,000 (after taking into account its pro rata share of corporate overhead). The unaudited divisional balance sheet of the C-K division as of June 30, 1977, shows total assets of approximately $505,000 and a divisional net worth of approximately $413,000.

Narragansett asserts that Photo Systems was organized in 1973, at which time it acquired four operating divisions from KMS Industries, Inc. In connection with the organization of the company, Narragansett purchased $250,000 worth of Photo Systems common stock and loaned the company $1,750,000. According to the application, Photo Systems began to experience financial difficulties shortly after its organization which resulted in substantial operating losses for the fiscal years ending June 30, 1974, and 1975. In June 1975, as a result of these losses, Photo Systems underwent a reorganization ("1975 reorganization"). Among the steps taken as part of the 1975 reorganization were (1) the conversion of $500,000 of Photo Systems' $1,750,000 indebtedness to Narragansett into common stock, (2) the investment of an additional $250,000 and $50,000 by Narragansett in Photo Systems as subordinated debt and equity, respectively, and (3) the election of a third nominee of Narragansett to the Photo Systems' board of directors. As a result of the 1975 reorganization, (1) Narragansett's debt investment in Photo Sytsems was reduced to $1,500,000, and (2) Narragansett's equity investment in Photo Systems was increased to $800,000. Narragansett's total investment in Photo Systems was increased from $2,000,000 to its present level of $2,300,000.

Narragansett states that the 1975 reorganization was effected in two closings. On June 3, 1975, the first closing date, Narragansett and Photo Systems executed an agreement covering the entire reorganization and closed a portion of the recapitalization. The remainder of the recapitalization was closed on June 30, 1975, after a Photo Systems shareholders meeting. Narragansett asserts that at that meeting, which authorized appropriate changes in the capital stock structure of Photo Systems and necessary changes in its by-laws, Narragansett's representatives concluded that Photo Systems chief executive officer should be replaced. Narragansett submits that on July 10, 1975, Photo Systems board of directors elected Considine chief executive officer of Photo Systems.

Narragansett states that Considine's employment agreement, which was made effective as of July 1, 1975, provided that Considine was to be paid $30,000 per year plus out of pocket expenses for his services, payable as the cash flow of Photo Systems permitted. Under Considine's guidance, Narragansett asserts, Photo Systems reduced losses from $1,027,000 for the fiscal year ended June 30, 1975 to $18,000 for the fiscal year ended June 30, 1976. Effective July 1, 1976, Considine was retained by Photo Systems for an additional year, later extended to 2 years. Narragansett states that those employment contracts were approved by the Small Business Administration.

According to the application, Considine devotes about one-half of his time to the management and supervision of Photo Systems and is regarded by Narragansett as a major factor in the substantial improvement in Photo Systems that has occurred in the past 2 years. Narragansett states that, as of May 3, 1978, Photo Systems owed Considine $20,000 salary in arrears.

The transaction in connection with which the Commission's order is sought ("1978 reorganization") involves (1) the separation of the C-K division of Photo Systems from the parent company and (2) the restructuring and refinancing of Narragansett's investment in the two resulting corporations. According to the application, the 1978 reorganization will be accomplished by creating a new corporation, Sound Color Corp. ("SCC"), to take over the operations of the C-K Division. SCC will have an initial capitalization of $1,000,000, of which $150,000 will be comprised of new equity investments. Narragansett will contribute $75,000 for 50 percent of the voting securities, and Wybo and Caisse will contribute $37,500 each for 25 percent of the voting securities each. The balance of the initial capital of SCC, equal to $850,000, will be derived from the sale by SCC to Narragansett of SCC's promissory note in that amount. The SCC note will be payable over 10 years with interest at 12 percent.

Upon its organization, SCC will purchase the assets of the C-K division from Photo Systems, and assume its liabilities, for a net purchase price of $1,025,000. A total of $925,000 will be paid in cash to Photo Systems at the closing, and the balance will be paid by SCC's promissory note of $100,000, payable as to principal in 18 equal semi-annual installments, and bearing interest on the unpaid balance at 8 percent. SCC will retain $75,000 in cash as its initial working capital and will have a seasonal line of credit of up to $100,000 with Inbank.

Upon the closing of the sale of SCC, Photo Systems will utilize (1) $600,000 of the proceeds received to reduce its present indebtedness to Inbank from approximately $950,000 to approximately $350,000, and (2) $300,000 of the proceeds to reduce its outstanding indebtedness to Narragansett from $1,500,000 to $1,200,000. Narrangansett represents that none of the proceeds of the sale are earmarked for the payment of Considine's salary, and that Considine will not benefit from

the proposed transactions, except to the extent that an improved cash flow will permit Photo Systems to pay his salary more promptly.

According to the application, Narragansett will enter into a financial consulting agreement with SCC for 1 year, calling for a fixed payment to Narragansett of $15,000 per annum. This agreement is subject to the approval of the Small Business Administration. The financial consulting services will be provided by directors, officers, and employees of Narragansett, who will make one or two visits monthly to the offices of SCC. The services to be rendered include banking and other financial advice, cash flow management, preparation of financial projections and miscellaneous financial services. The annual fee of $15,000 will be paid into the general funds of Narragansett, and not earmarked for any individual, entity or purpose, and will not directly or indirectly benefit the directors, officers, and employees of Narrangansett performing such services, by bonus, increase in regular compensation or otherwise, except as shareholders of Narragansett if they are such. Narragansett represents that (1) Wybo and Caisse will be officers and directors of SCC and (2) neither Sarles, Little nor Considine will own any shares of SCC stock, or be employed by it or have any interest in it except that one or more of them may serve as a director of SCC.

Narragansett asserts that, as a result of the 1978 reorganization, (1) Narragansett's aggregate investment in Photo Systems will be reduced from $2,300,000 to $2,000,000, (2) Inbank's aggregate investment in senior indebtedness of Photo Systems will be reduced from approximately $950,000 to approximately $350,000 and (3) Photo Systems' capital deficiency will have been eliminated and its net worth will be approximately $1,163,000. Narrangansett also asserts that its aggregate investment in the business currently run by Photo Systems will be increased by $625,000, but its position with respect to the investment will have been improved by (a) the decrease in senior debt owed by Photo Systems to Inbank, and (b) the position of its $850,000 loan to SCC, which will be subordinated only to the $100,000 owed to Inbank.

Narragansett states that, although no formal stockholder consent is legally required in connection with the sale of the C-K division, all but four of Photo Systems' stockholders have been advised of and have approved the sale. The four stockholders who have not been apprised of the sale are former employees of Photo Systems.

Section 17(a) of the Act, in part, provides that it shall be unlawful for any affiliated person of a registered investment company, acting as principal, knowingly to purchase from, or sell to, such registered company (or any company controlled by such registered company) any security or other property. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. SCC will be an affiliated person of, and presumed to be controlled by, Narragansett; SCC proposes to purchase from Photo Systems, which is an affiliated person of, and is controlled by, Narragansett, assets of the C-K division. Accordingly, Narragansett requests an order exempting the sale of the C-K division to SCC from the provisions of section 17(a) of the Act.

Section 17d of the Act and rule 17d-1 thereunder, taken together, provide, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such investment company or a company controlled by such registered investment company is a joint participant, without the permission of the Commission. Rule 17d-1 provides, in part, that in passing upon applications for orders granting such permission, the Commission will consider (1) whether the participation of the registered or controlled company in such transaction on the basis proposed is consistent with the provisions, policies, and purposes of the Act, and (2) the extent to which such participation is on a basis different from or less advantageous than that of other participants. Wybo and Caisse, as employees of Photo Systems, are affiliated persons of an affiliated person (Photo Systems) of Narragansett. Accordingly, Narragansett requests an order pursuant to section 17d of the Act and rule 17d-1 thereunder permitting the 1978 reorganization.

Narragansett asserts that (1) the terms of the sale of the C-K division, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person, and (2) the proposed transaction is consistent with the policy of Narragansett as reflected in its registration statement and reports filed under the Act.

In support of its position, Narragansett asserts that (1) the selling price of the C-K division, $1,025,000, was only $60,000 less than the asking price, and (2) the formula by which the asking price was computed (book value at time of sale plus five times divisional after-tax earnings for fiscal 1977) is the same as that employed by Photo Systems in a previous sale of its DNJ division, described as an "arms length" transaction between unaffiliated persons. According to the application, the sale of the DNJ division was made at a price of $1,600,000, also $60,000 less than the "asking" price.

Narragansett states that the initial sales price of the C-K division was $1,000,000, payable in cash. According to Narragansett, these terms were subsequently deemed unsatisfactory since (1) the $1,000,000 cash payment would have restricted SCC's available working capital, and (2) the book value of the C-K division had increased from what is was when the $1,000,000 figure was arrived at. Narragansett submits that as a result of these factors the terms of the sale were altered to their presently proposed form.

Narragansett asserts that the 1978 reorganization will be of benefit to it and its shareholders, since (1) the unsecured and subordinated debt of Photo Systems to Narragansett will be reduced by $300,000, (2) the $850,000 loan to SCC by Narragansett will be made to a profitable business, in Narragansett's opinion, at an attractive rate of interest and will be senior to all debt of SCC except seasonal loans made by Inbank, and (3) the new equity investment of Narragansett in SCC will provide Narragansett and its shareholders with the opportunity to realize a gain in connection with their investment.

Narragansett submits that the sale of the C-K division will benefit Photo Systems by eliminating two areas of business risk: first, the progressive loss of competitiveness as a result of gradual technological obsolescence of processing equipment, and, second, the dependence of the company upon individual laboratory managers for the success of their divisions.

With regard to the first point, Narragansett states that Photo Systems' severe cash flow problems have greatly restricted investments in new equipment in all divisions. As a result, laboratory equipment has gradually fallen behind competitors. If Photo Systems were to continue to own the C-K division, it could not, according to Narragansett, expect the latter's capital equipment situation to improve in the forseeable future.

In support of the second point, Narragansett claims that the laboratory business is service-oriented, requiring continuous personal contact between the laboratory manager and his key customers to build a long-term customer base. According to Narragansett, since this allegiance is associated

more with the individual manager than with the organization, Photo Systems has found its corporate future significantly dependent on the continued employment of particular individuals.

Narragansett submits that Wybo and Caisse, who, it states, are largely responsible for the success of the C-K division, have become increasingly frustrated by the constraints on new capital equipment, advertising and other corporate controls made necessary by Photo Systems' financial condition. Additionally, they have expressed some dissatisfaction over the fact that the existing distribution of stock ownership and compensation arrangements of Photo Systems do not appear to them to reflect the contribution of the C-K division to the overall business. Were they to leave Photo Systems to compete with C-K, it could prove very damaging to Photo Systems. Under the 1978 reorganization, Wybo and Caisse will each (1) invest $37,500 in SCC, and (2) sign a noncompetition agreement with SCC. Narragansett asserts that the sale of the C-K division will not place Photo Systems or SCC at a competitive disadvantage since (1) the film processing business is basically a regional service, and (2) the two businesses will be located over 2,000 miles apart from each other.

Narragansett states that the 1978 reorganization will (1) relieve Photo Systems of the administrative costs of operating a division located over 2,000 miles from its corporate headquarters, (2) permit Considine and the management of Photo Systems to devote more time to supervising the operations and improving the profitability of the remaining divisions of Photo Systems, and (3) reduce the indebtedness of Photo Systems, with the result that Photo Systems will have a positive net worth and an improved cash flow. Narragansett asserts that SCC will benefit from the 1978 reorganization by being able to provide its management with a substantial ownership position in the new company, thereby creating incentives to the management of SCC to continue their employment and the profitable operation of SCC.

Narragansett asserts the 1978 reorganization is consistent with the general purposes of the Act and that the participation each of Narragansett, Photo Systems and SCC in the 1978 reorganization is not on a basis less advantageous than that of other participants. Narragansett asserts that Photo Systems will receive substantially in excess of the book value of the assets being transferred to SCC; that the minority shareholders of Photo Systems will benefit to the extent that such transfer enables Photo Systems to reduce its outstanding indebtedness; but that any benefit to the minority shareholders of Photo Systems will also benefit Narragansett, as majority shareholder. Wybo and Caisse will pay a total of $75,000 for 50 percent of the shares of SCC. Narragansett will also pay $75,000 for 50 percent of the shares of SCC. Wybo and Caisse will receive compensation as officers of SCC, but, Narragansett asserts, in amounts equivalent to the compensation paid to other managers of professional photography companies of similar size and profitability. Considine will continue as chief executive officer of Photo Systems and will be eligible to receive his annual salary of $30,000, payable as the cash flow of Photo Systems permits.

Inbank will have its loans to Photo Systems partially repaid in connection with the 1978 reorganization and will agree to extend credit to SCC at standard commercial rates. Narragansett asserts that Inbank's participation is not more advantageous than that of Narragansett, Photo Systems or SCC.

Notice is further given that any interested person may, not later than June 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant 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.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13653 Filed 5-18-78; 8:45 am]

[8010-01]

[File No. 500-1]

NATIONAL AMERICAN CORP.

Suspension of Trading

MAY 11, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of National American Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from May 11, 1978, at 2:15 p.m. (e.d.t.) through May 20, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13652 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14772; File No. SR-NSCC-78-5]

NATIONAL SECURITIES CLEARING CORP.

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 May 2, 1978, 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

Amend Section 1 of Rule 2 of the SCC Division of National Securities Clearing Corporation (the Corporation) as follows (italics indicate material to be added; and material in brackets is to be deleted):

Rule 2. SEC. 1. Except as hereinafter provided in Section 2 or 3 of this Rule or Rule 3, the Corporation shall act only for [member organizations (member firms or member corporations) of a registered national securities exchange or a registered national securities association] *a partnership, corporation or other organization or entity which shall satisfy at least one of the following qualifications: (i) It is a broker or dealer registered under the Securities Exchange Act of 1934; (ii) it is a bank or trust company, including a trust company having limited power, which is a member of the Federal Reserve System or is supervised and examined by state or federal authorities having supervision over banks; (iii) it is a registered clearing agency; (iv) it is an insurance company subject to supervision or regulation pursuant to the provisions of*

state insurance laws; (v) it is an investment company registered under section 8 of the Investment Company Act of 1940 as amended; or (vi) if it does not qualify under clauses (i) through (v) above, it is a person which demonstrates to the Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from direct access to the Corporation's services and who applies to the Corporation to act for [them] *it*, whose application[s are] *is* approved by the Corporation and who [have] *has* contributed to the Clearing Fund as provided in Rule 4. The [member organizations] *persons* for whom the Corporation acts and who have contributed to the Clearing Fund, as provided in Rule 4, shall, until the Corporation ceases to act for them, be known as Clearing Members.

A [member organization] *person* whose application to become a Clearing Member has been approved by the corporation shall pay to the Corporation its original contribution to the Clearing Fund determined in accordance with the provisions of Rule 4 and shall sign and deliver to the Corporation an instrument in writing whereby such applicant shall agree as provided in Section 4 of this Rule.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to permit access to the SCC Division of NSCC by those persons entitled to access pursuant to section 17A(b)(3)(B) of the Securities Exchange Act of 1934 (the 1934 Act).

The proposed rule change will permit any (A) registered broker or dealer, (B) other registered clearing agency, (C) registered investment company, (D) bank, (E) insurance company or (F) certain other persons, to become a participant in the services offered by the SCC Division to Clearing Members and will conform the access rules of the SCC Division with the provisions of section 17A(b)(3)(B) of the 1934 Act.

In view of the continuing oversight by the Securities and Exchange Commission into the interfaced relationships between and among registered clearing agencies, the Corporation will provide the Securities and Exchange Commission with such statistics and information as will enable appropriately thorough review thereof, and will not utilize the proposed rule change described above for a period greater than one hundred eighty (180) days after the Securities and Exchange Commission grants approval hereof without making a further request to the Securities and Exchange Commission to do so, in the appropriate manner.

No comments on the proposed rule change have been solicited or received. The proposed rule change is similar, however, to the proposed change in Rule 2 of the SCC Division contained in SR-NSCC-77-10 on which comments have been solicited and as to which no comments on the similar change therein have been received. The proposed rule change is identical to a proposed rule change appearing in filing SR-NSCC-78-3, for which no comments were solicited.

The Corporation does not perceive that any burden on competition will be imposed by the proposed rule change.

In connection with the proposed rule change, NSCC requested that the Commission approve the proposed rule change prior to the thirtieth day after publication in the FEDERAL REGISTER.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 9, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13723 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14772; File No. SR-NSCC-78-4]

NATIONAL SECURITIES CLEARING CORP.

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 April 24, 1978, 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

AMEND RULE 3 OF THE NCC DIVISION

(NCC) of National Securities Clearing Corporation (the Corporation) by adding a new paragraph (1) thereto as follows:

(1) The Clearing Corporation, in its discretion, may maintain one or more clearing accounts and, in its own name or in such clearing accounts, may act for itself or may act for a clearing agency registered pursuant to the Securities Exchange Act of 1934, as amended ("registered clearing agency") in providing for, or in assisting the registered clearing agency to provide for, the prompt clearance and settlement of securities transactions by the Clearing Corporation or the registered clearing agency and the satisfaction of the Clearing Corporation's or the registered clearing agency's obligations and responsibilities under the Securities Exchange Act of 1934, as amended.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change permits the Corporation to maintain clearing accounts with NCC and thereby to facilitate the linking of clearance and settlement facilities maintained by other clearing agencies and by itself through its SCC Division (SCC) and ASECC Division.

For example, the proposed rule change will permit the Corporation to facilitate the clearance and settlement of over-the-counter transactions by Midwest Clearing Corporation (MCC) and Stock Clearing Corporation of Philadelphia (SCCP) by interpositioning itself between NCC and MCC or SCCP. This is illustrated by the following example:

1. An MCC Participant purchases 100 shares of XYZ common stock from an NCC Participant.

2. The MCC Participant reports its side of the trade to MCC and the NCC Participant reports its side of the trade to NCC.

3. MCC reports the trade to Pacific Clearing Corporation (PCC). NCC also reports the trade to PCC. (This report by NCC is made possible by changes made in the NCC computer programs described below.)

4. PCC compares the trade and reports it back, as a compared trade, to MCC and NCC. At this stage, MCC's books show the MCC Participant long 100 shares and the SCC interface account on MCC's books short 100 shares: NCC's books show the NSCC/MCC account long 100 shares and the NCC Participant's account short 100 shares.

5. MCC, pursuant to SCC Rule 39 and Rule 7, section 10(b), reports to SCC a transaction between SCC's

MCC interface account and SCC's NCC/MCC interface account. As a consequence, SCC's books show SCC's MCC interface account long 100 shares and SCC's NCC/MCC interface account short 100 shares.

6. As a consequence of the entries produced in steps 4 and 5:

(a) the NCC Participant delivers 100 shares to NCC.

(b) NCC delivers the shares to the NSCC/MCC account.

(c) the NSCC/MCC account delivers the shares to the NCC/MCC account in SCC and to the SCC MCC interface account which delivers the shares to MCC in satisfaction of the short position in the SCC interface account on MCC's books.

(d) MCC delivers the shares to the MCC Participant.

The effect of this procedure is that MCC simply adds the over-the-counter transaction volume to its existing interface with SCC, and NCC simply establishes an additional account which appears to NCC as another participant. This is due to the interpositioning of the Corporation between NCC and MCC.

MCC's and the Corporation's rights, duties and obligations are the same as they are under the existing SCC/MCC interface.

SCCP can be substituted for MCC in the above example.

Substantially the same result can be achieved by other means. For example, MCC could become a Special Clearing Member of NCC pursuant to NCC Rule 3(b). In such event, the above described trade would be handled in the following manner:

After PCC reports the trade back to MCC and NCC, MCC's books would show the MCC Participant long 100 shares and the NCC interface account on MCC's books short 100 shares: NCC's books would show MCC long 100 shares and the NCC Participant's account short 100 shares.

As a consequence of these entries:

(a) the NCC Participant delivers 100 shares to NCC.

(b) NCC delivers the shares to the MCC account.

(c) MCC delivers the shares to the MCC Participant.

This procedure differs from that in which the Corporation interpositions itself, in that MCC deals with NCC in the same manner as any other remote participant in NCC and has the same rights, duties and obligations under the NCC Rules as does an NCC Clearing Member.

Either of the above procedures will operate on the basis of a comparison system which has adequate codes to designate the location at which the parties to a trade clear and settle.

Under existing arrangements, if an NCC Participant effects a transaction with a PCC Participant, the NCC Participant submits trade data to NCC which contains, among other things, the designation code of the contra party. The contra party's designation code contains an alphabetical suffix which designates its clearance and settlement location (e.g., the letter "L" designates that the party clears and settles at PCC's Los Angeles office). Trade input containing a designation code with the suffix "L" is routed by NCC to PCC for comparison and is reported back to NCC after comparison for settlement through the NCC/PCC interface.

The addition of new suffixes to designate a party which clears and settles at, for example, MCC or SCCP, has the following effect: Trade data submitted to NCC which contains a designation code of a contra party which clears and settles at MCC will be routed to PCC for comparison as will trade data submitted by the contra party to MCC. PCC will compare the trade and report back to NCC and MCC.

The designation code of each NCC participant is determined by NCC, under authority of its rules, from time to time. The change in designation codes required to recognize MCC and SCCP participants will be effected by NCC's publication of new designation codes.

A compared trade which contains a designation code which indicates that the contra party is a MCC participant will be posted by NCC, if the Corporation is interpositioned, to the account of the NCC Participant and to the NSCC/MCC account, or, if the Corporation is not interpositioned and MCC is a Special Clearing Member, to the account of the NCC Participant and to the MCC account.

Neither of the arrangements described above requires a special agreement between the Corporation and any of MCC, SCCP or PCC since such arrangements rely upon, in the case of the interpositioning arrangement, the NCC Rules, including the proposed rule change, the SCC Rules and the interface agreements now in effect which have previously been filed by the Corporation with the Securities and Exchange Commission or, in the case in which MCC or SCCP would become a Special Clearing Member of NCC, upon the NCC Rules. If, however, any supplemental agreement is executed by the Corporation wiht another registered clearing agency, it will be submitted to the Securities and Exchange Commission in the appropriate manner.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions and foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by permitting the Corporation, through NCC, to act in a manner which will allow a participant in the registered clearing agency to clear and settle a securities transaction with a participant in another registered clearing agency.

In view of the continuing oversight by the Securities and Exchange Commission into the interfaced relationships between and among registered clearing agencies, the Corporation will provide the Securities and Exchange Commission with such statistics and information as will enable appropriately thorough review thereof, and will not utilize the proposed rule change described above for a period greater than one hundred eighty (180) days after the Securities and Exchange Commission grants approval hereof without making a further request to the Securities and Exchange Commission to do so, in the appropriate manner.

No comments on the proposed rule change have been solicited or received.

NSCC does not perceive that any burden on competition will be imposed by the proposed rule change.

In connection with the proposed rule change, NSCC requested that the Commission approve the proposed rule change prior to the thirtieth day after publication in the FEDERAL REGISTER.

On or before June 23, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 9, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 16, 1978.

[FR Doc. 78-13724 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 14757; File No. SR-CBDE-78-11]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of Proposed Rule Change

MAY 15, 1978.

The Chicago Board Options Exchange, Inc. ("CBOE") submitted on May 10, 1978, a proposed rule change under Rule 19b-4 to provide investors with a simple and inexpensive procedure for the arbitration of small claims against member firms. The proposed rule would provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. In addition, the CBOE has proposed amendments to its existing arbitration rules to provide conformity with the proposed new small claims rules.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of May 15, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days from the date of publication in the FEDERAL REGISTER. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-CBOE-78-11.

Copies of the submission and all subsequent amendments, and copies of all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of section 552 of Title 5, United States Code, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13658 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 14755; File No. SR-NYSE-78-21]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change

MAY 12, 1978.

The New York Stock Exchange, Inc. ("NYSE"), submitted on March 29, 1978, a proposed rule change under Rule 19b-4 to rescind its Article XIV and Rule 345(c), add a new Article XIV and Rules 476 and 477 and amend Articles III, X, and XI. Those proposed amendments are intended to conform the NYSE's disciplinary rules to the provisions of the Act, to organize those rules into a uniform body of enforcement regulations and to clarify certain procedural requirements.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of May 15, 1978. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the FEDERAL REGISTER. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Secruities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-78-21.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing and of the subsequent amendments will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13659 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14754; File No. SR-PSE-78-8]

PACIFIC STOCK EXCHANGE, INC.

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 May 9, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

PSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange, Inc. ("PSE"), hereby requests to amend Rule XII, by the addition of a new section 10. The proposed rule would, among other things, provide for determination by a single arbitrator knowledgeable in securities matters of disputes between brokerage firms and customers involving amounts not exceeding $2,500. The participating self-regulatory organizations will offer hearing facilities in all areas of the country so that a dispute can be heard in a location convenient to the claimant. A claimant will have the right to withdraw his claim without prejudice if a conterclaim in excess of his claim is interposed. The only expense will be a filing fee of $15.

PSE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide investors with a simple and inexpensive procedure for the resolution of small claims against member firms. The procedures set forth in the proposed rule were developed by the Securities Industry Conference on Arbitration, which is composed of representatives of the PSE and eight other self-regulatory organizations.

Rule XII is proposed to be amended to protect investors and the public interest consistent with section 6(b)(5) of the Act by providing a more effective, efficient and economical dispute resolution system for investors with small claims.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS

Comments were received from the members of the Securities and Exchange Commission at an open meeting held on December 8, 1977, to a Report by SICA containing an earlier version of the procedures. Based on those comments, the procedures were revised as presently submitted.

PSE's STATEMENT OF BURDEN ON COMPETITION

The PSE has determined that no burden on competition will be imposed by the proposed rule change.

On or before June 23, 1978, or within such longer period: (i) as the Commissioner may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 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 by June 9, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 12, 1978.

The text of the proposed rule change is as follows. Italics indicate new material.

RULE XII.—ARBITRATION

UNIFORM RULE APPLICABLE TO SMALL CLAIMS BY PUBLIC CUSTOMERS

Sec. 10. (a) Any dispute, claim or controversy, arising between a public customer(s) and a member, or member organization, required to be arbitrated under the By-Laws and rules of the Pacific Stock Exchange, Inc., involving a dollar amount not exceeding $2,500, exclusive of attendant costs and interest, shall upon demand of the customer(s) or by written consent of the parties be arbitrated as hereinafter provided.

(b) The Claimant shall file with the Arbitration Director one (1) executed Submission Agreement and one (1) copy of the Statement of Claim of the controversy in dispute, together with documents in support of the claim. The Statement of Claim shall specify the relevant facts, the remedies sought and whether or not a hearing is demanded.

(c) The Claimant shall pay the sum of $15.00 upon filing of the Submission Agreement. The final disposition of this sum shall be determined by the arbitrator.

(d) The Arbitration Director shall endeavor to serve promptly by mail or otherwise on the Respondent(s) one (1) copy of the Submission Agreement and one (1) copy of the Statement of Claim. The Respondent(s) shall within twenty (20) calendar days from receipt of service file with the Arbitration Director one (1) executed Submission Agreement and one (1) copy of the Respondent's Answer, together with supporting documents. The Answer shall designate all available defenses to the Claim and may set forth any related counterclaim and/or related Third Party Claim the Respondent(s) may have against the Claimant or any other person. If the Respondent(s) has interposed a Third Party Claim, the Arbitration Director shall endeavor to serve promptly by mail or otherwise a copy of same together with a copy of the Submission Agreement on such Third Party who shall respond in the manner herein provided response to the Claim. If the Respondent(s) files a related Counterclaim exceeding $2,500, the arbitrator may refer the Claim, Counterclaim and/or Third Party Claim, if any, to a panel of three (3) arbitrators or, he may dismiss the Counterclaim and /or Third Party Claim without prejudice to the Counterclaimant(s) and/or Third Party Claimant(s) pursuing the Counterclaim and/or Third Party Claim in a separate proceeding. The costs to the Claimant under either proceeding shall in no event exceed $15.

(e) The Arbitration Director shall endeavor to serve promptly by mail or otherwise on the Claimant a copy of the Answer, Counterclaim, Third Party Claim or other responsive pleading, if any. The Claimant, if a Counterclaim is asserted against him, shall within ten (10) calendar days either (2) file a Reply to any Counterclaim with the Arbitration Director who will serve a copy of the Reply on the Respondent(s) or (ii) if the amount of the Counterclaim exceeds the Claim shall have the right to file a statement withdrawing the Claim. If the Claimant withdraws the Claim, the proceedings will be discontinued without prejudice to the rights of the parties.

(f) The dispute, claim or controversy shall be submitted to a single arbitrator knowledgeable in the securities industry selected by the Arbitration Director. Unless the public customer demands or consents to a hearing, or the arbitrator(s) calls a hearing, the arbitrator shall decide the dispute, claim or controversy solely upon the pleadings and evidence filed by the parties. If a hearing is necessary, such hearing shall be held as soon as practicable at a locale selected by the Arbitration Director.

(g) The Arbitration Director may grant extensions of time to file any pleading upon a showing of good cause.

(h) The arbitrator shall be authorized to require the submission of further documentary evidence as he in his sole discretion deems advisable.

(i) Upon the request of the arbitrator, the Arbitration Director shall appoint two (2) additional arbitrators to a panel which shall decide the matter in controversy.

(j) In any case where there is more than one (1) arbitrator, the majority will be public arbitrators.

(k) In his discretion, the arbitrator may, at the request of any party, permit such party to submit additional documentation relating to the pleadings.

(l) Except as otherwise provided herein, the general arbitration rules of the Pacific Stock Exchange, Inc., shall be applicable to proceedings instituted under this Rule.

** * *Supplementary Material*

FORM OF SUBMISSION

Pacific Stock Exchange, Inc.

In the Matter of the Arbitration between ————————.

SUBMISSION AGREEMENT FOR SMALL PUBLIC CLAIMS

1. The undersigned parties hereby submit to arbitration in accordance with the By-Laws and Rules of the Pacific Stock Exchange, Inc., the present matter in controversy as set forth in the attached statement of claim, answers and all related counterclaims and/or third party claims which may be asserted.

2. The undersigned parties hereby state that they have read the procedures and rules of the Pacific Stock Exchange, Inc., relating to arbitration.

3. The undersigned parties agree that the arbitration between the parties named above shall be held at such time and place as may be designated by the Arbitration Director or the arbitrator(s) and further agree and understand that the arbitration will be conducted according to the rules of the Pacific Stock Exchange, Inc., and its schedule of fees, both of which are to be hereby incorporated into this Submission Agreement.

4. The undersigned parties further agree to abide by and perform any award(s) rendered pursuant to this Submission Agreement and further agree that a judgment and any interest due thereon, may be entered upon such award(s) and, for these purposes, the undersigned parties hereby voluntarily

consent to submit to the jurisdiction of any court of competent jurisdiction which may properly enter such judgment.

5. In witness whereof, the parties hereto have signed and acknowledged the foregoing Submission Agreement.

[FR Doc. 78-13661 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 34-14744; File No. SR-PHLX-78-5]

PHILADELPHIA STOCK EXCHANGE, INC.

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 April 2, 1978, the Philadelphia Stock Exchange, Inc. (the "PHLX") filed with the Securities and Exchange Commission a proposed rule change, supplemented by Amendments No. 1 and 2 thereto submitted on April 26 and May 1, 1978, respectively. The PHLX has provided the Commission with the following statement of the terms of substance, basis and purpose of the proposed rule change.

STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change provides for the amendment of PHLX rules necessary to implement the Plan previously submitted to the Securities and Exchange Commission for the purpose of creating and operating an Intermarket Communications Linkage pursuant to section 11A(a)(3)(B) of the Securities and Exchange Act of 1934.

PURPOSE OF THE PROPOSED RULE CHANGE

The purpose of the proposed rule change is to implement the Plan previously submitted to the Securities and Exchange Commission by the New York Stock Exchange by letter dated March 8, 1978, for the purpose of creating and operating an Intermarket Communications Linkage pursuant to section 11A(a)(3)(B) of the Securities Exchange Act of 1934. This plan in general provides for a communications system linkage of the various participant's trading floors in order to permit a trade to take place between the members of different participants.

Pursuant to the intent of the Congress, as expressed in section 11A (a)(3)(B) of the Securities Exchange Act of 1934, as amended, (the Act)—that self-regulatory organizations act jointly in planning, development, operating, and regulating a national market system (or a subsystem or one or more facilities thereof)—the PHLX and the American, Boston, Pacific, and New York Stock Exchanges have entered into a plan agreement (the Plan) providing for an electronic communications system (the System) which will link together the various trading floors maintained by the participating exchanges. This System is intended to support the Intermarket Trading System Application (ITS) and the Pre-Opening Application.

The ITS Application of the System will facilitate intraday (post opening) trades between broker-dealers on different participants. The following example describes the operation of ITS:

Assume that a member firm of the PHLX receives from a customer an order to purchase 100 shares of a given PHLX listed stock that is also traded on the Pacific (PSE) and New York Stock (NYSE) Exchanges and sends that order to the PHLX Floor for execution. There a PHLX member, acting as agent for the customer, will receive the order and attempt to execute it. He will go to the post at which the stock is traded on the PHLX and inquire as to the market for that stock. He may find that the best bid on the PHLX Floor is 40 and that the best offer is 40¼.

A continuously updated quotation display at the same trading post will also show the broker the best bid and offer available throughout the System other than on the PHLX Floor, identifying the participant with the best bid and the participant with the best offer. Thus, the broker may discover that the best bid for the stock from other participants is a bid of 40 on the NYSE and the best offer from other participants is one of 40⅛ on the PSE. Having learned this information, the broker may decide to attempt to buy the 100 shares for his customer from the 40⅛ offer on the PSE. The broker would send, or cause to be sent, through ITS a so-called "commitment to trade" to the PSE. (As used in the Plan the term "commitment to trade" means a message issued by a broker-dealer in one participating market center which is sent to another participating market center through ITS and which communicates the sender's firm offer to buy (or sell) a specific number of shares of a specific security at a specified price or "at the market".) In this example, the broker would send to the PSE a commitment to buy 100 shares of the stock at 40⅛. If the 40⅛ offer on the PSE is still available when the commitment to buy reaches the PSE and if the rules of the PSE permit an execution at that price, then the PSE offer would accept the commitment and an execution at 40⅛ would take place.

The Pre-Opening Application of the System will enable a specialist on any participant who wishes to open his market in a security traded through ITS to obtain through the System any pre-opening interest of other specialists registered in that security on the other specialists registered in that security on the other participants. In this way the specialist in a given stock on one participant may be able to participate (as agent and/or principal) in the opening transaction in that stock on another participant and thus be able to provide an execution for limited price orders left with him which would otherwise go unexecuted. Briefly stated, the Pre-Opening Application would operate as follows:

Whenever a specialist on any participant, in arranging an opening transaction in his market in a stock traded through ITS, determines that the opening transaction will be at a price which is more than ¼ of a point away from the previous day's closing price of that stock, as reported on the consolidated tape, the specialist will notify specialists in that stock on the other participants of such situation by sending a message, called a "pre-opening notification", through the System. This message will identify the stock and will state the side of the market in which the order imbalance exists, the amount of the imbalance, and the amount paired off. The specialist who issues a pre-opening notification is referred to the Plan as the "inquiring specialist".

If any specialist who receives a pre-opening notification desires to participate in the inquiring specialist's opening transaction in the stock in question, he would do so by sending through the System to the inquiring specialist a message, known as a "pre-opening response" containing "obligations to trade", both as principal for his own account and/or as agent for orders left with him, at each price level at which the stock might open. The specialist who issues a pre-opening response is referred to in the Plan as the "responding specialist".

Upon receiving such obligations to trade from the responding specialist(s), the inquiring specialist would combine them with the orders he already holds in the stock in question and, on the basis of this aggregated information, decide upon the opening transaction in that stock.

Responses to pre-opening notifications are voluntary but, each obligation to trade which is included in any pre-opening response, or in any modification of a pre-opening response, will remain binding on the responding specialist, and on any person for whom he is acting, until the inquiring specialist has either opened the stock in question or received a cancellation or modification of such obligation.

ITS and the Pre-Opening Application and the various procedures related thereto as agreed upon by the par-

ticipants are explained fully in the Plan.

The Plan, which has been submitted separately to the SEC for approval, describes a number of rules and rule changes that each participant agrees to adopt in order to ensure that both the Pre-Opening Application and ITS operate in the manner intended by the Plan participants.

Thus, the general purpose of the proposed By-Law and rule changes submitted in this filing is to provide for the implementation and operation of ITS and the Pre-Opening Application on the Floor of the PHLX in accordance with the provisions and intent of the Plan.

Proposed Rule 2002 would permit the Exchange to assume liability in connection with transactions effected by its members through ITS or the Pre-Opening Application (System transactions). The Exchange's liability would be limited to the extent set forth in proposed new Rule 2001. This rule provides in effect that:

If the PHLX side of a System transaction fails to compare, the Exchange will assume that side of the transaction for its own account and risk when investigation of the details of the trade fails to confirm the identity of the broker on the Floor who issued the instruction which caused the transaction to be consummated and also fails to confirm the identity of the clearing member which knows that side of the transaction;

If the PHLX side of a System transaction is to be settled by an Exchange member who becomes insolvent to clearance, the Exchange may, but would not be required to, assume that side of the transaction for its own account and risk.

The Exchange also proposes to adopt a new Rule 2001, in connection with ITS and the Pre-Opening Application. The purpose of this Rule is to: define key terms that are unique to the Plan; incorporate the salient provisions of the Plan into rule so the Exchange membership will be aware of them and so that they can be properly enforced by the Exchange; and identify those rules which would be applicable to commitments to trade received on the Floor through ITS and those rules which would be applicable to commitments to trade and also obligations to trade issued from the Floor of the Exchange through ITS or the Pre-Opening Application, respecitively.

The Plan provides that the trading rules of the participating market center in which a commitment to trade is received through ITS shall be applicable to that commitment and any execution thereof within the market of that participant.

Thus, the Plan contemplates that such commitments to trade will be handled in the normal course of business in the receiving market center and will not be subject to any special restrictions except those which are specifically agreed to by the participating market centers in the Plan. To further emphasize this principle the Plan provides that the rules of each participant shall provide that a commitment to trade received in its market during the trading day shall, except as otherwise provided for in the Plan, be treated in the same manner and entitled to the same privileges as would an "immediate or cancel" order that reaches the trading floor of that participant at the same time.

The Plan also provides that each participating market center shall be free to determine the extent to which its trading rules will be made applicable with respect to commitments to trade which are issued from such market center. Specifically, the proposed rule changes would make the following existing rules applicable to commitments to trade issued from the Floor of the Exchange: Rules 102, 104, 105, 212, 452, 454, 772, and 774. Moreover, the Exchange has determined that these rules should also be applicable to obligations to trade issued from the Floor of the Exchange through the Pre-Opening Application of the System.

The effect of the proposed rule changes to the above mentioned existing Exchange rules is that:

Rule 102 would be extended to provide that Exchange members can only issue commitments to trade from the Floor during hours when the Exchange is open for business.

Rule 452 would be extended to prohibit an Exchange member from issuing a commitment or obligation to trade for his own account when he holds a customer's order capable of execution at that price.

Rule 772 and Rule 212, which restrict participation in joint accounts for Floor trading, would be extended to cover trading in other markets through ITS or the Pre-Opening Application.

Rule 774 would be extended to prohibit an Exchange member from initiating a discretionary order while on the Floor and using ITS or the Pre-Opening Application to transmit such order to another market center.

Rule 454 would be extended to prohibit a member from issuing a commitment or obligation to trade for his own account in a stock in which he holds an option.

The proposed changes to Rule 228 (f) and (g) concerning the dealings of Exchange specialists would provide, essentially, that when an Exchange specialist effects a principal purchase of a specialty stock in another market through ITS, at or above the price at which he holds orders to sell that stock, the specialist must also fill the orders he holds which remain unexecuted by buying the stock for his own account at the same price as his ITS principal trade. The same principle would apply in the case where the specialist effects a principal sale thorugh ITS. However, certain exceptions are provided, for example, in the case where a transaction on the Floor at that price would not be consistent with the maintenance of fair and orderly markets.

The proposed changes to Rule 228 (f) and (g) are intended to provide a degree of protection to limit orders which are held by PHLX specialists, during the initial phase of ITS. It is expected that future enhancements to ITS which are currently being contemplated would, if implemented, include mechanisms and procedures to provide for Systemwide protection of limit orders.

Changes are also proposed to Exchange trading Rules 104 and 105. These changes are intended to clarify the application and meaning of the rules in terms of System transactions.

In addition, Proposed Rule 2000 makes the provisions of the By-Laws and of all other Rules and Policies of the Board of Governors applicable to trading through the ITS unless the context otherwise requires.

Basis Under the Act

The basis under the Act for the proposed rule change is Section 6(b)(5).

(i) Inapplicable.
(ii) Inapplicable.
(iii) Inapplicable.
(iv) Inapplicable.
(v) The proposed rule change which is designed to implement a previously filed Plan to create and operate an intermarket communications linkage relates to the removal of impediments to and perfection of the mechanism of a free and open market and a national market system.
(vi) Inapplicable.
(vii) Inapplicable.
(viii) Inapplicable.

Comments Received From Members, Participants or Others

No comments have been solicited or received.

Burden on Competition

None.

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, 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 by June 19, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1978.

[FR Doc. 78-13662 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 20541 (70-6160)]

SOUTHERN CO. ET AL.

Notice of Proposal to Allocate Consolidated Federal Income Tax Liability by Method Other Than Specified in Rule 45(b)(6)

MAY 11, 1978.

In the matter of The Southern Co., 64 Perimeter Center East, P.O. Box 720071, Atlanta, Ga. 30346, and Alabama Power Co., Alabama Property Co., Georgia Power Co., Gulf Power Co., Mississippi Power Co., Southern Electric Generating Co., Southern Co. Services, Inc.

Notice is hereby given that The Southern Co. ("Southern"), a registered holding company, and its subsidiary companies have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(b) of the Act and rule 45 promulgated thereunder as applicable to the following proposal. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposal.

Southern and its subsidiaries join as a group in the filing of consolidated Federal income tax returns. In accordance with rule 45(b)(6), consolidated Federal income tax liability is allocated among system members by the method provided under section 1552(a)(1) of the Internal Revenue Code of 1954, as amended. Under section 1552(a)(1), consolidated income tax liability is apportioned among members of the consolidated group in accordance with the ratio which that portion of the consolidated taxable income attributable to each member having taxable income bears to the consolidated taxable income.

For 1977, Southern and its subsidiaries estimate that their combined taxable incomes will be approximately $190.5 million and that the consolidated tax, before investment credits, will be approximately $81.3 million. Each of Southern's operating electric utility subsidiaries, except Alabama Power Co. ("Alabama") will have separate taxable income for 1977. Alabama estimates that it will report a taxable loss of approximately $3.0 million.

Because Alabama has a taxable loss, Southern and its subsidiaries state that allocation of the group's consolidated income tax liability for 1977 pursuant to the literal requirements of rule 45(b)(6), as previously modified by Commission orders dated April 26, 1963, and March 15, 1976 (HCAR Nos. 14860 and 19429) would result in certain distortions and inequities in that the companies in the system other than Alabama will benefit from the savings in consolidated tax liability attributable to Alabama's net operating loss for the year. Under rule 45(b)(6), Alabama would derive no benefit from the tax savings generated by its net operating loss.

Southern and its subsidiaries propose, as an exception to rule 45(b)(6), to allocate the consolidated tax liability for 1977 in such a manner that the reduction in the group's tax liability attributable to Alabama's 1977 net operating loss will be allocated in its entirety to Alabama, resulting in an aggregate benefit to Alabama of an estimated $1.7 million. Under the proposed method of allocation, each of Southern's other operating utility companies will be allowed to offset its liability to Alabama by its full investment credits earned. In years when Alabama has taxable income and therefore may be entitled to tax credits under the operating loss carryback and carryover provisions of the Internal Revenue Code, any tax credits remitted to Alabama as a result of the exception from rule 45(b)(6) requested herein will be applied to reduce any credits in future years to which Alabama may otherwise be entitled under the separate return limitations of rule 45(b)(6). The aggregate tax liability allocated any member of the group under the proposed method of allocation will not exceed the amount of tax of such company based upon a separate return computed as if such company had always filed its tax returns on a separate return basis.

Southern and its subsidiaries also propose, as an additional modification to the application of rule 45(b)(6), to allocate the group's minimum tax liability on so-called tax "preference items," which include capital gains, percentage depletion, accelerated depreciation on real property, and amortization of pollution control facilities, to those members of the group in accordance with the ratio which that portion of the total preference items attributable to each member having preference items bears to the total preference items of all members. Under rule 45(b)(6), a company such as Alabama, which did not have ordinary taxable income for 1977 but did have preference items, would not be allocated any part of the minimum tax on those preference items. The proposed method for allocating minimum tax will permit Southern to apportion the burden of the tax among those companies of the group, including Alabama, which report tax preference items. It is stated that current projections indicate there will be minimum tax liabilities for 1978 and subsequent years. For 1977, Southern estimates that the group will report approximately $42.2 million of preference items, of which an estimated $10.9 million will be attributable to Alabama. It is stated that the minimum tax allocated to Alabama under the proposal is approximately $1.3 million.

The fees, expenses, and commissions incurred in connection with this proposal will be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposal.

Notice is further given that any interested person may, not later than June 6, 1978, 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 declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate, should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act 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. 78-13655 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10238 [812-4284]]

STATE STREET INVESTMENT CORP.

Filing of an Application

MAY 11, 1978.

Notice is hereby given that State Street Investment Corp. ("Fund"), 225 Franklin Street, Boston, Mass. 02110,

a Massachusetts corporation registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on March 20, 1978, pursuant to section 6(c) of the Act for an order of the Commission exempting the fund from the provisions of section 22(d) of the Act to permit a proposed exchange of the Fund's shares at approximately net asset value for substantially all of the assets of the D. P. Co., Inc. ("D. P. Co."), a personal holding company. 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 fund represents that D. P. Co., a Delaware corporation, was incorporated in 1927 and until 1973 was engaged in the manufacture and sale of glassine and other specialty papers under the name Deerfield Glassine Co. In 1973, this business was sold and the corporate name was changed to the D. P. Co., Inc. Since the latter part of 1973, D. P. Co. has operated as a private investment company, investing and reinvesting its assets in a diversified portfolio of securities. Substantially all of the assets of D. P. Co. are currently in the form of investments in marketable securities, cash, and cash items. The fund asserts that D. P. Co. presently has 36 stockholders, is a personal holding company for Federal income tax purposes and is exempt from registration under the Act by reason of section 3(c)(1) thereof.

On February 21, 1978, the fund and D. P. Co. entered into an agreement ("Agreement") whereby substantially all of the assets of D. P. Co. are to be acquired by the fund in exchange for shares of the fund's common stock. Pursuant to the Agreement, the number of the fund's shares to be acquired by D. P. Co. shall be determined on the closing date, as defined in the Agreement, by dividing the aggregate value of those assets of D. P. Co. which will be delivered to the fund by the fund's then current net asset value per share.

The application states that the fund and D. P. Co. have applied for a ruling from the Internal Revenue Service (the receipt of which is a condition to the consummation of the proposed exchange, although either party may waive such condition) to the effect that the contemplated transaction will constitute a tax-free reorganization, and that, consequently, the fund will not recognize a gain or loss upon acquisition of the D. P. Co. assets.

As of September 30, 1977, the market value of the assets of D. P. Co. which will be delivered to the fund was approximately $6,250,396. Following consummation of the transaction, the fund intends to sell certain of the securities transferred to it pursuant to the Agreement. Such a sale will involve securities having a market value of up to, but not in excess of, 30 percent of the value of the acquired D. P. Co. assets. The remainder of the assets will be retained in the fund's portfolio. Further, in accordance with the Agreement, shares of the fund which will be received by D. P. Co. will be distributed pursuant to the latter's liquidation proceedings. The fund has been advised that the stockholders of D. P. Co. have no present intention of redeeming or otherwise transferring their fund shares.

The fund represents that neither D. P. Co. nor any shareholder, director or officer of D. P. Co. is either an affiliated person of the fund or an affiliated person of any affiliated person of the fund, and that the Agreement was negotiated at arm's length by the principals of the fund and D. P. Co. The fund's investment adviser will bear substantially all of the fund's major expenses with respect to the reorganization.

Section 22(d) of the Act provides, in part, that a registered open-end investment company may sell its shares only at a current public offering price described in the prospectus. The fund does not have an effective prospectus which describes a current offering price for its shares and, accordingly, has filed this application seeking an exemptive order for the proposed transaction from section 22(d) of the Act.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or 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.

The fund represents that the terms of the proposed exchange are fair to the fund and are consistent with the fund's investment policies. It is further represented that the granting of the requested exemption from the provisions of section 22(d) of the Act is 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. The application asserts that the proposed reorganization will be beneficial to the fund because it represents an opportunity for the fund to acquire additional assets in a single transaction without the expense inherent in a sales program and the offering of shares to the public. The application also asserts that the reorganization will benefit present fund shareholders in that the increase in the assets of the fund will operate to reduce expenses in relation to net asset value per share because the fund's investment advisory contract provides for a reduced rate of management fee on net assets in excess of $300,000,000, and as of September 30, 1977, the fund's net assets had a market value of $299,911,820.

Notice is further given that any interested person may, not later than June 5, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive 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. 78-13654 Filed 5-18-78; 8:45 am]

[8010-01]

[Release No. 14773; SR-SCCP-77-2]

STOCK CLEARING CORPORATION OF PHILADELPHIA ("SCCP")

Order Approving Proposed Rule Change

MAY 16, 1978.

On August 1, 1977, SCCP filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change which would: (1) enable SCCP to establish interfaces for processing over-the-counter ("OTC") transactions, and (2) permit SCCP to clear and settle OTC transactions. The proposed rule change also contained SCCP's sched-

ule of interface fees. By letter of May 15, 1978, SCCP amended this filing (1) to make the proposed rule change for the establishment of OTC interfaces and the processing of OTC transactions a temporary rule expiring six months after approval by the Commission, and (2) to indicate that SCCP would provide to the Commission, after this filing is approved, copies of any pertinent information regarding the operation of the OTC interfaces or the processing of OTC transactions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-13866, August 16, 1977) and by publication in the FEDERAL REGISTER (42 FR 43173, August 26, 1977). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's Public Reference Room.

The matter of the establishment of OTC interfaces among registered clearing agencies has for some time been one of the principal elements identified by the Commission as necessary for the establishment of a national system for the clearance and settlement of securities transactions. For example, in its Order (Securities Exchange Act Release No. 13163, January 13, 1977) granting registration as a clearing agency to National Securities Clearing Corporation ("NSCC"), the Commission after receiving extensive public comment specified a number of conditions that must be met by NSCC. One of the conditions was the establishment by NSCC of OTC interfaces with other clearing agencies. These interfaces were to be implemented promptly, but have been delayed for an extended period. The proposed rule change approved herein authorizes SCCP to process OTC transactions and to establish an OTC interface with NSCC and other clearing agencies. It is expected that within six months SCCP will file, pursuant to section 19(b) and Rule 19b-4 thereunder, further proposed rule changes to establish OTC interfaces on a permanent basis which reflect experience gained during this temporary period as well as any developments in the national clearance and settlement system.

In view of the foregoing, and in light of the temporary nature of the rules and the undertaking by SCCP to provide pertinent information on a continuing basis, the Commission finds that the proposed rule change as it relates to the establishment of OTC interfaces and the processing of OTC transactions is consistent with the requirements of the Act and the rules and regulations thereunder applicable to clearing agencies and, in particular, the requirements of section 17A, 15 U.S.C. 78q-1, and the rules and regulations thereunder. The Commission does not, however, approve that portion of SCCP-77-2 relating to interface fees.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, That the above-mentioned portion of the proposed rule change be approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-13722 Filed 5-18-78; 8:45 am]

[8010-01]

PRIVACY ACT OF 1974

Proposed New System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Notification of Proposed New System of Records.

SUMMARY: The Securities and Exchange Commission proposes to create a new system of records identified as SEC-100, Automated Personnel Information System, which is being published for public comment. The proposed system will provide for a more rapid retrieval of selected data relating to Commission personnel.

DATES: This system shall become effective as proposed on June 19, 1978, unless comments are received on or before that date which would result in a contrary or changed determination.

ADDRESS: Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments received will be available for public inspection and copying in the Commission's Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Julian T. Pierce, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C. 202-376-7155.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is proposing a new system of records which will supplement and enhance the capabilities of several systems of records currently maintained manually by the Commission's Office of Personnel.

The Commission has submitted a report concerning this proposed new system of records pursuant to Office of Management and Budget, Circular No. A-108, Transmittal Memorandums No. 1 and No. 3, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974, 5 U.S.C. 552a(o).

The proposed system of records will enable the Commission's Office of Personnel to provide a more rapid means to produce notifications of personnel actions and pay changes (currently done by manual preparation of Standard Forms 50); to enable the updating of selected data contained in Official Personnel Folders on a more timely basis and allow easier access to that data by authorized members of the staff; and to supply more up-to-date and more frequent reports on personnel actions and status to SEC management. All information to be stored in the automated system is currently maintained in file folders by the Commission, as described in the Commission's current Systems of Records Nos. SEC-48, 49, 50 and 51 (see 41 FR 41591-41594). This new system of records will have no effect on the present systems of records from which information for the new system will be derived.

SEC-100

System name:

Automated Personnel Information System—SEC.

System location:

Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Categories of individuals covered by the system:

SEC employees, past and present.

Categories of records in the system:

The system of records consists of summaries of information received from the following category of records: (a) applicant files (Standard Forms 171 and resumes, attorney supplements to applications, applicant correspondence and evaluations, and summer employment files); (b) official personnel folders (Civil Service Commission files); (c) service record cards; (d) merit promotion posting files, including supervisory appraisals for jobs advertised under SEC Merit Promotion Program; (e) chronological copies of personnel actions (Standard Forms 50); (f) employee payroll number; (g) official position description; (h) supergrade submissions (correspondence with Civil Service Commission requesting new supergrade allocations or

changes with respect to existing ones); and (i) annual performance rating and position classification certification.

Authority for maintenance of the system:

5 CFR, sections 213, 293, 302 and 335 and Civil Service Regulations promulgated thereunder.

Routine uses:

1. The records will be used by the SEC staff for (a) preparation of forms relating to official personnel actions; (b) computation of personnel strength of Commission divisions and offices; (c) certification of employment for credit checks or job applications; (d) recording of personnel actions processed; (e) preparation of reports and statistics on personnel activity; (f) location of personnel having specific skills and training; and (g) monitoring personnel actions concerning the staff (i.e., date of employee's last promotion, employee's position description number, etc.).

2. Any record in this system of records may be used by the Commission in connection with any action or proceeding brought by an employee before another agency or a court of law to review personnel action taken by the Commission or the failure by the Commission to take action.

3. Any record in this system may be used in any proceeding where the federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

4. Any record in this system of records may be disclosed as a "routine use" to a federal, state or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

5. Any record in this system of records may be disclosed to a federal, state or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

6. The records in this system of records may be used as a data source for management information, to enable the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; they may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

7. Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission's staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appear to be relevant at the time to the subject matter of the inquiry.

8. Disclosure may be made to a congressional office of information contained in the records relating to an individual in response to any inquiry from the congressional office made at the request of that individual.

9. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular A-19 at any stage of the legislative coordination and clearance process as set forth in that circular.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

The records are computerized and maintained on magnetic disk (current records) and magnetic tape (historical records and backup).

Retrievability:

Information is retrieved by name, employee identification code, or social security account number.

Safeguards:

Direct access via computer terminals is restricted to certain Office of Personnel staff automatically through use of special identification codes. Access to the files is further restricted to only those computer terminals assigned to the Office of Personnel. Computer disk and tape files, on which the data is stored, are available only through the librarian or chief of operations of the Office of Data Processing. Computerized backup and historical files are stored at a secured auxiliary SEC storge facility. The building where the records are maintained has a 24-hour security guard.

Retention and disposal:

Computerized files on current employees will be retained during the time the employee is employed by the Commission. On becoming separated from the Commission, a separate computer historical file will be created, containing only the basic information needed to show the employee's tenure, employment dates, title, series, grade and organization with the Commission.

System manager(s) and address:

Director of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Office of Personnel, 500 North Capitol Street, Washington, D.C., or by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Record access procedures:

Persons wishing to obtain information on the procedure for gaining access to or contesting the contents of these records may contact the Office of Personnel, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C., or address their inquiries to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Contesting record procedures:

See Record access procedures above.

Record source categories:

Records in category (a) are obtained from applicant concerned and interviewer evaluating the applicant. Records in categories (b), (d) and (e) are obtained from employee and supervisors concerned. Records in category (c) are obtained from official personnel folder of the employee concerned. Records in category (f) are assigned to the employee by the Commission and are obtained from the employee's official personnel folder. Records in category (g) are obtained from interviews by position classifiers and/or management analysis staff of the Executive Director's Office with employee and his/her supervisor(s) and administrative assistant. Records in category (h) are obtained from official personnel files, office classification files, interviews by position classifiers, and the employee concerned. Records in category (i) are obtained from annual performance rating files.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1978.

[FR Doc. 78-13698 Filed 5-18-78; 8:45 am]

[8010-01]

PRIVACY ACT OF 1974

Modification of System of Records

AGENCY: Securities and Exchange Commission.

ACTION: Modification of System of Records.

SUMMARY: The Securities and Exchange Commission proposes to access its Name-Relationship Index (NRS) via computer terminals to provide a faster turn-around of information desired. Present methods involve request forms, keypunching and processing which average from four to five days. The proposed modifications would reduce the time delay by placing the index information on-line and providing a direct inquiry capability.

EFFECTIVE DATE: June 19, 1978, if no comments are received.

FOR FURTHER INFORMATION CONTACT:

Charles A. Moore, Privacy Act Officer, Securities and Exchange Commission, Washington, D.C., 202-523-5550.

SUPPLEMENTARY INFORMATION: On September 22, 1976, there was published in the FEDERAL REGISTER (41 FR 41550 through 41646), annual notices of systems of records pursuant to the provisions of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a. This notice proposes to modify the system of records identified as SEC-42, Name-Relationship Index (NRS) (41 FR 41585). These modifications will alter the manner in which records are retrieved and will change the equipment configuration so as to create the potential for greater or easier access.

A report on the altered system was filed with the Speaker of the House, the President of the Senate, the Office of Management and Budget, and the Privacy Protection Study Commission, on November 24, 1975.

Access to the index information (NRS) is currently obtained via special search request forms which are keypunched and then processed by computer on a periodic basis. The average period between initiating a search request and receiving a reply on a computer printout now is from four to five days. The proposed modification would reduce the time delay associated with these searches by placing the index information on-line and providing a direct inquiry capability via computer terminals.

The revised system notice for SEC-42, Name-Relationship Index System (NRS) is as follows:

SEC-42

System name:

Name-Relationship Index System—SEC.

System location:

Securities and Exchange Commission, Washington, D.C. 20549.

Categories of individuals covered by the system:

Records are maintained on principals and other individuals listed in filings by corporate issuers of securities; principals and other individuals listed in applications for registrations and amendments thereto filed by broker-dealers, investment advisers, transfer agents (non-bank), municipal securities dealers (which are banks or separately identifiable departments or divisions of banks), clearing agencies (non-bank), and securities information processors; individuals who are required to file ownership reports as corporate insiders; individuals, including defendants, respondents and witnesses, named in investigations and enforcement actions relating to securities violations.

Categories of records in the system:

The records are computerized and contain index information that relates the name of the individual to the docketed name of the formal filing or the case name when an enforcement or litigation proceeding is involved. The records include the SEC File numbers, date information on the realtionship, the social security number of the individual (if available), disposition of cases (if applicable), and violations alleged (if any).

Authority for maintenance of the system:

Title 15, United States Code, 77e, 77f, 77g, 77j, and 77o; 78f, 78l, 78m, 78o, 78p, and 78u; 79c, 79f, 79g, 79r, and 79s; 77eee, 77mmm, 77nnn, 77ttt, and 77uuu; 80a-8, 80a-20, 80a-29, 80a-32, 80a-40, 80a-44, and 80a-45; 80b-3, 80b-4, 80b-12, and 80b-16.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

These records and the information in these records may be used as follows:

1. By authorized SEC personnel in connection with their official functions including, but not limited to, the processing of documents filed with the Commission, the conduct of investigations into possible violations of the Federal securities laws, and other matters relating to the Commission's regulatory and law enforcement functions.

2. To conduct name searches upon the request of authorized individuals in other governmental agencies (Federal, State, local or foreign), or securities self-regulatory organizations for purposes of carrying out their designated functions.

3. Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, State, local, foreign or a securities self-regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. In any proceeding where the Federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

5. In connection with investigations or disciplinary proceedings by a State securities regulatory authority or by a securities self-regulatory organization involving one or more of its members.

6. When considered appropriate, records in this system may be referred to a bar association or similar Federal, State or local licensing authority for possible disciplinary action.

7. A record from this system of records may be disclosed as a "routine use" to a Federal or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

8. A record from this system of records may be disclosed to a Federal, State or local governmental authority, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

9. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

10. To aid in responding to inquiries from Members of Congress, the press and the public concerning matters

that are within the Commission's jurisdiction.

11. In connection with their regulatory and enforcement responsibilities mandated by the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)), or State of foreign laws regulating securities or other related matters, records in this system of records may be disclosed to national securities exchanges and national securities associations that are registered with the Commission, the Municipal Securities Rulemaking Board, the Securities Investor Protection Corporation, the Federal banking authorities, including, but not limited to, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, State securities regulatory or law enforcement agencies or organizations, or regulatory or law enforcement agencies of a foreign government.

12. Records in this system may be disclosed as a routine use to any trustee, receiver, master, special counsel, or other individual or entity that is appointed by a court of competent jurisdiction, or as a result of an agreement between the parties in connection with litigation or administrative proceedings involving allegations of violations of the Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)) or the Commission's rules of practice, 17 CFR 202.1, et seq. or otherwise, where such trustee, receiver, master, special counsel or other individual or entity is specifically designated to perform particular functions with respect to, or as a result of, the pending action or proceeding or in connection with the administration and enforcement by the Commission of the Federal securities laws or the Commission's Rules of Practice.

13. Records in this system may, in the discretion of the Commission's staff, be disclosed to any person during the course of any inquiry or investigation conducted by the Commission staff, or in connection with civil litigation, if the staff has reason to believe that the person to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

14. A record or information in this system may be disclosed to any person with whom the Commission contracts to reproduce, by typing, photocopy or other means, any record within this system for use by the Commission and its staff in connection with their official duties or to any person who is utilized by the Commission to perform clerical or stenographic functions relating to the official business of the Commission.

15. Records or information from records in this system may be included in reports published by the Commission pursuant to authority granted in Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g)).

16. Records or information in records contained in this system may be disclosed to members of advisory committees that are created by the Commission or by the Congress to render advice and recommendations to the Commission or to the Congress, to be used solely in connection with their official, designated functions.

17. Records or information in the records in this system may be disclosed as a routine use to any person who is or has agreed to be subject to the Commission's Rules of Conduct, 17 CFR 202.785-1 et seq., and who assists in the investigation by the Commission or possible violations of Federal securities laws (as defined in section 21(g) of the Securities Exchange Act, 15 U.S.C. 78u(g), in the preparation or conduct of enforcement actions brought by the Commission for such violations, or otherwise in connection with the Commission's enforcement or regulatory functions under the Federal securities laws.

18. Disclosure may be made to a congressional Office from the record of an individual in response to an inquiry from the congressional Office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The records are maintained on magnetic disk and tape.

Retrievability:

Information is retrieved by the name of the individual. Access for inquiry puposes is either by special request forms that are keypunched and processed by computer or by direct means via a computer terminal.

Safeguards:

The special request forms must be authorized by the division or office head or by a member of the staff pursuant to delegated authority. Direct data access via computer terminals is restricted to certain authorized personnel automatically through use of special identification codes assigned to these personnel.

Retention and disposal:

A record of search transactions, either through the forms or via the computer terminals, is maintained on magnetic storage media. Computer tape and disk files, on which the data is stored, are available only through the librarian or chief of operations of the Office of Data Processing. Backup master files on tape are stored at a secured auxiliary SEC storage facility. Records are maintained indefinitely at this time.

System manager(s) and address:

Director, Office of Data Processing, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

Notification procedure:

All requests to determine whether this system of records contains a record pertaining to the requesting individual may be made in person during normal business hours at the SEC Public Reference Section, Room 6101, 1100 L Street NW., Washington, D.C., of by mail addressed to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Record access procedures:

Persons wishing to obtain information on the procedures for gaining access to or contesting the contents of these records may contact or address their inquiries to the Privacy Act Officer, Securities and Exchange Commission, Washington, D.C. 20549.

Contesting record procedures:

See Record access procedures above.

Record source categories:

The sources include filings made by issuers, broker-dealers, investment advisers, insiders, and others; documents relating to enforcement actions. The enforcement documents are comprised of SEC opinions and orders, recommendations from SEC enforcement officials for institution of docketed investigations, court pleadings, and findings and orders issued by State and Federal courts, State securities boards, national securities exchanges and self-regulatory organizations, and individuals, including the individual to whom the information relates. Information may also be received from other State, local or foreign law enforcement or regulatory organizations.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MAY 10, 1978.

[FR Doc 78-13699 Filed 5-18-78; 8:45 am]

[8010-01]

[Rel. No. 10239 (812-4288)]

WEEDEN CORPORATE BOND TRUST AND WEEDEN TAX EXEMPT BOND TRUST

Filing of Application for an Order

MAY 12, 1978.

Notice is hereby given that Weeden Corporate Bond Trust and Weeden

Exempt Bond Trust ("Applicants"), care of Weeden & Co., 25 Broad Street, New York, N.Y. 10004, unit investment trusts registered under the Investment Company Act of 1940 ("Act"), filed an application on April 4, 1978, pursuant to section 6(c) of the Act for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act to the extent necessary to permit the investment pursuant to an automatic reinvestment option ("Plan") of income and principal distributions made to certificate-holders of predecessor series of the Applicants into units of a subsequent series of the respective Applicants ("Reinvestment Series") or into units of a previously formed series which have been purchased in the secondary market at a reduced sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants are sponsored by Weeden & Co. ("Sponsor"). Weeden Corporate Bond Trust registered with the Commission under the Act as a unit investment trust on June 25, 1976, and Weeden Tax Exempt Bond Trust similarly registered with the Commission on April 23, 1976. Applicants have commenced distribution of trust units pursuant to a series of registration statements under the Securities Act of 1933 which have been declared effective. Certificate holders of Weeden Corporate Bond Trust may only participate in the Plan with respect to Reinvestment Units of future series of Weeden Corporate Bond Trust and certificate holders of Weeden Tax Exempt Bond Trust may only participate in the Plan with respect to Reinvestment Units of future series of Weeden Tax Exempt Bond Trust.

Applicants represent that the objectives of each series of Weeden Corporate Bond Trust are to preserve capital and to provide investors with a high level of interest income relative to prevailing interest rates on other investments on the date of deposit of each separate series. Applicants state that each series of this Trust consists of a fixed, diversified portfolio of long-term debt securities issued primarily by corporations. Applicants also represent that the objectives of each series of Weeden Tax Exempt Bond Trust are to provide investors with interest income exempt from Federal income taxation and to preserve capital through investment in a diversified portfolio of tax exempt securities. Such securities shall consist of interest bearing state, municipal and public authority bonds, the interest on which is exempt, in the opinion of bond counsel to the respective issuers, from Federal income taxation under existing law. A separate trust indenture is entered into each time a new series of Applicants' respective Trusts is created and the bonds which comprise its portfolio are deposited with the Trustee. Certificate holders are permitted to elect to receive interest and principal distributions from the Trust either on a monthly or semi-annual basis.

Applicants propose to offer the right to participate in the Plan to certificate holders of record in each of its series who have selected the semi-annual plan of distribution. Applicants state that a certificate holder will be able to join the Plan at any time by delivering an Authorization Form to the Trustee. Likewise, a participant may withdraw from the Plan at any time upon written notice to the Trustee in the manner described herein.

Each unit of a Trust represents a fractional undivided interest in the ratio of 1 unit for each $1,000 principal amount of bonds initially deposited in the Trust. Under the Plan (subject to compliance with applicable state blue sky law) fractional units in denominations of one one/thousandth (1/1000th) of a unit ("reinvestment units") will be purchased from the Sponsor at a price equal to the aggregate offering price per unit of the bonds in the Reinvestment Series portfolio divided by 1,000, plus a sales charge equal to 3½% of the offering side evaluation of such bonds—3.627% of the amount invested (the "Reinvestment Price per Reinvestment Unit") plus accrued interest. Thus, it is the Sponsor's intention that each Reinvestment Unit will have a Reinvestment Price approximating $1.04 per unit (as opposed to the public offering price per unit of the Trust which approximates $1,040 per unit). Because Reinvestment Units will be offered in such denominations, Applicants anticipate that virtually the entire amount of a participant's income and principal distribution will be reinvested. Any remainder not reinvested will be less than $1 per unit and will be retained in the participant's reinvestment account with the Trustee for reinvestment on the next distribution date.

Each participant will have his interest and principal distributions reinvested on the semi-annual distribution date in the then currently effective Reinvestment Series of the respective Applicants which is being offered to public investors in primary distribution or in the then currently effective Secondary Unit Series if no Reinvestment Series is then currently effective. It is the Sponsor's intention that a Reinvestment Series will be offered during the last fifteen days of each month in which a semi-annual distribution occurs. Each Reinvestment Series will be a unit investment trust similar to the predecessor series of the respective Applicants except that the Reinvestment Series trust will be comprised of full Units and Reinvestment Units. If (a) the Sponsor does not have a currently effective Reinvestment Series on any Distribution Date or (b) the Reinvestment Series materially differs from the predecessor series of the respective Applicants in the opinion of the Sponsor, then the distributions may be reinvested in units of previously formed series of Weeden Tax Exempt or Corporate Bond Trusts, as the case may be ("Secondary Unit Series") which have been purchased in the secondary market and with respect to which a current registration statement under the Securities Act of 1933 is effective. The Secondary Units will be divided into Reinvestment Units and will be purchased for the accounts of the participants, as described above.

Applicants state that a final prospectus relating to the Reinvestment Series (or the Secondary Unit Series, as the case may be) will be mailed to each participant along with a confirmation which will indicate to each participant that Reinvestment Units have been purchased on his behalf and the transaction will become final unless the participant notifies the Trustee within seven days from the date of the confirmation that he no longer wishes to participate in the Plan or that he does not want to participate in that transaction. If the participant's notification of withdrawal has not been given to the Trustee within such seven day period, the participant will be deemed to have elected to participate in the Plan with respect to that particular distribution, and his withdrawal will become effective for the next succeeding distribution.

Applicants represent that they intend to see to it that a Reinvestment Series will be declared effective by the Commission in sufficient time to allow distribution to Plan participants of final prospectuses relating to such Reinvestment Series. As presently contemplated, it is intended that each Reinvestment Series will become effective on or about each semi-annual record date for determining who is eligible to receive distributions on the related Distribution Date. Applicants state that if a Reinvestment Series has not been declared effective in sufficient time and a then currently effective Secondary Unit Series is not available, the Plan will be suspended with respect to that series and recommenced with the next succeeding series. In such a case, a participant will receive his normal cash distribution.

In order that distributions may be reinvested on the next succeeding Distribution Date, the Authorization Form must be received by the Trustee no later than the 15th day of the month preceding such Distribution

Date. Any Authorization Form received after such date will result in the commencement of reinvestment on the second Distribution Date thereafter. Once delivered to the Trustee, an Authorization Form will, except in the following instance, constitute a valid election to participate in the Plan for each subsequent distribution as long as the certificate holder continues to participate in the Plan. If there should be a material change in the policies of the Applicants which adversely affect certificate holders or Plan participants, the authorization will be voided and participants will be provided both a notice of the policy change and a new Authorization Form which must be returned to the Trustee before the certificate holder will again be able to participate in the Plan. The Sponsor anticipates that a material change which would result in a voided authorization would be the inclusion of bonds in the Reinvestment Series or Secondary Unit Series portfolio which were not rated "A" or better by either Standard & Poor's Corp. or Moody's Investors Service, Inc., on the date of deposit and on the date of the purchase for reinvestment or, in the case of Weeden Tax Exempt Bond Trust, the inclusion of bonds in the Reinvestment Series or Secondary Unit Series portfolio, the interest income on which was not in the opinion of counsel to the issuer exempt from all federal income taxes.

Unless a certificate holder notifies the Trustee in writing to the contrary, any certificate holder who has acquired units through the Plan will be deemed to have elected the semiannual plan of distribution and to participate in the Plan with respect to distributions made in connection with units so purchased under the Plan. A certificate holder may withdraw from the Plan with respect to distributions related to units purchased under the Plan, and remain in the Plan with respect to units acquired other than through the Plan. All such distributions made with respect to units purchased under the Plan will be accumulated with distributions generated from the units of the respective predecessor series of the Applicants used to purchase such additional Plan units, but no distributions generated from units of other series of the Applicants will be accumulated with the foregoing distributions for Plan purchases. Thus, if a person owns units in more than one predecessor series of the Applicants (which are not the result of purchases under the Plan), distributions with respect thereto will not be aggregated for purchases under the Plan.

When an investor indicates that he will participate in the Plan, the Trustee will open an account for him, and he will receive a confirmation of the opening of his account. Thereafter, whenever a transaction takes place in the account (such as a purchase of additional Reinvestment Units) the participant will receive a confirmation statement giving complete details of the transaction. Certificates for Reinvestment Units will not be issued, and participants will thereby be relieved of the responsibility for their safekeeping. Both the Sponsor and the Trustee reserve the right to suspend, modify or terminate the Plan at any time. All participants will receive notice of any such suspension, modification or termination.

A participant may withdraw from the Plan by delivering written notice to the Trustee at any time. To aid a participant who might desire to withdraw either from the Plan or from a particular distribution, a Termination Form will be enclosed with each confirmation and with each statement sent to a participant. Unless the withdrawing participant specifically indicates on his Termination Form (a) that he wishes to withdraw from the Plan only for that particular distribution or (b) that he wishes to withdraw from the Plan for less than all series of Weeden Corporate or Tax Exempt Bond Trust which he might then own (and specifically identifies which series are to continue in the Plan), he will be deemed to have withdrawn completely from the Plan in all respects. Once a participant withdraws completely, he will only be allowed to again participate in the Plan by submitting a new Authorization Form. A sale or redemption of a portion of a participant's units will not constitute a withdrawal from the Plan with respect to the remaining units owned by such participant.

Applicants propose to offer Reinvestment Units under the Plan at a price reflecting a sales charge of 3½ percent of the underlying offering side evaluation of the bonds in such series rather than the customary 4 percent sales charge which applies to all primary and secondary sales of units in the various series of Applicants (including primary and secondary sales of Reinvestment Series units other than through the Plan).

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it except to or through a principal underwriter for distribution or at a current public offering price described in the prospectus, and, if such class of security is being currently offered to the public by or through an underwriter, no principal underwriter of such security and no dealer shall sell any such security to any person, except a dealer, a principal underwriter or the issuer, except at a current public offering price described in the prospectus, Rule 22d-1 permits certain variations in sales load, none of which are applicable to the proposed Plan.

In support of its request, Applicants assert that applying a sales charge for Plan purchases of less than the customary 4 percent charge is both beneficial to Plan participants, and also warranted in light of the related cost savings. Applicants state that approximately 3 percent of the customary 4 percent sales charge is attributable to brokerage efforts to make the initial customer solicitation, to ascertain the customer's financial requirements and to counsel him on the Applicants' specific product. Applicants represent that since each Reinvestment Series will be substantially similar to the predecessor series of the Applicants which the Plan participant originally purchased, with the exception of the make-up of the bond portfolio and certain portfolio related information, the selling and counselling effort is reduced. It is the Applicants' belief that the related cost savings should be passed on to Plan participants.

However, Applicants believe that a participant may seek professional advice with respect to participation in any particular Reinvestment Series, and thus a reduced sales charge for such financial services is warranted. It is the Applicants' belief that a charge of 1½ percent of the offering side evaluation of the underlying bonds in each Reinvestment Series (or assuming an offering side evaluation of approximately $100 per 100 Reinvestment Units, a sales charge of $1.50) is a reasonable and justifiable expense to be allocated to the soliciting broker for his professional assistance in connection with each Reinvestment Series.

Applicants further assert that implementation and continuation of the Plan will create special out-of-pocket costs which should properly be borne by the Plan participants. It is the Sponsor's belief that the special out-of-pocket expenses related to the Plan (including such items as (a) maintaining Trustee records on participants, (b) mailing, shipping and miscellaneous delivery charges, and (c) separate printing charges) will amount to $1 per 100 Reinvestment Units (1 percent of the assumed approximate value of $100 for 100 Reinvestment Units). Finally, prior experience indicates that the normal out-of-pocket costs for establishing each series of the Trusts approximate 1 percent of the offering side evaluation of the underlying bonds in each Reinvestment series. Applicants represent that all such costs will be covered in the proposed 3½ percent sales charge. Thus, Applicants conclude that the proposed 3½ percent sales charge for Plan purchases not only passes through certain cost savings to Plan participants but also charges such persons for reason-

able expenses related to the creation of the Plan, and for fees relating to periodic, professional, financial advice.

Section 6(c) of the Act provides, in pertinent part, that the Commission may, upon application, conditionally or unconditionally, exempt any person, security or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or 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 June 5, 1978, at 5:30 p.m. submit to the Commission in writing a request for hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication 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 Applicants 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 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. 78-13656 Filed 5-18-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 663]

ASSIGNMENT OF HEARINGS

MAY 16, 1978.

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 143515 (Sub-No. 2), P & W Charter Service, Inc., now assigned May 31, 1978 at Yakima, WA, is canceled.

No. 36129, Goodpasture, Inc. v. *The Atchison, Topeka and Santa Fe Railway Company Et Al.*, No. 36460, *Goodpasture, Inc.*—Petition for Declaratory Order—Demmurrage Charges, now being assigned June 6, 1978, at Houston, TX (2 days) in Room 10, 004, U.S. Distric Court Federal Building and Courthouse, 515 Rusk Avenue and contained to June 8, 1978 (7 days), in Room 7006, U.S. Tax Court, Federal Building and Courthouse, 515 Rusk Avenue, Houston, TX.

MC 2900, Ryder Truck Lines, Inc., now assigned May 22, 1978,. at Madison, WI, is canceled and application dismissed.

MC 52680 (Sub-No. 3, T.W. Express of Indiana, Inc. now assigned June 5, 1978 at Indianapolis, IN will be held in Room 284 of the New Federal Building, 575 North Pennsylvania instead of Room 402.

AB 1 (Sub-No.62, Chicago & North Western Transportation Co. Abandonment near Conover and Phelps, in Vilas County, WI, now assigned June 12, 1978 at Eagle River, WI, will be held in the Lincoln Town Hall, Highway 45.

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

[FR Doc. 78-13641 Filed 5-18-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before June 5, 1978.

FSA No. 43541, Ro-Lo Pacific Lines No. 1, on intermodal rates on general commodities, from carriers' terminal at U.S. Atlantic and Gulf Coast ports, to ports in the Far East, by way of ports in CA, in its tariff No. 1, ICC No. 1, to become effective June 10, 1978. Grounds for relief—water competition.

FSA No. 43542, Southwestern Freight Bureau, Agent's No. B-744, rates on soda ash, from stations in WY, to stations in LA, in sup. 324 to its ICC 4832, tariff 270-F, to become effective June 12, 1978. Grounds for relief—market competition.

By the Commission.

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

[FR Doc. 78-13642 Filed 5-18-78; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY, ELIMINATION OF GATEWAY LETTER NOTICES

MAY 12, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before May 30, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

No. MC 8535 (Sub-No. E42) (correction), filed July 16, 1975, published in the FEDERAL REGISTER issue of September 3, 1975, and republished, as corrected, this issue. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, MD 21120. Applicant's representative: James B. Nestor (same as above). *Aluminum and aluminum products*, generally requiring rigging, special equipment or specialized handling, from points in KY west of Oldham, Shelby, Spencer, Nelson, Marion, Taylor, Adair, Russell and Wayne Counties, to points in CT, MA, RI, and VT. The purpose of this filing is to eliminate the gateway of points in Hancock County, KY.

NOTE.—The purpose of this republication is to correct applicant's name, and also correct the commodity description.

No. MC 60014 (Sub-No. E274), filed August 28, 1976. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Applicant's representative: William J. Rorison, (same as above). *Iron and steel angles, bars, channels, conduit, fencing, flooring, joists, lath, mesh, piling, pipe, posts, rails, rods, roof bolt mats, roofing, strip, structurals, tank parts, tubing and wire* in coils, between points in PA, on the one hand, and, on the other, points in RI on and south of a line beginning at the CT-RI State

line, and extending along RI Hwy 165 to junction RI Hwy 102, then along RI Hwy 102 to junction U.S. Hwy 1, then along U.S. Hwy 1 to junction RI Hwy 1A, then along RI Hwy 1A to the Rock Island Sound. The purpose of this filing is to eliminate the gateways of points in NY, and between points in that part of MA on and east of a line beginning at the MA-NH State line, and extending southwardly along U.S. Hwy 202 to junction MA Hwy 68 (at or near Baldwinville, MA), then along MA Hwy 68 to junction MA Hwy 56 (at or near Hubbardston, MA), then along MA Hwy 56 to junction MA Hwy 12 (near Rochdale, Ma), then along MA Hwy 12 to the MA-CT State line (except points in Barnstable, Dukes, and Nantucket Counties, MA).

No. MC 70015 (Sub-No. E10), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Berrien County, MI on the one hand, and, on the other, points in that part of PA on, east and south of a line beginning at the MD-PA State line, and extending along Interstate Hwy 81 to junction Interstate Hwy 76, then along Interstate Hwy 76 to the PA-NJ State line. The purpose of this filing is to eliminate the gateways of Steubenville, OH, and Indianapolis, IN.

No. MC 70015 (Sub-No. E27), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on and north of U.S. Hwy 24 and points in Fulton, Miami, Cass, Wabash, Howard, Carroll, Tipton, Clinton, Boone, Marion, Hancock, Madison, Hendricks, Morgan, Shelby, Bartholemew, Brown, Jackson, Jennings, Washington, and Floyd Counties, IN on the one hand and, on the other, points in that part of TN bounded on the west by U.S Hwy 41 and Alternate U.S. Hwy 41 (formerly U.S. Hwy 41W), and on the east by a line beginning at the TN-GA State line, and extending along U.S. Hwy 11 to junction unnumbered hwy (formerly portion U.S. Hwy 11), then along unnumbered hwy through Athens, TN, to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 11W, then along U.S. Hwy 11W to Kingsport, TN, then along unnumbered hwy (formerly portion U.S. Hwy 11W) through Blountsville, TN, to the TN-VA State line. The purpose of this filing is to eliminate the gateway of Jeffersonville, TN.

No. MC 70015 (Sub-No. E29), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on and south of Interstate Hwy 70 on the one hand and, on the other, points in MI; (b) between points in IN on and south of IN Hwy 18 on the one hand and, on the other, points in the lower peninsula of MI on and north of a line beginning at Lake MI, and extending along U.S. Hwy 10 to the Saginaw River; and (c) between points in IN on, south and west of a line beginning at the IL-IN State line, and extending along IN Hwy 18 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-KY State line on the one hand and, on the other, points in MI. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E33), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on the one hand and, on the other, points in PA east of U.S. Hwy 15. The purpose of this filing is to eliminate the gateways of points in IN within a 50 mile radius of Anderson, IN, and Steubenville, OH.

No. MC 70015 (Sub-No. E34), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on and west of U.S. Hwy 31 on the one hand, and, on the other, points in PA, except points in Erie, Crawford, Warren, McKean, Forrest, Verango and Mercer Counties, PA. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN, and Steubenville, OH.

No. MC 70015 (Sub-No. E37), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in IN on, east and north of a line beginning at the OH-IN State line, and extending along U.S. Hwy 40 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line on the one hand, and, on the other, points in MO on and south of a line beginning at the MS River, and extending along U.S. Hwy 60 to junction U.S. Hwy 66, then along U.S. Hwy 66 to the MO River. The purpose of this filing is to eliminate the gateways of points in IN within 50 miles of Anderson, IN, and Cairo, IL.

No. MC 70015 (Sub-No. E39), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianaplois, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on, north and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line on the one hand and, on the other, points in KY on and east of Interstate Hwy 65; (b) between points in IN on, north and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31 then along U.S. Hwy 31 it the IN-MI State line on the one hand and, on the other, points in KY on and west of Interstate Hwy 65; (c) points in IN on, north and west of a line beginning at the IL-IN State line, and extending along combined U.S. Hwys 50 and 150 to Shoals, IN, then along U.S. Hwy 50 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line, on the one hand and, on the other, points in KY on and east of Interstate Hwy 65; (d) between points in LaPorte and St. Joseph Counties, IN on the one hand and, on the other, points in KY; and (e) between points in Jefferson, Shelby, Spencer and Bullitte, Counties, KY on the one hand and, on the other, points in IN north of U.S. Hwy 50. The purpose of this filing is to eliminate the gateway of Jeffersonville, IN.

No. MC 70015 (Sub-No. E40), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Perry, DuBois, Crawford, Harrison, Spencer, Warrick, Vanderburg, Posey, Gibson and Pike Counties, IN on the one hand and, on the other, Cincinnati and Norwood, OH. The purpose of this filing is to eliminate the gateway of Jeffersonville, IN.

No. MC 70015 (Sub-No. E41), filed June 6, 1974. Applicant: JIFFY VANS MOVING AND STORAGE, 6575 East Pleasant Run Parkway South Drive Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianaplois, IN 46204. *Household goods,* as defined by the Commission, (a) between points in IN on and south of U.S. Hwy 40 on the one hand and, on the other, points in OH on and north of U.S. Hwy 40; (b) between points in IN on and north of U.S. Hwy 40 on the one hand and, on the other, points in OH on and south of U.S. Hwy 40; (c) between points in IN north of U.S. Hwy 50 and on and south of U.S. Hwy 24 on the one hand and, on the other, points in OH north of U.S. Hwy 50 and south of U.S. Hwy 30. The purpose of this filing is to eliminate the gateways of points in IN within a 50 mile radius of Anderson, IN.

No. MC 70015 (Sub-No. E42), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission (a) between points in IN on, east, and south of a line beginning at the KY-IN State line, and extending along Interstate Hwy 65 to junction Interstate Hwy 70, then along Interstate Hwy 70 to the IN-OH State line, on the one hand, and, on the other, points in IL on and north of Interstate Hwy 74; (b) between points in IL on and south of Interstate Hwy 70, on the one hand, and, on the other, points in IN on, north, and east of a line beginning at the OH-IN State line, and extending along Interstate Hwy 70 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line; and (c) between points in IL on and south of Interstate Hwy 74 and north of Interstate Hwy 70, on the one hand, and, on the other, points in IN within the area bounded by a line beginning at the IL-IN State line, and extending along U.S. Hwy 50 to junction U.S. Hwy 31, then along U.S. Hwy 31 to junction U.S. Hwy 24, then along U.S. Hwy 24 to the IN-IL State line. The purpose of this filing is to eliminate the gateway of points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E43), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission, between points in Boone, Hendricks, Bartholomew, Decatur, Marion, and Clinton Counties, IN, on the one hand, and, on the other, points in IL. The purpose of this filing is to eliminate the gateways of all points in IN within 50 miles of Anderson, IN.

No. MC 70015 (Sub-No. E44), filed June 6, 1974. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway South Drive, Indianapolis, IN 46219. Applicant's representative: Donald W. Smith, Suite 2465, 1 Indiana Square, Indianapolis, IN 46204. *Household goods,* as defined by the Commission (a) between points in Posey, Gibson, Knox, Davies, Pike, DuBois, Vanderburgh, Warrick, and Spencer Counties, IN, on the one hand, and, on the other, points in TN within the area bounded by a line beginning at the KY-TN State line, and extending along U.S. Hwy 41 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 11E, then along U.S. Hwy 11E to the TN-VA State line; and (b) between points in Franklin, Dearborn, Ohio, Switzerland, Jefferson, Ripley, and Union Counties, IN, on the one hand, and, on the other, points in TN within the area bounded by Interstate Hwy 75 on the west and on the east by a line beginning at the AL-TN State line, and extending along U.S. Hwy 11 to junction U.S. Hwy 11E, then along U.S. Hwy 11E to the TN-VA State line. The purpose of this filing is to eliminate the gateway of New Albany, IN.

No. MC 103926 (Sub-No. E2), filed May 31, 1974. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 947, Mableton, GA 30059. Applicant's representative: Paul M. Daniell, Suite 1200, 235 Peachtree Street NE., Atlanta, GA 30303. (1) *Contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL west of the Suwannee River, on the one hand, and, on the other, points in NC except those in Columbus, Brunswick, Bladen, Pender, Hanover, and Onslow Counties, NC; (2) *contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL on and east of the Suwannee River on the one hand, and, on the other, points in MS on and north of Interstate Hwy 20; (3) *contractors' metal tanks,* setup, requiring special equipment and handling, not limited to such tanks as are intended solely for use by contractors, between points in FL on and east of the Apalachicola River on the one hand, and, on the other, points in AL on and north of a line begining at the GA-AL State line, and extending along U.S. Hwy 280 to junction U.S. Hwy 11, then along U.S. Hwy 11 to junction U.S. Hwy 82, then along U.S. Hwy 82 to the AL-MS State line. The purpose of this filing is to eliminate the gateway of Newnan, GA.

No. MC 106603 (Sub-No. E111), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, 200 Colrain Street SW., Grand Rapids, MI 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, MI 48167. *Materials, equipment, and supplies* used in the manufacture, installation, or application of roofing and roofing materials (except commodities in bulk), restricted to those roofing and roofing materials that are building contractor's equipment, materials and supplies, from points in DE, MD, NJ, NY, PA, VA, DC, and WV, to points in the Upper Peninsula of MI on and west of a line commencing at Lake Superior; or at Marquette and extending southeasterly on U.S. Hwy 41 to U.S. Hwy 2 at or near Rapid River. The purpose of this filing is to eliminate the plantsite of Certain-teed Products Corp. at Avery, OH; Whiting, IN; and Wilmington, IL.

No. MC 112304 (Sub-No. E117), filed September 23, 1977. Applicant: ACE DORAN HAULING & RIGGING CO., 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad Street, Columbus, OH 43215. *Commodities* which, because of their size and weight, require special handling or the use of special equipment, from points in VT, NH, MA, CT, and RI to points in CA, NV, and UT; restricted against the transportation to UT and NV of commodities used in or in connection with the construction, maintenance, repair, operations, servicing, or dismantling of pipelines. The purpose of this filing is to eliminate the gateway of Syracuse, NY, and those points in that part of NY within 75 miles of Syracuse.

No. MC 113495 (Sub-No. E1) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more,

and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in that portion of NC on and west of a line beginning at the NC-VA State line, and extending along U.S. Hwy 220 to Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line, on the one hand, and, on the other, points in Adams, Alexander, Bond, Brown, Calhoun, Carroll, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jackson, Jefferson, Jersey, Johnson, Knox, Logan, Macon, Macoupin, Madison, Marion, Mason, Massac, McDonough, Menard, Mercer, Monroe, Montgomery, Morgan, Peoria, Perry, Pike, Pope, Pulaski, Randolph, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Stark, Tazewell, Union, Warren, Washington, Whiteside, and Williamson Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E3) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in KY (except points in Ballard, Boone, Bracken, Calloway, Campbell, Carlisle, Carroll, Crittenden, Fulton, Gallatin, Grant, Graves, Henderson, Henry, Hickman, Kenton, Livingston, McCracken, Marshall, Oldham, Owen, Pendleton, Trimble, and Union Counties, on the one hand, and on the other, points in Barry, Barton, Bates, Benton, Buchanan, Butler, Camden, Carter, Cass, Cedar, Christian, Clay, Dade, Dallas, Douglas, Dunklin, Greene, Henry, Hickory, Howell, Jackson, Jasper, Johnson, Laclede, Lawrence, McDonald, Mississippi, New Madrid, Newton, Oregon, Ozark, Pemiscot, Platte, Polk, Ripley, St. Clair, Webster, and Wright Counties, MO, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment.

NOTE.—The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River. The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E4) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *Self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Cheatham, Claiborne, Clay, Cooke, Cumberland, Davidson, DeKalb, Fentress, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Montgomery, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Robertson, Rutherford, Scott, Sequatchie, Sevier, Smith, Sullivan, Sumner, Trousdale, Unicoi, Union, Van Buren, Warren, Washington, White, and Wilson Counties, TN, on the one hand, and, on the other, points in MO and points in AR (except points in AR: Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Craighead, Crittenden, Cross, Desha, Drew, Jackson, Jefferson, Lafayette, Lee, Lincoln, Lonoke, Mississippi, Monroe, Ouachita, Phillips, Poinsett, Prairie, St. Francis, Union, and Woodruff Counties), restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E5) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Adair, Allen, Barren, Bell, Clay, Clinton, Cumberland, Harlen, Knox, Laurel, Leslie, Letcher, McCreary, Metcalfe, Monroe, Perry, Pulaski, Russell, Wayne, and Whitley Counties, KY, on the one hand, and, on the other, points in Alexander, Jackson, Johnson, Massac, Pulaski, and Union Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E6) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their

transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Adams, Bond, Brown, Calhoun, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jefferson, Jersey, Johnson, Knox, Logan, Macoupin, Madison, Marion, Massac, Mason, McDonough, Menard, Mercer, Montgomery, Morgan, Peoria, Perry, Pike, Rock Island, Sangamon, Schuyler, Scott, Stark, Tazewell, Warren, Washington, and Williamson Counties, IL, on the one hand, and, on the other, points in TN (except points in Campbell, Claiborne, Clay, Dyer, Fentress, Grainger, Hancock, Hawkins, Jackson, Lake, Lauderdale, Macon, Morgan, Obion, Overton, Pickett, Scott, Tipton and Union Counties), restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E7) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Bedford, Benton, Bradley, Cannon, Carroll, Cheatham, Chester, Coffee, Crockett, Davidson, Decatur, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Lawrence, Lewis, Lincoln, Madison, Marion, Marshall, Maury, McNairy, Montgomery, Moore, Obion, Perry, Rutherford, Sequatchie, Shelby, Stewart, Tipton, Warren, Wayne, Weakley, Williamson, and Wilson Counties, TN, on the one hand, and, on the other, points in Boone, Cook, De Kalb, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, La Salle, McHenry, and Will Counties, IL, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River. The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 9, 1976.

No. MC 113495 (Sub-No. E8) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street, NW., Washington, DC 20001. (1) *Commodities* which because of size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Mechlenburg County, NC, on the one hand, and, on the other, points in Vanderburgh County, IN, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E9) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representative: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in Crockett, Dryer, Fayette, Hardeman, Haywood, Lake, Madison, Obion, Shelby, and Tipton Counties, TN, on the one hand, and, on the other, points in IN, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment. The purpose of this filing is to eliminate the gateway of points in KY west of the TN River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E12) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representative: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 Eleventh Street NW., Washington, D.C. 20001. (1) *Commodities* which, because of size or weight, require the use of special equipment, and *related machinery parts and related contractors' materials and supplies,* when their transportation is incidental to the transportation of commodities which, because of size or weight, require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of commodities which are transported on trailers, between points in KY (except points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties), on the one hand, and, on the other, points in AR (except points in Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha,

Drew, Greene, Lee, Lincoln, Mississippi, Monroe, Phillips, Poinsett and St. Francis Counties). The purpose of the filing is to eliminate the gateway of points in KY west of the TN River, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E13) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in the following counties in WV: Greenbrier, McDowell, Mercer, Monroe, and Summers Counties, on the one hand, and, on the other, points in the following counties of IL: Alexander, Johnson, Massac, Pulaski, and Union Counties, and points in the following counties in MO: Barry, Barton, Bates, Benton, Bollinger, Buchanan, Butler, Caldwell, Camden, Cape, Girardeau, Carroll, Carter, Cass, Cedar, Christian, Clay, Clinton, Cooper, Crawford, Dade, Dallas, Dent, Douglas, Dunklin, Greene, Henry, Hickory, Howell, Iron, Jackson, Jasper, Johnson, Laclede, Lafayette, Lawrence, Madison, Maries, McDonald, Miller, Mississippi, Moniteau, Morgan, New Madrid, Newton, Oregon, Ozark, Pemiscot, Pettis, Phelps, Platte, Polk, Pulaski, Ray, Reynolds, Ripley, St. Clair, Saline, Scott, Shannon, Stoddard, Stone, Taney, Texas, Vernon, Webster, and Wayne Counties. The purpose of this filing is to eliminate the gateway of points in VA on the west of U.S. Hwy 220 and points in KY west of Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E14) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in the following counties in WV: Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, McDowell, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Randolph, Summers, Tucker, and Wyoming Counties, on the one hand and, on the other, points in AR. The purpose of this filing is to eliminate the gateways of points in VA on and west of U.S. Hwy 220 and points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E19) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in OH, to points in the following counties in TN: Anderson, Blount, Bradley, Claiborne, Cocke, Grainger, Hamblen, Hamilton, Jefferson, Knox, Loudon, McMinn, Meigs, Monroe, Polk, Rhea, Roane, Sevier, and Union Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E20) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and related supplies, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum

products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in the following counties in OH: Ashtabula, Belmont, Carroll, Columbiana, Cuyahoga, Geauga, Guernsey, Harrison, Jefferson, Lake, Mahoning, Monroe, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, and Washington Counties, to points in the following counties IN TN: Bledsoe, Coffee, Cumberland, Franklin, Grundy, Marion, Van Buren, and Warren Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Subs 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E21) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 29, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and *related supplies,* when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *Self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in the following counties in OH: Ashland, Ashtabula, Belmont, Carroll, Columbiana, Coshocton, Crawford, Cuyahoga, Delaware, Erie, Geauga, Guernsey, Harrison, Holmes, Huron, Jefferson, Knox, Lake, Licking, Lorain, Lucas, Mahoning, Marion, Medina, Monroe, Morgan, Morrow, Muskingum, Noble, Ottawa, Portage, Richland, Sandusky, Seneca, Stark, Summit, Trumbull, Washington, Wayne, Wood, and Wynadot Counties, to points in the following counties in KY: Bell, Harlan, Knott, Leslie, Letcher, and Perry Counties. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E22) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issues of April 29, 1975, and republished, as modified, this issue, Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E.T. Gregory (same as above), and Wilmer B. Hill Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment and *related supplies,* when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up on pipeline materials or equipment, restricted to commodities which are transported on trailers, from points in OH (except points in Adams, Brown, Butler, Claremont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Mercer, Miami, Montgomery, Pike, Preble, Scioto and Warren Counties), to that portion of NC on and west of a line beginning at the NC-VA State line, and extending along U.S. Hwy 220 to Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line (except points in Cherokee, Clay, Graham, Haywood, Jackson, Macon, Swain and Transylvania Counties). The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub No. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E23) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment, which because of size or weight requires the use of special equipment and related supplies,* when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles,* each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Randolph, Summers and Tucker Counties, WV, on the one hand, and, on the other, points in Allen, Ballard, Barren, Bell, Calloway, Carlisle, Christian, Clay, Clinton, Cumberland, Fulton, Graves, Harlan, Hickman, Knott, Knox, Laurel, Leslie, Letcher, Logan, Marshall, McCracken, McCreary, Metcalfe, Monroe, Perry, Pulaski, Russell, Simpson, Todd, Trigg, Warren, Wayne and Whitley Counties, KY. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E24) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment,* which because of size or weight requires the use of special equipment, and *related supplies,* when their transportation is incidental to the transportation of road-construc-

tion machinery and equipment which because of size or weight requires the use of special equipment, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in TN on the one hand, and, on the other, points in Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Mercer, Mineral, Monroe, Morgan, Pendleton, Pocahontas, Raleigh, Randolph, Summers and Tucker Counties, WV. The purpose of this filing is to eliminate the gateway of points in VA west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E25) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issued of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment, and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in Anderson, Bledsoe, Blount, Bradley, Carter, Claiborne, Cocke, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Roane, Sequatchie, Sevier, Sullivan, Unicoi, Union, and Washington Counties, TN on the one hand, and, on the other, points in Kanawha Country, WV. The purpose of this filing is to eliminate the gateway of points in VA on and west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E26) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, between points in that portion of NC on and west of line beginning at the NC-VA State line, and extending along U.S. Hwy 220 to Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line, on the one hand, and, on the other, points in WV (except points in Berkeley, Grant, Greenbrier, Hampshire, Hardy, Jefferson, Lincoln, Mercer, Mineral, Mingo, Monroe, Morgan, Nicholas, Pendleton, Pocahontas, Randolph, Summers, Tucker, Wayne and Webster Counties). The purpose of this filing is to eliminate the gateway of points in VA west of U.S. Hwy 220.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E28) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above) and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC 20001. (1) *Road-construction machinery and equipment*, which because of size or weight requires the use of special equipment and *related supplies*, when their transportation is incidental to the transportation of road-construction machinery and equipment which because of size or weight requires the use of special equipment except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), (2) *self-propelled articles*, each weighing 15,000 pounds or more, which may be included in road-construction machinery and equipment, and related supplies moving in connection therewith, except petroleum products and coal tar products, in bulk, in tank vehicles, and except coal, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, from the facilities of Athey Products Corp. at or near Wake Forest, NC, to points in TN (except points in Anderson, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties). The purpose of this filing is to eliminate the gateway of KY.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E29) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham Street, Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, P.C., 666 Eleventh Street NW., Washington, DC 20001. (1)(a) *Trucks*, designed for off-highway use, each weighing 15,000 pounds or more, in initial movements, in truckaway service, restricted against the transportation of commodities in

connection with the stringing or picking up of pipeline materials or equipment, and restricted to commodities which are transported on trailers, from Decatur, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR, and (b) *related parts* for the above-specified commodities moving in connection therewith, restricted against the transportation of commodities in connection with the stringing or picking up of pipeline materials or equipment, restricted to commodities which are transported on trailers, restricted against the transportation of parts from Decatur, Morton, and Joliet, IL, to points in the Memphis, TN commercial zone as defined by the Commission, from Decatur, Morton, and Joliet, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR. (2) *Trucks,* designed for off-highway use, the transportation of which because of size or weight require the use of special equipment, in initial movements, in truckaway service, and *related parts,* when their transportation is incidental to the transportation of trucks, designed for off-highway use, which because of size or weight require the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from Decatur, IL, to points in Arkansas, Ashley, Bradley, Calhoun, Chicot, Clark, Cleveland, Columbia, Crittenden, Dallas, Desha, Drew, Garland, Grant, Hempstead, Hot Spring, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Lonoke, Miller, Monroe, Nevada, Ouachita, Phillips, Pike, Prairie, Pulaski, Saline, St. Francis, Sevier, and Union Counties, AR. The purpose of this filing is to eliminate the gateway of TN and points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub-Nos. 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E30) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham St., Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC. 20001. (1) *Earthmoving, construction, mining, and maintenance machinery and equipment,* which because of size or weight require the use of special equipment or special handling and related machinery parts, when their transportation is incidental to the transportation of earth-moving, construction, mining, and maintenance machinery and equipment which because of size or weight require the use of special equipment or special handling, (2) *self-propelled earth-moving, construction, mining, and maintenance machinery and equipment,* each weighing 15,000 pounds or more and related parts moving in connection therewith, restricted to commodities which are transported on trailers, from the plant- site of Athey Products Corp. at or near Wake Forest, NC, to points in AR and points in Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clinton, Fayette, Franklin, Fulton, Greene, Hancock, Henderson, Henry, Jackson, Jefferson, Jersey, Johnson, Knox, Logan, Macon, Madison, Marion, Massac, Mason, Macoupin, McDonough, Menard, Mercer, Monroe, Montgomery, Morgan, Peoria, Pike, Perry, Pulaski, Randolph, Rock Island, Sangamon, St. Clair, Schuyler, Scott, Stark, Tazewell, Union, Warren, Washington, and Williamson Counties, IL. The purpose of this filing is to eliminate the gateway of points in KY west of the Tennessee River.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113495 (Sub-No. E52) (modification), filed June 3, 1974, published in the FEDERAL REGISTER issue of April 30, 1975, and republished, as modified, this issue. Applicant: GREGORY HEAVY HAULER, INC., 51 Oldham St., Nashville, TN 37213. Applicant's representatives: E. T. Gregory (same as above), and Wilmer B. Hill, Ames, Hill & Ames, PC, 666 11th Street NW., Washington, DC. 20001. *Iron and steel articles,* the transportation of which because of size or weight, requires the use of special equipment (excluding any transportation in connection with the stringing or picking up of pipeline materials or equipment), from points in AR, to points in MA, RI, CT, NY, NJ, PA, MD, DE, and DC. The purpose of this filing is to eliminate the gateways of points in KY west of the Tennessee River and Nashville, TN.

NOTE.—The purpose of this republication is to modify the commodity description as modified in applicant's Sub 14 and 34 applications—order dated January 8, 1976.

No. MC 113855 (Sub-No. E425), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Prefabricated metal buildings and sections, knocked down, prefabricated metal building parts, and equipment, materials, and supplies,* used in the installation, construction and erection of prefabricted metal buildings, (A) from points in Whatcom, Skagit, Snohomish, King, Pierce, Thurston, Lewis, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Grays Harbor, Mason, Kitsap, Jefferson, Island, San Juan, and Clallam Counties, WA, to points in AZ; (B) from points in Washington (except points in Whatcom, Skagit, Snohomish, King, Pierce, Thurston, Lewis, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Grays Harbor, Mason, Kitsap, Jefferson, Island, San Juan, And Clallam Counties), to points in Yuma, Maricopa, Pinal, Pima, Santa Cruz, Cochise, and Graham Counties, AZ; and (C) from points in OR on and west of U.S. Hwy 97 to points in AZ. The purpose of this filing is to eliminate the gateway of facilities of Varc-Pruden, Inc., at or near Turlock, CA.

No. MC 113855 (Sub-No E426), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* which because of size or weight require the use of special equipment or special handling (except boats and iron and steel articles), and related machinery parts and related contractor's equipment, materials, and supplies when their transportation is incidental to the transportation of metal or metal articles which, because of size and weight require the use of special equipment, (A) between points in Mercer, Henderson, Hancock, and Rock Island Counties, IL south of U.S. Hwy 6 and points in Adams County, IL, on and north of IL Hwy 104, on the one hand, and, on the other, points in WV on an east of a line beginning at the PA-WV State line along U.S. Hwy 19 extending along U.S. Hwy 19 to junction U.S. Hwy 250 then along U.S. Hwy 250 to junction U.S. Hwy 219, then along U.S. Hwy 219 to junction WV Hwy 39 at or near Marlinton, WV, then along WV Hwy 39 to the WV-VA State line, Steuben County, IN, and points in OH on and north of a line beginning at the IN-OH State line, and extending along U.S. Hwy 6 to junction OH Hwy 53, then along OH Hwy 53 to junction U.S. Hwy 224, then along U.S. Hwy 224 to the OH-PA State line. The purpose of this filing is to eliminate the gateways of Davenport, IA, and Elgin, IL. (B) between points in IL south of U.S. Hwy 6 and on, west and north of

a line beginning at the junction of U.S. Hwy 6 and IL Hwy 26, then along IL Hwy 26 to Peoria, IL, then along U.S. Hwy 24 to the IL-MO State line, on the one hand, and, on the other, Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, PA, and mines in the part of PA south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburh, PA, then along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, and then along PA Hwy 997 to the PA-MD State line, including points of the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of Davenport, IA, and Elgin, IL. (C) between points in IL south of U.S. Hwy 6 on, west and north of a line beginning at the junction of U.S. Hwy 6 and IL Hwy 26, then along IL Hwy 26 to Peoria, IL, then along U.S. Hwy 24 to the IL-MO State line, on the one hand, and, on the other, points in DE, NJ, MA, CT, RI, and DC, points in NY in and east of Tioga, Tompkins, and Cayuga Counties, points in MD on and east of a line beginning at the MD-PA State line, then along U.S. Hwy 140 to junction MD Hwy 97, then along MD Hwy 97 to DC, points in VA in and east of Southampton, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, and King George Counties, and points in Hyde, Washington, Tyrrell, Dare, Chowan, Gates, Perquimans, Pasquotank, Camden, and Currituck Counties, NC. The purpose of this filing is to eliminate the gateways of Davenport, IA, Elgin, IL, and Scranton, Allentown, and Hazleton, PA.

No. MC 113855 (Sub-No. E427), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building Fargo, ND 58102. *Signs, sign parts, and sign accessories,* which are metal or metal articles, (A) from points in WA and ID, to points in AZ, NM, and CO; (B) from points in OR to points in NM and CO; (C) from points in OR (except Coos, Curry, Douglas, Josephine, Jackson, Klamath, and Lake Counties), to points in AZ (except Yuma and Mohave Counties); (D) from points in NV (except Esmerelda, Nye, Lincoln, and Clark Counties), to points in CO (except Rio Blanco, Garfield, Mesa, Gunnison, Delta, Montrose, Ouray, Hinsdale, Mineral, Rio Grande, Conejos, Archulets, San Juan, La Plata, San Miquel, Dolores, and Montezuma Counties); (E) from points in CA in and North of Santa Cruz, Santa Clara, Stanislaus, Tuolumne, and Alpine Counties, to points in CO. The purpose of this filing is to eliminate the gateway of Clearfield, UT.

No. MC 113855 (Sub-No. E428), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* (A) between points in WI, on the one hand, and, on the other, points in WV, KY, OH, and Scranton, Reading, Allentown, Harrisburg, Lancaster, and Hazleton, PA, and mines in that part of PA south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 19 near Rose Point, PA, then along U.S. Hwy 19 to junction unnumbered highway near Portersville, PA, then along unnumbered highway via Prospect, PA, to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburg, PA, then along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, then along PA Hwy 997 to the PA-MD State line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Elgin, IL; (B) between points in WI, on the one hand, and, on the other, points in MA, CT, RI, NJ, DE, DC, points in NY in and east of Tioga, Tompkins, and Cayuga Counties, points in MD on and east of a ine beginning at the MD-PA State line, then along U.S. Hwy 140 to junction MD Hwy 97, then along MD Hwy 97 to DC, points in VA in and east of Southampton, Sussex, Prince George, Charles City, New Kent, King William, King and Queen, Essex, and King George Counties, and Hyde, Washington, Tyrrell, Dare, Chowan, Gates, Perquimans, Pasquotank, Camden, and Currituck Counties, NC. The purpose of this filing is to eliminate the gateways of Elgin, IL, and Scranton, Allentown, and Hazleton, PA; (C) between points in WI, on the one hand, and, on the other, points in IN (except points north and west of a line beginning at the IL-IN State line along U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line). The purpose of this filing is to eliminate the gateway of Elgin, IL; (D) between points in WI on, north and west of a line beginning at the IL-WI State line along WI Hwy 120, then along WI Hwy 120 to junction WI Hwy 36, then along WI Hwy 36 to junction WI Hwy 83, then along WI Hwy 83 to junction WI Hwy 59, then along WI Hwy 59 to Waukesha, WI, then along WI Hwy 164 to junction WI Hwy 74, then along WI Hwy 74 to junction U.S. Hwy 41, then along U.S. Hwy 41 to junction WI Hwy 167, then along WI Hwy 167 to Lake MI, on the one hand, and, on the other, points in IN north/west and of a line beginning at the IL-IN State line along U.S. Hwy 24, then along U.S. Hwy 24 to junction U.S. Hwy 31, then along U.S. Hwy 31 to the IN-MI State line; (E) between points in WI, on the one hand, and, on the other, points in IL south of U.S. Hwy 6 and west and north of a line beginning at the junction of U.S. Hwy 6 and Interstate Hwy 74, then along Interstate Hwy 74 to junction IL Hwy 78, then along IL Hwy 78 to junction IL Hwy 104, then along IL Hwy 104 to the IL-MO State line at or near Quincy, IL; (F) between points in WI in and north of Sheboygan, Calumet, Winnebago, Green Lake, Marquette, Sauk, Iowa, and Lafayette Counties, WI, on the one hand, and, on the other, that part of IL beginning at the junction of U.S. Hwy 6 and Interstate Hwy 74, then along U.S. Hwy 74 to junction IL Hwy 78, then along IL Hwy 78 to junction IL Hwy 104, then along IL Hwy 104 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction IL Hwy 121, then along IL Hwy 121 to junction Interstate Hwy 74, then along Interstate Hwy 74 to Peoria, IL, then along IL Hwy 29 to junction U.S. Hwy 6 to the point of beginning; (G) between points in WI on and west of a line beginning at Ashland, WI, then along WI Hwy 13 to junction U.S. Hwy 8, then along U.S. Hwy 8 to junction WI Hwy 27, then along WI Hwy 27 to junction U.S. Hwy 12, then along U.S. Hwy 12 to junction WI Hwy 131, then along WI Hwy 131 to junction U.S. Hwy 61, then along U.S. Hwy 61 to the WI-IL State line, on the one hand, and, on the other, points in that part of IL bounded by a line beginning at the junction of U.S. Hwy 6 and IL Hwy 29, then along IL Hwy 29 to junction Interstate Hwy 74, then along Interstate Hwy 74 to junction IL Hwy 121, then along IL Hwy 121 to junction U.S. Hwy 66, then along U.S. Hwy 66 to junction IL Hwy 23, then along IL Hwy 23 to junction U.S. Hwy 6, then along U.S. Hwy 6 to the point of beginning (excluding ponts on the indicated highways except points on IL Hwy 23 and U.S. Hwy 66). The purpose of this filing is to eliminate the gateway of Davenport, IA, in (D), (E), (F), and (G) above.

No. MC 113855 (Sub-No. E431), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* (A) between Minot, ND, those points in that part of ND south of a line beginning at the MT-ND State line, and extending

along U.S. Hwy 2 to Lakota, ND, then along ND Hwy 1 to the United States-Canada boundary line, not including points on the indicated portions of the highways specified other than Minot, ND, on the one hand, and, on the other, points in WI. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of the MN-WI State line; (B) between points in that part of ND on the north of a line beginning at the MT-ND State line, and extending along U.S. Hwy 2 to Lakota, ND, then along ND Hwy 1 to the United States-Canada boundary line (except Minot, ND), on the one hand, and, on the other, points in that part of IA on and north of a line beginning at the IA-IL State line, and extending along U.S. Hwy 6 to junction unnumbered highway (formerly portion of U.S. Hwy 6), then along unnumbered highway through Victor and Brooklyn, IA, to junction U.S. Hwy 6, then along U.S. Hwy 6 to junction IA Hwy 90 (formerly portion of U.S. Hwy 6), then along IA Hwy 90 through Colfax, IA, to Des Moines, IA, and on and east of U.S. Hwy 65 from Des Moines to the IA-MN State line. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of both Sioux Falls, SD, and the IA-MN State line; (c) between points in CO, on the one hand, and, on the other, points in IL on and north of U.S. Hwy 6. The purpose of this filing is to eliminate the gateway of points in MN within 25 miles of both Sioux Falls, SD, and the IA-MN State line.

No. MC 113855 (Sub-No. E434), filed August 2, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Aluminum pipe* (except oilfield pipe as described in *Mercer Extension-Oil Field Commodities*, 74 MCC 459), (A) from points in DE to points in AZ, NM, and points in OK on and west of U.S. Hwy 83. (B) From points in MD on and east of U.S. Hwy 15 to points in AZ. (C) From points in MD on, east and south of Interstate Hwy 83 from the PA-MD State line to junction U.S. Hwy 301, then along U.S. Hwy 301 to the MD-VA State line, to points in NM, except points south and east of a line beginning at U.S. Hwy 60 at the NM-TX State line, then westerly along U.S. Hwy 60 to junction U.S. Hwy 54, then south along U.S. Hwy 54 to the NM-TX State line. The purpose of the filings in (A), (B), and (C) is to eliminate the gateways of a portion of eastern PA, SD, and Hall County, NE. (D) From points in WV to points in AZ and points in NM on, north and west of a line beginning at the NM-TX State line, then along U.S. Hwy 60 to junction U.S. Hwy 85, then along U.S. Hwy 85 to the United States-Mexico international boundary line. The purpose of this filing is to eliminate the gateways of Elgin, IL, points in SD and Hall County, NE. (E) From points in CA in and north of Santa Cruz, Santa Clara, Stanislaus, Calaveras, and Alpine Counties to points in LA and AR. The purpose of this filing is to eliminate the gateway of Hall County, NE. (F) From points in CA on, west and north of a line beginning on the Pacific Ocean on the southern boundary of Orange County, then easterly along the southern border of Orange County and Riverside County to U.S. Hwy 395, then north along U.S. Hwy 395 to the western boundary of San Bernadino County, then north along the western and northern boundaries of San Bernadino County to the CA-NV State line, to points in KS on and east of U.S. Hwy 281, and points in FL on and east of U.S. Hwy 231, and points in GA and SC. The purpose of this filing is to eliminate the gateway of Hall County, NE. (G) From points in CA to points in AL (except points south and west of U.S. Hwy 80 beginning at the AL-MS State line, and extending easterly along to the junction U.S. Hwy 231, then along U.S. Hwy 231 to the AL-FL State line. The purpose of this filing is to eliminate the gateway of Hall County, NE. (H) From points in UT in and north of Tooele, Utah, Wasatch, Duchesne, and Uintah Counties, to points in LA, AR, and points in KS on and east of U.S. Hwy 281. The purpose of this filing is to eliminate the gateway of Hall County, NE. (I) From points in UT to points in MS, TN, AL, GA, SC, and FL. The purpose of this filing is to eliminate the gateway of Hall County, NE. (J) From points in WA, OR, and ID to points in KS east of U.S. Hwy 83 (except from points in and east of Lemhi, Custer, Blaine, Camas, Gooding, and Twin Falls Counties, ID, to points in KS on and east of U.S. Hwy 83 and west of U.S. Hwy 281), OK (except points west of U.S. Hwy 83), points in TX on and east of U.S. Hwy 83, AR, LA, MS, TN, AL, GA, FL, and SC). The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (K) From points in NV on and north of U.S. Hwy 40 to points in TX on and east of U.S. Hwy 75. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (L) From points in NV on and north of U.S. Hwy 50 to points in OK on and east of Interstate Hwy 35 and points in KS on and east of U.S. Hwy 183. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (M) From points in NV east of U.S. Hwy 95 to points in AR and LA. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (N) From points in NV (except points in Clarke County), to points in MS, AL, and FL. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (O) From points in NV to points in TN, GA, and SC. The purpose of this filing is to eliminate the gateways of points in UT and Hall County, NE. (P) From points in MT to points in TX on and east of U.S. Hwy 83, points in OK on and east of U.S. Hwy 83, points in KS on and east of U.S. Hwy 183, points in AR, LA, MS, TN, AL, GA, and FL. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (Q) From points in WY (except those in Laramie, Goshen, Platte, Albany, Carbon, Sweetwater, Uinta, and Lincoln Counties), to points in AR, LA, and MS. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (R) From points in WY (except points in Goshen, Platte, Laramie, Albany, and Carbon Counties), to points in TN. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (S) From points in WY (except points in Laramie and Albany Counties), to points in AL and GA. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE. (T) From points in WY to points in FL and SC. The purpose of this filing is to eliminate the gateways of points in SD east of the Missouri River and Hall County, NE.

No. MC 113855 (Sub-No. E456), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Iron and steel articles and aluminum and aluminum articles:* (a) From points in CA, NV, UT, and WY, to points in AK. The purpose of this filing is to eliminate the gateway of Pierce County, WA. (b) From points in CO on, east and north of a line beginning at the CO-NE State line, and extending along CO Hwy 71 to junction U.S. Hwy 50, then along U.S. Hwy 50 to the CO-KY State line, to points in AK. The purpose of this filing is to eliminate the gateways of UT, SD, and Pierce County, WA. (c) From points in KS on and east of U.S. Hwy 83 to points in AK. The purpose of this filing is to eliminate the gateways of WY, SD, east of the Missouri River, and Pierce County, WA. (d) From points in NE, MO, IA, IL, IN, OH, KY, the Lower Peninsula of MI, NY, PA, WV, MD, VA, NC, DE, NJ, MA, CT, RI, and DC, to points in AK. The purpose of this filing is to eliminate the gateways of UT and Pierce County, WA.

No. MC 113855 (Sub-No. E457), filed August 10, 1976. Applicant: INTERNA-

TIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles* which, by reason of their size or weight, require the use of special equipment or special handling, (a) between points in MN on and west of U.S. Hwy 71, on the one hand, and, on the other, points in IN. The purpose of this filing is to eliminate the gateways of SD and points in MN and IA within 50 miles of Sioux Falls, SD. (b) Between points in MN west of U.S. Hwy 63 and U.S. Hwy 53, on the one hand, and, on the other, points in NJ, DE, CT, RI, MA, and DC. The purpose of this filing is to eliminate the gateways of SD, points in MN and IA within 50 miles of Sioux Falls, SD, Elgin, IL, and Scranton, Allentown, and Hazelton, PA.

No. MC 113855 (Sub-No. E458), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* the transportation of which because of size or weight requires the use of special equipment, between points in MN on and west of U.S. Hwy 71, on the one hand, and, on the other, points in WV, KY, OH, and Scranton, Allentown, Reading, Harrisburg, Lancaster, and Hazelton, PA, and mines in that part of PA, south and west of a line beginning at the PA-OH State line, and extending along U.S. Hwy 224 to junction U.S. Hwy 422, then along U.S. Hwy 422 to junction U.S. Hwy 19 near Rose Point, PA, then along U.S. Hwy 19 to junction unnumbered highway near Portersville, PA, than along unnumbered highway via Prospect, PA, to junction U.S. Hwy 422, then along U.S. Hwy 422 to Ebensburg, PA, than along U.S. Hwy 22 to junction U.S. Hwy 522, then along U.S. Hwy 522 to junction PA Hwy 641 (formerly PA Hwy 433), then along PA Hwy 641 to junction PA Hwy 997, then along PA Hwy 997 to the PA-MD State line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of points in SD or points in MN or points in IA within 50 miles of Sioux Falls, SD, or Elgin, IL.

No MC 113855 (Sub-No. E459), filed August 10, 1976. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First National Bank Building, Fargo, ND 58102. *Metal and metal articles,* which because of size or weight, require the use of special equipment or special handling (except boats and iron and steel articles), (1) between points in IA on and west of U.S. Hwy 77, on the one hand, and, on the other, points in NJ and DE, and (2) between points in IA on and west of U.S. Hwy 59, on the one hand, and, on the other, DC. The purpose of this filing is to eliminate the gateways of points in SD and points in PA on and east of a line beginning at the MD-PA State line, and extending along unnumbered highway (formerly portion U.S. Hwy 15) to junction business U.S. Hwy 15 through Gettysburg, PA, to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction unnumbered highway (formerly portion U.S. Hwy 15), then along unnumbered highway through Clear Springs, PA to junction U.S. Hwy 15, then along U.S. Hwy 15 to the PA-NY State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, PA, and points in PA on and east of U.S. Hwy 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour, and Columbia Counties, PA).

No. MC 115841 (Sub-No. E143) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 5, 1975, and republished, as corrected, this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 10327, Birmingham, AL 35202. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. *Frozen edible fruits, frozen edible berries, and frozen edible vegetables,* in vehicles equipped with mechanical refrigeration, (1) from points in TN on and east of Interstate Hwy 65 (including Nashville and Davidson Counties), to points in CA, OR, and WA; (2) from points in TN on and west of Interstate Hwy 65 to points in CA, and those points in OR and WA on and west of U.S. Hwy 97; (3) from those points in TN on and east of U.S. Hwy 127 to points in AR on and west of a line beginning at the AR-MO State line, and extending along U.S. Hwy 167, then south along U.S. Hwy 167 to junction U.S. Hwy 65 (including Little Rock, AR), then southeast along U.S. Hwy 65 to the AR-LA State line; (4) from points in TN on and west of U.S. Hwy 51 (including Memphis and Shelby Counties), to points in GA and SC; (5) from points in TN on and north of a line beginning at the TN-NC State line, and extending along Interstate Hwy 40 to junction Interstate Hwy 65 (including Nashville and Davidson Counties), to the TN-KY State line, to Bainbridge, GA. The purpose of this filing is to eliminate the gateway of Birmingham, AL.

NOTE.—The purpose of this republication is to include part (3), previously omitted.

No. MC 115841 (Sub-No. E391), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products* (frozen), as defined in sections A and C of appendix I to the report in descriptions in Motor Carrier Certificates, 61 MCC 209, 273, and 766, from Bowling Green, KY, to points in DE, IA, MD, DC and points in KS and NE on and east of U.S. Hwy 81, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E392), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meats, meat products, and meat byproducts,* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Bowling Green, KY, to points in DE, MD, and the DC, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E393), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products* (frozen), as defined in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 273, and 766, from Bowling Green, KY, to points in MO, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Paris, TN.

No. MC 115841 (Sub-No. E394), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, and meat byproducts* (except commodities in bulk, in tank vehicles) as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Bowling Green, KY, to points in MO on and west of a line beginning at the junction of MO Hwy 21 and the MO-AR State line, and extending along MO Hwy 21 to the junction of MO Hwy 72, then along MO Hwy 72 to Rolla, MD, then along U.S. Hwy 72 to junction of MO Hwy 28, then along MO Hwy 28 to junction MO Hwy 19, then along MO Hwy 19 to Wellsville,

MO, then along MO Hwy 161 to Bowling Green, MO, then along U.S. Hwy 54 to the MO-IL State line; and points in MO, south of U.S. Hwy 62 from the MO-AR State line to the Mississippi River at New Madrid, MO, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E395), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, and meat byproducts* (except in bulk in tank vehicles), as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Bowling Green, KY, to points in WI and MN, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Nashville, TN.

No. MC 115841 (Sub-No. E396), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Meat, meat products, meat byproducts, and dairy products,* as defined in sections A and B of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, 273, 766 and as embraced in *foodstuffs,* from Bowling Green, KY, to points in CA, OR, and WA, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Birmingham, AL.

No. MC 115841 (Sub-No. E397), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Russell Springs, KY, to points in MS starting at the MS-TN State line along the MS River to Greenville, MS, and extending along U.S. Hwy 82, then along U.S. Hwy 82 to junction MS Hwy 15, then along MS Hwy 15 to junction MS Hwy 30, then along MS Hwy 30 to junction MS Hwy 6, then along MS Hwy 6 to junction Interstate Hwy 55, then along Interstate Hwy 55 to the TN-MS State line, then westward along the TN-MS State line to the point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway to Memphis, TN.

No. MC 115841 (Sub-No. E398), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Thompkinsville, KY, to points in MS starting at the Mississippi River on the MS-TN State line, along said river to MS Hwy 12, then along MS Hwy 12 to junction U.S. Hwy 51, then along U.S. Hwy 51 to junction U.S. Hwy 82, then along U.S. Hwy 82 to Columbus, MS, then along U.S. Hwy 45 to junction MS Hwy 8, then along MS Hwy 8 to Houston, MS, then along MS Hwy 15 to New Albany, MS, then along U.S. Hwy 78 to the TN-MS State line, then along the MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E399), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese,* from Cynthiana, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along the Mississippi River to Greenville, MS, then along U.S. Hwy 82 to the MS-AL State line, then along MS-AL State line to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction MS Hwy 15, then along MS Hwy 15 to the MS-TN State line, then along MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E400), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese,* from Lexington, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along the Mississippi River to Greenville, MS, then along U.S. Hwy 82 to junction MS Hwy 15 to Natchez Trace Parkway, then along the Natchez Trace Parkway to junction U.S. Hwy 78, then along U.S. Hwy 78 to the MS-TN State line, then along the MS-TN State line to points of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E 401), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese,* from Louisville, KY, to points in MS bounded by a line beginning at the Mississippi River on the MS-TN State line, and extending south along Mississippi River to Greenville, MS, then along U.S. Hwy 82 to junction MS Hwy 15, then along MS Hwy 15 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction MS Hwy 7, then along MS Hwy 7 to the MS-TN State line to point of beginning, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateway of Memphis, TN.

No. MC 115841 (Sub-No. E402), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese,* from Cynthiana, KY, to points in (1) LA, AR, CA (2) points in WA on and west of Interstate Hwy 5 in a northerly direction from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the US-CD border; (3) points in OR except points in Malbeur and Baker Counties; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending easterly along U.S. Hwy 82 to the MS-AL State line; (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; and except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, then southerly along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along Interstate Hwy 40 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis, and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E403), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese* from Harrodsburg and Russell Springs, KY, to points in LA, AR, CA, WA, OR and points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending along U.S. Hwy 82 to the MS-AL State line; and points in TX except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX

Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; and except points north of a line beginning at the OK-TX State line at Carnes, TX, then along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along TX Hwy 1061 to junction U.S. Hwy 385, then along U.S. Hwy 385 to Dalhart, TX, then along U.S. Hwy 87 to the TX-NM State line, restricted to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis, Nashville and Chattanooga, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E404), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Lexington, KY, to: (1) points in LA, AR, CA; (2) points in WA on and west of Interstate Hwy 5 northerly from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the United States-Canadian border; (3) points in OR except points in Malheur County; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending along U.S. Hwy 82 to the MS-AL State line; (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to its junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line; except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, then along TX Hwy 283 to Quanah, TX, then along Interstate Hwy 40 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E405), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Louisville, KY, to: (1) points in LA, AR, and CA; (2) points in WA on and west of Interstate Hwy 5 in a northerly direction from the WA-OR State line to junction Interstate Hwy 405 near Burien, WA, then along Interstate Hwy 405 to junction Interstate Hwy 5, then along Interstate Hwy 5 to the United States-Canadian border; (3) points in OR on and west of U.S. Hwy 97; (4) points in MS on and south of a line beginning at the Mississippi River at Greenville, MS, and extending easterly along U.S. Hwy 82 to the MS-AL State line; and (5) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line, and except points in TX, north of a line beginning at the OK-TX State line at Carnes, TX, and extending along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Estelline, TX, then along TX Hwy 86 to Bovina, TX, then along U.S. Hwy 60 to the TX-NM State line, restricted in (1)-(5) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 115841 (Sub-No. E406), filed March 27, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Concord, TN 37720. Applicant's representative: Chester G. Groebel (same as above). *Cheese*, from Thompkinsville, KY, to: (1) points in LA, AR, CA, WA, OR; (2) points in MS on and south of a line beginning at the Mississippi River, and extending along MS Hwy 12 to junction U.S. Hwy 51, then along U.S. Hwy 51 to Winona, MS, then along U.S. Hwy 82 to the MS-AL State line; (3) points in TX, except points north and east of a line beginning at the LA-TX State line, and extending along U.S. Hwy 80 to junction TX Hwy 19, then along TX Hwy 19 to Paris, TX, then along U.S. Hwy 271 to the TX-OK State line, and except points in TX north of a line beginning at the OK-TX State line at Carnes, TX, and extending along TX Hwy 283 to Quanah, TX, then along U.S. Hwy 287 to Amarillo, TX, then along TX Hwy 1061 to junction U.S. Hwy 385, then along U.S. Hwy 385 to Dalhart, TX, then along U.S. Hwy 87 to the TX-NM State line, restricted in (1)-(3) above to the transportation of traffic originating at the named origin. The purpose of this filing is to eliminate the gateways of Memphis and Nashville, TN, Birmingham, AL, and Springdale, AR.

No. MC 117574 (Sub-No. E144) (Partial correction), filed January 20, 1976, published in the FEDERAL REGISTER issue of March 15, 1978, and republished, as corrected, this issue. Applicant: DAILY EXPRESS, INC., P.O. Box 39, Carlisle, PA 17013. Applicant's representative: William A. Chesnutt, P.O. Box 1166, Harrisburg, PA 17108. (1) *Commodities*, the transportation of which because of size or weight, require the use of special equipment, and *related materials, supplies and parts* of such commodities when their transportation is incidental thereto, and (2) *self-propelled articles* each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, restricted to the transportation of self-propelled articles on trailers, * * * (33) Between points in Saginaw and Shiawassee Counties, MI, on the one hand, and, on the other, points in KY, PA, and WV and points in that part of IN, on and south of a line commencing at the IL-IN State line and extending along U.S. Hwy 136 to junction IN Hwy 32, then along IN Hwy 32 to the IN-OH State line. The purpose of this filing is to eliminate the gateway of Columbus, OH, and points within 80 miles thereof.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 117815 (Sub-No. E33), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Dairy products* and those packinghouse products dealt in by wholesale grocery and food business houses, from points in that part of IN bounded by a line commencing at the IL-IN State line at unnumbered highway approximately 4 miles north of Effner, IN, and extending northeast (through Brook, Collegeville, Francesville, and Winamac, IN), to Warsaw, IN, then north along IN Hwy 15 to Goshen, IN, and then northwest along to the IN-MI State line near Granger, IN, to points in MN, on and west of a line beginning at the IA-MN State line, and extending north along U.S. Hwy 218 to Austin, MN, then east along U.S. Hwy 16 to junction MN Hwy 56, then north along MN Hwy 56 to Kenyon, MN, then east on MN Hwy 60 to junction MN Hwy 57, then north along MN Hwy 57 to Hader, MN, then north along U.S. Hwy 52 to junction MN Hwy 20, then north along MN Hwy 20 to junction U.S. Hwy 61, then north along U.S. Hwy 61 to junction U.S. Hwy 10, then east along U.S. Hwy 10 to the MN-WI State line, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateways of Chicago, IL, and Iowa Falls, IA.

No. MC 117815 (Sub-No. E37), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Canned goods*, from points in that part of WI on the west by U.S. Hwy 51 and on the south by WI Hwy 29, to points in that part

of IL within the territory bounded by a line beginning at Savanna, IL, and extending south along a line to Galesburg, IL, then in a southeasterly direction to Peoria, IL, then north along IL Hwy 88 to junction Hwy 52, and then west along U.S. Hwy 62 to point of beginning, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Clinton, IA.

No. MC 117815 (Sub-No. E48), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Glassware* which are used by food business houses as materials, equipment, or supplies, from points in that part of IN bounded by a line commencing at the IL–IN State line at unnumbered highway approximately 4 miles north of Effner, IN, and extending northeast along (through Brook, Collegeville, Francesville, and Winamac, IN) to Warsaw, IN, then north along IN Hwy 15 to Goshen, IN, and then northwest along to the IN–MI State line near Granger, IN, to points in MN, those points in WI on and west of U.S. Hwy 51, restricted to the transportation of shipments moving from, to or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the gateway of Gurnee, IL.

No. MC 117815 (Sub-No. E49), filed May 24, 1975. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, IA 50309. *Coffee beans*, from New York, NY, to points in that part of IN on, north, and west of a line commencing at the IL–IN State line on U.S. Hwy 40, then east along U.S. Hwy 40 to Terre Haute, IN, then north along U.S. Hwy 41 to junction IN Hwy 47, then along IN Hwy 47 to junction IN Hwy 32, then east along IN Hwy 32 to junction U.S. Hwy 231, then north along U.S. Hwy 231 to LaFayette, IN, then northeast along IN Hwy 25 to Delphi, IN, then north along U.S. Hwy 421 to Monticello, IN, then east along U.S. Hwy 24 to junction IN Hwy 39, then north along IN Hwy 39 to Buffalo, IN, then east along IN Hwy 119, to Winamac, IN, then north along U.S. Hwy 35 to Bass Lake, IN, then east along IN Hwy 10 to junction IN Hwy 23, and then north along IN Hwy 23 to the IN–MI State line, restricted to the transportation of shipments moving from, to, or between wholesale grocery houses, their warehouses and retail outlets. The purpose of this filing is to eliminate the gateway of Chicago, IL.

No. MC 118831 (Sub-No. E47), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals*, in bulk (except petrochemicals, fertilizer and fertilizer materials, and anhydrous ammonia), from points in NC, on and east of a line beginning at the NC–SC State line proceeding northward on U.S. Hwy 176 from NC–SC State line to NC Hwy 108, to junction U.S. Hwy 221 to Interstate Hwy 40, to junction NC Hwy 18, to junction NC Hwy 268, to junction U.S. Hwy 601, to junction U.S. Hwy 52 to the NC–VA State line; to points in WI. The purpose of this filing is to eliminate the points in SC.

No. MC 118831 (Sub-No. E48), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer and fertilizer materials), from points in NC on and east of a line beginning at the NC–SC State line, and proceeding northward on NC Hwy 108 to junction U.S. Hwy 221, to junction Interstate Hwy 40, to junction NC Hwy 18, to junction NC Hwy 90, to junction NC Hwy 901 at Hiddenite, NC, to junction U.S. Hwy 64 through Mocksville to junction U.S. Hwy 29 at Lexington to Interstate Hwy 85 at Greensboro to junction U.S. Hwy 158 at Henderson, to junction NC Hwy 48 through Roanoke Rapids, NC, to junction Interstate Hwy 95 to the NC–VA State line; to points and places in MI. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E49), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC–SC State line at NC proceeding northward to unnumbered highway to Forest City, then northward along unnumbered highway to NC Hwy 226, then eastward along NC Hwy 226 to NC Hwy 10, then northeast along NC Hwy 10 to NC Hwy 18, then northward along NC Hwy 18 to unnumbered highway to Icard, then northeast along unnumbered highway through Rhodhiss to Granite Falls, NC, then northward along unnumbered highway to NC Hwy 90, then east along through Taylorsville to Hiddenite, then northeast along unnumbered highway to Newhope, then southeast along NC Hwy 901 to U.S. Hwy 21, then northward along U.S. Hwy 21 to U.S. Hwy 421, then east along U.S. Hwy 421 to U.S. Hwy 311 and Winston-Salem, then northwest along U.S. Hwy 311 to U.S. Hwy 220, then northward along U.S. Hwy 220 to the NC–VA State line; to points in IL (except points in the East St. Louis, IL commercial zone). The purpose of this filing is to eliminate the gateway of points in SC and Charlotte, NC.

No. MC 118831 (Sub-No. E50), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5338, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC–SC State line running northward along NC Hwy 9 to unnumbered hwy to Spindale, NC, then along U.S. Hwy 74 to unnumbered hwy northward to NC Hwy 226, then east along NC Hwy 226 to unnumbered hwy to NC Hwy 10 near Casar, NC, then to NC Hwy 18, then northward along NC Hwy 18 to unnumbered hwy to Connelly Springs, then northward on unnumbered hwy through Baton and Whitnel to Lenoir, then along NC Hwy 18 to NC Hwy 268, then along NC Hwy 268 to U.S. Hwy 601, then along U.S. Hwy 52 to the NC–VA State line; to points in MO (except points in the St. Louis, MO commercial zone). The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E51), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals, anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC on and east of a line beginning at the NC–SC State line on NC Hwy 150 northward through Shelby, NC, and Lincolntown, NC to junction Interstate 77, then north on Interstate 77 to Statesville, NC, and then to junction of Interstate Hwy 40, then northeast on Interstate Hwy 40 to junction U.S. Hwy 64, then east on U.S. Hwy 64 to junction U.S. Hwy 29 at Lexington, then north on U.S. Hwy 29 at High Point, NC to Interstate Hwy 85 to the NC–VA State line, to points in IN. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E82), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263.

Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk from points in SC on and east of a line beginning at the GA-SC State line on U.S. Hwy 301, and proceeding northeastward on U.S. Hwy 301 to junction of SC Hwy 125 at Allendale, SC, then northwest along SC Hwy 125 to U.S. Hwy 1, then northeast along U.S. Hwy 1 to junction SC Hwy 126, then northwest along SC Hwy 126 to junction Interstate Hwy 25 at Belvedere; then along U.S. Hwy 25 through Greenwood to Greenville, then northeast along U.S. Hwy 29 to Greer, SC, then northeast along SC Hwy 357 to Campobello, SC, then along SC Hwy 11 to Interstate Hwy 26, then along Interstate Hwy 26 to the NC-SC State line to St. Louis, MO and East St. Louis, IL. The purpose of this filing is to eliminate the gateways of Charlotte, NC and Robertson County, TN.

No. MC 118831 (Sub-No. E83), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on and east of a line beginning at the NC-SC State line on U.S. Hwy 21 and proceeding southward to Columbia, SC, then southward along Interstate Hwy 26 to Charleston, SC, to points in AR on and west of a line beginning at Memphis, TN, and proceeding southward on U.S. Hwy 79 to Mariana, AR, then along AR Hwy 1 through Marvell, AR, then west along U.S. Hwy 49 to U.S. Hwy 79, then southwest along U.S. Hwy 79 to Stuttgart, AR, and Pine Bluff, AR to Fordyce, AR, then along U.S. Hwy 167 through El Dorado to the AR-LA State line. The purpose of this filing is to eliminate the gateway of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E84), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), from Orangeburg, SC, to points in AR on and west of a line beginning at Blytheville, AR, then southwest along AR Hwy 18 to Jonesboro, then southward along AR Hwy 39 to U.S. Hwy 79, then along U.S. 79 to Pine Bluff, AR, then along U.S. Hwy 79 to AR Hwy 98, at McNeil, AR, then westward along AR Hwy 98 to U.S. Hwy 82, then along U.S. Hwy 82 to Texarkana, AR. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E85), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid chemicals,* in bulk, from points in Richmond County, GA, to St. Louis, MO, and East St. Louis, IL. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and Robertson County, TN.

No. MC 118831 (Sub-No. E88), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid petrochemicals,* in bulk, in tank vehicles, from points in the counties of Cherokee, York, Chester, Lancaster, and Chesterfield, SC, to points in FL. The purpose of this filing is to eliminate the gateway of Charlotte, NC.

No. MC 118831 (Sub-No. E90), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Liquid petrochemicals* (except anhydrous ammonia, fertilizer, and fertilizer materials), in bulk, from points in NC, (1) in and west of the counties of Anson, Stanley, Rowan, Iredell, Alexander, Caldwell, and Avery to points in CT, DE, MD, MA, NJ, NY, PA, and RI; and (2) from the NC counties of Scotland, Richmond, Montgomery, Davidson and Davie to points in CT, MA, NJ, NY, PA and RI. The purpose of this filing is to eliminate the gateways of Charlotte, NC, and SC.

N. MC 118831 (Sub-No. E100), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Dimethyl terephthalate,* in bulk, from Gibbstown, NJ, to points in TN lying within the area bounded as follows: Beginning at the MS River and the TN-MS State line proceeding eastward along the TN-MS State line to junction with U.S. Hwy 45, then northward along U.S. Hwy 45 through Selmer, TN, to Henderson, TN, then westward over TN Hwy 100 to junction U.S. Hwy 64, then along U.S. Hwy 64 to Whiteville, TN, then along unnumbered TN Hwy to Cedar Chapel, Eurekatin, Stanton, and Tabernacle by Covington, TN, then along U.S. Hwy 51 to Millington, TN, to Memphis, TN. The purpose of this filing is to eliminate the gateways of the plantsite of E. I. Dupont Co. at Graingers, NC, and Spartanburg County, SC.

No. MC 118831 (Sub-No. E101), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Dimethyl terephthalate,* molten, in bulk, from Gibbstown, NJ, to points in AR. The purpose of this filing is to eliminate the gateways of the plantsite of E. I. Du Pont de Nemours & Co. at Graingers, NC; Spartanburg, SC; and Robertson County, TN.

By the Commission.

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

[FR Doc. 78-13643 Filed 5-18-78; 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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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., May 23, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

Second quarterly report.
Petition for interim rulemaking (amendment of Reg. 32.11) from Mocatta Metals Corp.
Economic considerations in classifying leverage transactions as contracts for future delivery.
Proposed rule imposing a moratorium on the offer and sale of leverage contracts.

Portions closed to the public:

Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1051-78 Filed 5-17-78; 3:34 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., May 26, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1052-78 Filed 5-17-78; 3:34 pm]

[6515-01]

3

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, May 24, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit reports, Compliance, Litigation, Personnel.

* * *

DATE AND TIME: Thursday, May 25, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of future meetings.
Correction and approval of minutes.
Advisory opinions: AO 1978-20. AO 1978-26.
Nonfiler procedures.
Rules of the procedure of the FEC pursuant to 2 U.S.C. 437c(e).
Pending legislation.
Pending litigation.
Liaison with other Federal agencies.
Classification actions.
Routine administrative matters.

Portions closed to the public:

Any matters not concluded at the executive session of May 24, 1978.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1050-78 Filed 5-17-78; 3:34 pm]

[6740-02]

4

MAY 17, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 9 a.m., May 17, 1978.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pending civil litigation.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1046-78 Filed 5-17-78; 9:52 am]

[6720-01]

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., May 24, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Frank O. Bolling, 202-377-6677.

MATTERS TO BE CONSIDERED:

Consideration of the Remote Service Unit Regulation and Application Procedures.
Consideration of Association Request to Permit a Commercial Bank to Operate ATM's Located on the Outside Wall of a Federal Association Office—Hudson Valley Federal Savings & Loan Association, Kingston, N.Y.
Concurrent Consideration of Two Branch Office Applications—(1) Joliet Federal Savings & Loan Association, Joliet, Ill.; and (2) Standard Federal Savings & Loan Association, Chicago, Ill.
Branch Office Application—Home Federal Savings & Loan Association of San Diego, San Diego, Calif.
Consideration of Withdrawal from Bank Membership—The London Home & Savings Co., London, Ohio.
Mobile Facility Application—Klamath First Federal Savings & Loan Association, Klamath Falls, Oreg.
Branch Office Application—First Federal Savings & Loan Association of Council Bluffs, Council Bluffs, Iowa.
Branch Office Application—First Federal Savings & Loan Association of Beaumont, Beaumont, Tex.
Agency Office Application—San Diego Federal Savings & Loan Association, San Diego, Calif.

Branch Office Application—Home Federal Savings & Loan Association, St. Petersburg, Fla.
Consideration of Federal Association Investment in HAPE.
Consideration of Proposed Acquisition of Hunter Savings Association, Cincinnati, Ohio, by Great American Insurance Co., Cincinnati, Ohio.
Consideration of Amendment to Resolution No. 78-166, dated March 31, 1978, Regarding—Permission to Organize a New Federal—Ralph E. King, Jr., et al., Winnsboro, La.
Consideration of Request for Extension of Time—Investment Savings & Loan Association, Northridge, Calif.
Branch Office Application—First Federal Savings & Loan Association of Cedar Falls, Cedar Falls, Iowa.

[No. 154, May 17, 1978.]

[S-1054-78 Filed 5-17-78; 3:34 pm]

[6210-01]

6

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, May 24, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed transmittal to the House Committee on Banking, Finance and Urban Affairs of a joint study by staffs of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Board regarding commercial bank private placement activities.
2. Proposed amendment to Regulation 7 (Margin Credit Extended by Brokers and Dealers) relaxing the restrictions on subordinated loans between broker/dealers for capital purposes.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3108.

Dated: May 16, 1978.

CATHY B. MINEHAN,
Assistant Secretary of the Board.

[S-1045-78 Filed 5-17-78; 9:52 am]

[6750-01]

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m. and 2 p.m., Friday, May 26, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Closed Session: 10 a.m.—Monthly Policy Review Session: Discussion of current and proposed Commission investigations relating to food and nutrition.
Open Session: 2 p.m.—Monthly Policy Review Session: Focus on food and nutrition; discussion about current activities and aims of interest to the FTC of Two Federal agencies in this area and ways in which the FTC can interact with them. Ms. Carol Foreman, Assistant Director, Food and Consumer Services, USDA, and Dr. Donald Kennedy, Commissioner FDA, will be present to participate in this discussion.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-1055-78 Filed 5-17-78; 3:34 p.m.]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, May 23, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open special conference.

MATTERS TO BE CONSIDERED: 1. Port equalization study (RSPO). 2. Revision of the internal minutes (PRO).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1043-78 Filed 5-17-78; 9:52 am]

[7600-01]

9

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., May 23, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of decisional format for pending cases and possible discussion of the merits of cases on the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Date: May 17, 1978.

[S-1056-78 Filed 5-17-78; 3:34 pm]

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, May 23, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 16 are open to public observation. Matters 17 through 24 are closed to public observation. Matters 25 and 26 are not applicable for status.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held April 25, 1978, and other Board meetings, if any.
2. Recommended Clearance: Hi-Shear Corporation—Califfornia. Consolidated with: Hi-Shear Caribe, Hi-Shear Delaware, fiscal year ended February 28, 1974.
3. Partial mandatory exemption of new durable productive equipment: Eastman Kodak Co., fiscal years ended December 29, 1968, and December 28, 1969.
4. Partial mandatory exemption of new durable productive equipment: Kearney & Trecker Corp., fiscal year ended September 30, 1976.
5. Recommended clearances without assignment (List 1902):
   A. Triangle Refineries, Inc., fiscal year ended December 31, 1974.
   B. Kerr McGee Chemical Corp., fiscal year ended December 31, 1974.
   C. Kerr McGee Nuclear Corp., fiscal year ended December 31, 1974.
   D. Southwestern Refining Corp., fiscal year ended December 31, 1974.
   E. Cato Oil & Grease Co., fiscal year ended December 31, 1974.
6. Recommended clearances without assignment (List 1903):
   A. Williams Research Corp., fiscal year ended December 31, 1975.
   B. Swedlow, Inc., fiscal year ended March 28, 1976.
   C. Alcan Aluminum Corp., fiscal years ended October 31, 1975.
   D. Esterline Corp., fiscal year ended December 31, 1974 and 1975.
7. Claim for partial mandatory exemption of new durable productive equipment: Buffalo Forge Co., fiscal year ended November 30, 1975.
8. Recommended clearances without assignment (List 1904):
   A. CapTech Inc., fiscal year ended December 31, 1975.
   B. Intermetrics, Inc., fiscal year ended February 29, 1976.
   C. Ainslie Corp., fiscal years ended July 31, 1975 and 1976.
   D. Hydronautics, Inc., fiscal year ended June 30, 1976.
   E. Carleton Controls Corp., fiscal year ended September 30, 1975.
   F. Dyna-Empire, Inc., fiscal year ended July 31, 1976.
   G. A. C. Ball Co., fiscal year ended August 31, 1976.

H. Thames Valley Steel Inc., fiscal year ended May 31, 1975.

I. Auto Specialties Manufacturing Co., fiscal year ended August 1, 1976.

9. Assignment to Division:

A. Kaiser Aerospace & Electronics Corp., fiscal year ended December 31, 1972.

B. Kaiser Industries Corp. (Agent)—Consolidated with: Kaiser Aerospace & Electronics Corp.; Henry J. Kaiser Co.; Kaiser Engineers, Inc.; Hallanger Engineers, Inc.; fiscal year ended December 31, 1973.

10. Recommended clearance:

A. Kaiser Steel Corp., fiscal years ended December 31, 1970, 1971, and 1972.

B. Myers Drum Co., fiscal year ended December 31, 1972.

C. Kaiser Industries Corp., fiscal year ended December 31, 1972.

D. Kaiser Engineers, Inc., fiscal year ended December 31, 1972.

E. Henry J. Kaiser Co., fiscal year ended December 31, 1972.

11. Recommended clearance without assignment (List 1905):

A. Sedco Systems, Inc., fiscal year ended June 30, 1975.

B. The Trane Co., fiscal year ended December 31, 1975.

C. The Cleveland Twist Drill Co., fiscal year ended September 30, 1976.

C-1. Acme-Cleveland Corp., fiscal year ended September 30, 1976.

D. Barnes Group Inc. (formerly Associated Spring Corp.), fiscal year ended December 31, 1975.

E. Prime Tanning Co., Inc., fiscal year ended June 28, 1974 and June 26, 1976.

F. Xonics, Inc., fiscal year ended March 31, 1976.

F-1. Telcom, Inc., fiscal year ended March 31, 1976.

F-2. Telecom Systems, Inc., fiscal year ended March 31, 1976.

12. Recommended clearance without assignment (List 1906):

A. LaPointe Industries, Inc., fiscal years ended June 30, 1971, 1972, 1973, and 1974.

B. ASC Systems Corp., fiscal years ended June 30, 1971, 1972, 1973, and 1974.

13. Recommended clearance without assignment (List 1907):

A. condec Corp., fiscal years ended July 31, 1973 and 1974.

A-1. Energy Research Corp., fiscal year ended July 31, 1973.

B. Kollmorgen Corp., fiscal years ended December 31, 1974 and 1975.

C. Crane Co., fiscal years ended December 31, 1973, 1974, and 1975.

C-1. CF&I Steel Corp., fiscal years ended December 31, 1973, 1974, and 1975.

C-2. CF&I Engineers, Inc., fiscal years ended December 31, 1973, 1974, and 1975.

C-3. Fountain Sand & Gravel Co., fiscal years ended December 31, 1973, 1974, and 1975.

D. AMBAC Industries, Inc., fiscal years ended December 31, 1974 and 1975.

E. Donaldson Co., Inc., fiscal year ended July 31, 1976.

F. Gibraltar Industries, Inc., fiscal year ended June 30, 1975.

14. Exemption recommendation—ACE List No. 3003:

A. Kilsby Tubesupply Co., fiscal year ended October 31, 1974.

B. Phipps Products Corp., fiscal year ended August 30, 1975.

15. Recommended clearances without assignment (List 1908):

A. Brown & Sharpe Mfg. Co., fiscal year ended December 27, 1975.

A-1. Olmsted Products Co., fiscal year ended December 27, 1975.

A-2. Browne & Sharpe Mfg. Co. of Texas, fiscal year ended December 27, 1975.

A-3. Double A Products Co., fiscal year ended December 27, 1975.

B. Cleveland Tankers, Inc., fiscal years ended September 30, 1973, 1974, 1975, and 1976.

C. Pacific Northwest Bell Telephone Co., fiscal year ended December 31, 1975.

D. Johnson & Johnson, fiscal years ended December 31, 1972, December 30, 1973, and December 29, 1974.

D-1. Ethicon, Inc., fiscal years ended December 31, 1972, December 30, 1973, December 29, 1974, and December 28, 1975.

D-2. Codman & Shurtleff, fiscal year ended December 31, 1972.

D-3. DeSimone, A. J. Corp., fiscal year ended December 31, 1972.

D-4. Personal Products Co., fiscal year ended December 31, 1972.

D-5. Latady Instruments, Inc., fiscal years ended December 31, 1972, and December 30, 1973.

E. Torrington Co. (Massachusetts), fiscal year ended December 31, 1975.

E-1. Thomaston Special Products, Inc., fiscal year ended December 31, 1975.

E-2. Torrington Co. (North Carolina), fiscal year ended December 31, 1975.

E-3. Torrington Co. (Ohio), fiscal year ended December 31, 1975.

E-4. Ingersoll-Rand Research, Inc., fiscal year ended December 31, 1975.

E-5. Torrington Co. (Michigan), fiscal year ended December 31, 1975.

E-6. Torrington Co. (Delaware), fiscal year ended December 31, 1975.

E-7. Torrington Co. (California), fiscal year ended December 31, 1975.

E-8. Torrington Co. (Connecticut), fiscal year ended December 31, 1975.

E-9. Torrington Co. (Pennsylvania), fiscal year ended December 31, 1975.

16. Recommended determinations of excessive profits and clearance: Manson & Hanger—Silas Mason Co., Inc., fiscal years ended December 31, 1968, 1969, and 1970.

17. Recommended letter not to proceed: Leon B. Delong, fiscal year ended December 31, 1969.

18. Court of Claims Case: *Galion Amco. Inc.* v. *United States* (Ct. Cl. Nos. 575-71, 860-71, and 407-73).

19. Organization and operations of the Regional Boards.

20. Personnel matter.

21. Recommendation for special accounting agreement: AMF, Inc., fiscal years ended December 31, 1969, and 1970.

22. Draft report on development and revision of regulations.

23. Court of Claims Case: *Airborn, Inc.* v. *United States* (Ct. Cl. No. 553-76).

24. Court of Claims Case: *Martin Manufacturing Company* v. *United States* (Ct. Cl. No. 442-73).

25. Approval of agenda for meeting to be held June 6, 1978.

26. Approval of agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: May 16, 1978.

HARRY R. VAN CLEVE,
Acting Chairman.

[S-1049-78 Filed 5-17-78; 11:10 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of May 22, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, May 23, 1978, at 10 a.m., and on Thursday, May 25, 1978, immediately following the open meetings. Open meetings will be held on Thursday, May 25, 1978, at 10 a.m., and on Thursday, May 25, 1978, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, May 23, 1978, at 10 a.m., will be:

Referral of investigatory files to Federal, State, or Self-Regulatory authorities.
Institution injunctive action.
Settlement of injunctive action.
Institution of an administrative proceeding of an enforcement nature.
Settlement of an administrative proceeding of an enforcement nature.
Freedom of Information Act appeal.
Regulatory matters bearing enforcement implications.
Other litigation matters.

The subject matter of the closed meeting scheduled for Thursday, May 25, 1978, immediately following the open meeting at 10 a.m., will be:

Opinion.

The subject matter of the closed meeting scheduled for Thursday, May 25, 1978, immediately following the open meeting scheduled for 2:30 p.m., will be:

Post-oral argument discussion.

The subject matter of the open meeting scheduled for Thursday, May 25, 1978, at 10 a.m., will be:

1. Consideration of a petition of the Corporate Finance Committee of the Securities Industry Association: (1) Requesting the adoption of a rule relating to underwriters' liability with respect to registration statements on Form S-16; and (2) requesting suspension of the effectiveness of the availability of Form S-16 for certain primary offerings, or the adoption of an emergency temporary rule.
2. Proposed transmittal of comments regarding H.R. 5999, which would amend section 214 of the Interstate Commerce Act to increase from $1 million to $10 million, the maximum value of securities that may be issued by a motor carrier without authorization of the Interstate Commerce Commission.
3. Proposed adoption of amendments to Form 8-K and proxy rules regarding additional disclosure of information concerning changes in independent accountants.

The subject matter of the open meeting scheduled for Thursday, May 25, 1978, at 2:30 p.m., will be:

Oral argument in the matter of Hinkle Northwest, Inc., et al., concerning an appeal from an initial decision of the Administrative Law Judge based upon violations of the net capital and recordkeeping provisions of the Federal securities laws.

FOR FURTHER INFORMATION, PLEASE CONTACT:

George G. Yearsich at 202-755-1100.

MAY 16, 1978.

[S-1044-78 Filed 5-17-78; 9:52 am]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20612, May 12, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGE IN THE MEETING: Additional item to be considered:

The following additional item will be considered by the Commission at the open meeting scheduled for Wednesday, May 17, 1978, at 9 a.m.:

Request of Bunker Ramo Corp. and GTE Information Systems, Inc. for a stay of the Options Price Reporting Authority's proposed termination of a retransmission service.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

MAY 16, 1978.

[S-1053-78 Filed 5-17-78; 3:34 p.m.]

[8120-01]

13

[Meeting No. 1195]

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 21408, May 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Wednesday, May 17, 1978.

PLACE OF MEETING CHANGED TO: Auditorium, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

CHANGES IN MATTERS TO BE CONSIDERED: The following items are added to the previously announced agenda:

C—Purchase Awards:

*7. Req. No. 822642—Butterfly valves and operators for proposed Yellow Creek Nuclear Plant.
*8. Req. No. 822335—161-kV medium pressure oil-filled cable bus systems for Hartsville and Phipps Bend Nuclear Plants.
*9. Req. No. 42—Coal for TVA steam plants.
10. Exercise of option to purchase additional uranium concentrates under contract 74P65-19219-1 with Homestake Mining Co.

D—Project Authorizations:

3. No. 3331—Convert Colbert Unit 5 from pressurized to balanced-draft firing by the addition of induced-draft fans.
4. No. 3342—Replace cyclone furnaces in the Paradise Steam Plant Units 1 and 2 boilers.
5. No. 3351—Purchase of two replacement intermediate-pressure spindles for 200 MW units at Kingston, John Sevier, and Colbert Steam Plants.
6. No. 3352—Purchase of two replacement low-pressure spindles for 150-MW units at Kingston Units 1-4 and Shawnee Units 1-10.
7. No. 3353—Purchase of two replacement low-pressure turbine spindles for Allen Steam Plant.
8. No. 3343—Baghouse fly ash collectors for Shawnee Steam Plant.
9. No. 3354—Browns Ferry Nuclear Plant cooling tower modifications.
10. No. 3345—Addition of continuous monitors for the measurement of sulfur dioxide and oxygen at all fossil-fired plants.
11. No. 3033.1—Amendment to project authorization for completion of Yellow Creek Nuclear Plant Units 1 and 2.
12. No. 3346—Study of mineral wool insulating material fabrication from wet bottom boiler slag.
13. No. 3349—Modifications and additions to the Power Production Training Center.
14. No. 3077.2—Amendment to project authorization for development of a TVA materials management system.
15. No. 3300—Addition to Forestry building at Norris.

F—Power Items:

2. Letter agreement with Southeastern Power Administration—Revised rates for Cumberland River power.
3. Bill of sale and quitclaim deed to city of Greeneville, Tenn.—Sale of 8.0-mile section of TVA's Nolichucky Hydro-Erwin 69-kV Line.
4. Amendment to mining lease agreement with Federal American Partners, covering arrangements for acquisition of additional uranium reserves in the Gas Hills area of Wyoming.

G—Real Property Transactions:

1. Grant of permanent easement to the Waterworks Board of the town of Dutton, Ala., for a water treatment plant site, affecting 2.4 acres of Guntersville Reservoir land—Tract XTGR-123WT.
2. Grant of 30-year wildlife-recreation easement to the Alabama Department of Conservation and Natural Resources affecting 4,005 acres of Wheeler Reservoir land—Tract XTWR-45RE.
3. Sale of 4.8-acre tract of Cherokee Reservoir land at public auction—Tract XCK-569.
4. Filing of condemnation suits.

H—Unclassified:

2. Settlement Agreement with Hale Specialties, Inc., and Vulcraft Division of Nucor Corp.—Claim resulting from delivery of defective bar joists.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved: Aubrey J. Wagner and S. David Freeman.

[S-1042-78 Filed 5-17-78; 9:52 am]

*Items informally approved in interval since 5-11-78 Board-meeting.

[4410-01]

14

UNITED STATES PAROLE COMMISSION: National commissioners (the three Commissioners presently maintaining offices at Washington, D.C. Headquarters).

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 20086-20106, May 10, 1978.

CHANGES IN THE MEETING: The closed meeting scheduled for 9:30 a.m. on Thursday, May 18, 1978 to consider referrals from regional directors of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release has been rescheduled for 9:30 a.m. on Friday, May 19, 1978.

AUTHORITY FOR THE CHANGE: Order of Commissioner Benjamin J. Malcolm, Vice-Chairman and Presiding Officer of the National Commissioners.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1047-78 Filed 5-17-78; 11:10 am]

[4410-01]

15

UNITED STATES PAROLE COMMISSION.

TIME AND DATE: 2 p.m., Friday, June 2, 1978.

PLACE: Xerox Training Center, Route 7, Leesburg, Va.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 15 cases decided by National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally herd by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1048-78 Filed 5-17-78; 11:10 am]

Federal Register

FRIDAY, MAY 19, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Delaware:	
DE77-3134	Sept. 30, 1977.
Florida:	
FL77-1142	Dec. 2, 1977.
Illinois:	
IL78-2043; IL78-2044; IL78-2045; IL78-2046; IL78-2048; IL78-2049; IL78-2050.	Mar. 24, 1978.
Indiana:	
IN78-2025; IN78-2030; IN78-2033.	Mar. 10, 1978.
IN78-2029; IN78-2051; IN78-2052.	Mar. 24, 1978.
Louisiana:	
LA78-4013	Feb. 17, 1978.
LA78-4052	May 12, 1978.
Ohio:	
OH78-2006	Feb. 24, 1978.
Pennsylvania:	
PA78-3014	Mar. 24, 1978.
Texas:	
TX77-4264	Sept. 30, 1977.
TX78-4028; TX78-4030; TX78-4031; TX78-4036; TX78-4040; TX78-4043; TX78-4044.	Apr. 14, 1978.
Virginia:	
VA78-3038	Apr. 28, 1978.
Washington, D.C.:	
DC78-3008	Mar. 17, 1978.
Wisconsin:	
WI77-2105; WI77-2109	July 22, 1977.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parenthesis following the numbers of the decisions being superseded.

Maryland:	
MD77-3080(MD78-3046)	June 24, 1978.
Missouri:	
MO77-4279(MO78-4053)	Sept. 30, 1977.
Tennessee:	
TN78-1042(TN78-1049)	Apr. 14, 1978.
TN78-1132(TN78-1048)	Oct. 7, 1978.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision No. AL76-1002, Montgomery County, Alabama is cancelled. Agencies with residential building construction projects pending in this County should utilize the Regulations Part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. AL76-1002 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 12th day of May 1978.

DOROTHY P. COME,
Acting Assistant Administrator, Wage and Hour Division.

DECISION NO. DE77-3134 - Mod. #8
(42 FR 52990 - September 30, 1977)
State of Delaware

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drop:					
Motor patrols(fine grade) from Group 2 of Power Equipment Operators for Building & Heavy Construction					
Conveyors (except building) from Group 3 of Power Equipment Operators for Building & Heavy Construction					
Conveyors (building) from Group 4 of Power Equipment Operators for Building & Heavy Construction					
Concrete spreader from Group 4 of Power Equipment Operators for Building & Heavy Construction					
Add:					
Conveyors to Group 3 of Power Equipment Operators for Building & Heavy Construction					
Change:					
Power Equipment Operators Building & Heavy Construction:					
Group 1	$12.44	7%	10.3%	g	1.8%
Group 2	12.15	7%	10.3%	g	1.8%
Group 3	11.28	7%	10.3%	g	1.8%
Group 4	10.51	7%	10.3%	g	1.8%
Group 5	10.04	7%	10.3%	g	1.8%
Group 6	9.13	7%	10.3%	g	1.8%
Group 7					
100' & over	$12.69	7%	10.3%	g	1.8%
150' & over	12.94	7%	10.3%	g	1.8%
200' & over	13.18	7%	10.3%	g	1.8%
Power Equipment Operators:					
Highway Construction					
Group 1	12.15	7%	10.3%	g	1.8%
Group 2	11.28	7%	10.3%	g	1.8%
Group 3	10.51	7%	10.3%	g	1.8%
Group 4	9.13	7%	10.3%	g	1.8%

DECISION #FL77-1142 - MOD. #2
(42 FR 61435 - December 2, 1977)
Cape Canaveral, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Base zone (within 40 miles of Daytona Bench):					
Electrical contracts of under $100,000					
Electricians	$ 8.15	.45	.58+3%		1%
Cable splicer	8.40	.45	.58+3%		1%
Electrical contracts of over $100,000					
Electricians	9.15	.45	.58+3%		1%
Cable splicer	9.40	.45	.58+3%		1%
All work in zone 1 (beyond 40 miles from Daytona Beach):					
Electricians	9.60	.45	.58+3%		1%
Cable splicer	9.85	.45	.58+3%		1%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.41	.745	.56	a+b	.025
Helpers	6.59	.745	.56	a+b	.025
Probationary Helpers	4.705	.745	.56	a+b	.025

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 8% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

DECISION #IL78-2043 - MOD. #1
(43 FR 12542- March 24, 1978)
Bureau, Carroll, Henry, Lee, JoDaviess, Ogle, Rock Island, Stephenson, Whiteside, and Winnebago Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Cement Masons:					
Eastern half of Henry County	$11.99		.20		
Electricians:					
Bureau County; Townships of Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westfield	13.43	.50	3%+.70		.2 of 1%
Laborers:					
Henry County:					
Unskilled	10.07	.40	.42		.035
Semi-Skilled	10.27	.40	.42		.035
Skilled	10.47	.40	.42		.035

DECISION #IL78-2044 - MOD. #1
(43 FR 12549 - March 24, 1978)
Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam and Woodford Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Kankakee County; Remainder of Ford and Iroquois Counties	11.67	.50	3%+.70		.2 of 1%
Grundy County; Norhtern half of Central Southern part of LaSalle County; Walnut, Ohio, Lamoille, Clarion, Bureau, Dover, Berlin and Westville Townships in Bureau County	13.43	.50	3%+.70		.2 of 1%
Laborers:					
LaSalle and Punam Counties:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035

DECISION #IL78-2044 - MOD. #1
(43 FR 12549 - March 24, 1978)

ADD:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Grundy County:					
CLASS 1					
Common Laborers, Plasterer Laborers, Pumps for DeWatering & other Unclassified Laborers	$ 8.55	.57	1.10		
CLASS 2					
Cement Gun Laborers	8.625	.57	1.10		
CLASS 3					
Scaffold Laborers & Chimney Laborers over 40'	8.05	.57	1.10		
CLASS 4					
Windlass & Cement Gun Nozzle Laborers - Gunnite	8.70	.57	1.10		
CLASS 5					
Stone Handlers & Derrickmen	8.75	.57	1.10		
CLASS 6					
Jackhammermen	8.775	.57	1.10		
CLASS 7					
Concrete Vibrator, Plumbers' Laborer & Chain Saw Operator	8.80	.57	1.10		
CLASS 8					
Firebrick & Boiler Setters' Laborers	8.87	.57	1.10		
CLASS 9					
Chimney Laborers on Firebrick, Caisson Diggers & Well Point System Men	8.90	.57	1.10		
CLASS 10					
Boiler Setter Plastic Laborers	9.00	.57	1.10		
CLASS 11					
Jackhammer on Firebrick Only	9.125	.57	1.10		

DECISION #IL78-2044 - MOD. #1 (Cont'd)

ILL-20-PEO-2-3

ADD:

POWER EQUIPMENT OPERATORS:
Remainder of Counties:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$11.05	.45	.55		.05
GROUP 2	10.85	.45	.55		.05
GROUP 3	10.27	.45	.55		.05
GROUP 4	10.00	.45	.55		.05
GROUP 5	8.56	.45	.55		.05

POWER EQUIPMENT OPERATORS:

Group 1: Crane, hydro crane, shovels, crane type backfiller, tower cranes-mobile and crawler and stationary derricks and hoist (3-drum); Dragline, Dragline, Drott Yumbo and similar types considered as cranes, backhoe, derrick boats, pile driver and skid rigs, clam shells, locomotive cranes, road pavers - single drum, dual drum and tri batcher, motor patrols and power blades - Dumore, elevating similar types, mechenics central concrete mixing plant operator, blacktop plant operators and plant engineers, grad-all, caisson rigs - requires oiler, skimmerscoopkerhing scooper, dredges (all types) hop-toe-crane type (require oiler), Escalated rate on crane and derricks booms, $.01 per hour, per ft., over 80' including jib all cherry pickers, cherry pickers (over 15 tons require oiler), work boat, Ross carrier, helicopter, dozen and tournadozer

Group 2: Asphalt heater and planter combination (used to plant streets), trench machines, pump crete - belt crete - seqeeze crete - screw type pumps and gysum, bulker and pump, dinkeys, tournapulls-all, and similar types, multiple unit earth movers, $.25 per hour for each scoop over one scoops (all sizes), pushcats, endloaders (all types), side booms, P-H one-pass soil cement machines and similar types, wheel tractors (industrial or farm-type with dozer hoe - end loader or other attachments, backfillers, asphalt surfacing machines euclid loader, fork lifts, formless finishings, jeep w/ditching machine or other attachments, tuneluger, rock crusher, automatic cement and gravel batching mobile drills (soil testing) and similar types, pugmill with pump, flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), power launches, boring machine, C.M.I. and similar types (require oiler), all (1) and (2) drum hoists, dewatering system, straw blower, hydro-seeder, boring machine, hydro-boom, starting engineer on pipeline, P.W.D. and similar types

DECISION #IL78-2044 - MOD. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Laborers:					
Ford, Livingston, Iroquois, Kankakee, Marshall and Woodford Counties:					
Unskilled	$10.30	.40	.42		.035
Semi-Skilled	10.50	.40	.42		.035
Skilled	10.70	.40	.42		.035
McLean County:					
Unskilled	10.15	.55	.42		.035
Semi-Skilled	10.35	.55	.42		.035
Skilled	10.55	.55	.42		.035

DECISION #IL78-2045 - MOD. #1
(43 FR 12555 - March 24, 1978)
Fulton, Hancock, Henderson, Knox, McDonough, Mercer, Peoria, Stark, Tazwell, and Warren Counties, Illinois

CHANGE:

Laborers:					
Hancock, Henderson, Knox, Stark, McDonough & Warren Counties:					
Unskilled	10.07	.45	.60		.035
Semi-Skilled	10.27	.45	.60		.035
Skilled	10.47	.45	.60		.035

DECISION #IL78-2046 - MOD. #1 (43 FR 12561 - March 24, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Macon, Moultrie, Piatt, Shelby, and Vermilion Counties, Illinois					
CHANGE:					
Electricians:					
Cumberland, Coles, Douglas Cos., Twps. of Bondie, Burbon, Arcola & Sargent in Moultire Co; Twps. of Lowe, Jonathan Creek, Whitley & E. Nelson in Shelby County	$11.70	.50	3%+.40		.35%

DECISION #IL78-2048 - MOD. #1 (43 FR 12569 - March 24, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne & White Counties, Illinois					
CHANGE:					
Electricians:					
Twps. of Bishop, Douglas, Lucas, Moccasin, St. Franis, Summit & Teutopolis in Effingham Co.	11.70	.50	3%+.40		.035
Laborers	8.70	.40	.30		.035

DECISION #IL78-2049 - MOD. #1 (43 FR 12574 - March 24, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bond, Calhoun, Clinton, Greene, Jersey, Macoupin, Madison, Monroe, Montgomery, St. Clair & Washington Counties, Illinois					
CHANGE:					
Electricians:					
Monroe & St. Clair Cos; Western ½ of Bond Co., Vendy Twp. in Washington Co., & Remainder of Clinton, Madison & Montgomery Counties	$12.00	4%	3%+.65	6%	.25%
Linemen	12.36	4%	3%		.50%
Groundmen Equipment Operator	10.74	4%	3%		.50%
Groundmen Truck Driver:					
W/winch & WO/winch	8.73	4%	3%		.50%
Pick-up-Jeeps	8.14	4%	3%		.50%
Groundmen	8.08	4%	3%		.50%

DECISION #IL78-2050 - MOD. #1 (43 FR 12578 - March 24, 1978)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Alexander, Franklin, Gallatin, Handin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union and Williamson Counties, Illinois					
CHANGE:					
Electricians:					
Red Bud Township in Randolph County	12.00	4%	3%+.65	6%	.25%

DECISION NO. IN78-2025 - MOD. #2
(43 FR 10167 - March 10, 1978)
Decatur County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS:					
Carpenters; Soft Floor Layers	$10.54	.55	.65		.03
Piledrivermen	10.79	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Omit:					
TRUCK DRIVERS Schedule					
Add:					
TRUCK DRIVERS Schedule					

DECISION NO. IN78-2025 (CONT'D)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

DECISION NO. IN78-2029 - MOD. #2.
(43 FR 12581 - March 24, 1978)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Blackford, Boone, Carroll, Cass, Clinton, DeKalb, Fountain, Fulton, Hamilton, Hancock, Hendricks, Howard, Huntington, Jay, Johnson, Madison, Miami, Montgomery, Morgan, Noble, Shelby, Steuben, Tipton, Wabash, Warren, Wells, White, & Whitley Counties, Indiana					
Change:					
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Blackford, Jay, & Madison Cos.:					
Carpenters; Soft Floor Layers	$10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Johnson (Edinburgh), Shelby (Rem. of Co.) Cos.:					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen	10.74	.55	.65		.03
LATHERS:					
Blackford, Hancock, & Jay Cos.	9.85		.35		.01
Fountain Co.	11.49	.45	.40		.01
PLUMBERS; Steamfitters:					
Carroll, Clinton, Fountain, Montgomery, Warren, & White Cos.	11.95	.50	1.00		.10
Omit:					
TRUCK DRIVERS Schedule Blackford, Hamilton, Hancock, Jay, & Madison Counties					
Add:					
TRUCK DRIVERS Schedule Blackford, Hamilton, Hancock, Jay, & Madison Counties					

DECISION NO. IN78-2029 (CONT'D)

TRUCK DRIVERS Blackford, Hamilton, Hancock, Jay, & Madison Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

DECISION NO. IN78-2030 - MOD #2
(43 FR 10169 - March 10, 1978)
Statewide, except Lake, LaPorte, Porter, and St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
PAINTERS:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Brush	$ 8.85				
Sandblasting; Spray	9.85				
Structural Steel; Scaffold over 30 ft.	9.10				
Omit:					
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					
Add:					
POWER EQUIPMENT OPERATORS: (Heavy & Highway Construction)					

DECISION NO. IN78-2030 (CONT'D)
POWER EQUIPMENT OPERATORS
(Heavy & Highway Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Adams, Allen, Benton, Blackford, Carroll, Cass, Clinton, Dekalb, Delaware, Fayette, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jay, Johnson, Madison, Marion, Miami, Randolph, Rush, Shelby, Steuben, Tippecanoe, Tipton, Union, Wabash, Wayne, Wells, White, & Whitley Counties:					
GROUP I	$10.87	.55	.65		.08
GROUP II	9.60	.55	.65		.08
GROUP III	9.10	.55	.65		.08
GROUP IV	8.16	.55	.65		.08
Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Marshall, Newton, Noble, Pulaski, & Starke Counties:					
GROUP I	10.27	.95	.85		.08
GROUP II	9.00	.95	.85		.08
GROUP III	8.50	.95	.85		.08
GROUP IV	7.56	.95	.85		.08
Bartholomew, Brown, Clark, Crawford, Dearborn, Decatur, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Lawrence, Martin, Ohio, Orange, Perry, Pike, Posey, Ripley, Scott, Spencer, Switzerland, Vanderburgh, Warrick, & Washington Counties:					
GROUP I	10.97	.50	.60		.08
GROUP II	9.70	.50	.60		.08
GROUP III	9.20	.50	.60		.08
GROUP IV	8.26	.50	.60		.08
Boone, Clay, Daviess, Fountain, Greene, Hendricks, Knox, Monroe, Montgomery, Morgan, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, & Warren Counties:					
GROUP I	10.20	.40	.50		.08
GROUP II	9.10	.40	.50		.08
GROUP III	8.67	.40	.50		.08
GROUP IV	7.86	.40	.50		.08

DECISION NO. IN78-2033 - MOD. #2
(43 FR 10188 - March 10, 1978)
Brown, Clark, Crawford, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Brown (Hamblin), Jackson, Jefferson, Jennings, & Scott Cos.:					
Carpenters; Soft Floor Layers	$10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; & Burners	10.74	.55	.65		.03
Lawrence & Orange Cos.:					
Carpenters; Soft Floor Layers	10.67	.57	.50		
Millwrights; Piledrivermen	11.07	.57	.50		
Switzerland Co.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; & Burners	10.79	.55	.65		.03
CEMENT MASONS:					
Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, & Washington Cos.	10.00				
Omit:					
TRUCK DRIVERS					
All counties except Crawford Co.					
Add:					
TRUCK DRIVERS					
All counties except Crawford Co.					

DECISION NO. IN78-2033 (CONT'D)

TRUCK DRIVERS All counties except Crawford Co.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

DECISION NO. IN78-2051 - MOD. #2.
(43 FR 12589 - March 24, 1978)
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
CARPENTERS; Millwrights; Piledrivermen; & Soft Floor Layers:					
Bartholomew Co. (Rem. of Co.):					
Carpenters; Soft Floor Layers	$10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Burners; Welders	10.74	.55	.65		.03
Dearborn Co.:					
Carpenters & Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Burners; Welders	10.79	.55	.65		.03
Delaware Co.:					
Carpenters & Soft Floor Layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
LATHERS:					
Delaware & Grant Counties	9.85		.35		.01
PIPEFITTERS; Plumbers; & Steamfitters:					
Benton, Tippecanoe, & Vigo Cos.	12.95	.50	1.00		.10
PLUMBERS; Steamfitters:					
Vanderburgh Co.	13.20	.50	.90		.06
Omit:					
TRUCK DRIVERS Schedule Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties					
Add:					
TRUCK DRIVERS Schedule Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties					

TRUCK DRIVERS Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

DECISION NO. IN78-2052 - MOD. #2
(43 FR 12598 - March 24, 1978)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BRICKLAYERS; Stonemasons: Fayette, Franklin, Rush, Union, & Wayne Cos.	$10.55	.80			
CARPENTERS; Millwrights; Piledrivermen; Soft Floor Layers:					
Fayette, Henry, Randolph, Rush (Carthage Twp.), Union, & Wayne Cos.:					
Carpenters; Soft Floor Layers	10.70	.60	.45		.08
Millwrights	11.00	.60	.45		.08
Piledrivermen	10.90	.60	.45		.08
Franklin, Ohio, Ripley Cos.:					
Carpenters; Soft Floor Layers	10.54	.55	.65		.03
Millwrights	11.04	.55	.65		.03
Piledrivermen; Welders; Burners	10.79	.55	.65		.03
Rush Co. (Except Carthage Twp.):					
Carpenters; Soft Floor Layers	10.49	.55	.65		.03
Millwrights	10.99	.55	.65		.03
Piledrivermen; Welders; Burners	10.74	.55	.65		.03
LATHERS: Henry & Randolph Cos.	9.85		.35		.01
PAINTERS: Fayette, Franklin, Henry, Randolph, Rush, Union & Wayne Cos.:					
Brush	8.85				
Sandblasting; Spray	9.85				
Structural steel; Scaffold over 30 ft.	9.10				
Stage & Spray helper	9.10				
Omit: TRUCK DRIVERS Schedule					
Add: TRUCK DRIVERS Schedule					

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$9.05	$29.50a	$20.00a	b & c	
GROUP 2	9.10	29.50a	20.00a	b & c	
GROUP 3	9.15	29.50a	20.00a	b & c	
GROUP 4	9.20	29.50a	20.00a	b & c	
GROUP 5	9.25	29.50a	20.00a	b & c	
GROUP 6	9.30	29.50a	20.00a	b & c	
GROUP 7	9.40	29.50a	20.00a	b & c	
GROUP 8	9.45	29.50a	20.00a	b & c	
GROUP 9	9.50	29.50a	20.00a	b & c	
GROUP 10	9.55	29.50a	20.00a	b & c	
GROUP 11	9.70	29.50a	20.00a	b & c	

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-Legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:
a. per week per employee
b. 1 week's paid vacation after 1 year's service; 2 weeks' paid vacation after 3 years' service; & 3 weeks' paid vacation after 10 years' service.
c. 7 paid holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day

DECISION #LA78-4013 - Mod. #3 (43 FR 7125 - February 17, 1978) Bossier, Caddo & Calcasieu Parishes, Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Change:					
Glaziers - Bossier & Caddo Pars	$ 8.28		.30		.04
Calcasieu Parish	9.65				.02
Plumbers & pipefitters:					
Bossier & Caddo Parishes	10.34	.40	.50	.95	.09
Sprinkler fitters	10.80	.75	1.05		.08
DECISION #LA78-4052 - Mod. #1 (43 FR - May 12, 1978) Statewide Louisiana					
Change:					
Glaziners - Zone 4	8.28		.30		.04
Roofers - Zone 2	8.06	.70	.75	.28	.70

DECISION NO. OH78-2006 - MOD. #1 (43 FR 7915 - February 24, 1978) Allen, Auglaize, Crawford, Defiance, Erie, Hancock, Hardin, Henry, Huron, Knox, Logan, Marion, Mercer, Morrow, Ottawa, Paulding, Putnam, Richland, Sandusky, Seneca, Van Wert, Williams, Wood, & Wyandot Counties, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Erie (E½), & Huron Cos.	$14.78				
Electricians:					
Allen, Auglaize, Hardin, Logan, Mercer, Van Wert, & Wyandot (Twps. of Crawford, Jackson, Marseil, Mifflin, Ridgeland, Ridge, & Salem) Cos.	11.61	.45	3%+.37		.04
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.	13.80	.65	3%+.55		.1%
Glaziers:					
Defiance, Henry, Ottawa, Sandusky, Seneca, Williams, & Wood Cos.	11.175	.55	1.00		.01
Ironworkers:					
Erie & Huron Cos.	11.72	1.05	1.30		.03
Marble Setters' Finishers; Terrazzo Workers' Finishers; & Tile Setters' Finishers:					
Erie, Huron, & Richland Cos.:					
Marble Setters' Finishers	12.26		1.00		
Terrazzo Workers' Finishers	12.97		.85		
Tile Setters' Finishers	12.79		1.00		
Painters:					
Allen, Auglaize, Defiance, Hardin, Mercer, Paulding, Putnam, Van Wert, & Williams Cos.:					
Brush; Drywall Taping; & Roller	9.35	.73	.50		.03
Wall Covering; Swing Stage; Safety Belts; Spiders & Cherry Pickers - Brush or Rollers	9.60	.73	.50		.03
Sandblasting; Spray; Steam-cleaning; Mitts; High pressure water cleaning; Blow Down	9.85	.73	.50		.03
Stilts & Automatic Drywall Tools	10.10	.73	.50		.03
Petroleum storage tanks (over 30 ft. high) brush, rollers	9.75	.73	.50		.03
Structural steel (open skeleton) - brush or roller	9.65	.73	.50		.03

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters: (Cont'd)					
Elevated water tanks & stacks - brush, roller or spray	$10.85	.73	.50		.03
Henry, Ottawa, & Wood Cos.:					
Brush; Paperhangers; Drywall tapers & finishers	10.81	.93	.90		
Sandblasting; Spray; Pressure cleaning	11.36	.93	.90		
Knox Co.:					
Brush; Paperhangers	8.00				
Spray	8.45				
Roofers:					
Allen, Auglaize, Hardin, Knox, Logan, Marion, Mercer, Morrow, Putnam, Van Wert, & Wyandot Cos.	11.795	.60	.65		.01
Erie, Huron, Ottawa, Sandusky, & Seneca Cos.	14.03	.25	.50		
Sprinkler Fitters	12.75	.75	1.05		.08
Laborers:					
Crawford, Knox, Morrow, & Richland Cos.:					
General laborers; Carpenter tender; Concrete handler	8.81	.70	.70		.10
Mason & Plasterers' tenders; Air & power driven tools; Pipelayer; Dynamite blaster; Mortar Mixer; & formsetter	9.01	.70	.70		.10
Gunnite operator	9.41	.70	.70		.10
Defiance, Henry, & Williams Cos.:					
Unskilled laborers; Cement finishers' helpers; Carpenters' helpers; Carpenters' tenders	8.97	.65	.55		.10
Mason tenders; Gunite pot man	9.09	.65	.55		.10
All power driven tools & buggies, burners, torchmen & nozzle man for concrete pump	9.115	.65	.55		.10
Plasterers' tenders	9.145	.65	.55		.10
Nozzle operator for gunite work	9.62	.65	.55		.10
Bellman; Bottom man; & Brick expeditor	9.205	.65	.55		.10

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers: (Cont'd)					
Erie, Huron, Ottawa, & Sandusky Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	$ 9.96	.70	.70		.10
Bottom men; Scaffold; Tunnel laborers; Pipelayers; Air & power driven tools burner on demolition work; Swinging scaffold; Mucker; Caisson workers; Cofferdam worker; Power men & dynamite blasters; Creosote workers; Mortar mixers; Form setter; Mason tenders; Plasterers' tenders; Hod carrier; Laser beam set up man	10.16	.70	.70		.10
Gunnite Operator	10.56	.70	.70		.10
Hancock, Hardin, Marion, Seneca, & Wyandot Cos.:					
Building & construction laborers; Signalman; Flagman; Tool cribman; Carpenter tenders; Finisher tenders; Concrete handler; Utility construction laborer; Guardrail erectors	8.81	.70	.70		.10
Bottom men; Scaffold builders; Tunnel laborers; Pipelayers; Air & power driven tools; Burner on demolition work; Swinging scaffold; Mucker; Caisson work; Cofferdam worker; Powder men & dynamite blasters; Creosote workers; Mortar mixers tenders; Plasterers' tenders; Hod carriers; Laser beam set up men	9.01	.70	.70		.10
Gunnite operators	9.41	.70	.70		.10

DECISION NO. OH78-2006 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Defiance, Hancock, Henry, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, & Wood Cos.:					
Linemen	$13.46	.50	3%	a	½%
Technicians	12.99	.50	3%	a	½%
Cable splicers	13.71	.50	3%	a	½%
Operator Class 1	10.72	.50	3%	a	½%
Operator Class 2	9.45	.50	3%	a	½%
Groundman:					
Driver 1st 6 mos.	6.76	.50	3%	a	½%
Driver 2nd 6 mos:	7.33	.50	3%	a	½%
Driver 3rd 6 mos.	8.10	.50	3%	a	½%
Omit:					
Power Equipment Operators Schedule					
Add:					
Power Equipment Operators Schedule					

	ZONE I	ZONE II	ZONE III				
				Fringe Benefits Payments			
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$12.89	$12.36	$13.17	.66	1.00		.11
GROUP B	12.73	12.20	13.02	.66	1.00		.11
GROUP C	12.38	11.84	12.67	.66	1.00		.11
GROUP D	11.57	11.06	11.89	.66	1.00		.11
GROUP E	11.24	10.73	11.57	.66	1.00		.11
GROUP F	9.28	8.83	9.64	.66	1.00		.11

DECISION #PA78-3014 - Mod. # 1 (43 FR 12603 - March 24, 1978) Armstrong, Allegheny, Beaver, Butler, Fayette, Indiana, Washington & Westmoreland Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Painters:					
Zone 5					
Commercial	$8.75	.85	.70	.75	2%
Industrial	10.40	.85	.70	1.00	2%
Zone 4					
Brush & Roller	9.45	.65	.40		.05
Spray	10.575	.65	.40		.05
Sprinkler Fitters					
Zone 2	12.31	.75	1.05		.08

MODIFICATIONS P. 27

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4264 - Mod. #4 (42 FR 53168 - September 30, 1977) Tom Green County, Texas					
Change:					
Bricklayers	$ 9.00				
DECISION #TX78-4028 - Mod. #1 (43 FR 16112 - April 14, 1978) Armstrong, Carson, Castro, Childress, Collingdworth, Dallam, Deaf Smith, Donely, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
Change:					
Bricklayers & stonemasons	10.40		.30		
Marble masons (exterior)	10.40		.30		
DECISION #TX78-4030 - Mod. #3 (43 FR 16115 - April 14, 1978) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Plasterers	10.15				.01
DECISION TX78-4031 - Mod. #3 (43 FR 16116 - April 14, 1978) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Sheet metal workers - Zone 1	9.29	.35	.44		.07
Zone 2	9.79	.35	.44		.07
Zone 3	10.29	.35	.44		.07
DECISION #TX78-4036 - Mod. #3 (43 FR 16125 - April 14, 1978) El Paso County, Texas					
Change:					
Cement masons	7.12	.67			.03
Power Equipment Ops. - Group 1	7.29	.60	.60		.15
Group 2	7.87	.60	.60		.15
Group 3	7.96	.60	.60		.15
Group 4	8.16	.60	.60		.15
Group 5	8.24	.60	.60		.15
Group 6	8.58	.60	.60		.15
Group 7	8.74	.60	.60		.15
Group 8	8.21	.60	.60		.15
Group 9	8.44	.60	.60		.15
Group 10	8.74	.60	.60		.15

MODIFICATIONS P. 28

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4040 - Mod. #3 (43 FR 16131 - April 14, 1978) Jefferson & Orange Cos., Texas					
Change:					
Truck drivers - Group 1	$ 8.01	.53			
Group 2	8.36	.53			
Group 3	8.55	.53			
Group 4	8.65	.53			
Group 5	8.665	.53			
DECISION #TX78-4043 - Mod. #3 (43 FR 16134 - April 14, 1978) Travis County, Texas					
Change:					
Bricklayers & stonemasons	10.32	.50	.40		.05
Laborers - Group 1	5.855	.275	.40		.02
Group 2	6.005	.275	.40		.02
Group 3	6.18	.275	.40		.02
Group 4	6.255	.275	.40		.02
DECISION #TX78-4044 - Mod. #1 (43 FR 16136 - April 14, 1978) Wichita County, Texas					
Change:					
Bricklayers & stonemasons	9.94		.60		.05

DECISION NO. 78-VA-3038 - Mod. #1
(43 FR 18481 - April 28, 1978)
Counties of Accomack, Greensville, Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, York and the Cities of Emporia, Franklin, Suffolk and Willamsburg

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Omit:					
Flagman					
Roller (Finish)					

DECISION NO. DC78-3008 - Mod. #3
(43 FR 11464 - March 17, 1978)
District of Columbia; Maryland-Montgomery and Prince Georges; and D. C. Training School; Virginia - Independent City of Alexandria & Arlington

Change:					
Boilermakers	$12.025	1.075	1.00		.02
Elevator Constructors	11.77	.745	.56	a+b	.025
Elevator Constructors Helpers	70%J.R.	.745	.56	a+b	.025
Elevator Constructors Helpers (Probationary)	50% J.R.				

DECISION NO. WI77-2105 - MOD. #2
(42 FR 37766 - July 22, 1977)
Ashland, Bayfield & Douglas Counties, Wisconsin

Change:					
Carpenters (Ashland Co.)	$ 9.19	.50	.30	.15	
Millwrights, Piledrivermen (Ashland Co.)	9.39	.50	.30	.15	

DECISION NO. WI77-2109 - MOD. 2
(42 FR 37771 - July 22, 1977)
Brown, Door, Kewaunee, and Oconto Counties, Wisconsin

Change:					
Bricklayers, Marble Masons and Stonemasons	9.95	.65	.40		.02
Carpenters	9.92	.50	.60		.05
Millwrights & Piledrivermen	10.32	.50	.60		.05
Cement Masons	9.45	.65	.40		.02
Laborers:					
Class I	8.35	.45	.40		.02
CLASS II	8.40	.45	.40		.02
CLASS III	8.55	.45	.40		.02

STATE: Maryland LOCATION: Baltimore City
DECISION NO.: MD78-3046 DATE: Date of Publication
Supersedes Decision No.: MD77-3080 dated June 24,1977 in 42 FR 32476
DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters, tunnels, rest areas which include building structures, and railroad construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Carpenters	$ 9.80	.75	.69		.07
Cement Masons	10.00	.60	.55		.04
ELectricians	10.80	.70	3%+.90		½%
Ironworkers:					
Structural & Reinforcing	10.24	.90	1.76		.06
Fence Erectors	9.89	.90	1.76		.06
Laborers	6.35	.30	.50		.075
Line Construction:					
Linemen, cable splicers, digging and equipment operators	11.95	.45	3%		½%
Winch trucks & trucks with pole or steel handling	8.01	.45	3%		½%
Trucks without winch	7.47	.45	3%		½%
Groundmen	7.53	.45	3%		½%
Truck Drivers:					
Pickups	6.95	1.05	.75	a+b	
Dumps	7.13	1.05	.75	a+b	
Drop-frame,gooseneck, trailer driver	7.33	1.05	.75	a+b	
Euclids & dumpsters	7.44	1.05	.75	a+b	

FOOTNOTES:

a. 9-paid holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and employee's Birthday, providing employee has worked one day and was available for work during the holiday week.

b. Employees who have worked 125 days in the previous contract year and have 1 year of service, 1 week's paid vacation; 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

DECISION NO. MD78-3046

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION					
GROUP I	$ 9.19	.95	1.00	a	.12
GROUP II	8.69	.95	1.00	a	.12
GROUP III	8.19	.95	1.00	a	.12
GROUP IV	7.19	.95	1.00	a	.12
GROUP V					
a	9.59	.95	1.00	a	.12
b	9.79	.95	1.00	a	.12
c	9.99	.95	1.00	a	.12
d	10.19	.95	1.00	a	.12
e	10.44	.95	1.00	a	.12

FOOTNOTES:

a. Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee works three days in the work week in which the holiday occurs.

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION

GROUP I - Backfiller, backhoe, batching plants, cableway, case type hoe (with a front end bucket over 1½ yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds. and over), grader, gradall hoist (2 active drums or more), pile driving machine, power crane, power shovel repair mechanic, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig.

GROUP II - Asphalt spreader, bulldozer, bull float, case type hoe (with a front end bucket 1 ¾ yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds,), finishing machine, front end loader (under 1 3/4 yds.). grout pump, hi-lift, longitudinal float, narrow-guage locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), sub-grader, well-drill.

DECISION NO. MD78-3046

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION - CONT'D

GROUP III - Compressors, conveyors, firemen, fuel truck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines well-point system

GROUP IV - Oilers (all types)

GROUP V - Long boom cranes, including jibs, and on piledriver machines with leads:
a. 130 ft. to 169 ft.
b. 170 ft. to 209 ft.
c. 210 ft. to 249 ft.
d. 250 ft. to 299 ft.
e. 300 ft. and over

STATE: Missouri
DECISION NO. MO78-4053 DATE: Date of Publication
Supersedes Decision No. MO77-4279 dated September 30, 1977 in 42 FR 53074
DESCRIPTION OF WORK AND LOCATION
Highway Construction
(Statewide)
Heavy Construction

Adair	Gasconade	Montgomery
Andrew	Gentry	Morgan
Atchison	Greene	Newton
Audrain	Grundy	Nodaway
Barton	Harrison	Osage
Bates	Henry	Perry
Benton	Hickory	Pettis
Bollinger	Holt	Phelps
Boone	Howard	Pike
Buchanan	Jackson	Platte
Caldwell	Jasper	Polk
Callaway	Jefferson	Pulaski
Camden	Johnson	Putnam
Cape Girardeau	Knox	Ralls
Carroll	Laclede	Randolph
Cass	Lafayette	Ray
Cedar	Lawrence	St . Charles
Chariton	Lewis	St . Clair
Clark	Lincoln	St . Francois
Clay	Linn	St . Louis and City
Clinton	Livingston	Ste. Genevieve
Cole	McDonald	Saline
Cooper	Macon	Schuyler
Crawford	Madison	Scott
Dade	Maries	Scotland
Dallas	Marion	Shelby
Daviess	Mercer	Sullivan
DeKalb	Miller	Vernon
Franklin	Moniteau	Warren
	Monroe	Washington
		Worth

CARPENTERS & PILEDRIVERMEN:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1	$11.11	.65	.70	.50	.03
Zone 2	11.00	.50	.30		.05
Zone 3	10.96	.65	.70		
Zone 4	10.71	.65	.70	.50	.03
Zone 5	11.50	.50	.30		.03
Zone 6	10.90	.50	.30		.03
Zone 7	9.85	.65	.70	.50	.03
Zone 8	11.37	.33			.03
Zone 9	11.37	.33			.03
Zone 10	11.02	.53			.03
Zone 11	11.07	.33	.30		.03
Zone 12	10.86	.65	.70	.50	.03

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN ZONES

Zone 1 - Franklin, Jefferson, St. Charles, Counties.
Zone 2 - Clay, Jackson, Platte and Ray Counties
Zone 3 - St. Louis County & City
Zone 4 - Pike, St. Francois & Washington Counties
Zone 5 - Cass and Lafayette Counties
Zone 6 - Atchison, Andrew, Barry, Barton, Bates, Buchanan, Caldwell, Camden, Carroll, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Henry, Hickory, Holt, Jasper, Johnson, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clair, Saline, Stone, Taney, Vernon, Webster, Worth & Wright Counties
Zone 7 - Crawford, Dent, Gasconade, Iron, Madison, Maries, Montgomery, Phelps, Pulaski, Reynolds, Shannon and Texas Counties
Zone 8 - Boone, Cooper & Howard Counties
Zone 9 - Adair, Audrain, Benton, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Morgan, Pettis, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby and Sullivan Counties
Zone 10 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Howell, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Ste. Genevieve, Scott, Stoddard and Wayne Counties
Zone 11 - Callaway, Cole, Miller, Moniteau and Osage Counties
Zone 12 - Lincoln and Warren Counties

CEMENT MASONS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1	10.925	.65	.50		
Zone 2	10.93				
Zone 3	9.50	1.00	.95		
Zone 4	11.80	.65	.50		
Zone 5	7.25	.80	.40	.45	
Zone 6	8.75				
Zone 7	9.325				
Zone 8	10.80				
Zone 9	7.40				
Zone 10	9.75	.65	.50		
Zone 11	10.55				
Zone 12	10.15	1.00	.95		

AREAS COVERED BY CEMENT MASONS ZONES

Zone 1 - Bates, Carroll, Cass and Lafayette Counties
Zone 2 - Dent, Phelps, Pike, Pulaski, and Texas Counties
Zone 3 - Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren & Washington Counties on projects less than $100,000.00
Zone 4 - Clay, Jackson, Platte and Ray Counties
Zone 5 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Ripley, Scott, Stoddard and Wayne Counties
Zone 6 - Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Ozark, Polk, Stone, Taney, Webster and Wright Counties
Zone 7 - Benton, Henry, Hickory, Johnson, Morgan, Pettis, Saline and St. Clair Counties
Zone 8 - Adair, Audrain, Boone, Chariton, Cooper, Howard, Linn, Macon, Moniteau, Monroe, Randolph, Shelby, Schuyler, Sullivan and Putnam Cos.
Zone 9 - Barry, Barton, Jasper, Lawrence, McDonald, Newton and Vernon Cos.
Zone 10 - Andrew, Atchison, Buchanan, Caldwell, Clinton, Daviess, DeKalb, Gentry, Grundy, Harrison, Holt, Livingston, Mercer, NOdaway and Worth Cos.
Zone 11 - Callaway, Camden, Cole, Gasconade, Maries, Miller, Montgomery, and Osage Cos.
Zone 12 - St. Louis City and County, Jefferson and St. Charles Counties; and Counties of Crawford, Franklin, Iron, Lincoln, Madison, Reynolds, Shannon, St. Francois, Ste. Genevieve, Warren and Washington on projects $100,000.00 and over.

ELECTRICIANS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1					
Electrical contracts over $10,000.00	11.00	4%	3%	11.5%	½%
Electrical contracts $10,000.00 and under	9.46	4%	3%	11.5%	½%
Zone 2	11.82	.54	3%+.51	.80	.06
Zone 3					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Electrical contracts $5,000.00 and under	11.27	.54	3%+.51	.95	.06
Zone 4					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Zone 5					
Electrical contracts over $5,000.00	11.82	.54	3%+.51	.95	.06
Electrical contracts $5,000.00 and under	10.66	.54	3%+.51	.95	.06
Zone 6	10.95	.62	3%+.5½%	15½%	.10
Zone 7					
Electrical contracts over $15,000.00	10.95	.62	3%+5½%	15½%	.10
Zone 8					
Electrical contractrs $15,000.00 and under	10.25	.62	3%+5½%	15½%	.10
Zone 9					
Electrical contracts $15,000.00 and under	7.92	.62	3%+5½%	15½%	.10
Zone 10					
Electrical contracts $15,000.00 and under	5.60	.62	3%+5½%	15½%	.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ELECTRICIANS CONTD:					
Zone 11	11.105	.47	3%+.50	6%	.02
Zone 12	11.595	.47	3%+.50	6%	.02
Zone 13	11.24	.60	3%	7%	.01
Zone 14					
Electrical contracts over $20,000.00	11.47	.60	3%	7%	.01
Electrical contracts $20,000.00 and under	11.24	.60	3%	7%	.01
Zone 15					
Electrical contracts over $20,000.00	11.83	.60	3%	7%	.01
Electrical contracts $20,000.00 and under	11.24	.60	3%	7%	.01
Zone 16					
Electricians	9.90	.35	3%+.50		.01
Cable splicers	10.25	.35	3%+.50		.01
Zone 17					
Electricians	11.89	.27	3%	7%+.30	½ of 1%
Cable splicers	12.14	.27	3%	7%+.30	½ of 1%

AREAS COVERED BY ELECTRICIANS ZONES

Zone 1 - Adair, Audrain (that part east of Highway 19), Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Montgomery, Pike, Putnam, Ralls, Schuyler, Scotland, Shelby and Sullivan Cos.
Electrical contracts over $7,500.00
Electrical contracts $7,500.00 and under

Zone 2 - Western half of Clay & Jackson Cos. not including Blue Springs; Northern half of Platte Co.; North Western portion of Cass Co. not including Pleasant Hill

Zone 3 - Remainder of Clay, Jackson, Platte & Cass Cos.:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

Zone 4 - Bates, Benton, Henry, Johnson, Lafayette and Pettis Cos.:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

Zone 5 - Carroll, Cooper, Morgan, Ray & Saline Counties:
Electrical contracts over $5,000.00
Electrical contracts $5,000.00 and under

Zone 6 - St. Charles County, St. Louis County and City

Zone 7 - Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Franklin, Iron, Jefferson, Lincoln, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, St. Francois, Ste. Genevieve, Stoddard, Warren, Washington and Wayne Cos.:
Electrical contracts over $15,000.00

Zone 8 - Franklin, Jefferson, Lincoln and Warren Cos.
Electrical contracts $15,000.00 and under

Zone 9 - Bollinger, Cape Girardeau, Perry, Scott, St. Francois, and Ste. Genevieve Counties:
Electrical contract $15,000.00 and under

Zone 10 - Butler, Carter, Dunklin, Iron, Madison, Mississippi, New Marid, Pemiscot, Ripley, Reynolds, Stoddard, Washington and Wayne Counties:
Electrical contracts $15,000.00 and under

Zone 11 - Christian, Dallas, Douglas, Greene, Hickory, Howell, Laclede, Oregon, Ozark, Polk, Shannon, Stone, Taney, Texas, Webster, and Wright Counties

Zone 12 - Pulaski County

Zone 13 - Andrew, Buchanan, Clinton and DeKalb Counties

Zone 14 - Caldwell, Daviess, Gentry, Holt and Nodaway Counties:
Electrical contracts over $20,000.00
Electrical contracts $20,000.00 and under

Zone 15 - Atchison, Grundy, Harrison, Livingston, Mercer and Worth Counties:
Electrical contracts $20,000.00 and under
Electrical contracts over $20,000.00

Zone 16 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair, and Vernon Counties

Zone 17 - Audrain (except Cuivre Township), Boone, Callaway, Camden, Chariton, Cole, Crawford, Dent, Gasconade, Howard, Maries, Miller, Moniteau, Osage, Phelps and Randolph Counties

IRONWORKERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 1	11.225	.55	.70		.06
Zone 2	10.80	.70	1.40	1.00	.05
Zone 3	10.685	.70	1.40	1.00	.05
Zone 4	10.10	.45	.65		.12
Zone 5	10.75	.55	.65		
Zone 6	9.50	.45	.40		.04
Zone 7	9.90	.45	.65		.02

AREAS COVERED BY IRONWORKERS ZONES

Zone 1 - Audrain, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Madison, Maries, Miller, Montgomery, Osage, Perry, Phelps, Pike, Pulaski, Reynolds, Shannon, St. Charles, St. Francois, St. Louis & City, Ste. Genevieve, Texas, Warren, Washington, and Wright Cos.

Zone 2 - Andrew, Atchison, Barton, Bates, Benton, Buchanan, Caldwell, Camden, Carroll, Cass, Cedar, Chariton, Clay, Clinton, Cooper, Dallas, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Hickory, Holt, Howard, Jackson, Johnson, Laclede, Lafayette, Linn, Livingston, Mercer, Moniteau, Morgan, Nodaway, Pettis, Platte, Polk, Putnam, Randolph, Ray, St. Clair, Saline, Sullivan, Vernon and Worth Cos.

Zone 3 - Christian, Dade, Douglas, Greene and Webster Cos.

Zone 4 - Barry, Jasper, Lawrence, McDonald, Newton and Stone Cos.

Zone 5 - Adair, Clark, Knox, Lewis, Macon, Marion, Monroe, Ralls, Schuyler, Scotland and Shelby Cos.

Zone 6 - Howell, Oregon, Ozark and Taney Cos.

Zone 7 - Butler, Bollinger, Carter, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Ripley, Scott, Stoddard and Wayne Counties.

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1					
Zone 1	8.68	.60	.50	.50	.10
Zone 2	7.28	.60	.50	.50	.10
Zone 3	9.60	.60	.50		.10
Zone 4	8.70	.60	.50		.10
GROUP 2					
Zone 1	8.83	.60	.50	.50	.10
Zone 2	7.43	.60	.50	.50	.10
Zone 3	9.75	.60	.50		.10
Zone 4	8.85	.60	.50		.10
GROUP 3					
Zone 1	8.98	.60	.50	.50	.10
Zone 2	7.58	.60	.50	.50	.10
Zone 3	9.90	.60	.50		.10
Zone 4	9.00	.60	.50		.10
GROUP 4					
Zone 1	9.18	.60	.50	.50	.10
Zone 2	7.78	.60	.50	.50	.10
Zone 3	10.10	.60	.50		.10
Zone 4	9.20	.60	.50		.10
GROUP 5					
Zone 1	9.43	.60	.50	.50	.10
Zone 2	8.03	.60	.50	.50	.10
Zone 3	10.35	.60	.50		.10
Zone 4	9.35	.60	.50		.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - General Laborer - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagmen; loading trucks under bins, hoppers, and conveyors; track men and all other general laborers
GROUP 2 - First Semi-skill - Air tool operator; cement handler, bulk or sack; dump man on earth fill; georgie buggie man; material batch hopper man; scale man; spreader on asphalt machine; material mixer man (except on manholes); coffer dams; riprap pavers - rock, block or brick; signal man; scaffolds over ten feet not self-supported from ground up; skipman on concrete paving; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only); straw blower nozzleman.
GROUP 3 - Second Semi-skill - Asphalt plant platform man; chuck tender; crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; vibrator man; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; deck hands; pile dike and revetment work; all laborers working on underground tunnels less than 25 feet where compressed air is not used; abutment and pier hole men working six (6) feet or more below ground; men working in coffer dams for bridge piers and footings in the river
GROUP 4 - Third Semi-Skill - Laser beam man; asphalt raker; barco tamper; jackson or any other similar tamp; wagon driller; chrun drills; air track drills and all other similar drills; cutting torch man; form setters; liners and stringline men on concrete paving, curb, gutters, ditch liners, manhole builder helpers and mortar men on brick or block manholes; sand blasting and gunite nozzle men; rubbing concrete; air tool operator in tunnels; caulker and lead man; screed man on asphalt machine, chain or concrete saw; cliff scalers working from scaffolds, bosuns' chairs or platforms on dams or power plants over ten (10) feet above ground; grade checker on cuts and filles; string line man for electronic grade control; pressure groutmen
GROUP 5 - Fourth Semi-Skill - Manhole builders, - brick or block; dynamite and powder men; welder

AREA COVERED BY LABORERS

ZONE 1 - Buchanan, Cass and Lafayette Counties
ZONE 2 - Andrew, Barton, Bates, Benton, Caldwell, Carroll, Cedar, Christian, Clinton, Dade, Dallas, DeKalb, Greene, Henry, Jasper, Johnson, Laclede, Lawrence, Livingston, Newton, Pettis, Polk, St. Clair, Saline, Vernon, Webster, Wright, Harrison, Hickory, Holt, McDonald, Mercer, Morgan, Nodaway, Ozark, Stone, Taney and Worth Counties
ZONE 3 - Franklin, Jefferson, and St. Charles Counties
ZONE 4 - Audrain, Bollinger, Boone, Callaway, Cape Girardeau, Chariton, Cole, Cooper, Crawford, Dent, Gasconade, Howard, Iron, Lincoln, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monroe, Montgomery, New Mardrid, Osage, Pemiscot, Perry, Phelps, Pike, Pulaski, Ralls, Randolph, Reynolds, St. Francois, Ste. Genevieve, Scott, Warren and Washington Counties
Adair, Butler, Carter, Clark, Dunklin, Howell, Knox, Lewis, Linn, Macon, Oregon, Putnam, Ripley, Schuyler, Scotland, Shelby, Shannon Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
ZONE 5					
Group 1	9.25	.60	.50	.75	.10
Group 2	9.40	.60	.50	.75	.10
Group 3	9.55	.60	.50	.75	.10
Group 4	9.75	.60	.50	.75	.10
Group 5	10.05	.60	.50	.75	.10

CLASSIFICATION DEFINITIONS

GROUP 1 - General laborer - Carpenter tenders, salamander tenders; dump man, & ticket takers on stock piles; flagmen; loading trucks under bins, hoppers and conveyors; track men and all other general laborers
GROUP 2 - First Semi-Skill - Air tool operator; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pierhole men working below ground); riprap pavers rock, block or brick; signal man; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas, gasoline, oil, drainage pipe, conduit pipe, tile & duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; from setter helpers; puddlers (paving only)
GROUP 3 - Second Semi-Skill - Crusher feeder; men handling cresote ties or creosote materials; men working with and handling epoxy material or materials (where special protectionis required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe & ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working on underground tunnels where compressed air is not used
GROUP 4 - Third Semi-Skill - Spreader on screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any other similar tamp; wagon driller, churn drills, air track drills and all other similar drills; cutting torch man; form setter; liners and stringline men on concrete paving, curb, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operators; manhole builders helpers and mortar men on brick or block manholes; sand blasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels
GROUP 5 - Fourth Semi-Skill - Manole builder (brick or block); dynamite and powder men.

AREA COVERED BY LABORERS

ZONE 5 - Clay, Jackson, Platte and Ray Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
ZONE 6 - St. Louis City and County:					
General laborer	9.575	.45	1.00		
Plumbers laborer	9.65	.45	1.00		
Dynamiter or powderman	10.075	.45	1.00		
Pier hole	9.825	.45	1.00		
LINE CONSTRUCTION:					
Zone 1					
Lineman	12.28	.45	3%+.15		½%
Lineman operator	11.43	.45	3%+.15		½%
Groundman powderman	8.52	.45	3%+.15		½%
Groundman	8.09	.45	3%+.15		½%
Groundman (1st year)	6.93	.45	3%+.15		½%
Zone 2					
Lineman	11.73	.45	3%+.15		½%
Lineman operator	11.18	.45	3%+.15		½%
Groundman powderman	8.13	.45	3%+.15		½%
Groundman	7.59	.45	3%+.15		½%
Groundman (1st year)	5.69	.45	3%+.15		½%
Zone 3					
Lineman & cable splicers	11.41	.50	3%	12½%	½%
Groundman - winch driver	8.38	.50	3%	12½%	½%
Groundman - driver	8.08	.50	3%	12½%	½%
Equipment operator	10.20	.50	3%	12½%	½%
Groundman - 1st 6 mos.	6.48	.50	3%	12½%	½%
Groundman - next 12 mos.	6.75	.50	3%	12½%	½%
Groundman - next 12 mos.	7.41	.50	3%	12½%	½%
Groundman - thereafter	8.08	.50	3%	12½%	½%
Zone 4					
Lineman	10.58	.45	1%		.25%
Groundman - Class I	9.02	.45	1%		.25%
Groundman - Class II	7.38	.45	1%		.25%
Groundman - Class A	6.72	.45	1%		.25%
Groundman - 1st. 6 mos.	6.42	.45	1%		.25%

AREAS COVERED BY LINE CONSTRUCTION

ZONE 1 - Bates, Benton, Carroll, Cass, Clay, Henry, Johnson, Jackson, Lafayette, Pettis, Platte, Ray and Saline Counties
ZONE 2 - Andrew, Atchison, Barry, Barton, Buchanan, Caldwell, Cedar, Christian, Clinton, Dade, Dallas, Daviess, DeKalb, Douglas, Gentry, Greene, Grundy, Harrison, Hickory, Holt, Jasper, Laclede, Lawrence, Livingston, McDonald, Mercer, Newton, Nodaway, Ozark, Polk, St. Clar, Stone, Taney, Vernon, Webster, Worth and Wright Counties
ZONE 3 - Crawford, Franklin, Iron, Jefferson, Reynolds, St. Charles, St. Francois, St. Louis, Washington, Adair, Audrain, Boone, Callaway, Camden, carter, Chariton, Clark, Cole, Cooper, Dent, Gasconade, Howard, Howell, Knox, Lewis, Lincoln, Linn, Macon, Maries, Marion, Miller, Moniteau, Monroe, Montgomery, Morgan, Oregon, Osage, Perry, Phelps, Pike, Pulaski, Putnam, Ralls, Randolph, Ripley, Ste. Genevieve, Schuyler, Scotland, Shannon, Shelby, Sullivan, Texas and Warren Counties
ZONE 4 - Bollinger, Butler, Cape Girardeau, Sunklin, Madison, Mississippi, New Madrid, Pemiscot, Scott, Stoddard, and Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
ZONE 1					
Brush and roller	10.19	.55	.70		.08
Spray	11.19	.55	.70		.08
Bridge	10.94	.55	.70		.08
ZONE 2					
Brush	8.90		.25		
Spray	9.65		.25		
ZONE 3					
Brush	7.05				
Spray	7.45				
ZONE 4					
Brush and roller	9.50	.70	.35		
Spray, structural steel and sandblasting	11.00	.70	.35		

PAINTERS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5					
Brush	10.00				
Bridge	10.75				
Spray; sandblasting operator; work performed on bridges 75 ft., in height	11.00				
All structural steel over 50 ft. in height	10.75				
ZONE 6					
Brush	9.80	.60	.35		
Spray	10.80	.60	.35		
Steel, storage bin and tank	10.20	.60	.35		
ZONE 7					
Brush	7.25				
Spray	7.75				
ZONE 8					
Brush, roller	8.52		.35		
Spray	8.895		.35		
ZONE 9					
Brush	9.75		.20		
Spray	10.25		.20		
ZONE 10					
Brush	10.08	.42	.30		.04
Spray	11.58	.42	.30		.04
ZONE 11					
Brush	9.90	.50			
Spray, bridgemen, steelman	10.40	.50			
ZONE 12					
Brush	7.50				
Structural steel	8.00				
Spray	6.80				

AREA COVERED BY PAINTERS

ZONE 1 - Bates, Caldwell, Carroll, Cass, Clay, Henry, Jackson, Johnson, Lafayette, Livingston, Platte, and Ray Counties
ZONE 2 - Bollinger, Cape Girardeau, Dunklin, Mississippi, New Madrid, Pemiscot, Scott and Stoddard Counties
ZONE 3 - Lincoln and Pike Counties
ZONE 4 - Camden, Crawford, Dent, Laclede, Maries, Miller, Phelps, Pulaski and Texas Counties
ZONE 5 - Benton, Cooper, Moniteau, Morgan, Pettis and Saline Counties
ZONE 6 - Andrew, Atchison, Buchanan, DeKalb, Gentry, Holt, Nodaway and Worth Counties
ZONE 7 - Adair, Knox, Linn, Macon, Putnam, Schuyler, Scotland, Shelby and Sullivan Counties
ZONE 8 - Barry, Barton, Cedar, Dade, Jasper, Lawrence, McDonald, Newton, St. Clair and Vernon Counties
ZONE 9 - Audrain, Boone, Callaway, Chariton, Cole, Gasconade, Howard, Monroe, Montgomery, Osage and Randolph Counties
ZONE 10 - Jefferson, St. Charles and St. Louis & City Counties
ZONE 11 - Christian, Dallas, Douglas,Greene, Hickory, Howell, Ozark, Polk, Stone, Taney, Webster and Wright Counties
ZONE 12 - St. Francois and Ste. Genevieve Counties

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	11.55	.75	1.00	.75	.10
GROUP VI	11.30	.75	1.00	.75	.10
GROUP VII	9.70	.75	1.00	.75	.10
ZONE 2					
GROUP I	10.52	.50	1.00		
GROUP II	9.97	.50	1.00		
GROUP III	9.52	.50	1.00		
GROUP IV:					
(a)	11.32	.50	1.00		
(b)	12.07	.50	1.00		
(c)	12.52	.50	1.00		
(d)	13.27	.50	1.00		
(e)	11.02	.50	1.00		
ZONE 3					
GROUP I	10.25	.35	.65	.40	.02
GROUP II	10.05	.35	.65	.40	.02
GROUP III	9.85	.35	.65	.40	.02
GROUP IV	9.25	.35	.65	.40	.02
GROUP V	10.50	.35	.65	.40	.02
GROUP VI	10.75	.35	.65	.40	.02
GROUP VII	11.00	.35	.65	.40	.02
ZONE 4					
GROUP I	9.80	.35	.65	.40	.02
GROUP II	9.45	.35	.65	.40	.02
GROUP III	9.25	.35	.65	.40	.02
GROUP IV	8.40	.35	.65	.40	.02
GROUP V	10.05	.35	.65	.40	.02
GROUP VI	10.30	.35	.65	.40	.02
GROUP VII	10.55	.35	.65	.40	.02

POWER EQUIPMENT OPERATORS CONTD:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 5					
GROUP I	11.30	.75	1.00	.75	.10
GROUP II	11.05	.75	1.00	.75	.10
GROUP III	10.45	.75	1.00	.75	.10
GROUP IV	9.20	.75	1.00	.75	.10
GROUP V	11.55	.75	1.00	.75	.10
GROUP VI	11.80	.75	1.00	.75	.10
GROUP VII	12.05	.75	1.00	.75	.10
ZONE 6					
GROUP I	10.30	.75	1.00	.75	.10
GROUP II	9.95	.75	1.00	.75	.10
GROUP III	9.75	.75	1.00	.75	.10
GROUP IV	8.20	.75	1.00	.75	.10
GROUP V	10.55	.75	1.00	.75	.10
GROUP VI	10.80	.75	1.00	.75	.10
GROUP VII	11.05	.75	1.00	.75	.10
ZONE 7					
GROUP I	11.30	.50	.50		.02
GROUP II	10.95	.50	.50		.02
GROUP III	10.75	.50	.50		.02
GROUP IV	8.95	.50	.50		.02
GROUP V	11.55	.50	.50		.02
GROUP VI	11.80	.50	.50		.02
GROUP VII	12.05	.50	.50		.02
ZONE 8					
GROUP I	11.30	.50	.50		.02
GROUP II	10.95	.50	.50		.02
GROUP III	10.75	.50	.50		.02
GROUP IV	8.95	.50	.50		.02
GROUP V	11.55	.50	.50		.02
GROUP VI	11.80	.50	.50		.02
GROUP VII	12.05	.50	.50		.02

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS ZONE 1

GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; back hoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; highloader-fork lift; hoisting engine-2 active drums; locomotive operator, standard gauge; mechanics and welders, field or shop; maintenance operator; mucking machine; piledriver operator; pitman crane operator; pump-2; quad-trac; scoop operator-all types; pushcat operator; scoops in tandem; self-propelled rotary drill (Leroy or Equal-not Air Trac); shovel operator; side discharge spreader; side boom cats; skimmer scoop operator; slip form paver (CMI, REX, OR Equal); throttle man; truck crane; welding machine maintenance operator-2

GROUP II - "A" frame truck; asphalt hot mix silo; asphalt plant fireman; drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; backfiller operator; chip spreader; concrete batch plant, dry, power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine-1 drum; Latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator; tractor operator-over 50 h.p.

GROUP III - Boilers - 1; chip spreader (front man); chrun drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; roller operator, other than dredge; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance opeator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper, siphons and jets; sub-grading machine operator; tank car heater operator-combinatin boiler and booster; tractor, 50 hp or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator - 1

GROUP IV - Mechanic's helper, oiler

GROUP V - Clamshells, 3 yd. capacity or over, crane or rigs 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; pile drivers, 80 ft. of boom or over (including jib); shovels and backhoes, 3 yd. capacity or over

GROUP VI - Hoist (each additional drum over 1 drum)

GROUP VII - Oiler driver, all types

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft. or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

POWER EQUIPMENT OPERATORS ZONE 2

GROUP I - Backhoe; cableway; crane, crawler or truck; crane, hydraulic-truck or cruiser mounted - 16 tons & over; crane, locomotive; derrick, steam; derrick car & derrick boat; dragline; dredge; gradeall, crawler or tire mounted; locomotive, gas, steam & other powers; pile driver, land or floating; scoop, skimmer, shovel, power (steam, gas, electric, or other powers), switch boat; whirley, air tugger 2/air compressor; anchor-placing barge; asphalt spreader; athey force feed loader (self-propelled); backfilling machine, boat operator-push boat or tow boat (job-site); boiler,high pressure breaking in period; boom truck; placing or erecting; boring machine footing foundaion; bullfloat; cherry picker; combination concrete hoist & mixer such as mixermobile; compressors, two, not more than 20 ft. apart; compressors, not more than five ft. apart; compressor-welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as a pump-crete machine; concrete spreader; conveyor, large (not self-propelled), hoisting ormoving brick and concrete into, or into and on floor level, one or both; crane, hydraulic-rough terrain, self-propelled; crane hydraulic-truck or cruiser mounted-under 16 tons; drilling machines, self-powered, used for earth or rock drilling orboring (wagon drills and any hand drills obtaining power from other sources including concrete breakers jackhammers and barco equipment - no engineer required); elevating grader; engineman, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; forklift; grader, road with power blade; highlift; hoist; concrete and brick (brick cages on concrete skips operating in or on tower, towermobile, or similar equipment); hoist; stack; hydro-hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as barber-green); mechanic, on job site; mixer, paving; mixermobile; mucking machine; pipe cleaning machine; pipe wrapping machines; plant asphalt; plant, concrete producing or ready-mix job site; plant heating-job site; plant mixing-job site; plant,power, generating-job site;pump, self-powered, over 2" (one operator will oprate two); pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or sub-grade; scoop, tractor drawn; spreader box; sub-grader; tie tamper; tractor-crawler, or sheel type with or without power unit, power take-offs, and attachments regardless of size; trenching machine; tunnel boring machine; vibrating machine; automatic, automatic propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP II - Air tugger w/plant air; boiler, for power or heating on construction projects; boiler, temporary; compressor, air-one; compressor air (mounted on truck); concrete saw, self-propelled; conveyor, large (not self-propelled); conveyor large (not self-propelled moving brick and concrete (distributing) on floor level; curb finishing machine; ditch paving machine; elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30 KW; greaser; hoist; one drum regardless of size (except brick or concrete); lad-a-vator, other hoisting; manlift; mixer, asphalt, over 8 cu. ft. capacity, mixer, if two or more mixers of one bag capacity or less are used by one employer on job, an operator is required; mixer, with outside loader, 2 bag capacity or more; mixer, with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; sweeper, street, welding machine, one over 400 amp.; winch operating from truck

POWER EQUIPMENT OPERATORS ZONE 2 CONTD:

GROUP III - Boat operator-outboard motor (job site); conveyor (such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP IV - (a)Air pressure, oiler engineer; operating under ten pounds (b) Air pressure, oiler engineer operating over ten pounds. (c)Air pressure engineer operating under ten pounds. (d)Air pressure engineer operating over ten pounds. (e)Crane-piledriving and extracting; crane using rock socket tool; dragline - 7 cu. yds. & over; shovel, power - 7 cu. yds, and over; crane, climbing (such as Linden); derrick, diesel, gas, electric hoisting material and erecting steel - 150' or more above ground; hoist, three or more drums; scoop, tandem; tractor, tandem crawler

Crane with boom (including jib), over 100' from pin to pin (add 1¢ per foot to maximum of 75¢) above basic rate for crane

Work in tunnel or tunnel shaft, .25¢ above base rate.

POWER EQUIPMENT OPERATORS ZONE 3 and 4

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; autograder; automatic slipform paver; back hoe; blade operator - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clam shell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; dfilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums; launchhammer wheel; locomotive operator - standard gauge; mechanics and welders; mucking machine; piledriver operator; pitman crane operator; push cat operatorp quad-trac; scoop operator; sideboom cats; skimmer scoop operator; trenching machine operator; truck crane, shovel op.

GROUP II - A-frame; asphalt hot-mix silo; asphalt roller operator; asphalt plant fireman (drum or boiler); asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; compressor maintenance operator - 2; concrete mixer operator - skip loader; concrete plant operator, concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor; pavement breaker powerbroom - self-propelled; power shield; rooter; slip-form finishing maching; stumpcutter machine; side discharge concrete spreader; throttleman; tractor operator (over 50 hp); welding machine maintenance operator - 2 winch truck

POWER EQUIPMENT OPERATORS ZONE 3 and 4 CONTD:

GROUP II - Boilers - 1; chi spreader (front man); chrun drill operator; clef plane operator; compressor maintenance operator - 1; concrete saw operator (self-propelled); conveyor operator; curb finishing machine; distributor operator; finishing machine, operator; fireman - rig; flex plane operator; float operator; form grader operator; generator-maintenance operator; light plant maintenance operator; maintenance op.; oiler driver; pugmill operator; pump maintenance operator (other than dredge); roller operator, other than high type asphalt; screening & washing plant operator, Siphons & jets; subgrading machine operator; spreader bos operator, self-propelled (not asphalt); tank car heater operator (combaination Boiler & Booster); ulmac, ulric or similar spreader; vibrating machine operator, not hand; welding machine maintenance operator - 1; Tractor operator (50 hp or less)

GROUP IV - Oiler

GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clamshell - 3 yds. & over; crane, rigs or piledrivers, 100' to 150' of boom (incl. jib); hoists - each additional active drum over 2 drums

GROUP VI - Tandem scoop operator; crane, rigs or piledrivers, 150' to 200' of boom (incl.jib)

GROUP VII - Crane, rigs or piledrivers 200 ft. of boom or over (incl. jib)

POWER EQUIPMENT OPERATORS ZONES 5, 6, 7, and 8

GROUP I - Asphalt finishing machine & trench widening spreader; asphalt plant console operator; automatic slipform paver; autograder; backhoe; blade operator, - all types; boat operator - tow; boilers - 2; central mix concrete plant operator; clamshell operator; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dozer operator; dragline operator; dredge booster pump; dredge engineman; dredge operator; drill cat with compressor mounted on cat; drilling or boring machine rotary self-propelled; highloader; hoisting engine - 2 active drums;launchhammer wheel locomotive operator - standard guage; mechanics and welders; mucking machine; piledriver operator; sideboom cats; skimmer scoop operator all types; trenching machine operator; truck crane; scoop operators - all types

GROUP II - A-frame; asphalt hot mix silo; asphalt plant fireman (drum or boiler); asphalt roller operator; asphalt plant man; asphalt plant mixer operator; backfiller operator; barber-greene loader; boat operator (bridge & dams); chip spreader; concrete mixer operator - skip loader; concrete plant operator; concrete pump operator; crusher operator; dredge oiler; elevating grader operator; fork lift; greaser-fleet; hoisting engine - 1; locomotive operator - narrow gauge; multiple compactor, pavement breaker; power- broom - self-propelled; power shield; rooter; slip form finishing machine; stumpcutter machine; side discharge concrete spreader; throttle man; tractor operator (over 50 hp); winch truck

POWER EQUIPMENT OPEERATORS ZONES 5, 6, 7, and 8 CONTD:

GROUP III - Boilers - 1; chip spreader (front man): chrun drill operator; clef plane operator; concrete saw operator (self-propelled); curb finishing machine; distributor operator; finishing machine operator; flex plane operator; float operator; form grader operator; pugmill operator; roller operator, other than high type asphalt; screening & washing plant operator; siphons & jets: subgrading machine operator; spreader box operator, self-propelled (not asphalt); tank car heater operator (combination boiler & booster); ulmac, ulric or similar spreader; vibrating machine operator, not hands; tractor operator. (50 hp or less)
GROUP IV - Oiler; oiler driver, fireman - rig; maintenance operators
GROUP V - Dragline operator - 3 yds. & over; shovel - 3 yds. & over; clam-shell - 3 yds. & over; crane, rigs or piledrivers, 100' of boom or over (incl. jib), hoists - each additional active drum over 2 drums
GROUP VI - Tandem scoop operator; crane, rigs or piledrivers 150' to 200' of boom (incl. jib)
GROUP VII - Crane rigs, or piledrivers 200 ft. of boom or over (incl. jib)

AREAS COVERED BY POWER EQUIPMENT OPERATORS ZONES

ZONE 1 - Clay, Jackson, Platte and Ray Counties
ZONE 2 - St. Louis City & County
ZONE 3 - Franklin, Jefferson, Lincoln, St. Charles, and Warren Counties
ZONE 4 - Adair, Audrain, Bollinger, Boone, Butler, Callaway, Cape Griardeau, Carter, Clark, Cole, Crawford, Dent, Dunklin, Gasconade, Howell, Iron, Knox, Lewis, Macon, Madison, Maries, Marion, Miller, Mississippi, MOniteau, Monroe, Montgomery, Morgan, New Madrid, Oregon, Osage, Pemiscot, Perry, PHelps, Pike, Pulaski, Putnam, Ralls, Randolph, Reynolds, Ripley, St. Francois, Ste. Genevieve, Schuyler, Scotland, Scott, Shannon, Shelby, Stoddard, Texas, Washington, and Wayne Counties
ZONE 5 - Buchanan, Cass, Clinton and Lafayette Counties
ZONE 6 - Andrew, Atchison, Bates, Benton, Caldwell, Carroll, Chariton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Johnson, Linn, Livingston, Mercer, Nodaway, Pettis, Saline, Sullivan and Worth Counties
ZONE 7 - Christina, Greene, Jasper, Lawrence and Taney Counties
ZONE 8 - Barry, Barton, Camden, Cedar, Dade, Dallas, Douglas, Hickory, Laclede, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Vernon Webster and Wright Counties

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1 - St. Louis City and County					
GROUP 1	6.99	a	b	c&d	
GROUP 2	7.19	a	b	c&d	
GROUP 3	7.29	a	b	c&d	

FOOTNOTES:
a - Employer contribution of $12.50 per week
b - Employer contribution of $12.50 per week
c - Paid Holidays; New Year's Day, Thanksgiving Day, Memorial Day, Independence Day, Friday after Thanksgiving Day, Labor Day, Veterans Day, Christmas.
d - Paid vacation of 3 days for 600 hours of service in ay one contract year;
4 days paid vacation for 800 hours of service in any one contract year;
5 days paid vacation for 1,000 hours of service in any one contract year

CLASSIFICATION DEFINITIONS

GROUP 1 - Truck or trailers of a water level capacity of 11.99 cu. yds. or less for lift trucks, job site ambulances, pick-up trucks, flat bed trucks

GROUP 2 - Trucks or trailers of a water level capacity of 12.0 cu. yds. up to 22.0 cu. yds. including euclids, speedace & similar equipment of same capacity

GROUP 3 - Truck or trailers of a water level capacity of 22.0 cu. yds. & over including euclids, speedace & all floats, flat bed trailers & boom trucks & similar equipment of same capacity

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 2					
GROUP 1	9.49	.75	1.00	.75	
GROUP 2	9.69	.75	1.00	.75	
GROUP 3	10.00	.75	1.00	.75	
GROUP 4	10.15	.75	1.00	.75	
GROUP 5	9.265	.75	1.00	.75	

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - One team; station wagons; pickups, material, single axle; tank wagon, single axle

GROUP 2 - Two teams; material tandem; semi-trailers; winch, fork distributor drivers and operators, agitator and transit mix, tank wagon, tandem or semi-trailers, insley wagons, dump, excavating, 5 cu. yds. & over, dumpsters, half-tracks, speedace, euclids and other similar excavating equipment

GROUP 3 - A-frame, low boy, boom

GROUP 4 - Mechanics & welders

GROUP 5 - Mechanic's helpers, oilers, & greasers

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 2 - Clay, Jackson, Platte and Ray Counties

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 3					
GROUP 1	12.05				
GROUP 2	12.20				
GROUP 3	12.27				
GROUP 4	12.16				
GROUP 5	11.95				
ZONE 4					
GROUP 1	11.25				
GROUP 2	11.40				
GROUP 3	11.47				
GROUP 4	11.36				
GROUP 5	11.15				
ZONE 5					
GROUP 1	10.59	.75	1.00		
GROUP 2	10.74	.75	1.00		
GROUP 3	10.81	.75	1.00		
GROUP 4	10.70	.75	1.00		
GROUP 5	10.49	.75	1.00		
ZONE 6					
GROUP 1	9.63	.75	1.00		
GROUP 2	9.78	.75	1.00		
GROUP 3	9.90	.75	1.00		
GROUP 4	9.79	.75	1.00		
GROUP 5	9.53	.75	1.00		
ZONE 7					
GROUP 1	8.90	.75	1.00		
GROUP 2	9.05	.75	1.00		
GROUP 3	9.17	.75	1.00		
GROUP 4	9.06	.75	1.00		
GROUP 5	8.80	.75	1.00		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS

GROUP 1 - Flat bed trucks - single axle; station wagon; pickup trucks; material trucks - single axle; tank wagon - single axle
GROUP 2 - Flat bed trucks - tandem axle; material trucks, tandem axle; tank wagon - tandem axle
GROUP 3 - Semi and/or pole trailers; winch fork and steel trucks; Insley wagons, dumpsters, half tracks, speedace, euclids, and other similar equipment, a-frame and derrick trucks, float or low boy, distributor drivers and operators, tank wagon, semi-trailer
GROUP 4 - Agitator and transit mix trucks
GROUP 5 - Warehouseman

AREAS COVERED BY TRUCK DRIVERS ZONES

ZONE 3 - Franklin, Jefferson and St. Charles Counties
ZONE 4 - Lincoln and Warren Counties
ZONE 5 - Buchanan, Cass, Johnson and Lafayette Counties
ZONE 6 - Andrew, Audrain, Barton, Bates, Benton, Bollinger, Boone, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cedar, Chariton, Christian, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Gasconade, Greene, Henry, Hickory, Howard, Iron, Jasper, Laclede, Lawrence, Linn, Livingston, Macon, Madison, Maries, Marion, Miller, Mississippi, Moniteau, Monore, Montgomery, Morgan, New Madrid, Newton, Osage, Pemiscot, Perry, Pettis, Phelps, Pike, Polk, Pulaski, Ralls, Randolph, Reynolds, St. Clair, St. Francois, Ste. Genevieve, Saline, Scott, Shannon, Shelby, Stoddard, Texas, Vernon, Washington, Wayne, Webster, and Wright Counties
ZONE 7 - Adair, Atchison, Barry, Butler, Clark, Dunklin, Gentry, Grundy, Harrison, Holt, Howell, Knox, Lewis, McDonald, Mercer, Nodaway, Oregon, Ozark, Putnam, Ripley, Schuyler, Scotland, Stone, Sullivan, Taney and Worth Counties

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTY: SHELBY
DECISION NUMBER: TN78-1048 DATE: DATE OF PUBLICATION
Supersedes Decision No. TN77-1132, dated October 7, 1977, in 42 FR 54736.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.50	.55	.75		.05
BOILERMAKERS	9.95	1.05	1.05		.02
BRICKLAYERS & STONE MASONS	10.20	.43	.30		.10
CARPENTERS, PILEDRIVERMEN, & SOFT FLOOR LAYERS	9.15	.60	.40		.065
CEMENT MASONS	9.125	.45	.55		.15
ELECTRICIANS:					
Wirement & Electronic technicians	10.48	.75	3% + .50		½ of 1%
Cable splicers	10.58	.75	3% + .50		½ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	10.07	.745	.56	4%+a+b	.035
Helpers	7.05	.745	.56	4%+a+b	.035
GLAZIERS	9.00	.75	.40		
IRONWORKERS:					
Structural, Reinforcing, & Ornamental	9.60	.65	.70		.125
LATHERS	9.30	.25			
LINE CONSTRUCTION:					
Linemen	10.48	.75	3% + .50		½ of 1%
Cable splicers	10.58	.75	3% + .50		½ of 1%
Special equipment operators	7.86	.75	3% + .50		½ of 1%
Groundmen	5.24	.75	3% + .50		½ of 1%
MARBLE SETTERS, TERRAZZO WORKERS, & TILE SETTERS	8.65	.45	.20		.05
MILLWRIGHTS	9.65	.56	.40		.12
PAINTERS:					
Commercial	9.10	.40	.45		.075
Industrial, spray, & sandblast	9.35	.40	.45		.075
PIPEFITTERS & AIR CONDITIONING MECHANICS	11.72	.55	.30		
PLASTERERS	9.90				.01
PLUMBERS	11.52	.75	.30		
ROOFERS	9.70		.25		.03
SHEET METAL WORKERS	10.93	3% + .65	.25	.55	.04
SPRINKLER FITTERS	10.80	.75	1.05		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION No. TN78-1048

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$ 6.375	.25	.30		
GROUP B	6.475	.25	.30		
GROUP C	6.525	.25	.30		
GROUP D	6.725	.25	.30		
GROUP E	6.925	.25	.30		
GROUP F	7.05	.25	.30		

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumbers helpers, carpenters tenders, asphalt rakers, tampers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pueumatic tools.

GROUP D: Deep hole men

GROUP E: Powderman, tool room attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

DECISION No. TN78-1048

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 9.175	.40	.50		
CLASS B	8.745	.40	.50		
CLASS C	8.045	.40	.50		
CLASS D	7.645	.40	.50		

CLASS A - Shovels, backhoes, draglines, cranes, gantrys, gradall, winch with boom, motor patrol, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, strattle carriers, core drills (over 3"), tower cranes, hydro cranes, austin western and similar type cranes, drilling of piling, tugger, earth freezing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopto, pump crete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, fork lift, & front end loader.

CLASS B - Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinkey operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized - Buffalo-Springfield type).

CLASS C - Locomotive fireman (on boilers 100 h.p. and over), air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinkey operators (10 tons and less), oilers on gantrys, & greasers.

CLASS D - Air compressor operator, mechanic helper, locomotive fireman, welding machine operator, deck hand, & elevator operators

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 1% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

SUPERSEDEAS DECISION

STATE: TENNESSEE COUNTIES: STATEWIDE
DECISION NUMBER: TN78-1049 DATE: DATE OF PUBLICATION
Supersedes Decision Number TN78-1042, dated April 14, 1978, in 43 FR 16111.
DESCRIPTION OF WORK: HEAVY CONSTRUCTION (except Hamilton County), and HIGHWAY CONSTRUCTION.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air tool operator	$ 4.13				
Asphalt paver	5.31				
Asphalt raker	4.44				
Backhoe operator	6.04				
Bricklayers	7.26				
Bulldozer or Pushdozer operator	6.04				
Carpenter or Leadsman	6.04				
Cement mason - finisher	6.04				
Central mixing (asphalt/concrete)	5.30				
Chain saw	4.12				
Concrete edger	4.55				
Concrete finishing machine	5.95				
Concrete mixer (less than 1yd.)	4.35				
Concrete paver operator	6.04				
Concrete rubber	5.16				
Concrete saw	4.60				
Crane operator	6.04				
Curb machine	5.05				
Distributor-bituminous	4.96				
Ditch paver	4.03				
Dozer/loader - stock pile only	5.14				
Earth drill	4.63				
End loader	6.04				
Electricians	7.26				
Fence erector	5.52				
Fireman	4.03				
Flagman	3.81				
Form setter - steel road	5.62				
Guard rail erector	4.58				
Ironworkers - reinforcing	5.78				
Ironworkers - structural	6.47				
Laborer	4.02				
Mechanic - Class 1 (heavy duty)	6.25				
Mechanic - Class 2 (light duty)	5.72				
Mechanic's helper	4.15				
Mortar mixer	4.04				

DECISION No. TN78-1049

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Motor crane driver	$ 4.24				
Motor patrol - finish	6.17				
Motor patrol - rough	5.41				
Mulcher or seeder	4.24				
Nozzleman or Gunman (gunite)	6.04				
Oiler	4.96				
Painter or Sand blaster	6.04				
Pile driver operator	6.04				
Pipe layer	4.34				
Powder man	5.37				
Roller - high type	5.30				
Roller - other than finish	4.72				
Scale operator	4.24				
Scraper operator	6.04				
Shovel operator	6.04				
Sign erector	4.51				
Soil cement machine	5.31				
Spreader - self propelled	5.19				
Tractor - boom and hoist	5.45				
Track drill operator	4.56				
Tractor - farm	4.49				
Trenching machine operator	5.70				
Truck driver (2, 3 axles)	4.28				
Truck driver (4, 5 axles or more, or heavy duty off road truck)	4.95				
Welders: Receive rate prescribed for craft performing operation to which welding is incidental.					

[FR Doc. 78-13426 Filed 5-18-78; 8:45 am]

FRIDAY, MAY 19, 1978
PART III



federal register

OFFICE OF MANAGEMENT AND BUDGET

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IMPLEMENTATION OF FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977 (PUB. L. 95–224)

Proposed OMB Guidance

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

IMPLEMENTATION OF FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1977 (PUB. L. 95-224)

Proposed OMB Guidance

AGENCY: Office of Management and Budget.

ACTION: Notice of proposed OMB guidance for Federal agency use in implementing the Federal Grant and Cooperative Agreement Act of 1977.

SUMMARY: The Federal Grant and Cooperation Agreement Act distinguishes between procurement and assistance relationships and mandates that Federal agencies use contracts for procurement transactions:

Sec. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient: (1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or (2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

and grants or cooperative agreements for assistance transactions:

Sec. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever: (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) no substantial involvement is anticipated between the executive agency, acting for Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

Sec. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient whenever: (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; and (2) substantial involvement is anticipated between the executive agency, acting for Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

Federal agencies must implement sections 4, 5, and 6 by February 3, 1979. OMB's intent in issuing guidance is to promote consistent implementation of the Act. Release of final guidance is anticipated by July 1978.

Comments in response to this notice may lead to extensive revisions of the guidance. If it is not possible to obtain consensus on the best manner to treat a specific issue in the time available, the issue will be removed from the guidance and included in the 2-year study of Federal assistance relationships mandated in section 8 of the Act.

The study of Federal assistance relationships will focus on developing a better understanding of alternative means for implementing Federal assistance programs and on determining the feasibility of developing a comprehensive system of guidance for Federal assistance programs. In undertaking the study, OMB is required by the Act to consult and, to the extent practicable, involve representatives of the executive agencies, Congress, General Accounting Office, State and local governments, other recipients, and interested members of the public. To meet the intent of the Act, OMB will publish the draft study plan for comment in the FEDERAL REGISTER in late May-early June 1978.

DATES: Written comments on the proposed guidance must be received on or before June 20, 1978.

ADDRESS: Comments should be sent in duplicate to Vincent Puritano, Deputy Associate Director for Intergovernmental Affairs, Office of Management and Budget, Room 9025 NEOB, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Thomas L. Hadd, Intergovernmental Affairs Division, Office of Management and Budget, Room 9026 NEOB, Washington, D.C. 20503, telephone 202-395-5156.

Draft, OMB Guidance to Agencies for Implementing the Federal Grant and Cooperative Agreement Act, Pub. L. 95-224

Introduction. The Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224), signed February 3, 1978, requires executive agencies to distinguish procurement relationships from assistance relationships. A major objective of the Act is to achieve consistency in the use of legal instruments by agencies for procurement and assistance transactions. This is a preliminary step toward a broad review of the administration of Federal assistance programs and the relationships created by the terms and conditions of legal assistance instruments. Section 4 of the Act requires the use of procurement contracts for all acquistion activity. Sections 5 and 6 require the use of grants or cooperative agreements for specified types of assistance relationships. Section 9 authorizes the Director of the Office of Management and Budget to issue supplementary interpretative guidelines to promote consistent and efficient implementation of sections 4, 5, and 6. Subsection 10(d) authorizes the Director to except individual transactions or programs from the Act's provisions.

In addition, Section 8 of the Act requires OMB to conduct a study of Federal assistance relationships and submit a report to Congress in 2 years. The guidelines that follow are based on OMB authorizations under sections 8, 9, and 10(d).

CONTENTS

A. OMB interpretation of the Act.
B. Distinguishing between procurement and assistance.
C. Characterization of grants and cooperative agreements.
D. Agency decision structure for selection of instruments.
E. Administrative requirements for grants and cooperative agreements.
F. Specific guidelines for grants.
G. Specific guidelines for cooperative agreements.
H. Assistance transactions involving only nonmonetary transfer.
I. OMB exception policy.
J. OMB exception procedures.
K. Joint funding under grants and cooperative agreements.
L. Agency records.
M. OMB reporting requirements.

GUIDANCE

A. OMB INTERPRETATION OF THE ACT

1. *General purposes of the Act.* OMB views the Federal Grant and Cooperative Agreement Act as an important opportunity to review, improve, and simplify the broad array of Federal assistance relationships. It sees the Act's objective of Federal consistency for various types of relationships coinciding with the President's goal of making Federal program actions more understandable and predictable. Agencies should give serious consideration to the policy implications of the Act's provisions, particularly sections 4, 5, and 6, pertaining to the use of contracts, grants, and cooperative agreements as these involve the essence of the way agencies perform fundamental functions.

2. *Orderly implementation of sections 4, 5, and 6.* These sections of the Act require agencies to use contracts for all procurement actions, and grants or cooperative agreements to transfer money, property, services, or anything of value to recipients to accomplish a Federal purpose of stimulation or support authorized by statute. Subsection 10(b) says: "Nothing in this Act shall be construed to render void or voidable any existing contract, grant, or cooperative agreement or other contract, grant, or cooperative agreement entered into up to 1 year after the date of enactment of this Act." The legislative history clearly indicates that Congress intended this provision to provide 1 year for orderly implementation of sections 4, 5, and 6. The Act was signed February 3, 1978. Agencies have until February 3, 1979, to implement these sections in accordance with the OMB guidelines.

3. *Interpretation of specific provisions of the Act.* To promote consistency, agencies should interpret subsections 4(2), 7(a), and 7(b) of the Act as follows:

a. Subsection 4(2) allows the use of contracts "whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." This is not a negation of section 5 or 6. Two examples of its use might be:

(1) Where an agency is involved in a two-step situation in which it may "procure" medicines which it in turn "grants" to non-Federal hospitals.

(2) Where an agency procures by contract from a supplier, goods or services to be delivered directly to an assistance recipient. Federal procurement of technical assistance to be rendered to a State or local government would come under this subsection of the Act.

This subsection does not authorize the use of a procurement contract with an assistance recipient as the instrument for providing the assistance. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulation govern policy and procedures regarding procurement contracts awarded under the authority of this sub-section.

b. Subsection 7(a) says: "Notwithstanding any other provision of the law, each executive agency authorized by law to enter into contracts, grant or cooperative agreements, or similar arrangements is authorized and directed to enter into and use types of contracts, grant agreements, or cooperative agreements as required by this Act."

If an agency is presently authorized to use contracts, grants, or cooperative agreements under existing statutes, this provision enables it to enter into any of the three types of arrangements, subject to the criteria set forth in sections 4, 5, and 6. If, however, an agency is prohibited from using one of these types of instruments, this subsection would not affect that prohibition.

c. Subsection 7(b) says: "The authority to make contracts, grants, and cooperative agreements for the conduct of basic or applied research at nonprofit institutions of higher education, or at nonprofit organizations whose primary purpose is the conduct of scientific research shall include discretionary authority, when it is deemed by the head of the executive agency to be in furtherance of the objectives of the agency, to vest in such institutions or organizations, without further obligation to the Government, or on such other terms and conditions as deemed appropriate, title to equipment or other tangible property purchased with such funds."

The Act repeals the Grants Act, Pub. L. 85-934, which authorized the use of grants for scientific research. This provision continues the authority in the Grants Act to vest title to equipment purchased with Federal funds in a nonprofit research organization and expands this authority to other classes of property.

The principal effect of this will be on agencies that fund research as a procurement under section 4. It allows continuation of existing practices of transferring equipment even though the research is done under a procurement contract.

B. DISTINGUISHING BETWEEN PROCUREMENT AND ASSISTANCE

1. *Basic determinations.* While one of the objectives of the Act is to distinguish between procurement and assistance relationships, neither term is specifically defined. Section 4 requires use of a procurement cotract when the principal purpose is acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government. Sections 5 and 6 require the use of grants or cooperative agreements when the principal purpose is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use by the Federal Government.

Agencies should interpret the language of Section 5 and 6 which call for the use of grants or cooperative agreements to "accomplish a public purpose of support or stimulation authorized by Federal statute" as including but not restricted to traditional assistance transactions. Thus, for example, when an agency authorized to support or stimulate basic research decides to fund a basic research project that does not fit the Section 4 language of "acquisition for the direct benefit or use of the Federal Government," it is authorized to use a grant or cooperative agreement. Conversely, agencies not authorized to accomplish a public purpose of support or stimulation are not authorized to use grants or cooperative agreements. Until the Federal Acquisition Regulation is published, the Federal Procurement Regulation and the Armed Services Procurement Regulation govern policy and procedures regarding procurement contracts.

2. *When to decide on the use of procurement or assistance instruments.* Any public notice, solicitation, or request for applications or proposals should indicate whether the intended relationship will be a procurement contract, or whether a grant and/or cooperative agreement will be used. The decision on whether a procurement or assistance relationship is intended should be made before the public announcement.

3. *What to do if the distinctions between procurement and assistance do not apply to a specific class of transactions.* Agencies should make every effort to ensure their relationships conform with those specified in the Act. If, however, there are individual transactions or programs that are important to an agency which cannot be characterized as principally procurement or assistance, an OMB exception should be requested. Sections I and J deal with OMB exceptions.

C. CHARACTERIZATION OF GRANTS AND COOPERATIVE AGREEMENTS

1. *Anticipated substantial involvement during performance.* The basic statutory criterion for distinguishing between grants and cooperative agreements is that for the latter, "*substantial* involvement is *anticipated* between the executive agency and the recipient *during performance* of the contemplated activity" (emphasis added). To ensure consistent determinations, all agencies should use only this criterion when deciding to use either a grant or a cooperative agreement.

a. As a guide to assist in making these determinations, anticipated substantial involvement during performance does not include:

(1) Agency approval of recipient plans prior to award.

(2) Normal exercise of Federal stewardship responsibilities during the project period such as site visits, performance reporting, financial reporting, and audit to ensure that the objectives, terms, and conditions of the award are accomplished.

(3) Unanticipated agency involvement to correct project deficiencies in project or financial performance from the terms of the assistance instrument.

(4) General statutory requirements understood in advance of the award such as civil rights, environmental protection, and provision for the handicapped. 000

(5) Agency review of performance *after* completion.

(6) General administrative requirements such as those included in OMB Circulars A-95, A-102, and A-110.

b. Conversely, anticipated substantial involvement during performance would exist where the assistance instrument includes provisions such as:

(1) Agency halt to activity if detailed performance specifications (e.g., construction specifications) are not met.

(2) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the assistance instrument.

(3) Agency review and approval of proposed subgrants or contracts, or agency participation or approval in the selection or award of subgrants or contracts let under the assistance instrument, if required by statute or authorized by OMB waiver.

(4) Agency involvement in the selection of key recipient personnel. (This does not include assistance instrument provisions for the participation of a named principal investigator for research projects.)

(5) Agency and recipient collaboration where novelty or complexity are involved.

(6) Agency monitoring to permit specified kinds of direction or redirection of the work because of interrelationships with other projects.

(7) Direct agency operational involvement or participation to ensure compliance with such general statutory requirements as civil rights, environmental protection, and provision for the handicapped.

c. Anticipated Federal involvement is a relative rather than an absolute concept. The examples provided are not meant to be a checklist. Rather, they are illustrations of the basic point that:

(1) When the recipient can expect to run the project without agency intervention as long as it is run in accordance with the general terms of the assistance instrument, substantial involvement is not anticipated.

(2) If the recipient can expect the agency to participate in managing the project, substantial Federal involvement is anticipated.

2. *Proposed OMB policy on substantial involvement.* The proposed policy of OMB is to guide agencies to limit Federal involvement in assisted activities to the minimum consistent with program requirements. Agencies should continue to implement existing grant programs through grant instruments as defined in Section 5 of the Act to the degree possible. The choice of instrument must, however, reflect the true relationship intended.

3. *How technical assistance and guidance relate to substantial involvement.* The practice of some agencies of providing technical assistance or guidance to recipients of financial assistance does not constitute substantial involvement if either:

a. The recipients are not required to follow it, or;

b. The recipients are required to follow it but it is provided prior to the start of the assisted activity and the recipient understood this prior to the financial assistance award.

4. *What to do if grants or cooperative agreements do not fit program requirements.* There may be a few cases of assistance programs where neither a grant nor a cooperative agreement is suitable. In such cases, an OMB exception should be requested in accordance with Sections I and J below.

D. *Agency decision structure for selection of instruments.* The determinations of whether a program is principally one of procurement or assistance, and whether substantial Federal involvement in performance will normally occur are basic agency policy decisions. Agency heads should ensure that these general decisions for each program are either made or reviewed at a policy level.

Congress intended the act to allow agencies flexibility to select the assistance instrument that best suits the anticipated degree of involvement for each transaction. Thus agencies should provide their program managers with criteria for selecting the appropriate instrument, consistent with general program policy decisions.

E. *Administrative requirements for grants and cooperative agreements.*

Present administrative requirements such as OMB Circulars A-95, A-102, and A-110 apply to both grants and cooperative agreements involving the transfer of Federal funds. These administrative requirements will not apply to General Revenue Sharing or Anti-Recession Fiscal Assistance Grants administered by the Treasury Department.

F. SPECIFIC GUIDELINES FOR GRANTS

1. *Increasing Federal involvement during a grant period.* At times an agency may find it necessary to increase the involvement in a grant-funded project during the period of time covered by the grant. This could happen, for example, when standard grant reports or monitoring indicates some sort of problem. If this occurs, agencies should not view the act as restricting their authority to intervene as necessary to bring the project into conformance with original intentions. Agencies should not, however, seek to become substantially involved in a grant-funded activity without converting the grant instrument to a cooperative agreement following negotiation with the recipient.

2. *Distinction between grants and subsidies.* Section 5 of the act applies to grants but not to subsidies. For a few programs, the distinction may not be clear. Where this condition exists, the proposed OMB guidance is that for the purposes of this act:

a. The term "subsidy" does not apply to financial stimulation or support provided to units of State or local government.

b. The term "grant" does not apply to general operating support provided to commercial firms.

G. SPECIFIC GUIDELINES FOR COOPERATIVE AGREEMENTS

1. *Alternative uses of cooperative agreements.* In all cases, the determination of when to use cooperative agreements will be based on the need for substantial Federal involvement in the assisted activity.

a. Some programs now using grants will require the use of cooperative agreements exclusively. This determination should be based on statutory requirements or policy level determinations of substantial Federal involvement in the performance of the assisted project.

b. Other programs may use grants or cooperative agreements, depending on the nature of the project or the abilities of the recipients. For example:

(1) Some projects may start out as cooperative agreements in the first year and be converted to grants after recipient capacity has been established;

(2) Other projects, initially funded as grants, may have to be renewed as cooperative agreements if there is a need to revise the project or upgrade recipient capacity.

2. *Statement of Federal involvement.* Each cooperative agreement should include an explicit statement of the nature, character, and extent of Federal involvement that causes it to be differentiated from a grant. These statements must be developed with care to avoid unnecessarily increasing Federal liability under the assistance instrument.

H. ASSISTANCE TRANSACTIONS INVOLVING ONLY NONMONETARY TRANSFERS

1. *Types of assistance included.* Sections 5 and 6 apply to programs that transfer "property, services, or any thing of value," which would include consultation, technical services, information, and data. This section of the guidance applies to agencies and programs that provide such types of nonmonetary assistance apart from fund transfers.

2. *Applicability of administrative standards.* Section E above stated that existing administrative standards (e.g., OMB Circulars A-95, A-102, A-110) apply to grants and cooperative agreements involving the transfer of funds.

Agencies should use their judgment, however, in applying these standards to nonmonetary transfers that are presently excluded from the coverage of these circulars. For example, a donation of a substantial parcel of land to a local government is the type of Federal action covered by Part II of A-95, but other administrative standards may not apply.

3. *OMB exception for nonmonetary assistance.* OMB exempts programs providing nonmonetary assistance from the provisions of section 5 of the Act. Existing agency practices for providing nonmonetary assistance where no Federal involvement in the assisted activity is anticipated should continue. Thus a formal grant instrument is not required to provide surplus property, consultation, or data. Where Federal involvement in the assisted activity is anticipated, however, a cooperative agreement is required as indicated in section 6 of the Act. Agencies engaged in the provision of nonmonetary assistance will be asked to report on these activities under Section M below.

I. OMB EXCEPTION POLICY

1. *General.* Section 10(d) authorizes the Director of OMB to "except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one year after receipt by the Congress of the study provided for in Section 8 of this Act." Agencies are advised that, unless otherwise indicated, OMB exceptions will run through January 1981.

2. *Exceptions provided in this guidance.* Section H3 of this guidance excepts nonmonetary grants.

3. *Other exceptions under the Act.* Agencies are expected to conform with the terms of the Act unless severe disruption to a program or serious consequences to recipients would result. OMB intends to grant additional exceptions only on the basis of agency requests that include strong justification and an indication of the harm that will result if an exception is not granted. Section J below indicates the procedures agencies should follow in requesting exceptions.

4. Waiver of administrative standards. OMB is responsible for most of the administrative standards that apply to assistance programs. Agencies should follow these standards. The circulars that establish these standards presently provide procedures for granting of waivers. If, the standards appear unsuitable to a particular situation, requests for waivers should be sent to the OMB office responsible for the circular or the responsible agency if not OMB (e.g., for GSA uniform relocation provisions). Requests for waivers to financial management circulars administered by OMB should be addressed to John Lordan, Chief, Financial Management Branch, OMB, Room 6002, NEOB, Washington, D.C. 20503.

In addition, where a specific transaction such as a cooperative agreement is being considered on an experimental basis and the anticipated relationships are so unusual that specific provisions or complete standards would not apply, the agency should submit an appropriate request for a waiver.

J. OMB EXCEPTION PROCEDURES

A request for an OMB exception under this Act should be addressed to Vincent Puritano, Deputy Associate Director for Intergovernmental Affairs, Room 9025, NEOB, Washington, D.C. 20503. It should include:

1. Whether the exception is requested for a complete program or an individual transaction.

2. An explanation of why an exception is requested, including statutory, agency policy, or other reasons.

3. A statement of what the agency will do if an exception is not granted and what the implications would be if this action were taken.

4. An indication of how the agency will handle the situation if the OMB exception expires before there are any changes to either this Act or agency statutes.

JOINT FUNDING UNDER GRANTS AND COOPERATIVE AGREEMENTS

Subsection 10(c) of the Act specifically provides for projects funded under the Joint Funding Simplification Act that include more than one type of assistance relationship. Thus a project with some components funded by grants and others by cooperative agreements is entirely permissible. Agencies should view this Act as providing the opportunity and authority to participate in joint funded projects in any number of funding relationships to serve the best interests of the participating agencies' programs.

L. AGENCY RECORDS

Both Congress and OMB view this Act as a preliminary step toward long-range overhaul of Federal assistance activities. The requirement for agencies to implement sections 4, 5, and 6 in one year is, in large part, to begin the systematic gathering of data about Federal assistance relationships. Agencies should anticipate that Congressional committees, the General Accounting Office, and OMB will be asking extensive questions about the effects of implementing these sections. While the questions may vary from agency to agency, they can reasonably be expected to deal with operating experience for a year or more after full implementation. Agencies should develop systems of records that would allow them to answer questions such as:

1. How many financial grants have been awarded in accordance with section 5 of the Act? What was the dollar volume and what classes of recipients were involved (e.g., State governments, universities, hospitals, individuals)?

2. For which programs did the agency decide to use grants exclusively?

3. How many financial assistance cooperative agreements have been awarded in accordance with section 6 of the Act? What was the dollar volume and what classes of recipients were involved?

4. For which programs did the agency decide to use cooperative agreements exclusively? What is the nature and reason for the agency involvement?

5. For which programs were both grants and cooperative agreements used? What were the criteria for determining the instrument used?

6. What types nonmonetary assistance transfers were made as grants? What types as cooperative agreements?

7. What was the agency's experience in implementing sections 4, 5, and 6? How did it contribute to improved projects, management, or intergovernmental relations? What problems has the Act presented that can be expected to continue?

M. OMB REPORTING REQUIREMENTS

The experience of the agencies in making decisions necessary to implement sections 4, 5, and 6 of the Act will be important to the study required by section 8. In addition, to the more general questions about the feasibility of a comprehensive system of guidance for assistance activities, the report to Congress must include a summary of the effects of sections 4, 5, and 6. For these reasons, agencies are to provide by March 1, 1979, a report to OMB that includes the following:

1. Distinguishing between procurement and assistance:

a. For what types of activities did the agency have trouble making the distinction between procurement and assistance?

b. On what bases were the issues resolved?

2. Use of procurement contracts:

a. What activities formerly funded through grants or other assistance instruments will now be handled with procurement contracts?

b. What is the anticipated dollar volume of these procurement contracts?

c. What is expected to be the impact of this shift on the agency?

d. Who will be the principal recipients of these contracts?

e. What is expected to be the impact on the recipients?

3. Agency decisions on when to use grants or cooperative agreements:

a. Describe the process by which the agency decided which programs would use: (1) Only grants; (2) only cooperative agreements; (3) both grants and cooperative agreements.

b. Which programs, as listed in the Catalog of Federal Domestic Assistance, will fall into each of the above three categories? For those in category 3 what is the expected mix in terms of total dollars and numbers of transactions?

c. What programs not listed in the Catalog of Federal Domestic Assistance will fall into each of the three categories? For those in category 3 what is expected mix is terms of total dollars and numbers of transactions?

d. What is the anticpated first-year dollar volume of the programs in each of the three categories?

e. What types of Federal involvement in the assisted activity led to the identification of programs that would use only cooperative agreements?

f. What are the anticipated reactions of the recipients of programs using only cooperative agreements?

g. What are the anticipated liability, accountability, and other implications for the programs using only cooperative agreements?

h. What are the agency guidelines on the selection of instruments for programs that may use either grants or cooperative agreements?

i. What is the anticipated dollar volume of grants and cooperative agreements to be awarded under these programs?

j. How will the opportunity to use either grants or cooperative agreements improve administration of these programs?

k. What negative effects are anticipated from the requirement to make a choice of instruments?

l. What programs will use assistance instruments that formerly used contracts and what is the dollar volume of these new uses of assistance instruments?

4. Nonmonetary assistance transfers:

a. What were the types and dollar value of nonmonetary transfers made by the agency using grant instruments?

b. How do these grant instruments compare with monetary grant instruments?

c. What were the types and dollar value of nonmonetary transfer made under the OMB exception that did not use grant instruments?

d. How would the agency have treated these transfers had not OMB granted the exception?

e. What were the types and dollar value of nonmonetary transfers made through cooperative agreements?

f. What was the agency's experience with this use of cooperative agreements?

5. Overall evaluation of the Act:

a. What elements of the Act are contributing to improved program performance and administration?

b. What elements of the Act are particularly troublesome?

c. What proposals would the agency make for revising the Act?

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-13610 Filed 5-18-78; 8:45 am]

federal register

FRIDAY, MAY 19, 1978
PART IV



CONSUMER PRODUCT SAFETY COMMISSION

■

BENZENE

Regulation as an Intentional Ingredient or as a Contaminant; Products Requiring Special Labeling; and Substances Requiring Special Packaging

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1145]

CONSUMER PRODUCTS CONTAINING BENZENE AS AN INTENTIONAL INGREDIENT OR AS A CONTAMINANT UNDER THE CONSUMER PRODUCT SAFETY ACT

Proposed Rule to Regulate

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant, under the Consumer Product Safety Act (CPSA) instead of under the Federal Hazardous Substances Act (FHSA), to address the risks of blood disorders, chromosomal abnormalities, and leukemia associated with benzene inhalation. According to the CPSA, the Commission may not regulate under the CPSA a risk of injury that could be eliminated or reduced to a sufficient extent under the FHSA, unless the Commission finds by rule that it is in the public interest to do so. The Commission has preliminarily found that it is in the public interest to regulate these products under the CPSA.

DATE: Comments concerning this proposal must be received by June 30, 1978. It is expected that this rule will become effective when any final CPSA rule concerning benzene is effective.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to propose a rule under section 30(d) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2079(d), to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant, under the CPSA. Although the risk of injury from blood disorders, chromosomal abnormalities, and leukemia associated with these products could be eliminated or reduced to a sufficient extent by action under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261-1274, the Commission has preliminarily determined that it is in the public interest to regulate these products under the CPSA.

The Commission believes it is in the public interest to regulate these benzene-containing products under the CPSA rather than the FHSA, since the rulemaking proceedings appropriate to regulate these products under the FHSA are likely to be lengthy and resource-consuming.

The Commission also believes it is in the public interest to regulate these products under the CPSA since it may be more difficult for interested persons to participate in rulemaking proceedings under the FHSA than the CPSA because the proceedings under the FHSA are likely to be more complex and formal.

In order to ban hazardous household substances under section 2(q)(1)(B) of the FHSA, the Commission must follow the provisions of section 701(e) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 371(e). Section 701(e) of the FFDCA provides for a two stage rulemaking. After the Commission proposes a regulation, analyzes comments, and issues a final regulation, adversely affected persons may submit objections to the rule and request a public hearing on the objections. If the objections are legally valid, those parts of the regulation objected to are stayed and a hearing is held to receive evidence that is relevant and material to the issues raised by the objections.

After completion of the hearing, the Commission may issue a final regulation. However, this regulation must be based on substantial evidence of record obtained at the hearing, and must set forth detailed findings of fact on which the order is based. The Commission's past experience with formal rulemaking under section 701(e) has been that these proceedings are lengthy, resource-consuming, and often inefficient in eliciting information on which the Commission may make a decision.

In contrast, section 9(a)(2) of the CPSA requires bans to be issued in accordance with the informal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553). Although the CPSA requires the Commission to provide an opportunity for oral presentation of comments before issuing a ban, the oral presentation required by section 9(a)(2) is informal and nonadversarial. A ban under section 8 of the CPSA, while providing an adequate opportuity for public participation, is less likely to involve extensive delay, since the Commission is not required to utilize formal rulemaking. In addition, since the proceedings under section 8 of the CPSA are less complex and formal than those under the FHSA, the Commission is more likely to obtain participation from interested persons including consumers, than if the rulemaking is conducted under the FHSA.

The Commission has also preliminarily determined that it is in the public interest to regulate consumer products containing benzene as an intentional ingredient or as a contaminant under the CPSA rather than the FHSA, since the CPSA, unlike the FHSA, provides that persons who knowingly violate the act are subject to civil penalties. The civil penalty provision may provide additional incentive for compliance under the CPSA.

However, if the Commission does decide to regulate these products under section 8 of the CPSA, the Commission recognizes that automatic repurchase of banned hazardous products would not be available, as it is in the case of a ban under the FHSA. Under section 15 of the FHSA, 15 U.S.C. 1274, and the accompanying regulations at 16 CFR 1500.202 and .203, hazardous substances that have been banned must be repurchased by the manufacturers, distributors, and retailers of the hazardous substance, regardless of whether the substance was banned at the time of its sale. In contrast, a rule under section 8 of the CPSA that bans products distributed in commerce or manufactured after the effective date of the ban would not provide for repurchase of the banned hazardous products.

Elsewhere in this FEDERAL REGISTER the Commission has proposed a ban of benzene-containing consumer products under section 8 of the CPSA.

PROPOSAL

The Commission, therefore, proposes below to regulate consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant under the CPSA instead of the FHSA.

Accordingly, pursuant to provisions of the Consumer Product Safety Act (section 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended 90 Stat 510; 15 U.S.C. 2079(d)), the Commission proposes that title 16, chapter II, subchapter B, part 1145 be amended by adding the following new § 1145.6.

§ 1145.6 Consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant; risk of blood disorders, chromosomal abnormalities, and leukemia associated with benzene inhalation.

The Commission finds that it is in the public interest to regulate the risk of injury from blood disorders, chromosomal abnormalities and leukemia associated with benzene inhalation under the Consumer Product Safety Act rather than the Federal Hazardous Substances Act because of the desirability of avoiding possibly lengthy, resource-consuming, and inefficient

rulemaking proceedings under the FHSA and because of the availability of civil penalties under the CPSA.

The Commission also believes that the complexity and formality of the rulemaking proceedings under the FHSA, in contrast to rulemaking proceedings under the CPSA, may make it difficult for interested persons to participate.

Therefore, consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant shall be regulated under the CPSA.

(Sec. 30(d), Pub. L. 92-573, 86 Stat. 1231, as amended, 90 Stat. 510 (15 U.S.C. 2079(d)).)

Interested persons are invited to submit, on or before June 30, 1978, written comments regarding this proposal. Written comments and any accompanying data or material should be submitted preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20007. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C. during working hours Monday through Friday.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13592 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1307]

CONSUMER PRODUCTS CONTAINING BENZENE AS AN INTENTIONAL INGREDIENT OR AS A CONTAMINANT

Proposal to Ban

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to ban all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene, as an intentional ingredient or as a contaminant at a level 0.1 percent or greater by volume. The Commission is taking this action because of information indicating that benzene inhalation may cause blood disorders, chromosomal abnormalities, and leukemia or cancer of the whitle blood cells in consumers exposed to benzene-containing products. The Commission is particularly interested in public comment on the proposed contaminant level and on the issue of health effects of all potential benzene substitutes. In taking this action, the Commission is granting a petition (HP77-12) from the Health Research Group.

DATES: (1) Written comments on the proposal must be received by June 30, 1978. (2) There will be an opportunity for interested persons to orally present data, views, or arguments on June 14, 1978, at 9:30 a.m. Those wishing to make oral presentations should notify the Office of the Secretary by June 7, 1978. Additionally, a summary or copy of testimony is to be submitted to the Office of the Secretary two working days prior to the public meeting. (3) The Commission proposes that consumer products containing benzene as an intentional ingredient manufactured or imported 60 or more days after publication of the final rule in the FEDERAL REGISTER be declared banned hazardous products. Alternatively, the Commission is proposing a shorter effective date with retrospective application for products containing intentionally-added benzene. Under this option, consumer products containing intentionally-added benzene which are initially introduced into interstate commerce 15 or more days after publication of a final rule would be banned hazardous products. All other consumer products containing intentionally-added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after publication of a final ban. As to products that contain benzene as a contaminant, it is expected that the ban will apply to all such products which are manufactured or imported after the date which is 120 days after publication of the final rule. (4) The time during which the Commission must either publish a final rule or withdraw this proposal is extended to October 16, 1978.

ADDRESSES: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. To the extent practicable, comments on the issue of benzene as an intentional ingredient should be separated from comments on the issue of benzene as a contaminant. Persons wishing to make oral presentations should contact Richard Danca in the Office of the Secretary. These oral presentations will be held in the Commission's 3rd floor hearing room at the address below. All material which the Commission has that is relevant to this proceeding, including any comments that may be received regarding this proposal, may be seen in, and copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3rd floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207—202-492-6557. Persons wishing to make oral presentations should contact: Richard Danca, Office of the Secretary, 202-634-7700.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On May 5, 1977 the Commission received a petition (HP 77-12) from the Health Research Group requesting that the Commission declare benzene a banned hazardous substance under the Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261 et seq., and remove all products containing benzene from the marketplace because of evidence that benzene causes leukemia. The petitioner note that new evidence linking worker exposure to benzene to the induction of leukemia had prompted the Occupational Safety and Health Administration (OSHA) to publish an Emergency Temporary Standard (ETS) for benzene on May 3, 1977 (42 FR 22516). HP 77-12 was later supplemented by a statement in support of the petition from Dr. Michael McCann of the Center for Occupational Hazards, Inc. Dr. McCann expressed particular interest in the banning of benzene-containing art supplies used by consumers.

In gathering information on HP 77-12, Commission staff attended hearings sponsored by OSHA which covered their ETS as well as the OSHA proposed permanent standard for benzene (42 FR 27452; May 27, 1977). The OSHA hearings, which began on July 19, 1977 and were held on successive work days through August 10, 1977, included testimony on health, economic, and environmental issues relevant to the OSHA regulations.

Based on information gathered from the OSHA hearings and from other sources, discussed more fully below, the Commission has granted the petition and proposes to ban all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient. The Commission also proposes to ban all consumer products containing benzene as a contaminant at a level of 0.1 percent or greater by volume. The Commission is taking this action because of scientific and technical information indicating that benzene inhalation may cause blood disorders, chromosomal abnormalities, and leukemia in consumers exposed to benzene-containing products. While the Commission recognizes that much of the data discussed below concern benzene exposure in an industrial setting, the Commission points out that it does have some information concerning consumer exposure. In addition, the Commission points out that there is general scientific and medical agreement that there is no known safe level

of exposure to a carcinogen and that such exposure should, therefore, be reduced to the lowest feasible level.

Although the petition was filed under the FHSA and it appears that the risk of injury from leukemia described by the petitioner is regulatable under the FHSA, the Commission proposes to ban benzene-containing products under the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, et seq. Section 30(d) of the CPSA, 15 U.S.C. 2079(d), as amended, provides that a risk of injury associated with a consumer product which can be eliminated or reduced to a sufficient extent by action under a transferred act, such as the FHSA, may nonetheless be regulated under the CPSA if the Commission, by rule, determines that regulation under the CPSA is in the public interest. Also published in this issue of the FEDERAL REGISTER is a proposed rule issued in accordance with section 30(d) of the CPSA stating the Commission's finding that it is in the public interest to ban the products described herein under the CPSA.

Current Commission regulations under the FHSA (see 16 CFR § 1500.14 (a)(3) and (b)(3)) require that products containing 5 percent or more by weight of benzene must be specially labeled with the signal word "danger", the word "poison", the skull and crossbones symbol, and the statement of the hazard "vapor harmful." Products containing 10 percent or more by weight of benzene must bear the additional statement of hazard "harmful or fatal if swallowed" as well as the statement "If swallowed, do not induce vomiting. Call physician immediately."

The Commission also has a regulation under the Poison Prevention Packaging Act of 1970 (PPPA) applicable to benzene. (16 CFR § 1700.14(a)(15)). The regulation provides that solvents for paints and other similar surface-coating materials that contain 10 percent or more by weight of benzene and that have a viscosity of less than 100 Saybolt Universal Seconds (SUS) at 100° F must be packaged in child-resistant packaging.

Elsewhere in this issue of the FEDERAL REGISTER, the Commission is proposing to amend the FHSA and PPPA regulations to indicate that they will not be applicable to products that are banned hazardous products under any final CPSA rule. The amendments are proposed to be effective when this Part 1307 becomes effective.

OTHER AGENCY ACTION

The Commission notes that other federal agencies have taken action with respect to benzene. As mentioned above, on May 27 1977, OSHA published its proposed permanent standard for benzene which would limit employee exposure to benzene to 1 ppm as an 8 hour time-weighted average concentration with a ceiling level of 5 ppm for any 15 minute period during an 8 hour day. The proposed standard excluded operations in which the only exposure to benzene is from liquid mixtures which contain no more than 1 percent or less of benzene by volume (0.1 percent after one year from the effective date). (42 FR 27452). On February 10, 1978, OSHA published its final permanent standard for benzene limiting employee exposure to the same levels announced in the proposal. However, the percentage exemption for liquid mixtures containing benzene was dropped because OSHA found that the percentage of benzene in a liquid is not necessarily controlling of an employee's exposure level. Thus, the final standard applies to all liquid mixtures containing benzene regardless of the percent of benzene.[1] The standard also provides for the measurement of employee exposure, engineering controls, work practices, personal protective clothing and equipment, signs and labels, medical surveillance, and employee training (see 42 FR 5918).

In addition to the OSHA action, the Commission notes that the Environmental Protection Agency (EPA) on June 8, 1977 published its decision to list benzene as a hazardous air pollutant under section 112 of the Clean Air Act on the basis of scientific reports which strongly suggest an increased incidence of leukemia in humans exposed to benzene (42 FR 29332).

BENZENE'S PROPERTIES AND USES

Benzene (C_6H_6), also known as Benzol, is a clear, colorless, strong-smelling liquid which is extremely flammable. Benzene has a low boiling point and a high vapor pressure and hence evaporates rapdily under ordinary atmospheric conditions, giving off vapors nearly three times heavier than air. It has significant solvent properties and mixes well with the majority of organic solvents. Benzene occurs naturally in crude oil and also as a product of decomposition of organic material.

Today, benzene is used primarily as an intermediate substance in the production of other chemicals. Cumene, cyclohexane, dichlorobenzene, dodecylbenzene, ethylbenzene, maleic anhydride and nitrobenzene are a few of these chemicals. Additionally, benzene is used as a component of unleaded gasoline to increase the octane rating, as a solvent and reactant in numerous chemical applications in laboratories, and in the manufacture of detergents and pesticides. Benzene is predominantly produced today from petroleum by catalytic reformation.

Benzene's characteristics as a solvent have made it figure prominently over the years in the manufacture of consumer products. It has been used in its pure form in some products and in other products as a component of solvents that are used in manufacturing the final product. Based on Commission staff communications with manufacturers, the consumer products which have been identified as containing benzene as an intentional ingredient are paint removers, rubber cements, gasoline, and solvents and reagents for laboratory use. Other products, notably many products containing petroleum distillates, which include many common solvents such as toluene and naphtha, contain benzene as a contaminant. (For further discussion, see the section of this Preamble entitled ECONOMIC CONSIDERATIONS).

NATURE AND DEGREE OF THE RISK OF INJURY

Benzene has long been recognized as a toxic substance capable of producing acute and chronic effects. Inhalation is the primary route of exposure to a human being. Although present evidence suggests that benzene is not readily absorbed through the skin, significant quantities of benzene could be absorbed in the case of injured skin.

The acute effects of benzene exposure include drowsiness and loss of consciousness at high doses. The chronic effects of benzene exposure, which form the basis for this proposed regulation, are detailed below in a technical report on benzene prepared by a Commission consultant, Michael L. Freedman, M.D. of New York University Medical Center. The chronic effects listed in the report fall into three general categories: (1) pancytopenia (a decrease in all the formed elements of the blood—red cells, white cells, and platelets): (2) chromosomal abnormalities; and (3) leukemia, particularly acute myelogenous (produced in the bone marrow) leukemia.

The Freedman report and accompanying bibliography is set forth in its entirety as an appendix to this document. That report discusses the many studies reported in the scientific literature which have implicated benzene exposure in the development of various blood disorders, including leukemia, and chromosomal abnormalities. The Commission has considered this report along with other available information in proposing the ban and makes the following observations.

(1) Pancytopenia, including aplastic anemia, has been demonstrated in

[1] On March 28, 1978 (43 FR 12890), OSHA proposed to amend the final benzene standard to exclude from its coverage work operations where the sole exposure to benzene is from liquid mixtures containing 0.1% or less benzene or the vapors from these liquids. At the same time OSHA stayed the benzene standard to the extent it covers such work operations, pending completion of the rulemaking and proceedings on the amendment.

both humans and animals following exposure to benzene, although it has not been observed subsequent to exposure to other compounds, such as toluene and xylene, which are commonly associated with benzene environmentally. Both pancytopenia and aplastic anemia, although they are non-cancerous diseases, may themselves be fatal. An additional concern is that some or all of the blood disorders induced by benzene may, if allowed to continue, either progress to or represent a preluekemic stage which may eventually evolve into an actual leukemia.

(2) The development of various chromosomal aberrations, both stable and unstable in nature, in peripheral leukocytes and bone marrow cells have been attributed to benzene exposure.

(3) Leukemia is the most serious blood disorder associated with benzene exposure. Once leukemia is diagnosed, there is virtually no chance of recovery. Despite advances in leukemia therapy, the prognosis of acute myelogenous leukemia (the most prevalent subtype of leukemia in adults and the type most commonly associated with benzene) remains poor. OSHA in their permanent benzene standard states that the average life expectancy of even the victims who enter into a remission (generally averaging 6-8 months) ranges from 12-18 months. (43 FR 5925).

Latency periods between exposure to benzene and development of leukemia can vary widely, ranging from two to twenty years. However, leukemia has been observed in workers exposed for as little as four months to benzene or for as much as 15 years or longer. Individual susceptibility to the effects of benzene also varies significantly. In a recent study of workers exposed to benzene from 1940-1949 in two Ohio plants manufacturing the product "Pliofilm", Infante (see reference No. *51* in Freedman bibliography) demonstrated a five-fold excessive risk of death from all leukemias and a ten-fold excess of deaths from myeloid and monocytic leukemias in the study population compared with the number expected in a non-exposed cohort. Infante stated that benzene concentrations at the two plants ranged from 0 to 10 or 15 parts per million. This study as well as other occupational studies noted in the Freedman report argue convincingly that benzene is a human leukemogen.

The Commission recognizes that much of the documentation in the consultant's report concerns benzene exposure in an industrial setting. However, as the report indicates, in 1977 the National Institute for Occupational Safety and Health conducted an experiment to measure the amount of benzene exposure to a person using a paint remover containing 52 percent benzene by volume (Reference No. *137*). An end table was stripped in a home garage having essentially no air circulation. Five sequential, five minute air samples from the worker's breathing zone were taken. The benzene concentration ranged from 73 to 225 ppm with a mean of 130 ppm. In addition, the Commission notes that values from 1971 exist for exposure levels in one man or husband-wife combination commercial paint stripping operations utilizing paint strippers containing approximately 40 percent benzene. The breathing zone average atmospheric concentration of benzene ranged from 24 to 1216 ppm in 8 such establishments. (Reference No. *138*).

In view of the data indicating that blood disorders, including leukemia, have been shown to result from benzene exposure in an industrial setting at levels reported to be as low as 10—15 ppm, the Commission believes that a serious health hazard to consumers may be presented by the use of benzene-containing consumer products.

As an additional matter, the Commission's Health Sciences staff has calculated an assessment of the leukemia risk from consumer exposure to benzene-containing paint strippers. The assessment which uses data from the Infante study discussed above and the NIOSH paint stripper experiment also discussed above is on file at the Commission's Office of the Secretary. For purposes of this assessment, the Commission considered the use of a paint stripper containing 52 percent benzene by a consumer, for 5 hours a day ten times in his life, to be a reasonably foreseeable lifetime exposure. The increased lifetime risk of death from myelogenous and monocytic leukemia induced by this exposure is estimated by the assessment at between 142 and 346 per million exposed.

This is equivalent to a benzene-induced increased risk of between 15.2 percent and 37.1 percent due to the use of such paint strippers. While the Commission is not relying upon a specified percentage of increased risk in issuing this ban, the Commission believes that in view of the seriousness of the risks of injury from benzene exposure, any increased risk is unacceptable.

In addition, the Commission emphasizes that once the carcinogenicity of a substance has been established qualitatively, any exposure must be considered to be attended by risk when considering any given population, because individual susceptibility to a carcinogen varies widely. The Commission, therefore, believes that consumer exposure to benzene at low levels poses a carcinogenic risk to certain individuals. In recognition of the present state of scientific knowledge that there is no known safe level of exposure to a carcinogen, the Commission concludes that it is appropriate that exposure to benzene be reduced to the lowest feasible level.[2] (For further discussion on this point, see the section of the preamble entitled DESCRIPTION OF THE PROPOSED BAN.)

Description of the Proposed Ban

Proposed Part 1307 would declare that consumer products containing benzene as an intentional ingredient are banned hazardous products under section 8 of the CPSA. Consumer products that contain benzene as an impurity at a level of 0.1 percent or greater by volume would also be declared to be banned hazardous products. For purposes of this Part 1307, "benzene as an intentional ingredient" means benzene which is added deliberately to a product to impart specific characteristics. "Benzene as a contaminant" is any benzene appearing in a final product which is not an intentional ingredient, including any benzene which appears as a component of or impurity in a raw material used in the final product.

The proposed ban applies to products that are customarily produced or distributed for sale to or for the personal use, consumption or enjoyment of consumers in or around a household or residence, a school, in recreation or otherwise. The Commission proposes that consumer products containing benzene as an intentional ingredient manufactured or imported 60 or more days after the publication of the final rule in the Federal Register be declared banned hazardous products. Alternatively, the Commission is proposing a shorter effective date with retrospective application for products containing intentionally-added benzene. Under this option, consumer products containing intentionally-added benzene which are initially introduced into interstate commerce 15 or more days after publication of a final rule would be banned. All other consumer products containing intentionally-added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after publication of a final rule. For

[2] The National Cancer Institute's Ad Hoc committee on the Evaluation of Low Levels of Environmental Carcinogens (1970) has stated: "no level exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents, a safe level for man cannot be established by application of our present knowledge." (cited in the OSHA permanent benzene standard at 43 FR 5947). In addition, Bernard Goldstein, M.D. and Muzaffer Askoy, M.D., experts in the field of benzene toxicity, both testified before OSHA that there is no known safe level of exposure to benzene and that, therefore, any exposure should be reduced to the lowest feasible level. (See 43 FR 5947.)

products containing benzene as an impurity, it is expected that the ban will apply to all such products which are manufactured or imported after the date which is 120 days after publication of the final rule.

Gasoline is exempted from the products banned by the proposal. While most gasoline is specifically for use with motor vehicles and would appear to be considered "motor vehicle equipment" excluded from Commission authority under the CPSA (see section 3(a)(1)(C)), the Commission notes that some gasoline is used by consumers "in or around a permanent or temporary household or residence, a school, in recreation, or otherwise." For instance, gasoline is often sold to consumers for use as a general household solvent or for use with lawn mowers, snowmobiles, and so forth, and the Commission possibly could take regulatory action under the CPSA as to this gasoline. However, since this gasoline generally comes from the same source (i.e. the retail pumps) as motor vehicle gasoline and may be subject to regulation by OSHA, EPA, and/or the National Highway Traffic Safety Administration (NHTSA), the Commission is of the opinion that exposure to benzene from gasoline is a complex interagency problem which would probably best be resolved on an interagency basis.

In addition, the Commission believes that any attempt to eliminate benzene from gasoline would have a major economic impact, necessitating thorough feasibility studies which are beyond the scope of this propsoal. In this regard the Commission notes that benzene is present in gasoline as a contaminant and in unleaded gasoline, as an intentional ingredient used to increase the octane rating. The use of benzene and its closely related aromatic distillates, xylene and toluene, has increased in the past few years because the distillates are the principal substitutes for tetraethyl lead. The Commission has information indicating that the removal of benzene from gasoline motor fuel would entail major adjustments in the petroleum refining industry in terms of capital equipment and performance and price and availability of gasoline as well as other petrochemicals and has, therefore, concluded that the use of benzene in consumer product gasoline should not be restricted at this time. The Commission emphasizes, however, that the complexity of the gasoline question need not delay Commission action on other benzene-containing products.

Besides exempting gasoline, the proposed ban contains an exemption for benzene manufactured and distributed for use in laboratories as a solvent or a reagent. Because benzene is the basic unit on which aromatic hydrocarbon chemistry is built and can be expected to be found in nearly pure form in school laboratories at the high school, college, and graduate levels, the Commission has decided to propose an exemption for such laboratory benzene. The Commission notes that it has information indicating that benzene is essential for certain experiments at the junior and senior college level as well as at the graduate level. The Commission believes that where careful laboratory procedures are followed, such as the use of properly functioning hoods and other appropriate practices, exposure to benzene vapors should be very low. (See OSHA's permanent standard for the regulation of benzene, 43 FR 5918, at 5938.)

In this regard, the Commission points out that OSHA's permanent benzene standard covers benzene exposure in research facilities in both industrial and academic laboratories, where there is at least one employee. All containers of benzene in such laboratories are required to be bear specified labeling, warning of the cancer hazard. In addition, laboratories must comply with all other provisions of the performance standard, which, as is explained in the preamble to the standard, could be met by laboratories in many instances through the use of properly designed hoods. Therefore, the Commission believes that an absolute exemption for laboratory benzene is appropriate because students in educational laboratories using benzene will be protected by the requirements of the OSHA standard.

It should be noted that the proposed ban not only affects products which contain benzene as an intentional ingredient, but also products which contain benzene as a contaminant. In recognition of the medical and scientific agreement that there exists no known safe level of exposure to a carcinogen, the Commission believes that consumer exposure to carcinogens such as benzene must be reduced to the lowest feasible level. The Commission, further, believes that with respect to benzene, the lowest feasible level is not zero, but some low level of benzene contamination in products. (Note: With consumer exposure, unlike occupational exposure, standards based on air monitoring procedures or a requirement for sophisticated protective equipment are impractical. The Commission, therefore, has not attempted to set a permissible air concentration level for benzene, but proposes to rely instead on a percentage limitation on benzene in products.)

The reason that benzene cannot be eliminated entirely from all products is because of the physical properties of petrochemical refining process. As has been mentioned above, benzene occurs naturally in crude oil. It is also formed in the petrochemical refining process as part of a product called reformate from which gasoline and other petroleum products are distilled. These products are distilled into various petroleum distillate fractions according to boiling point range. The boiling point ranges tend to be fairly crude in normal refinery practice so that any particular distillate may have residual or contaminant fractions with boiling points both above and below it. The purity of the distillate depends on the age and technical sophistication of each refinery operation. Additional refining steps may be performed on the distillate in order to strip away the contaminating fractions.

The Commission recognizes that without resorting to extremely expensive special techniques, these refining processes do not result in chemically pure products. The Commission is also aware that reduction of contaminants below the lowest levels generally available in commerce would entail very expensive changes in refinery equipment throughout the industry. Therefore, the Commission proposes to set as the lowest feasible level of benzene contamination, the lowest level generally available in commerce.

Economic information available to the Commission indicates that most common solvents or petroleum distillates which may show traces of benzene contamination are generally available with less than 0.1 percent benzene contamination. Manufacturers, furthermore, substitute one distillate for another or use various combinations of distillates, with a high degree of flexibility. (See "Economic Assessment of a Potential CPSC Benzene Regulation" on file at the Commission's Office of the Secretary). While some benzene substitutes are available with benzene contamination considerably lower than 0.1 percent and others have a higher contamination level (see Table 1 below), the Commission has selected the 0.1 percent level as representative of a feasible impurity level. In so doing, the Commission has preliminarily concluded that it is not now technically feasible to avoid a level of benzene contamination in consumer products below 0.1 percent and has, therefore, decided to propose a ban of products containing benzene traces at or above the level.

While the Commission's current information indicates that contamination below 0.1 percent is the lowest feasible impurity level for benzene in products, the Commission, in recognition of the limited information available on benzene as a contaminant, particularly wishes to solicit public comment on the issue of an appropriate level and the costs of achieving various levels. Based on the comments and other relevant material which may be received in response to the proposal, the Commission may revise

the allowable impurity level when the ban is finalized.

ECONOMIC CONSIDERATIONS

Information available to the Commission indicates that the only consumer products which currently contain benzene as an intentional ingredient are paint removers, rubber cements, gasoline, and solvents and reagents for laboratory use. It appears that the OSHA regulations have resulted in a reduction of the use of benzene in consumer products. In fact, only a few firms are using benzene in their consumer products. Since benzene is produced and sold predominantly for industrial use, it is expected that CPSC action will not have a major impact on producers of benzene.

The paint remover industry is one of two industries likely to be affected by a CPSC ban. (As noted above, gasoline and laboratory benzene are proposed to be exempted from the ban.) Generally, there has been a widespread movement away from the use of benzene in paint removers. Commission staff contact with 49 firms revealed only 2 firms presently using benzene in their paint removers. Commission staff estimates that less than 1 percent of the paint removers currently on the market contain benzene as an intentional ingredient.

The reformulation of removers involves the substitution for benzene of various combinations of methylene chloride, toluene, chlorinated hydrocarbons, mineral spirits, or other solvents. Most manufacturers agree that methylene chloride, usually used in conjunction with other solvents, makes a better remover than those currently produced with benzene. However, methylene chloride is a good deal more expensive than benzene. Other solvents which may be substituted for benzene—toluene, for example—will yield a less effective product for approximately the same price. In general, the economic impact on consumers of a ban will be in the form of price increases or utility losses, depending upon which solvent is substituted for benzene.

A ban on benzene-containing products is expected to have a minimal impact on the manufacturers of paint removers. For the few firms that still use benzene in the removers, there may be additional costs associated with reformulation, but these are expected to be small.

The rubber cement industry is another industry likely to be affected by a CPSC ban. In recent years there has been a steady decline in shipments of rubber cement, both in absolute terms and as a proportion of total adhesives shipments. From 1963 to 1973, shipments fell from $87 million to $55 million. During the same period, shipments of adhesives rose from $353 million to $820 million. This implies an absolute decrease in demand for rubber cement, probably in response to the substitution of other adhesives for comparable applications.

Of 52 rubber cement producers contacted, ony one is currently using benzene in his product. Commission staff estimates that less than 0.1 percent of the rubber cements on the market contain benzene. Reformulation costs are, furthermore, expected to be negligible.

Other consumer products such as varnish, wood stains, and household cleaners were investigated by Commission staff to determine whether benzene was present as an intentional ingredient. The products were found not to contain benzene, except possibly as a solvent impurity. Benzene, of course, is also used in almost a pure form in scientific laboratories as a solvent or a reagent. Such benzene is proposed to be exempt from Part 1307.

In addition to products containing intentionally added benzene, products which contain benzene as a contaminant at a level of 0.1 percent or greater are affected by the proposed ban. Many common solvents show traces of brenzene contamination. In fact, any petroleum distillate, even a highly refined solvent, will contain traces of benzene, because of the physical properties of the petroleum refining process. Since there appears to be a wide range of petroleum distillates or solvents generally available with benzene contamination of less than 0.1 percent, it is not expected that the ban on products containing benzene as an impurity will be burdensome to manufacturers or consumers. (See Table 1 below.)

TABLE 1.—*Typical benzene impurities*

	Percent	PPM
Heptane	0.0025	25
Hexane	.5	5,000
Mineral spirits	.1	1,000
Methyl ethyl ketone		0
Methylene chloride		0
Naphtha	.1	1,000
Toluene	.02	200
Xylene	.0025	25

Source: Various industry sources.

As noted above, a ban on consumer products containing benzene will necessitate the use of alternate solvents in manufacturing these products, many of which are other petroleum distillates. Possible substitutes are noted in the chart above. These solvents, with the exception of methylene chloride, are generally not as efficient as benzene, but are accceptable substitutes in most cases. The potential health effects of the use of these substitutes, however, is an issue which the Commission believes merits further study. While the Commission has some information on the health effects of potential substitutes which is summarized below, the Commission believes further information is necessary and specifically requests comment on the subject.

The Commission notes that although conflicting evidence exists, it appears that toluene and xylene may be slightly more acutely toxic than benzene. However, because toluene and xylene are not as volatile as benzene, less of these chemicals may be available in the atmosphere for exposure. (See International Labour Office. "Benzene users, toxic effects, substitutes." Geneva, May 16-19, 1967, pp. 48-89.) Neither toluene nor xylene appear to present the same chronic hazards as benzene. The "Benzene Health Effects Assessment", published as an external review draft in 1977 by the Environmental Protection Agency, states:

> Hematoxicity, particularly pancytopenia, has been observed in both humans and animals, following exposure to benzene. The toxicity does not folllow exposure to other compounds such as toluene and xylene commonly associated with benzene environmentally. (p. 2).

The Commission notes that a review of the scientific literature on benzene indicates that outbreaks of pancytopenia have followed the introduction of benzene to the workplace and have ceased when benzene has been substituted for by other solvents.

Methylene chloride has been for many years the standard active ingredient in paint removers. It is also a likely substitute for benzene in paint remover reformulations. However, it has been noted that methylene chloride, when inhaled, forms carbon monoxide in the body which reduces the blood's potential to carry oxygen and causes stress on the heart. Therefore, the use of methylene chloride-containing products by heart patients or heavy smokers may cause severe illness or even death. (Stewart and Hake, "Paint-Remover Hazard" in JAMA 235: 398-401, 1976). (In a separate matter, the Commission is considering the possibility of requiring special labeling on paint removers containing methylene chloride to warn of this hazard.)

Significant questions have also been raised concerning the potential chronic toxicity of methylene chloride. Long-term animal testing is now being conducted by the Dow Chemical Company and by the National Cancer Institute in an attempt to ascertain whether methylene chloride poses a potential carcinogenic hazard. Results from one of these laboratories should be available shortly. In addition, methylene chloride has been shown to be mutagenic in two types of short-term tests. (See, Proceedings of the 2nd International Conference on Environmental Mutagens: Progress in Ge-

netic Toxicology—Scott, D., Bridges, B. A., Sobells, FH., eds., Elsevier, North Holland (1977), pp. 249-258.) Further, the Toxic Substances Control Act (TSCA) Interagency Testing Committee has recently recommended to the Administrator of the Environmental Protection Agency that methylene chloride be added to the list of chemicals recommended for priority testing under TSCA. Because of these serious health concerns, the Commission particularly solicits comment on the toxicity of methylene chloride.

The Commission staff economic analysis and supporting materials are available from the Office of the Secretary.

ENVIRONMENTAL CONSIDERATIONS

An assessment has been made of the potential environmental impact of the proposed ban, as required by the National Environmental Policy Act. Based on this assessment, the Commission concludes that there are no significant environmental effects associated with the proposed and that no environmental impact statement is necessary.

The use of benzene as an ingredient in consumer products other than in gasoline and solvents and reagents for laboratory use has decreased over the years to the point where only a few small firms continue to use it. The reasons for this decline are a recognition of the health effects of benzene, the declining maximum allowable exposure limits imposed by State and federal health authorities, and the increased use of benzene as a valuable petro-chemical feedstock that is used to make other chemicals.

Because the use of benzene as an ingredient in consumer products has declined significantly, and since other chemicals have become the standard of the industries that produce such consumer products, no significant environmental effect is expected to result from the ban on benzene as an intentional ingredient. In addition, no significant environmental effect is expected as a result of limiting the level of benzene contamination in products. The level that is proposed appears to be a typical level of contamination in common petroleum distillates, the class of products that is likely to contain benzene as a contaminant.

All of the substitutes for benzene are acutely toxic to humans when inhaled. However, benzene alone has been shown to cause chronic blood disorders, including leukemia, in persons who are exposed to it. While questions have been raised concerning the chronic toxicity of methylene chloride, methylene chloride has long been the standard ingredient in paint strippers. Therefore, a ban on benzene will not substantially increase an already significant use of methylene chloride in these products. The ban, if finalized, is expected to have a beneficial effect on the health of consumers.

The method of disposal of rubber cement and paint strippers that do not contain benzene is the same as for those that do. In nearly all cases of use, the active ingredient in the product is volatile and evaporates into the air. Following use, the container and its residue are disposed of along with other household refuse. The ban is, therefore, expected to have no significant impact on land fills or other disposal media, or on air or water quality.

The environmental assessment is available for review in the Office ofd the Secretary of the Commission.

ANTICIPATED EFFECTIVE DATES

The Commission has preliminarily assessed the possible effects on the relevant industries of banning consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at a level of 0.1 percent or greater by volume. The Commission notes that the few firms currently using benzene as an intentional ingredient will have to reformulate their products, test the new formulations, and acquire different chemical supplies. Based on discussion with the affected companies and experience with other industries with similar problems, the Commission believes that since few reformulation problems should be presented, 60 days is a sufficient period of time for these firms to bring their products into compliance. Therefore, the Commission proposes that consumer products containing intentionally added benzene manufactured or imported 60 or more days after publication by the Commission of a final rule be declared banned hazardous products.

Alternatively, because of the severe nature of the hazard associated with consumer products containing high levels of benzene, the Commission is also proposing a shorter effective date with retrospective application to all products still in the channels of commerce containing intentionally added benzene. The Commission believes it may be necessary to halt all distribution in commerce of products containing intentionally added benzene shortly after the final ban is published so that consumers will not be able to purchase them and thus, continue to be exposed to benzene while supplies are exhausted. Shortening an effective date to less than 30 days from the date of publication of a final rule is authorized by section 553(d)(3) of the Administrative Procedure Act if the Commission so provides for good cause found and published with the rule.

Therefore, the Commission may make the final ban applicable to consumer products containing intentionally added benzene which are initially introduced into commerce 15 days after publication of a final ban. In addition under this option, all other consumer products containing intentionally added benzene, no matter when manufactured or initially introduced into commerce, would be banned 30 days after the publication of a final ban. This means that 15 days after publication of a final rule, manufacturers would be prohibited from shipping the product to distributors, retailers, consumers, or to others. Further, 30 days after publication of a final rule all manufacturing, selling, offering for sale or distributing in commerce of the described products would be prohibited, no matter when initially introduced into commerce.

The Commission does not believe that this alternative proposed effective date will have a major economic impact because so few firms are currently making products containing intentionally added benzene. The Commission staff is continuing to investigate the potential economic and environmental effects associated with the selection of this alternative date. The Commission is particularly interested in public comment on both proposed effective dates.

As to firms that manufacture products containing benzene as a contaminant at a level that is higher than the proposed limit, the Commission notes that these firms must consider alternative chemicals or new sources of supply and may also have to work down or otherwise dispose of inventories of contaminated ingredients. While little information exists on the difficulties that various firms may actually have in dealing with these problems, the Commission staff estimates that 120 days would be a reasonable time period for firms to bring their products into compliance. On this basis, the Commission proposes that consumer products containing benzene as an impurity at levels of 0.1 percent or greater manufactured or imported 120 days or more after publication of a final rule be banned.

The Commission has decided that the ban on benzene as a contaminant in products need only apply to products manufactured or imported after the effective date, not to those held in inventory after the effective date. The Commission notes that these products contain significantly smaller amounts of benzene than those for which the earlier effective date is proposed. The Commission also believes that banning products containing benzene as an impurity manufactured or imported prior to the effective date of this Part 1307 might result in a chaotic situation since the products were manufactured prior to a significant amount of testing; and therefore, extensive testing would be needed to determine

which products contain 0.1 percent or more of benzene.

SECTION 8—FINDINGS

Section 8 of the CPSA requires that, in order to propose a ban, the Commission must find that a consumer product is being or will be distributed in commerce, that it presents an unreasonable risk of injury and that no feasible consumer product safety standard under the CPSA would adequately protect the public from that unreasonable risk.

The Commission finds that the products banned by the proposal are being and will be distributed in commerce.

A. UNREASONABLE RISK OF INJURY

In determining whether a specific risk of injury is "unreasonable", the Commission generally balances the probability that the risk will result in harm and the gravity of the harm against a rule's effect on the product's utility, cost, and availability to the consumer. In this instance, the Commission notes that the risk of injury from benzene-containing products is great and includes leukemia as well as other blood disorders. In addition, the Commission staff risk assessment suggests an increased lifetime risk of death from myelogenous and monocytic leukemia of between 15.2 percent and 37.1 percent due to the use of benzene-containing paint strippers for 5 hours a day, ten times in a lifetime.

The Commission has considered the effect on the cost, utility, and availability of benzene-containing products and it is noted that this rule would eliminate the few such consumer products, except gasoline and laboratory benzene, currently on the market. However, the Commission also notes, as is discussed under Economic Considerations, that there are readily available substitute products at approximately the same cost which will yield a slightly less effective product.

After considering the nature and degree of the hazard from benzene-containing products and the availability of substitutes, the Commission concludes that the risk of injury clearly outweighs the effects of the proposed rule on the cost, utility, and availability of the products, and finds that benzene-containing products present an unreasonable risk of injury to the public.

B. FEASIBILITY OF A STANDARD

The Commission has considered all available information concerning the risk of injury associated with consumer products containing benzene as an intentional ingredient and as a contaminant and believes that the risk of injury is inherent in the products as long as they contain benzene.

The Commission believes that it is not possible to manufacture safe rubber cements or paint removers containing benzene because a safe level of exposure to benzene is not known. Furthermore, a standard such as OSHA's which sets a permissible air concentration level for benzene and requires protective clothing and equipment is not feasible for the consumer due to the cost of equipment and the knowledge required for its use.

In addition, except for laboratory use, the Commission notes that it does not believe that any required labeling for benzene-containing consumer products no matter how explicit and graphic would be adequate to address the risk of injury. (Current regulations under the FHSA at 16 CFR § 1500.14 (a)(3) and (b)(3) require cautionary labeling for products which contain 5 percent or more by weight of benzene including the words "danger", "vapor harmful", and "poison".) Since there is no known safe level of exposure to a carcinogen, the Commission believes that exposure to benzene must be reduced to the lowest possible level. The cautionary labeling, which would be necessary to approach that level, such as suggesting the use of a laboratory ventilation hood or the wearing of an adequate facemask when using benzene products, is impractical for the average consumer, outside of a supervised laboratory situation. The Commission notes in this regard that the type of respirator (chemical cartridge respirator) that would mitigate the effects of benzene-containing products is not generally available to households and even if it was, the specialized maintenance of this device would be burdensome to consumers. In addition, there is the possibility that any recommended protective measures may not be followed in practice or may be followed by the user but not by bystanders or visitors.

Therefore, the Commission concludes that a standard, including a labeling standard, for consumer products containing benzene as an intentional ingredient or as a contaminant is not feasible at this time and that only banning these products can adequately protect the public from the unreasonable risk of injury associated with them.

EXTENSION OF TIME TO PUBLISH FINAL RULE

Section 9(a)(2) of the CPSA (15 U.S.C. 2058(a)(2)) requires the Commission in declaring a product to be a "banned hazardous product" to publish a notice of proposed rulemaking in the FEDERAL REGISTER and to provide interested persons with an opportunity to participate in the rulemaking through submission of written data, views, or arguments. In addition to these written comments, interested persons must also be given an opportunity for the oral presentation of data, views, or arguments.

Section 9(a)(1) of the CPSA provides that within 60 days after publication of a proposed rule, the Commission shall promulgate a final rule or withdraw the proposal. The Commission may extend the 60 day period for good cause and must publish its reasons for extension in the FEDERAL REGISTER.

In the case of benzene-containing consumer products, the Commission has expressed a particular interest in obtaining public comment on the proposed contaminant level, on the issue of toxicity of substitutes, on the proposed effective dates, and on the various health and economic findings required by section 9(c) of the CPSA (see below). to afford an ample opportunity for obtaining such comment, the Commission has decided that, in addition to holding a public meeting in Washington, D.C., the comment period, in which the public is invited to submit written comments on the proposed ban, is to be longer than the 30 day period usually provided. Written comments may be submitted until June 30, 1978.

It is anticipated that becuase of the extended comment period and the need for careful analysis of the public's oral and written views, more time will be required than the 60 day period provided in section 9(a) of the CPSA between publication of a proposal and publication of any final rule.

Therefore, the Commission has decided that this 60 day period should be extended. In order to conserve the resources that would be needed to issue such an extension of time during the comment and evaluation period, the Commission announces in this proposal that good cause is found to extend for 90 days, until October 16, 1978, the time in which the Commission must either issue a final rule concerning benzene-containing consumer products or withdraw the proposal to ban. This period may be further extended for good cause and announced in the FEDERAL REGISTER.

CONCLUSION AND PROPOSAL

Based on the foregoing information, the Commission proposes to declare that all comsumer products, except gasoline and solvents or reagents for laboratory use, containing intentionally added benzene or containing benzene as a contaminant at levels of 0.1 percent or greater are banned hazardous products.

Accordingly, pursuant to provisions of the CPSA (sections 8, 9, and 30(d), 86 Stat. 1215-17, 1231, as amended 90 Stat. 506, 510; 15 U.S.C. 2057, 2058, 2079(d)), the commission proposes that Title 16, Chapter II, be amended by adding to Subchapter B the following new Part 1307:

Part 1307—Ban on Consumer Products Containing Benzene as an Intentional Ingredient or as Contaminant

Sec.

1307.1 Scope and application.
1307.2 Purpose.

Sec.
1307.3 Definitions.
1307.4 Exemptions.
1307.5 Consumer products containing benzene as an intentional ingredient as banned hazardous products.
1307.6 Consumer products containing benzene as a contaminant as banned hazardous products.

AUTHORITY: Secs. 8, 9, 30(d), Pub. L. 89-573, as amended, Pub. L. 94-284, 86 Stat. 1215-17, 1231 as amended 90 Stat. 506, 510 (15 U.S.C. 2057, 2058, 2079(d)).

§ Scope and application.

(a) In this Part 1307 the Consumer Product Safety Commission declares that all consumer products, except gasoline and solvents and reagents for laboratory use, containing intentionally added benzene are banned hazardous products under sections 8 and 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057 and 2058). The Commission also declares that consumer products, except gasoline and solvents and reagents for laboratory use, containing benzene as a contaminant at levels of 0.1 percent or greater by volume are banned hazardous products under sections 8 and 9. This Part applies to products which are customarily produced or distributed for sale to or for the personal use, consumption, or enjoyment of consumers in or around a permanent or temporary household or residence, a school, in recreation or otherwise.

(b) The Commission has found (1) that the products described in subsection (a) are being or will be distributed in commerce, (2) that they present an unreasonable risk of injury, and (3) that no feasible consumer product safety standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with these products.

§ 1307.2 Purpose.

The purpose of this rule is to ban consumer products containing benzene as an intentional ingredient or as a contaminant. These products present an unreasonable risk of injury because exposure to the fumes increases the risk of developing blood disorders, chromosomal abnormalities, and leukemia.

§ 1307.3 Definitions.

(a) The definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 1052) apply to this Part 1307.

(b) "Benzene as an intentional ingredient" is benzene which is added deliberately to a product to impart specific characteristics.

(c) "Benzene as a contaminant" is any benzene appearing in a final product, which benzene is not an intentional ingredient. This includes any benzene which appears as a component of or impurity in a raw material used in the final product.

(d) "Imported" is the first entry of a product within a U.S. port of entry.

§ 1307.4 Exemptions.

The following categories of products are exempt from the ban established by this Part 1307:

(a) Gasoline.

(b) Benzene manufactured and distributed for use in laboratories as a solvent or reagent.

§ 1307.5 Consumer products containing benzene as an intentional ingredient as banned hazardous products.

On the basis that consumer products containing benzene as an intentional ingredient present the hazards of blood disorders, chromosomal abnormalities, and leukemia to the public, such products, except gasoline and solvents or reagents for laboratory use, manufactured or imported after the date which is 59 days after publication of the final rule in the FEDERAL REGISTER are banned hazardous products. Alternatively, such products, except gasoline and solvents or reagents for laboratory use, which are initially introduced into commerce 15 or more days after publication of a final ban are banned hazardous products. In addition, all other consumer products containing benzene as an intentional ingredient, no matter when manufactured or initially introduced into commerce, are banned hazardous products 30 days after the publication of a final ban.

§ 1307.6 Consumer products containing benzene as a contaminant as banned hazardous products.

On the basis that consumer products containing benzene as a contaminant at levels of 0.1 percent or greater by volume present the hazards of blood disorders, chromosomal abnormalities, and leukemia to the public, such products, except gasoline and solvents and reagents for laboratory use, manufactured or imported after the date which is 119 days after the publication of the final rule in the FEDERAL REGISTER, are banned hazardous products.

WRITTEN COMMENTS

Interested persons are invited to submit written comments before the close of business on June 30, 1978. Comments may be accompanied by written data, views, and arguments and should be submitted preferably in five copies, addressed to Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments and other related material may be seen in the Office of the Secretary, Third Floor, 1111 18th Street NW., Washington, D.C., during working hours Monday through Friday.

ORAL PRESENTATIONS

Interested persons will be afforded an opportunity to make an oral presentation of data, views, or arguments in addition to the opportunity to make written comments, or any aspect of the proposed ban on June 14, 1978. The proceedings for the oral presentation will be held at 9:30 a.m. at the Commission's hearing room at 1111 18 Street NW., Washington, D.C. The procedural regulations for oral presentation, 16 CFR Part 1109, promulgated October 14, 1975 (40 FR 49122), shall govern this proceeding.

All persons wishing to make an oral presentation should notify Richard Danca of the Office of the Secretary, 202-634-7700, no later than close of business June 7, 1978, for scheduling purposes. A summary or outline of each oral presentation and an estimate of the length of time it will require should be filed with the Office of the Secretary at least business days prior to the oral presentation.

SECTION 9 FINDINGS

Section 9(c) of the CPSA (15 U.S.C. 2058(c)) requires the Commission, prior to promulgating a consumer product safety rule, to consider and make certain findings for inclusion on that rule. The Commission has discussed information relevant to these findings in the preamble of this document. However, in order to aid the Commission in obtaining the most complete and accurate information before making these findings, the Commission is particularly interested in receiving, either by written comment or through the oral presentation, additional data, views, and arguments as to the following:

1. The degree and nature of the risk of injury the rule is designed to eliminate or reduce;

2. The approximate number of consumer products, or types of classes thereof, subject to the rule;

3. The need of the public for consumer products subject to such rule and the probable effect of such rule upon the utility, cost, or availability of such products to meet that need;

4. Any means of achieving the objective of the rule while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety;

5. The necessity of the rule to eliminate or reduce the unreasonable risk of injury associated with the consumer products subject to the rule;

6. Whether the rule is in the public interest;

7. The feasibility of a consumer product safety standard under the CPSA to protect the public adequately from the unreasonable risk of injury associated with the products which are the subject of this proposed ban;

8. The potential environmental effects of the rule;

9. Available toxicity data regarding acute and chronic effects of all potential substitutes for benzene in products;

10. The appropriateness of the proposed contamination level for benzene in consumer products and the cost of achieving this level or any other suggested level;

11. The proposed effective dates;

12. Any adverse effects that this proposed ban will have on elderly and handicapped persons; and

13. The need and appropriateness of the gasoline and laboratory benzene exemptions.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

APPENDIX

Benzene is a clear, colorless, non-corrosive, flammable liquid with a rather pleasant odor. Benzene has a low boiling point and a high vapor pressure which causes it to evaporate rapidly, giving off vapors nearly three times heavier than air. These properties are responsible for the fact that considerable concentrations of benzene will rapidly appear in the air when benzene is used in open systems.

In the U.S. approximately 11 billion pounds of benzene were produced in 1976 (*1*). About 86 percent of this benzene was used as an intermediate in the production of other organic chemicals. The remainder was used in the manufacture of detergents, pesticides, solvents and paint removers. Benzene is also present in motor fuels and raises the octane levels of gasoline: In United States gasoline, the average benzene content is roughly one percent but ranges from 0.2–4.3 percent (*2*).

In consumer products benzene may be present in such products as rubber cements, paints, varnishes, stain removers and adhesives. Benzene has been recognized as being a toxic substance for over 75 years. It causes both acute and chronic effects. Considerable evidence has been collected that the chronic toxic effects of benzene include leukemia, bone marrow suppression and chromosomal abnormalities. Since benzene is implicated as a carcinogen and that for any carcinogen there is no zero risk level for a given population, exposure to this compound must be limited.

A. TOXIC EFFECTS OF BENZENE

1. *Metabolism.* The major route of entry of benzene into the body is via inhalation. Benzene rapidly reaches equilibrium with the air in the lungs and rapidly diffuses into the blood (*3*). In experiments with rats, the concentration of benzene in blood was shown to parallel the concentration in the inspired air (*4*). Benzene is retained in the body for many hours after exposure is terminated, and elimination through the lungs accounts for only 12 percent of the elimination during the first six hours after exposure.

Exposure to benzene can also be by direct contact, although benzene absorption through non-damaged human skin is not very great (*5–7*). When direct contact occurs, obviously there usually is inhalation of the vapors.

Benzene is highly lipid soluble and accumulates in various body organs in proportion to their fat content. It accumulates particularly in fat, bone marrow and the central nervous system. Elimination of benzene from the body takes place by respiration and by metabolism. Elimination of unchanged benzene from respiration ranges from 12–50 percent of the total amount absorbed, while very small amounts are excreted in the urine (*8*).

Benzene appears to be metabolized mainly by the liver. The first step appears to be a reaction that forms benzene oxide. This intermediate has been suggested as a possible candidate for the bone marrow toxicity of benzene (*9*). The principal metabolites are the phenols, formed by enzymatic hydroxylation. The phenols are then further processed by sulfation or glucuronization to give the conjugated end products catechol, hydroquinone and phenyl-mercapturic acid which are also found in the urine in small amounts as well as phenol (*7*). It has been reported that both catechol and hydroquinone depress bone marrow activity, and therefore are also candidates for the chronic toxic effects of benzene (*8*).

2. *Acute toxicity.* Benzene concentrations of about 20,000 ppm are fatal within minutes, with death occurring from acute circulatory failure or coma. The symptoms of acute toxicity may include convulsions, muscle tremors, salivation, nystagmus and phenomena of very intense asphyxiation due to paralysis of the medullary respiratory center (*9*). Sub-lethal exposures produce nervious excitation, euphoria, headache, nausea and vomiting, weakness and abdominal pains. This will be followed by a period of depression which can lead to cardiovascular collapse and unconsciousness. Exposures of about 250–500 ppm gives signs and symptoms of mild poisoning, such as dizziness, drowsiness, headache and nausea. These usually disappear rapidly after removal from exposure.

Direct skin contact with liquid benzene also may cause redness and blistering. Chronic skin dryness and scaling have also been found.

3. *Chronic toxicity in man.* The major site of benzene's chronic toxicity is on the bone marrow, the blood-forming organ. In this section representative studies from the medical literature will be cited, demonstrating the diversity and seriousness of benzene exposure on hematopoiesis. This is not meant to be an all-inclusive review of this subject, rather an indication of the diseases that have been implicated to occur with chronic benzene exposure.

The emphasis in this section is primarily on studies that have evaluated substantial numbers of occupationally exposed people, particularly where measurement of dose has been attempted.

In most reported cases of benzene hematoxicity, exposure has been in a working situation where benzene was used as a solvent or manufactured as a product. One problem is that exposure usually occurs to a mixture of volatile compounds, rather than to benzene alone. Despite this, the overwhelming evidence points to an association of hematopoietic disease with benzene. The evidence includes the fact that benzene has been the common demoninator in various settings where exposure to other compounds has varied extensively; there are good epidemiological studies showing that outbreaks of hematoxicity followed the introduction of benzene to the workplace and responded to replacement of benzene with other solvents; and that bone marrow toxicity occurs in animals exposed only to benzene.

It is possible that compounds inhaled along with benzene alter the expression of hematotoxicity. Both other aromatic hydrocarbons, as well as chemically unrelated chemicals could conceivably modify benzene metabolism in man.

(a) *Pancytopenia and aplastic anemia.* Pancytopenia refers to a decrease in all of the formed elements of the blood, red blood cells (erythrocytes), white blood cells (leukocytes), and platelets (thrombocytes). In benzene exposures these elements decrease primarily due to a decrease in production. The term aplastic anemia is often used to describe benzene toxicity. However, this term classically denotes a condition in which pancytopenia is accompanied by a marked decrease in the number of hematopoietic precursor cells within the bone marrow (hypoplasia). In benzene toxicity manifested by pancytopenia, the bone marrow studies have varied, with hypoplasia (*11–13*), normal cellularity (*11, 14*), and even hyperplasia (*11, 14*), being found. For the purpose of this discussion, pancytopenia will be discussed as a single entity, regardless of the bone marrow findings (if performed).

Among the earliest investigations of pancytopenia in benzene exposure were those of workers in rotogravure printing plants (*15–17*). In the studies, the workers had been exposed to benzene for a period of 3–5 years. The benzene contents of the ink solvents and thinners were between 10–80 percent. The air concentrations were analyzed and ranged from 11–1,060 ppm with a median level of 132 ppm. The workers complained of fatigue, lethargy, dizziness, headache, shortness of breath and dryness of the mucuous membranes. Hematological studies were performed in 332 exposed male workers and 81 controls. Sixty-five of these people had some degree of hematological toxicity while 23 were severely affected. Six of these people were hospitalized; the remainder continued working and, following discontinuation of benzene use, recovered (*17*). These investigators found anemia, macrocytosis (large red cells) and thrombocytopenia (low platelet count). They rarely observed neutropenia (low granulocytic white cell count), but a decrease in lymphocytes appeared more commonly. They also found in a few cases prolongation of the bleeding or clotting times, an increase in capillary fragility and an increase in serum bilirubin and reticulocytes.

Wilson (*10*) in 1942 reported a study of 1,104 workers in an American rubber factory exposed to a maximum level of 500 ppm benzene, with an average of approximately 100 ppm. Of these, 83 were found to have mild hematological abnormalities and 25 more had severe pancytopenia. Nine of these 25 were hospitalized and 3 died as a result of the pancytopenia.

A study in England of 200 women exposed to benzene in 13 aircraft factories in England was reported in 1944 (*18*). This was in the manufacture of rubber and the women had been exposed in solvents containing 5–20 percent aromatic hydrocarbons including benzene. In this study, neutropenia was the most consistent indicator of benzene toxicity. No significant differences in red cells or lymphocyte counts was found.

In a rubber raincoat factory in Sweden (*19*), 189 people were studied. The benzene

levels were measured and found to be 137-218 ppm. Hematological toxicity was found in 60 people. After 16 months of no further benzene exposure, 46 had recovered, 12 still had significant abnormalities and 2 had died. Prominent in this group was the finding of thrombocytopenia.

In an Australian air force workshop study (*20*) of 87 exposed people there was one case of fatal pancytopenia. The benzene peak concentration ranged between 10-1,400 ppm and in most areas the benzene concentration was well above 100 ppm. The average concentration was 10-35 ppm. The solvents contained up to 53 percent benzene.

In 1961 (*21*) a study was performed in rubber coating plants where petroleum naphtha containing 1.5-9.3 percent benzene was in use. Benzene levels were usually less than 25 ppm but did go as high as 125 ppm. In one plant, 5 of 32 men had anemia; in a second plant, 1 of 9 was anemic and in a third plant, all workers studied were normal.

In the Soviet Union, Doskin (*22*) reported an evaluation of 365 workers exposed to benzene for 1-3 years. The benzene levels ranged between 10-40 ppm. It was reported that 40 percent of the workers had hematological changes during the first year. The most common early sign was thrombocytopenia, followed by anemia. An initial increase in white blood cell count was followed in some cases by leukopenia.

In another study, Kozlova and Volkova (*23*) studied 252 workers exposed to benzene over a 5-year period. Initially the benzene concentrations ranged from 47-310 ppm, but by the end of the 5 years had decreased to 25-47 ppm. The workers were classified into 3 groups according to exposure levels, the lowest being 24-39 ppm. In all 3 groups there was a decrease in all cell counts, with the most severe cases being in the highest exposure group. These investigators found leukopenia (mainly neutropenia) and thrombocytopenia as the most prominent early findings. Red cell changes were noted as a later phenomenon.

Savilakti et al. (*24, 25*) evaluated people exposed to benzene in a shoe factory in Finland. In this group of 147 persons, 107 were found to have abnormal blood counts, the most common being thrombocytopenia. Ten people required hospitalization and one died of severe pancytopenia. In 1964 (9 years after cessation of benzene exposure) 125 of these workers were re-examined. Combined assessment of the cell counts revealed the difference between the exposed and the controls was significant for males, but not for females. There was a greater tendency towards recovery of leukocytes rather than erythrocytes or platelets.

Girard and colleagues in France (*26, 27*) questioned all of their patients with hematological diseases concerning benzene exposure and reported the percentage of individuals with a given hematological disease and known exposure to benzene. Pancytopenia had the highest association. Of all of their patients with the diagnosis of aplastic anemia, 20.8 percent had exposure to benzene or toluene. In contrast, only 4 percent of controls (non-hematological disease) had exposure to these agents.

Aksoy et al. (*28*) in Turkey examined 217 apparently healthy men who had worked for 3 months to 17 years in shoe factories using an adhesive containing benzene. These workers were exposed to 30-210 ppm benzene. In 51 of these people some form of hematological abnormality was found. Anemia was the most common finding, but since it was correctable by iron, it was not ascribed to benzene. However, the volume of the cells (mean corpuscular volume) was high normal to slightly elevated range which is unusual for iron deficiency and is more consistent with what has been seen with benzene (macrocytosis). Leukopenia with or without thrombocytopenia was the most common finding attributed to benzene. Pancytopenia was seen in 6 people.

In 1977 Aksoy et al. (*29*) reported they had previously studied 46 patients with aplastic anemia who had been exposed to benzene. Of these patients 14 had died of aplastic anemia, 5 had developed acute leukemia, 1 had developed myeloid metaplasia, 22 were in complete remission, 2 were still under treatment and 2 were lost to follow up. All of these people had been exposed to adhesives containing 9-88 percent benzene and exposure was generally in small shops with poor ventilation. Where measured, the benzene concentration was 150-650 ppm.

In addition to this data in humans there is strong support from the medical literature, using animal models, that benzene causes pancytopenia. The route of administration to animals has been both by inhalation and injection (usually subcutaneously).

In the inhalation studies, Weiskatten et al. (*30*) produced leukopenia, slight anemia and hemorrhages in rabbits exposed to approximately 240 ppm benzene for 10 hours a day. The effects were observed within 2 weeks of exposure. This study found that "small mononuclear white cells" (probably lymphocytes) were the most depressed.

Svirbely et al. (*31*) studied rats and dogs exposed to 1000 ppm benzene 5 days a week, 7 hours a day for 28 weeks. The rats had intermittent leukopenia and lymphocytopenia, while the dogs had lymphocytopenia throughout the study.

Li et al, (*32*) found varying results in dogs exposed to 600 ppm benzene for 42 hours per week over periods of time dependent on their response to benzene. Some animals (least affected) could be exposed to up to one year, while others became moribund in 5-6 weeks. These investigators monitored leukocytes and platelets and found a decrease in the number of both. Protein deficient diets produced greater reductions, which were exacerbated by high fat diets.

Wolff et al. (*6*) exposed rats, guinea pigs and rabbits to benzene for 7 hours periods for various numbers of days. They stated that they saw leukipenia at levels as low as 80 ppm.

Deichmann et al. (*4*) exposed rats to benzene at various doses for 5 hours per day, 4 days a week. They report leukopenia at a benzene concentration as low as 44 ppm for 2-8 weeks. They did not observe leukopenia at concentrations of 31, 29 or 15 ppm. Female animals were more sensitive than males.

Nau et al. (*33*) found leukopenia in rats with exposure to 1000, 200, and 50 ppm benzene. The reported toxicity occurred more rapidly with the higher doses, but did occur at 50 ppm after long exposures.

Ikeda (*34*) exposed rats to 1000 ppm benzene for 7 hours a day, 5 days a week for 60 days. They noted leukopenia which decreased in the following order: adult males, young males, adult females, young females.

Baje et al. (*35*) noted leukopenia in rats exposed to 400 ppm benzene 7 hours a day for 13 weeks.

Benzene-induced hematological toxicity in animals has also been produced by administering benzene by injection. Santession (*36*) in 1897 was the first person to suggest benzene as a cause of hemorrhagic phenomena by subcutaneous injection of rabbits. Selling (*37*) was able to demonstrate severe leukopenia in rabbits by injection of 1 ml/kg benzene (as a 50% solution in olive oil) per day in 4-9 days. In Selling's study complete aplasia of the bone marrow was first noted.

Gerarde (*38*) performed similar experiments in rats treated daily for 2 weeks with 1 ml/kg of benzene (50 percent solution in olive oil). Leukopenia was noted during this time which was reversible.

Latta and Davies (*39*) gave rats 50 percent benzene in olive oil at 2, 3, and 4 ml/kg daily for up to 60 days. They noted first a temporary stimulation of white cell production. After this the leukocyte count fell with lymphocyte production being more severely impaired. With the high dose they found disappearance of bone marrow myelocytes after 24 days and complete aplasia after 60 days.

Speck et al (*11-13*) gave benzene to rabbits at doses of 0.2 and 0.3 ml/kg per day and produced severe leukopenia within 1-9 weeks. They also noted a decrease in red cells, hemoglobin, reticulocytes and platelets. Pancytopenia was a common finding. The bone marrows from the pancytopenic animals were interpreted as very hypoplastic (21 percent), hypoplastic (32 percent), normal (26 percent) and hypercellular (21 percent).

Lee et al. (*40*) treated mice with benzene in corn oil at 400 mg/kg and 2200 mg/kg as single doses and demonstrated that benzene depresses the incorporation of radioactive iron into circulating red cells. Their results are compatible with an effect of benzene at the early bone marrow precursors of red cells.

Summary of Benzene-Associated Pancytopenia

Benzene exposure has been clearly demonstrated to produce hematotoxicity in man. The most commonly reported effect is a decrease in one or more of the formed elements of the blood. In more severe cases this will take the form of pancytopenia, including in some cases an aplastic bone marrow. The evidence that benzene is causally related to pancytopenia includes studies showing that outbreaks of pancytopenia throughout the world have followed the introduction of benzene to the workplace and that these outbreaks will stop when benzene is substituted for by other solvents.

As confirmatory evidence, it is possible to induce similar hematological effects in animals treated with benzene. At the present time it is not possible to establish a definitive, safe dose or time exposure, nor is it possible to state what (if any) age, sex, social or ethnic groups are more or less susceptible to benzene toxicity.

(*b*) *Leukemia:* Leukemia is a term for a group of diseases with an abnormal proliferation of white blood cells or their precursors in the peripheral blood and bone marrow, often with the appearance of abnormal immature white cell precursors in the blood. Leukemia is considered to be a malignant neoplasm. Evidence in man industrially exposed to benzene has strongly implied that benzene is directly related to the development of acute myeloblastic leukemia and its variants such as erythroleukemia and acute myelomonocytic leukemia. There have been numerous case reports in the medical literature suggesting that there is this association. However, in this report

the more recent larger epidemiological studies will be reviewed.

In the past 10 years, Aksoy and his coworkers in Turkey have performed careful studies strongly suggesting that benzene exposure leads to acute leukemia (*29, 41–44*). Their evidence includes reports of workers with aplastic anemia which progressed through a "pre-leukemic" phase to a typical acute myeloblastic leukemia or erythroleukemia. The outbreak of leukemia occurred in shoemakers when benzene use in an adhesive was introduced. Leukemia cases subsided after benzene use was discontinued.

Aksoy et al. (*27, 41, 42*) observed 26 petients with acute leukemia in this group of shoemakers. The benzene concentration in air reached a maximum of 210–650 ppm when the benzene-containing adhesives were in use. The cases included 14 cases of acute myeloblastic leukemia, 3 of acute lymphoblastic leukemia, and 1 each of acute monocytic and promyelocytic leukemia. These investigators had evaluated 28,500 shoe workers in Istanbul and calculated a leukemia risk of 13 per 100,000 in this group (*29*). This is compared to an incidence of leukemia in Turkey of 2.5–3.0 per 100,000. In order to be extremely careful in these studies, Askoy et al compared their results to the incidence of leukemia in developed nations (6 per 100,000). The incidence of leukemia in shoeworkers in Turkey was statistically higher ($p < 0.02$) than this number. These studies, therefore, if anything, underestimate the risk of leukemia on benzene exposure. Furthermore, these investigators did not age-adjust their findings, which also underestimates the risk of leukemia.

Recently, Aksoy (*29*) summarized his experiences with this group of patients. He reported that between 1967–1971 there was a notable incidence of pancytopenia followed by a peak incidence of leukemia between 1971–1973. Since 1969 there was a gradual decline in the use of benzene in this occupation, and there was a decline in leukemia after 1973, with no cases in 1976. Aksoy also reported that he was able to identify pancytopenia in 27.5 percent of the cases 6 months to 6 years before the onset of acute leukemia. The pancytopenia appeared to be recovering before the onset of acute leukemia. Aksoy (*29*) has stated that he is of the opinion that pancytopenia is not a necessary precursor to acute leukemia.

Another series of studies have been reported by Vigliani and his colleagues in Northern Italy. In recent reviews Vigliani (*46*) and Vigliani and Forni (*47*) summarized their experiences from 1942–1975. In Pavia they reported 135 patients with benzene hematotoxicity of which 13 died of acute myeloblastic leukemia (or its variants) and 3 of aplastic anemia. In Pavia the patients were workers in the shoe industry and were exposed to adhesives containing benzene. Benzene concentrations ranged from 25–600 ppm, but usually were 200–500 ppm. In Milan they saw 66 cases of benzene hematotoxicity, of which 11 were cases of acute myeloblastic leukemia (or its variants). In addition to these 11 fatal cases of leukemia, 7 additional patients died of aplastic anemia. In Milan many of the patients were also in the shoe industry, but other occupational groups were also affected. They reported an outbreak of benzene hematotoxicity in the rotogravure industry which occurred after inks and solvents containing benzene were introduced to the workplace. Benzene concentrations in the air were 200–1500 ppm. Vigliani has reported that he knows of at least 150 cases of benzene-induced leukemia in Italy (*46*), and has also reported a 20-fold higher risk of acute leukemia in workers exposed to benzene (*48*).

In France, Girard and his colleagues (*49, 50*) have evaluated the frequency of a benzene exposure in 401 patients hospitalized with hematological diseases as compared to a control group of 124 patients hospitalized for nonhematological diseases. They found a statistically significant increase in benzene exposure in patients with aplastic anemia, acute leukemia, and chronic lymphocytic leukemia as compared to the control.

Recently in the USA, Infante et al. (*51*) have performed an epidemiological evaluation of benzene-exposed workers in two "Pliofilm" factories. These investigators report a five-fold increased risk of total leukemia and a 10-fold risk of acute myeloblastic leukemia (or its variant, myelomonocytic leukemia) in these workers. Since they were unable to determine the status of 25 percent of the workers and assumed that they were still living, if anything, this study would underestimate the risk of leukemia.

In contrast to the pancytopenic effects of benzene where there are abundant animal models, there has only been one study reported in 1932 (*52*) claiming that animals receiving benzene developed leukemia. The absence of controls and the uncertainty as to the strain of mice in this study makes it impossible to evaluate this study. While at least one study is presently being carried out in animals, it is too premature to draw conclusions from it (*53*).

Summary of Benzene-Associated Leukemia

Benzene exposure has been associated with an increased risk of development of acute myeloblastic leukemia and its variants. Most of this evidence has been collected from epidemiological studies of workers exposed to benzene, showing an increased number of cases of leukemia in these groups. Substitution of other solvents for benzene results in a decreased number of cases. There are no animal model systems at the present time. It is not yet possible to establish a safe dose or time exposure, nor is it possible to identify any group of people more susceptible to a leukemogenic effect of benzene. It is not known whether pancytopenia must precede leukemia.

(c) *Other abnormalities possibly associated with benzene exposure:* While pancytopenia and acute myeloblastic leukemia are the diseases most commonly considered with benzene exposure, there are other abnormalities which have been reported to occur.

Abnormalities in leukocyte function have been reported by a number of investigators. These changes could be important, as these cells are necessary to fight infection. Among the granulocyte abnormalities are a decrease in phagocytic function (*54*), a decrease in leukocyte alkaline phosphatase activity (*55, 56*), an alteration in osmotic fragility (*57*), a change in fluorescent characteristics of the nuclei (*58*) and the presence of the Pelger-Huet anomaly of the nuclei (*28, 59–62*). The Pelger-Huet anomaly, when it is acquired, has been associated with leukemias.

Lymphocytopenia has been reported to be a common finding in benzene toxicity (*28*) and Goldwater suggested that this is even more common than granulocytopenia (*16*). Other investigators have failed to observe this, and there are some reports of lymphocytosis (*62, 63*) in man. In animals, several groups have shown that benzene decreases lymphocytes and lymphoid tissues (*64, 66*). Snyder et al. (*65*) have recently shown that lymphocytopenia is a very early manifestation of toxicity in rats and mice exposed to 100–300 ppm benzene in the air. Further studies have suggested that there is an altered immune function in benzene-exposed people. Included in these have been findings of leukocyte agglutinins (*66*), decreased serum immunoglobinulins (*67, 68*) and complement levels (*69*) and antibodies against red cells, platelets, and leukocytes (*70*).

The "immune system" of the body includes lymphocytes, lymphoid tissue, immunoglobulins, and complement. This system is involved in protecting people from substances "foreign" to the body, such as infectious agents. It may also be involved in protection against development of malignancies. The noted effects of benzene on the immune system then raise the question of whether the association with leukemia might arise from an altered immune surveillance. Another possibility is that benzene somehow alters the bone marrow so that it is recognized as "foreign" and is attacked by the so-called "suppressor lymphocytes" which have recently been postulated to be involved in aplastic anemia in people (*71, 72*).

Still other leukocyte findings have been reported which include an increased number of another type of white cell, the ecosinophil (*24, 25*), as well as the monocyte, (*73*) with abnormal-appearing monocytes present.

Abnormal platelet function has also been reported in people exposed to benzene independent of a decrease in the number of platelets (*74–83*). Morphdogical abnormalities in peripheral blood platelets, as well as the bone marrow precursor, the megakaryocyte (*28, 80, 81, 82, 83*) have been reported. This also suggests that the coagulation factors are abnormal (*75, 79*).

Macrocytosis (large volume of the red cells) is the most frequently reported abnormality of the red cell associated with benzene toxicity (*16, 19, 28, 85–88*). Large red cell precursors (in the bone marrow, macroerythroblasts) have also been reported (*89, 90*). It has been suggested that macrocytosis is of prognostic importance and might be a warning signal of benzene hematotoxicity (*91, 92*).

Significant destruction of red cells (hemolysis) has also been reported in some people exposed to benzene (*84, 93–97*). There have also been a few cases of paroxysmal nocturnal hemoglobinuria (*98*), a rare hemolytic disorder due to an acquired defect of the red cell membrane. Of note is that this rare disorder has been associated with the development of both aplastic anemia and acute myeloblastic leukemia.

In recent years studies have been performed both in people exposed to benzene (*99, 100*) and in an in vitro rabbit reticulocyte system (*101–105*) showing that benzene affects heme synthesis by inhibiting the enzymatic system necessary to synthesize this compound. Heme is a porphyrin which is a portion of the hemoglobin molecule, but is also a part of many other proteins. It is found in all cells, but it is in greatest amounts in red cells and then liver cells. Recent work has shown that heme is necessary for maximal protein synthesis in most if not all cells (*106*). When heme synthesis in red cell precursors is decreased due to a deficiency of iron (iron deficiency anemia and the anemia of chronic disease) less protein (including hemoglobin) and less red

cells, will be produced. When the enzymes necessary to synthesize heme are inhibited protein snythesis and red cell production are also inhibited, but iron accumulates in the mitochondria of these cells. The accumulation of iron in the mitochondria gives a characteristic morphological picture and is termed a "sideroblastic anemia" (*107*). Of note is that "sideroblastic anemia" is a common presentation of a "preleukemia". It has been postulated (*108-109*) that a deficiency of heme in bone marrow pluripotential stem cells (precursors of all the marrow elements) could conceivably result in an inability to make protein and thus an inability to mature, divide, and make any of the formed cells of the blood.

While the association of benzene exposure and acute myeloblastic leukemia appears definite, the association with other types of leukemia and malignancies is still unclear. In France it has been noted that there is a relatively high incidence of chronic lymphocytic leukemia, often greater than that of acute myeloblastic leukemia in people exposed to benzene (*49, 50, 110*). Furthermore, three cases of chronic lymphocytic leukemia have been reported from the Soviet Union (*110*). In contrast, Aksoy in Turkey, Vigliani in Italy, and Infante in the United States have not reported this association. The reason for this difference is not yet clear.

There is also inconclusive evidence suggesting that benzene might be associated with other diseases, including acute lymphoblastic leukemia, lymphomas (*110-118*), chronic myelogenous leukemia, and myelofibrosis and myeloid metaplasia (*98, 119-121*).

Evidence has been presented that benzene causes chromosomal aberrations. Since most (if not all) carcinogens are mutagens, the observation that benzene causes chromosomal damage in man suggests that it is also a mutagen. Even though there is a rapid, convenient, accurate in vitro system ("The Ames Test") for mutagen testing (*122*), apparently benzene is too toxic for use in this test system (*123*). In any event the assessment of damage to mammalian chromosomes is probably much more directly relevant to estimation of human health hazards from a mutagen, than any in vitro test system.

Chromosomal damage can lead to cell death if it interferes with cell division (mitotic poison). If it does not interfere with cell division, the lesion is replicated and a mutation may result. Not all mutations will lead to malignant changes, but there is an increased likelihood of a malignancy when mutational events occur.

The mitotic poison effect of benzene has been well demonstrated. There is a decrease in DNA synthesis in in vitro cultures of human (*124, 125*) and animal cells after in vivo exposure to benzene (*11-13, 38, 126, 127*). A defect in RNA synthesis has also been reported (*11*) in the basophilic normoblast, but not in earlier red cell precursors. In these studies (*11*) it was implied that marrow from benzene-treated mice, injected into other mice (lethally irradiated), could still form colonies of bone marrow cells in the spleens. This is evidence that the pluripotential stem cells are not affected by benzene. These studies in animals used very high doses of benzene (0.2-0.3 ml/kg/day at least 3 times per week for 6-12 weeks). The studies were performed only after the animals had become pancytopenic. Of note is that toluene and xylene have not been toxic in these animal systems. Indeed, a recent report by Andrews et al. (*128*) has shown that toulene can protect against benzene-induced decreased incorporation of ^{59}Fe into red cells.

There have been several studies attempting to locate a nuclear lesion within cells of humans exposed to benzene. In healthy workers with a history of exposure to benzene, Tough and Court-Brown (*129-130*) have noted unstable chromosome damage such as breaks and gaps in cultured lymphocytes. Chromosomal abnormalities in people exposed to benzene without any clinical abnormalities have also have been noted in other studies (*55, 131, 132*). These changes were not noted in workers exposed to toluene (*133*).

In addition there have been numerous reports of chromosomal abnormalities in patients with hematological disease and a history of benzene exposure (*44, 133-136*). However, it is impossible to state whether or not these abnormalities are indeed due to benzene or a result of the underlying disease.

Summary. Benzene exposure has been implicated as causing abnormalities in the function of leukocytes, platelets, red cells, and the immune system. In addition, abnormalities in prophyrin and heme synthesis have been reported. It is possible, but not yet proven, that there is an increased risk of developing chronic leukemias and lymphomas. The abnormalities in chromosomes seen with benzene exposure are consistent with a mutagenic potential of this agent. However, these changes could result from the proven ability of benzene to act as a mitotic poison.

B. Conclusions

(1) Chronic benzene exposure has been shown to be associated with an increased risk of developing hematological disorders including pancytopenia, acute myeloblastic leukemia (and its variants, erythroleukemia and myelomonocytic leukemia), and chromosomal abnormalities. There is also evidence that benzene exposure causes abnormalities in poryphrin and heme synthesis and is associated with qualitative abnormalities in leukocytes, platelets, red cells, and the immune system. It is possible that there is also an increased risk of developing other leukemias, lymphomas, and hematological disorders.

(2) Neither the dose of benzene nor the time of exposure required to develop these complications is known. Neither is it known if benzene or a metabolite of benzene is the toxic agent. No particular groups have been definitively shown to be more susceptible to benzene.

(3) In consumer products there is no possible control as to the method of use, extent of exposure or length of exposure. An experiment to determine the amount of benzene exposure from a consumer product was recently performed by NIOSH (137). They used a paint remover purchased over the counter which was found by gas chromatography to contain 52 percent benzene by volume. To simulate a typical exposure, an end table was stripped in a home garage. Five samples of air were collected and found to contain 73-225 ppm benzene, with a mean of 130 ppm. These results were similar to that reported previously by Otterson measuring air concentrations of benzene in commercial furniture stripping factories. Therefore, the presence of benzene in consumer products constitutes a health hazard.

(4) There is no evidence at present that toluene or xylene which have been used as substitutes for benzene have the same chronic effects as benzene.

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[FR Doc. 78-13663 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1500]

PRODUCTS REQUIRING SPECIAL LABELING UNDER SECTION 3(b) OF THE FHSA; BENZENE

Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes to amend a regulation under the Federal Hazardous Substances Act (FHSA) which mandates special cautionary labeling for products containing 5 percent or more by weight of benzene. The proposed amendment provides that the FHSA regulation will not be applicable to consumer products, except gasoline, which are subject to a new regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline and solvents and reagents for laboratory use. Elsewhere in this issue of the FEDERAL REGISTER the Commission proposes the new CPSA banning regulation.

DATES: Comments concerning this proposal must be received by June 30, 1978. It is expected that this amendment will become effective when any final CPSA ban concerning benzene is effective.

ADDRESS: Comments should be sent to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: In this issue of the FEDERAL REGISTER the Commission has proposed a rule (16 CFR Part 1307) under section 8 of the Consumer Product Safety Act (CPSA), declaring all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at levels of 0.1 percent or greater to be banned hazardous products.

The Commission notes that there is currently in existence a labeling regulation under the Federal Hazardous Substances Act (FHSA) applicable to benzene which is intended to address, among other things, the risk of blood dyscrasias which may result from benzene inhalation. This regulation, at 16 CFR 1500.14 (a)(3) and (b)(3), requires that products containing 5 percent or more by weight of benzene must be specially labeled with the signal word "danger", the word "poison", the skull and crossbones symbol, and the statement of the hazard "vapor harmful." Products containing 10 percent or more by weight of benzene must bear the additional statement of hazard "harmful or fatal if swallowed" as well as the statement "If swallowed, do not induce vomiting. Call physician immediately."

The Commission now proposes to amend the FHSA regulation to indicate that it will not be applicable to products covered by the FHSA regulation that are also banned hazardous products under any final CPSA rule. Since proposed Part 1307 is applicable only to consumer products and specifically exempts gasoline, the FHSA labeling requirements are proposed to be retained for benzene-containing gasoline and for other hazardous substances containing benzene which are not consumer products—for example, certain automotive products which are excluded from Commission jurisdiction under the CPSA, but not under the FHSA, to the extent they are distributed for use in or around a household. In addition, the Commission concludes that any consumer products containing benzene that might not be covered by any final ban because of the date they are manufactured, imported or introduced into commerce, should continue to be subject to the FHSA labeling requirements.

Since the purpose of this proposed amendment is to eliminate the possibility of confusion concerning labeling products that are banned, it is proposed that the amendment be conditional upon Part 1307 being issued in final form and its continuing in full force and effect. If, at any time, any requirement of Part 1307 relating to products within the scope of § 1500.14 (a)(3) and (b)(3) is stayed, revoked, or set aside by judicial or other action, the amendment restricting the application of the FHSA labeling requirement is to be withdrawn, and a FEDERAL REGISTER notice will be issued reinstating full applicability of the FHSA regulation. It is proposed that this amendment will become effective at the same time any final CPSA ban concerning benzene is effective.

AMENDMENT

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(f)(1)(A), 3(b), 74 Stat. 372, 374, as amended 80 Stat. 1303-1304, 15 U.S.C. 1261(f)(1)(A), 1262(b); sec. 10(a), 74 Stat. 378, 15 U.S.C. 1269); and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR 1500.14(b)(3) by adding a new subparagraph (iv) as follows:

§ 1500.14 Products requiring special labeling under section 3(b) of the act.

(a) * * *
(b) * * *
(1) * * *
(2) * * *
(3) *Benzene, toluene, xylene, petroleum distillates.*
(i) * * *
(ii) * * *
(iii) * * *

(iv) Since the Commission has issued a regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline, covered by this labeling regulation (see 16 CFR Part 1307), subparagraph (i) of this subsection is inapplicable to consumer products containing benzene as an intentional ingredient, except gasoline, which are covered by Part 1307.

Subparagraph (i) continues to apply gasoline and other hazardous substances containing benzene, intended or packaged in a form suitable for use in the household, which are not "consumer products" as that term is defined in the CPSA.

This amendment is conditional upon Part 1307 continuing in full force and effect.

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13664 Filed 5-18-78; 8:45 am]

[6355-01]

[16 CFR Part 1700]

SUBSTANCES REQUIRING SPECIAL PACKAGING; BENZENE

Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendment to rule.

SUMMARY: The Commission proposes to amend a regulation under the Poison Prevention Packaging Act of 1970 (PPPA), which requires child-resistant packaging for certain benzene-containing solvents for paint or other similar surface coating materials. The proposed amendment provides that the PPPA regulation will not be applicable to consumer products covered by the PPPA regulation which are subject to a new regulation under the Consumer Product Safety Act (CPSA) banning benzene-containing consumer products, except gasoline and solvents and reagents for laboratory use. Elsewhere in this issue of the FEDERAL REGISTER the Commission proposes the new CPSA regulation.

DATES: Comments concerning this proposal must be received by June 30, 1978. It is expected that this amendment will become effective when any final CPSA rule concerning benzene is effective.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Francine Shacter, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: In this issue of the FEDERAL REGISTER the Commission has proposed a rule (16 CFR Part 1307) under section 8 of the Consumer Product Safety Act (CPSA), declaring all consumer products, except gasoline and solvents or reagents for laboratory use, containing benzene as an intentional ingredient or as a contaminant at levels of 0.1 percent or greater to be banned hazardous products.

There is currently in existence a regulation under the Poison Prevention Packaging Act of 1970 (PPPA) at 16 CFR §1700.14(a)(15) requiring child-resistant packaging for prepackaged liquid solvents (such as removers, thinners, brush cleaners, etc.) for paints or other similar surface-coating materials (such as varnishes and lacquers) that contain 10 percent or more by weight of benzene, toluene, xylene, petroleum distillates, or combinations thereof, and that have a viscosity of less than 100 Saybolt Universal Seconds at 100° F.

It is apparent that many of the products covered by §1700.14(a)(15) will become banned hazardous products when proposed Part 1307, applicable to benzene-containing consumer products, except gasoline and laboratory benzene, is issued in its final form. Therefore, to eliminate any possible confusion which may arise from retaining a PPPA special packaging regulation for certain products which are now proposed to be banned hazardous products under the CPSA, the Commission proposes to amend §1700.14(a)(15) to indicate that it will not be applicable to products covered by the PPPA regulation that are also banned hazardous products under any final CPSA rule.

Since the purpose of this proposed amendment is to eliminate the possibility of confusion concerning requiring special packaging for products that are banned, the amendment is conditional upon Part 1307 being issued in final form and continuing in full force and effect. If, at any time, any requirement of Part 1307 relating to products within the scope of §1700.14(a)(15) is stayed, revoked, or set aside by judicial or other action, the amendment restricting the application of the PPPA special packaging requirement is to be withdrawn, and a FEDERAL REGISTER notice will be issued reinstating full applicability of the PPPA regulation. The Commission proposes that this amendment will become effective when any final ban under the CPSA concerning benzene becomes effective.

AMENDMENT

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 9-601; Secs. 2(4), 3, 5, 84 Stat. 1670-72, 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231, 15 U.S.C. 2079(a)), the Commission proposes to amend 16 CFR §1700.14(a)(15) by adding the following language at the end of paragraph 15:

§1700.14 Substances requiring special packaging.

(a) Substances.

* * * * *

(15) * * * Since the Commission has issued a regulation under the Consumer Product Safety Act (CPSA) banning consumer products containing benzene as an intentional ingredient (see 16 CFR 1307), this paragraph is inapplicable to those benzene-containing consumer products which are covered by Part 1307. (This amendment is conditional upon Part 1307 continuing in full force and effect.)

Dated: May 15, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-13655 Filed 5-18-78; 8:45 am]

federal register

FRIDAY, MAY 19, 1978
PART V



DEPARTMENT OF LABOR

Office of the Secretary

■

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Final Rules

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Summer Program for Economically Disadvantaged Youth

AGENCY: Department of Labor.

ACTION: Final rules.

SUMMARY: The purpose of this document is to publish final regulations for the summer program for economically disadvantaged youth in order to give summer sponsors guidance for this year's program.

EFFECTIVE DATE: June 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-2646.

SUPPLEMENTARY INFORMATION: Section 304(a)(3) of the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as CETA), states that the Secretary of Labor may provide financial assistance under CETA for programs designed to aid economically disadvantaged youth. Section 702(a) of CETA states that the Secretary may prescribe such rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor, Employment and Training Administration is revising the regulations accompanying Title III, section 304(a)(3) of the Comprehensive Employment and Training Act of 1973 as amended, in order to provide for the implementation of the 1978 summer program.

On April 5 and 7, 1978, the Department of labor published in the FEDERAL REGISTER proposed regulations to implement a Comprehensive Employment and Training Act program for economically disadvantaged youth during the summer months. A thirty day comment period was provided for public reaction to the proposed regulations. The comment period ended on May 5, 1978. Over eighty responses were received during the 30 day comment period. These responses were received from members of Congress, Governors, mayors and county executives, national organizations representing community interests, labor organizations, youth organizations, school administrators, business and employer organizations, as well as numerous prime sponsors. Each comment was carefully studied with respect to the merits of the suggestions on their own and in relation to other comments received on the same or similar subjects.

AN OVERVIEW AND GENERAL INSTRUCTIONS FOR THE 1978 SUMMER PROGRAM

The changes made in these final regulations reflect continued efforts to improve the quality of the summer program so that youth will engage in meaningful work tasks and training programs which will develop their skill levels and enhance their future employability. Major program emphases will be placed on (1) early planning and integration of the summer program and the overall youth employability development strategy of the prime sponsor; (2) monitoring and assessment to learn more about the program and to improve performance; and (3) expanding vocational exploration programs and improving the relationship between education and work through the award of academic credit for competencies gained on the job.

The purposes and short term goals of this program are manifold. Inclusive among these, depending upon local needs of youth, are the provision of: (1) Structured well supervised work to improve work habits; (2) opportunities for vocational exploration; (3) job rotation to provide youth with exposure to different work settings which can assist them in making career decisions; (4) vocational counseling and occupational information; (5) summer income to participants who without assistance would be unable to return to school; (6) assistance for youth with special employability needs; (7) services which will induce and aid dropouts in returning to school; and (8) avenues for securing part-time in-school employment as well as full-time unsubsidized employment where return to school is not expected.

A short explanatory statement is provided to describe the substantive amendments for the final 1978 Summer Program regulations. In addition, typographical corrections have been made. A description of the amendments follows:

SUMMARY OF CHANGES FROM PROPOSED REGULATIONS

SECTION 97.7 PROGRAM PLANNING; PLANNING AND YOUTH COUNCILS

Several comments were received requesting that the provisions of this section be clarified. In the proposed regulations of April 5, 1978, paragraph (b) contained several items that suggested that operational activities such as counseling and job orientation might be undertaken during the planning and design phase of the program year. This is not so. Only activities chargeable to administrative costs may be undertaken prior to the closing of the school year. In response to these comments paragraph (b) has been revised to clarify that only planning and design activities are allowable between the period of January 1 and the close of school each year.

SECTION 97.9 COMMENT AND PUBLICATION PROCEDURES

Various comments were received from several prime sponsors who objected to the provisions which forbade the RA from approving grant applications until after the 30 day comment period. A new sentence has been added to provide that the RA may conditionally approve a grant application within the 30 day comment period provided the prime sponsor subsequently acknowledges any written comments, and, if warranted by these comments, modifies the grant. This change is being made to enable the program to commence operation in the most expeditious manner and to allow youth to be enrolled in the program soon after the closing of school.

SECTION 97.13 BASIC REPORTS FOR PROGRAM OPERATION

The proposed rules indicated in paragraph (c) that services should be provided on an equitable basis to significant demographic segments among economically disadvantaged youth, taking into consideration the Secretary's priorities and the geographic distribution of eligible youth. Numerous comments questioned the meaning of "equitable". There were concerns that it had one meaning when applied to services that would be provided to each significant segment, and another when referring to the distribution of services to youth in different geographic locations. Some comments indicated that the lack of clarity in the proposed regulations might lead to minority youth being served to a lesser degree despite the intensity of their problems.

In response to these comments, the paragraph has been changed to indicate that services must be provided on an equitable basis considering the geographic distribution of eligible youth, and that in serving eligible youth, those most in need, as determined by local conditions and the Secretary's priorities, should be served.

SECTION 97.14 PARTICIPANT ELIGIBILITY

The proposed rules in (a)(1) requires that eligible youth be economically disadvantaged, defined as having a

family income level of 70 percent or less of the Bureau of Labor Statistics lower living standard. Some of the comments requested a revision of the family income criteria to 85 percent of the lower living standard which is the criteria for the Youth Employment and Training Programs under CETA. The arguments for this change were that there were many youth with serious needs living in families with income between 70 and 85 percent of the lower living standard, and that a consistent criteria between the new youth programs and the summer program would permit greater integration. The change was not made because of the intent to serve youth most in need first and the evidence that resources are not adequate to reach all youths below the 70 percent standard. The 70 percent standard is consistent with the definition of the CETA Title I and III programs, and, in fact, the Youth Employment and Training Programs are to give priority to economically disadvantaged youth as defined by the 70 percent standard.

Section (a)(3) in the proposed rules stated that current participants in other CETA programs who at the time of their enrollment into those other programs met the criteria for the summer program would be eligible for the summer program. Comments indicated that youth who met the age criteria at entry into another CETA program might no longer meet the age criteria for the summer program. The section was changed to allow enrollment of current participants in other CETA programs in the summer program without recertification of the youth's family income, but requires that age criteria for the summer program be met at the commencement of participation.

Section 3(b) in the proposed regulations required that participants be citizens of the United States, natives of the territories or permanent resident aliens or other aliens who have been permitted to accept permanent employment in the United States. One comment noted a lack of specification about the treatment of refugees and suggested more straightforward language to clarify the alien population which could be served. Accordingly, the final regulations adopt the language in § 99.42(c)(3) of the Title VI regulations, which provides clear language on this subject and includes a provision for eligibility of refugees and parolees.

SECTION 97.15 TYPES OF EMPLOYMENT AND TRAINING PROGRAMS AVAILABLE

Title II of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) established the Youth Incentive Entitlement Pilot Projects (YIEPP). Regulations governing the administration and operation of these projects were published in the FEDERAL REGISTER on December 9, 1977 as 29 CFR Part 97, Subpart F. Section 97.522 of these regulations authorizes that funds provided under the summer program may be integrated with YIEPP funds. Therefore a new paragraph (b) has been added to § 97.15 to indicate that prime sponsors operating YIEPP grants may use summer funds for their entitlement project. This paragraph was inadvertently omitted in the publication of the proposed regulations.

SECTION 97.16 VOCATIONAL EXPLORATION PROGRAM

The proposed regulations, at § 97.16(a)(1)(i)(A), proposed to require that allowances rather than wages were to be paid to youths in vocational exploration programs. Allowances were to be paid in accordance with 29 CFR 95.34 which is based on Section 111(a) of the Act. 29 CFR 95.34 provides that youths from families not receiving welfare benefits receive basic allowances equal to the highest of the rate of the Federal minimum wage at sec. 6(a)(1) of the Fair Labor Standards Act, as amended, or the minimum hourly wage prescribed by State or local law for employment in the prime sponsor's area multiplied by the number of hours of participation in the CETA program, computing the basic allowance in this matter results in an allowance that is over $100 for a 40 hour week. 29 CFR 95.34 also provides that youths from families receiving welfare get incentive allowances of $30 per week which are disregarded in computing their families' income eligibility for welfare benefits.

Several commenters opposed the regulations. Most of those in opposition thought that the allowance scheme was very inequitable to youth whose families receive welfare. One labor federation opposed the regulation for the same reason and also because it seemed to legitimize a subminimum "wage" for youth thus encouraging employers to "hire" a youth instead of, for example, an unemployed older worker with several dependents. Some commenters suggested that the Department use an allowance scheme for the summer program different from that in the Title I regulation at 29 CFR 95.34.

The Department, through its regulations, has consistently held that the allowance provisions in Sec. 111(a) of the Act apply to all titles of the Act unless otherwise specifically provided in the Act. Without this interpretation, the $30 disregard provision would apply only to families on welfare whose members are in Title I programs. Therefore, the Department has decided not to set up a separate allowance system for the summer program.

Also, the Department's regulations do not permit individual participants to receive both the basic and incentive allowances, simultaneously. It should be noted that should a youth from a family receiving welfare receive both allowances the basic allowance would be counted as income for welfare eligibility purposes, thus perhaps even lessening the family's overall income.

Recognizing that payment of the incentive allowance alone might discourage welfare youth from participating in a vocational exploration program, even though such youths would be likely to have the greatest need for such services, § 97.16(a)(1)(i)(A)(2) provides for the payment of a stipend in addition to the incentive allowance to cover the exceptional expenses incurred by these participants which might otherwise prevent them from participating in VEP activity. The stipend plus the incentive allowance may not exceed the basic allowance.

The VEP program is a job learning activity and program operators may not place youth in productive activities. Since the program does not involve work, compensation may not be paid in the form of wages. The allowance, therefore, is not meant to be a wage, and program operators and prime sponsors are expected to carefully monitor their programs to make sure that this regulation is adhered to.

SECTION 97.17 STARTUP OF PROGRAM

The Department received a few comments which expressed concern that the proposed provisions of § 97.17 prohibit the hiring of economically disadvantaged college youth to work as program staff. The proposed § 97.17 does not prohibit the hiring of youth as staff but prohibits prime sponsors from starting program activities and enrolling youth into program activities prior to the close of school. This prohibition is not meant to restrict the prime sponsor from taking the steps necessary to assure that the program may begin operation as soon after the close of school as is possible. Economically disadvantaged college students may be hired as staff before the program starts operations; however their salaries must be charged to administrative costs.

Paragraph (b) of this section has been revised in response to some comments which asked that these provisions be revised to clearly state which startup activities are permissible during the planning phase of the program. These revisions have been made to state more clearly that only planning and program design activities may be performed prior to the close of the school year but not program operations such as enrolling partcipants in program activities.

SECTION 97.19 PARTICIPANT BENEFITS

The proposed regulations required that participants in classroom training

receive workers' compensation as provided in § 98.24(a) of the CETA regulations. The Department received some comments suggesting that coverage under either workers' compensation or health and accident insurance be permitted since it is not always possible or expedient to obtain workers' compensation coverage for such individuals. Accordingly, the language of § 97.19(a) has been revised to clarify that benefits will be provided in accordance with § 98.24(a)(2) which mandates medical and accident insurance coverage for classroom training participants where those similarly engaged are not covered by workers' compensation. Since classroom training does not involve employment, it is generally not covered by workers' compensation laws.

In paragraph (c), concerning work experience participants, language has been added to indicate that unemployment insurance shall be an allowable cost only if required by State law. This provision reflects a determination that excessive expenditures of program funds for unemployment insurance would be inconsistent with the purpose and priorities of the summer program, i.e., the provision of short-term employment and training opportunities to disadvantaged youth.

A new paragraph (e) has been added to indicate that participants in vocational exploration programs shall receive allowances as described in § 97.16, discussed above, and benefits as provided in § 98.24(a)(2). The rationale for providing health and accident insurance coverage, rather than worker's compensation, to classroom training participants also applies to vocational exploration programs, which involve learning experiences rather than productive work.

SECTION 97.23 REPORTING REQUIREMENTS

Paragraph (e) has been relettered (f) and a new paragraph (e) has been added to require prime sponsors to submit information on participants and expenditures in entitlement projects under Title III, Part C, Subpart 1 of the Act which are funded with summer program funds. This provision, as well as § 97.15(b), are authorized by the entitlement provisions, which were enacted into law on August 5, 1978.

SECTION 97.25 ADMINISTRATIVE PROVISIONS

This section of the proposed regulations received the largest number of responses of any provisions of the April 5, 1978 publication. Approximately 130 specific protests against various provisions of this administrative section were received. Letters and telegrams were received focusing upon these provisions protesting the additional paperwork burdens required by this section. A commenter wrote, "I heartily protest the adoption of these reporting requirements as written and urge that you make substantial revisions in § 97.25, Administrative Provisions, * * *." Many prime sponsors protested that to implement these provisions would be "very costly" and that the "entire section is unwarranted in extent of its prescription." Others stated that the administrative provisions "are in direct conflict with President Carter's and Secretary Marshall's commitment to reducing paperwork."

Only one commenter felt that the provisions should be more prescriptive and suggested additional requirements that should be included in this section.

Considering the concerns expressed by the many responses received recommending revisions to these provisions, the Department has decided to make a number of revisions.

On making such revisions, however, the Department wishes to assure that any abuses which may have occurred previously in the summer program be prevented. Therefore rather than eliminating the provisions of this section, the language of paragraph (b) (3), (4), (5), (6) and 7 has been changed to require assurances of program operators that the abuses addressed in each proposed provision will not occur or have been corrected, rather than prescribing procedures such as the submission of listings or corrective action plans.

In paragraph (b) (3) which previously required that program operators state that all worksites have been evaluated in terms of the requirements of the program, the language has been changed to require program operators to "assure" that such worksites meet the requirements of this subpart. This language change provides consistency with the other provisions of this section requiring assurances.

In paragraph (b) (4) which previously required each program operator to submit the names and qualifications of its personnel, the provision has been changed to require that operators will assure that such information will be available for monitoring purposes.

Similarly in paragraph (b)(5), the requirement that a list of all Federal programs previously administered by summer program operators be submitted with their applications has been changed to "assure" that such information be available for review during monitoring visits. In addition, the Federal programs covered by the provision have been limited to only Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs. This is in response to the numerous comments indicating that in many jurisdictions information on all Federal programs administered by summer program operators is not readily available. Also, some commenters objected to the provision because of the extensive volume of paperwork involved.

To be consistent with the preceding paragraphs, the language of paragraph (b) (6) has been revised to require operators to "assure" that in previous years thay have substantially complied with CETA and the regulations governing the summer program.

The provisions of paragraph (b) (7) have been deleted. Numerous comments suggested the difficulty of securing information on convictions for fraud or obstruction of investigations for all persons subject to the disclosure requirements. There were also uncertainties about the use and interpretation of such information.

Paragraph (b)(8) has been renumbered to become the new paragraph (b)(7).

In addition to these revisions in paragraph (b), the introductory statement of the paragraph has been revised to clarify (1) that all organizations public, private non-profit, and private sector can be funded for allowable activities or operations of the summer program; and (2) that the provisions of this paragraph apply to all subgrants or contracts.

SECTION 97.26 ALTERNATIVE REMEDIES

The proposed regulations specified the Secretary's authority to suspend or terminate in whole or in part a prime sponsor's programs and grants and/or subgrantee or contractor agreements where there is reason to believe that prime sponsor, subgrantee, or contractor has materially violated the provisions of the Act, the regulations, the terms of the summer grant, or is administering the program in an inefficient or incompetent manner. This specification was included to assure timely action since the summer program is of such short duration that extended investigations and corrective actions might not correct or eliminate material violations before the end of the summer.

Some comments were received expressing concern that the long term relationship between prime sponsors and subgrantees would be seriously undermined and the legal concept of "due process" violated by the language in paragraph (a) which allowed the Secretary to employ remedies whenever the Secretary "has reason to believe" that a prime sponsor or one of its subgrantees or contractors has violated a provision of the Act, or the regulations. In response to this concern a new paragraph (c) was added to provide for hearings when the Secretary takes such remedies as allowed under this section.

1. In § 94.3, Consolidated table of contents for Parts 94-99; the table of

contents for Part 97, Subpart A is revised to read as follows:

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocations of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning; planning and youth councils.
97.8 Description of the Summer Plan.
97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the Summer Plan.

Program Operations

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Start-up of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nodiscrimination in native American programs.
97.23 Reporting requirements.
97.24 Termination date for the summer program.
97.25 Alternative provisions.
97.26 Alternative remedies.

2. Accordingly, Subpart A of Part 97 of Title 29 of the Code of Federal Regulations is amended to read as follows:

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

GENERAL

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year summer program funds.
97.4 Eligibility for funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning, planning and youth councils.
97.8 Description of the summer plan.
97.9 Comment and publication procedures.
97.10 Submission of summer plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the summer plan.

PROGRAM OPERATIONS

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Start-up of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in native Americans programs.
97.23 Reporting requirements.
97.24 Termination date for the summer program.
97.25 Administrative provisions.
97.26 Alternative remedies.

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended Pub. L. 93-203, 87 Stat. 839 (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L. 94-444, 90 Stat. 1476), Secs. 702(a) and 304(a)(3), unless otherwise noted.

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

GENERAL

§ 97.1 Scope and purpose.

(a) This Subpart A contains the policies, rules, and regulations of the Department in implementing and administering a Summer Program for Economically Disadvantaged Youth (hereinafter referred to as the Summer Program) authorized by Title III, section 304(a)(3), of the Comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this Subpart A shall be designed by summer sponsors, defined in § 97.4, to provide summer employment and any other activities and services except public service employment described under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94, 95, 97, and 98 of this title. The provisions of Parts 95 and 97, however, apply to this Subpart A only as indicated in specific sections of these regulations. The definitions of Part 94 and the provisions of Part 98 shall apply to this Subpart A, unless otherwise indicated in specific sections of these regulations.

(d) The Division of Indian and Native American Programs in the Office of National Programs shall have field responsibility for all matters pertaining to funds allocated to Indian and Native American Employment and Training Program summer sponsors for programs funded under this Subpart A. All references to RA in this Subpart A shall be read as Director, Division of Indian and Native American Programs, when pertaining to programs for Indian and Native Employment and Training Program summer sponsors.

§ 97.2 Allocation of funds.

(a) *General.* The funds available for Title III, Section 304(a)(3) in any Fiscal Year shall be allocated according to the procedures set forth below; except that the Secretary may reserve up to 5 percent of available funds to fund a national vocational exploration program, and for other discretionary purposes.

(b) *Prime sponsor basic allocations.* Allocations of funds for summer sponsors who are prime sponsors under Title I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated based on each sponsor area's proportion of the funds allocated for the previous year Summer Program;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the sponsor's area (in the most recent year for which data are available) to the total annual average number of unemployed persons in the United States in that year;

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of persons in low income families in the sponsor's area to the total number of persons in low income families in the United States;

(4) Each sponsor shall receive a new allocation which when added to its unspent previous year's summer funds as of December 31, shall be equal to the amount determined by the above formula; and

(5) To the extent that funds are available, allocations shall be adjusted by the Secretary to insure that each prime sponsor area receives adequate funding to provide at least the same number of opportunities as were available in the area under the Summer Program for Economically Disadvantaged Youth in the previous year.

(c) *Native American prime sponsor allocations.* The total funds for Native American summer sponsors shall be allocated based on the ratio of the number of Native American youth 14 through 21 years of age in the eligible Native American summer sponsor's area to the total number of Native American youth 14 through 21 years in all Native American summer sponsor areas, except that adjustments in the allocations shall be made to insure that to the extent funds are available, no area receives less funds than were provided under the previous year's Summer Program.

(d) *Other allocation.* The allocation to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Marianas, in the aggregate, shall be equal to the same percentage of the funds allocated to them in the aggregate under the previous summer program.

§ 97.3 Unexpended previous year summer program funds.

Unexpended summer program funds as of December 31 of each year must be utilized in the next year for appropriate summer activities and expended in accordance with these regulations. During the period between January 1 and the close of the school year, these funds shall be expended consistent with the provisions of §§ 97.7(b) and 97.17.

§ 97.4 Eligibility for funds.

The following are eligible to be summer sponsors:

(a) Prime sponsors designated to operate programs under Title I of the Act; and

(b) Native American Employment and Training Program prime sponsors which are Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan native villages.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.5 Content and description of grant application.

In order to receive funds, each eligible summer sponsor shall submit a summer plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant application.

§ 97.6 Preapplication for Federal assistance.

An eligible summer sponsor interested in receiving financial assistance shall submit a preapplication to the RA, the Governor and the appropriate State and areawide A-95 clearinghouses (See Part I of Attachment A, OMB Circular A-95) by a date established by the RA. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7.

(b) State and areawide clearinghouses may request information in addition to that furnished on the preapplication form. Such a request shall be made within 30 days of receiving the preapplication in order to avoid delay in a prime sponsor applicant's preparation of its summer plan.

(c) The A-95 clearinghouses shall within 30 days of receiving the preapplication, inform the prime sponsor applicant of any actual or potential problems with the preapplication and notify the prime sponsor applicant if they wish to review the completed plan. If the prime sponsor applicant receives no such notifications, the prime sponsor applicant has fulfilled its obligation under A-95 and it may submit its plan to the RA without submitting it to the A-95 clearinghouses.

§ 97.7 Program planning; planning and youth councils.

(a) (1) In developing the summer program the prime sponsor shall coordinate such plan with its Title I, YETP, and YCCIP annual plans.

(2) Eligible summer sponsors which are prime sponsors under Title I of the Act shall utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title; and the youth council established for YETP. The roles and responsibilities of the youth council shall be those described in § 97.705(b) (1), (2), (3), and (5).

(b) Upon approval from the RA, the following planning and design activities shall be allowable beginning January 1 of each year:

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(2) Development of summer plan;

(3) Publication and clearance through A-95;

(4) Worksite development;

(5) Recruitment, intake and selection, but not enrollment;

(6) Establishment of arrangements for supportive services;

(7) Dissemination of program information;

(8) Development of coordination between schools and other services;

(9) Staff training; and

(10) Other activities with the approval of the RA that may be characterized as planning and design but not program operation.

§ 97.8 Description of the summer plan.

The summer plan consists of the following items:

(a) Approval Request Letter.

(b) Application for Federal assistance (Standard Form 424) which is contained in FMC 74-7.

(c) Narrative description of the summer program consisting of the following:

(1) Objectives and needs for assistance—a discussion of:

(i) The program's purpose and goals in terms of local needs of youth; and

(ii) The rationale for the selection of significant segments by the summer sponsor as it relates to the program purposes and goals.

(2) Results and benefits expected—a discussion of:

(i) How the enrollment of participants in the various program activities and the projected program outcomes reflect the program purposes. This should include a description of how the program activities will serve the needs of the particular significant segments designated by the summer sponsors;

(ii) Efforts to obtain academic credit for youth as a result of competencies gained on the job during the summer program; and

(iii) Other benefits which will accrue to participants.

(3) Approach—a description of:

(i) The role of the Youth Council in the formulation of the summer program;

(ii) How analyses of the previous summer program were used in the planning of the program including the selection of the worksites;

(iii) The methods, procedures, standards, etc., used to make worksite selections and items to be covered by worksite agreements;

(iv) Special methods, if any, specifically designed for recruitment of summer participants (as distinguished from other participants) and who the recruiting agent(s) will be;

(v) The intake process, including the particular methods to be used and the identity of the service providers;

(vi) The process of determining eligibility and the verification methods to be used;

(vii) The orientation, assessment, and assignment process;

(viii) The work experience, on-the-job training and; classroom training activities indicating the number of youth who will be served in each of these components, and a discussion of labor market orientation and any skill training and remedial education to be provided;

(ix) Any special services to be provided to designated significant segments;

(x) The supportive services which will be provided to participants;

(xi) Any vocational exploration programs, funded under the summer plan, including:

(A) Number of total participants and planned expenditures;

(B) Name of organizations with which the prime sponsor has a contract or written agreement listing the number of participants and types of occupations to which participants will be exposed;

(C) The methods and techniques which will be used to provide broad career exposure;

(D) The methods the prime sponsor has developed to ensure that youth are not involved in work experience or any other activity which contributes to, or could be expected to contribute to, additional sales or profit for a private-for-profit organization or otherwise result in the subsidization of wages for such organizations; and

(E) Evidence of the approval of labor organizations representing employees in the affected collective bargaining units;

(xii) The methods and delivery agents which will be used in placing participants into jobs, other CETA

programs, etc., and of arrangements for providing continuity of services, and the efforts that will be made to encourage participants to return to school;

(xiii) A description of the linkages established with SESA's, local educational agencies and post secondary institutions, labor organizations, the private sector (other than organizations conducting vocational exploration programs), neighborhood and community based organizations and other youth related programs/agencies; and

(xiv) How the summer program will enhance the employment potential of participants and how this strategy will be coordinated with other CETA programs.

(4) Management and Administration Plan.

(i) An organization chart and staffing pattern and an explanation of how it relates to the prime sponsor's regular organization pattern;

(ii) A detailed description of monitoring procedures, including the number of planned visits to each worksite, the activities to be monitored, and procedures and time frames for taking corrective action, including followup visits;

(iii) A discussion of plans to assess the overall program and the performance of each worksite employer, including how the knowledge gained will be used to impove the quality of other youth programs and the next year's summer program;

(iv) A description of any special payroll process or any special allowance payment system not previously described in the PSA; and

(v) A discussion of the cost plan, including an explanation of how administrative costs were determined.

(d) CETA Youth Program Planning Summary and Youth Budget Information summary which provide information on the estimated number of participants and accrued expenditures.

§ 97.9 Comment and publication procedures.

The comment and publication procedures of § 95.15 shall be applicable to the summer program, except that the newspaper publication and provision of the application to Governors, appropriate units of government, appropriate Native American prime sponsors, appropriate labor organizations and State and sub-State clearinghouse(s) may be simultaneous with submission of the summer plan to the RA. However, in order to expedite the start of the summer program operations in the most effective manner, the RA may conditionally approve the grant application within the 30 day comment period: *Provided,* The prime sponsor subsequently acknowledges any written comments pursuant to § 95.15 (e) and if warranted by such comments modifies the grant pursuant to § 95.21(a) (2) (i).

§ 97.10 Submission of summer plan; review and approval.

(a) A program shall be undertaken upon execution of the summer plan between a summer sponsor and the RA. The RA shall send a summer plan package to each eligible summer sponsor. The summer plan shall be submitted to the RA not later than a date set by the RA.

(b) Each summer program shall be reviewed by the appropriate RA using all the standards described in § 95.17 (a) and (b) (1), (7), (8), and (9) of this title.

(c) Each summer plan shall be approved or disapproved under the provisions and conditions described in §§ 95.18 and 95.19 of this title.

§ 97.11 Use of alternative sponsor and services by the Secretary; reallocation of funds.

(a) If a summer plan is not submitted, or is denied, or terminated, the Secretary may make provisions for the use of an alternative sponsor, or provide services directly pursuant to § 95.20 of this title.

(b) The reallocation provisions of § 98.11 of this title shall be applicable to the summer program, except that reallocation may occur immediately (without regard to the number of months that have elapsed in the fiscal year of the grant) after completion of the notice and comment procedure specified in § 98.11(d). The comment period specified in § 98.11(d)(2) shall be limited to 10 days. Priority shall be given in reallocating such funds to other areas within the same State.

§ 97.12 Modification to the summer plan.

(a)(1) A modification to the summer plan requiring prior regional office approval is necessary under any of the following conditions:

(i) Change in duration of the summer plan;

(ii) Change in summer plan allotment; and

(iii) Substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of individuals to be served is proposed to be increased or decreased by 15 percent or more.

(B) For grants of $100,000 or less, when the cumulative transfer of funds among program activities or cost categories exceeds $15,000.

(C) For grants of over $100,000 when the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget, whichever is less.

(2) A summer sponsor desiring a modification as defined in paragraph (a)(1) of this section, shall submit a revised Youth Budget Information Summary, a revised Youth Program Planning Summary and an explanation of the proposed changes to the RA.

The RA shall notify the sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

(b) The RA may initiate a modification as described in § 95.21(b)(iv) of this title.

PROGRAM OPERATIONS

§ 97.13 Basic requirements for program operation.

Each summer sponsor shall:

(a) Follow the regulations of this subpart;

(b) Follow the provisions described in § 95.31 (a), (b), (e), and (f) of this title;

(c) Provide services to those individuals most in need among its economically disadvantaged youth population, within the prime sponsor's jurisdiction, taking into account any priorities identified by the Secretary. Such services shall be provided on an equitable basis considering the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction;

(d) Design programs which are, to the maximum extent feasible, consistent with every participant's fullest capabilities;

(e) Maintain accounting records in accordance with §§ 98.12 and 98.13 of this title;

(f) Give special consideration to the needs of eligible veterans as described in § 95.32(e)(1) of this title;

(g) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significant employment barriers relating to work attitude, aptitude, social adjustment, and other such factors;

(h) Provide labor market orientation to all participants. This orientation may include vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. Skill training and remedial education may be provided on an as-needed basis. In providing labor market orientation, skill training and remedial education, each sponsor shall make maximum efforts to develop cooperative relationships with other community resources so

that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program;

(i) Coordinate its summer activities with an organization operating a nationally funded vocational exploration program in its area pursuant to § 97.16(b);

(j) Use cooperative relationships established under YETP with other agencies and institutions that provide employment and training services to youth in the community;

(k) Ensure that adequate supervisions is provided to participants at each worksite;

(l) Make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment;

(m) Ensure that all appropriate efforts are made to closely monitor the performance of service deliverers in compliance with § 97.25(d) as well as Part 98, Subpart B, Assessment and Evaluations. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor established goals;

(n) Ensure that enrollee applications are widely available and that jobs are awarded among individuals most severely disadvantaged in an equitable fashion; and

(o) Enter into subgrants and contracts in accordance with § 98.20 and OMB Circular A-102, Attachment O.

§ 97.14 Eligibility for participation.

(a) Each person shall be:

(1) At the time of application economically disadvantaged as defined in § 94.4(s) of this title; and

(2) At the commencement of participation 14 through 21 years of age.

(b) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last 6 months.

(c) A current participant in another CETA program who at the time of his or her initial application into that CETA program met the criteria of paragraph (a)(1) of this section may be enrolled in a summer program without recertification of the youth's family income. The provision of paragraph (a)(2) of this section shall apply.

(d) Citizenship may not be used as a criterion to prevent persons from participating in a summer program. However, program participation shall be limited to nationals of the United States and aliens who have been accorded the privilege of residing in the United States as lawful permanent residents or refugees, including refugees who are parolees.

§ 97.15 Types of employment and training programs available.

(a) A program funded under this Subpart A may include any activity or service specified in § 95.33 of this title, except public service employment. Because of the short term nature of this program, public service employment opportunities which are transitional in nature and likely to lead to regular unsubsidized employment are not appropriate under this program.

(b) As authorized in § 97.522 of this title, prime sponsors operating grants under the Youth Incentive Entitlement Pilot Projects (YIEPP) may use summer program funds for their entitlement projects. When utilizing summer funds for this purpose, the provisions of the regulations governing the entitlement program shall apply.

§ 97.16 Vocational exploration program.

(a) A summer sponsor may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction including, where appropriate, limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs:

(i) All contracts, subgrants, or written agreements between summer sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in a vocational exploration program using summer funds shall receive allowances in accordance with § 95.34 of this title except, (*1*) only allowances may be paid for the vocational exploration portion of combined activities, and (*2*) participants receiving public assistance, as defined in § 94.4(ss), or whose needs or income are taken into account in determining such public assistance payments to others, may receive a stipend as an additional allowance for participation in vocational exploration in the private sector (VEP) activities: *Provided,* That the participant's total allowances (the incentive allowance plus any stipend) does not exceed the basic allowances paid to other participants. This stipend is available to participants eligible for receipt of incentive allowances to provide for the exceptional expenses incurred by these participants which might otherwise prevent the individuals from participating in a VEP activity. The first $30 of such total allowance payment shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing the total allowance payment for each participant, the prime sponsor shall insure that no individual shall receive such allowances which result in a net loss to the participant or his family in terms of total benefits. Other benefits shall be paid in accordance with § 98.24(a)(2) of this title. Wages shall not be paid to participants.

(B) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(C) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage;

(D) A detailed curriculum has been developed; and

(E) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program: *Provided,* That payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organization, the summer sponsor shall assure, in addition to items listed in paragraph (a)(1)(i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(b) Where a nationally funded program operates in a summer sponsor's area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.17 Startup of program.

(a) During the planning and design phase of the program prior to the close of the school year, only those activities outlined in § 97.7(b) are permissible. These activities shall be charged to administrative costs. Individuals may not begin participation in the program before the close of school.

§ 97.18 Worksite standards.

(a) No participants under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570, of this title).

(b) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by §§ 570.31 and 570.35 of Subpart C of Part 570 of this title.

(c) Each prime sponsor shall develop a written aggrement with each worksite employer which assure: (1) Adequate supervision of each participant, (2) adequate accountability for participant time and attendance, and (3) adherence to the rules and regulations governing the Summer Program. Such written agreements do not have to be contracts or subgrants. They may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, or be compensated for more than 40 hours of work per week. Nothing in this section shall be construed as limiting an individual to a maximum number of total hours of employment in the Summer Program. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

§ 97.19 Participant benefits.

(a) Participants in classroom training shall receive allowances as described in § 95.34 of this title and benefits as provided in § 98.24(a)(2) of this title.

(b) Participants in on-the-job training shall be compensated as specified in § 95.35 of this title, as applicable, and shall be assured of appropriate benefits and working conditions as provided in § 98.24 of this title.

(c) Participants in work experience shall receive wages, benefits and working conditions as provided in § 95.33(d)(4) (viii) and (ix) and § 98.24 of this title. Unemployment insurance, shall be an allowable cost only if required by State law.

(d) Participants receiving services (including orientation to jobs/activities), other employment and training activities, or combined activities shall be compensated as specified in § 95.33(d) (5)(v), (6)(ii), and (7)(ii) of this title.

(e) Participants enrolled in vocational exploration activities shall receive allowances as described in § 97.16, and benefits as provided in § 98.24(a)(2) of this title.

§ 97.20 Training for lower wage industries and relocation of industries.

The provisions of § 95.37 of this title shall apply to the summer program.

§ 97.21 Nepotism.

(a) The provisions of § 98.22 of this title regarding nepotism apply to summer sponsors who are prime sponsors under Title I of the Act.

(b) (1) The provisions of § 98.22 (a) and (b) of this title regarding nepotism apply to Native American Employment and Training Program summer sponsors except as modified by paragraphs (b) (2), (3), and (4) of this section.

(2) No Native American Employment and Training Program summer sponsor or subgrantee shall hire, or permit the hiring of, any person in a position funded under this Subpart A if a member of that person's immediate family is employed in an administrative capacity by the Native American Employment and Training Program summer sponsor. For the purposes of paragraphs (b) (2), (3), and (4) of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister and the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this Subpart A, or operational responsibility for the program.

(3) If a subgrantee cannot hire program participants without an immediate family member being included, the Director, Division of Indian and Native American programs may waive the requirement of paragraph (b)(2) of this section if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdiction are eligible and available for participation.

(4) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule in lieu of this policy.

§ 97.22 Nondiscrimination in Native American employment and training programs.

Section 98.21 of this title shall be applicable to Indian programs funded pursuant to this Subpart A, except that participants must be Native Americans and staff may be limited to Native Americans. Native American summer sponsors may also require that subgrantees agree, to the maximum extent feasible, to hire qualified Native Americans to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e-2(i).

§ 97.23 Reporting requirements.

Each summer sponsor shall submit the following reports to the RA:

(a) A Youth Program Status Summary, as of September 30, based on the enrollment records required under §§ 98.8, and 98.18 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(b) Two Youth Financial Status Reports, as of September 30 and December 31, based on the accounting records required under §§ 98.8, 98.12, and 98.13 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(c) Separate Quarterly Summary of Youth Characteristics reports, as of September 30, based on the participant records for (1) this program and (2) the Title I summer component, required under § 98.18 of this title;

(d) Selected information required on the above reports shall be submitted for informational purposes for participants and expenditures in summer components funded with monies in the sponsor's current Title I annual plan;

(e) Selected information required on the above reports shall also be submitted for reporting purposes, for participants and expenditures in entitlement projects funded with funds provided under this subpart, as well as in the required entitlement reports; and

(f) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 97.24 Termination date for the summer program.

(a) Participants shall not be enrolled in program activities beyond September 30.

(b) Allowable activities after September 30 include: report and record preparation and submittal, completion of followup activities, completion of evaluations and assessments of worksite employees and the overall program or other elements of the summer program, and audits.

§ 97.25 Administrative provisions.

(a) Summer sponsors shall comply with the provisions of Part 98 of this title.

(b) Summer sponsors may enter into subgrants or contracts for those allowable activities or operations of the summer program only with organizations that demonstrate sufficient program capability and shall have reasonable assurances that such organizations:

(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 98.5 of this title;

(3) Assure in their applications that all proposed worksites meet the requirements of this subpart, and that such worksites will meet the standards of § 97.18;

(4) Assure in their applications that they will have available for review and monitoring the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and managing personnel of any affiliate, subsidiary, etc., who have operational or fiscal responsibilities for the summer program;

(5) Assure in their applications that they will have available a list of all Department of Labor; Department of Health, Education, and Welfare; and Department of Agriculture programs under which they have received financial assistance during the last three years and provide in their applications a statement that to the best of their knowledge, they have substantially complied with the requirements, procedures and objectives of such programs;

(6) Assure in their applications that there is no information available to them showing substantial noncompliance with the Act and regulations in operation during the terms of the previous summer program, or if there is, they shall include in their applications a copy of an acceptable plan to correct such deficiencies; and

(7) Assure in their applications that all their personnel will have some basic training in the program and regulations before the summer program begins.

(c) In selecting subgrantees and contractors the prime sponsor shall consider the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that is appropriate in terms of participants needs and local market demands);

(2) Provide specific services contracted for;

(3) Restrict expenditures to allowable cost items only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested, including the information required to be kept under paragraphs (b)(4) and (e) of this section.

(d) To effect compliance with Part 98, Subpart B, Assessment and Evaluation, of this title, prime sponsors shall, or shall require their contractors and subgrantees to:

(1) Have supervisory and operational personnel for monitoring each site to which their participants are assigned;

(2) Assure that all sites where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment; and

(3) Train their own personnel and site personnel with regard to duties and responsibilities, including monitoring.

(e) Each prime sponsor shall compile and continually update a list of worksites (broken down by subgrantee and contractor) to aid in its monitoring efforts and to be made available to the public on request.

(f) Each prime sponsor shall visit worksites of each subgrantee or subcontractor on a sample basis during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is enough meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records which accurately record time worked by each enrolee are being maintained, and

(4) The requirements of the Act and this subpart are being met.

(g) In addition to following the monitoring requirements of § 98.31 of this title, each prime sponsor shall:

(1) Promptly review the reports written by its own and Federal monitors;

(2) Revisit worksites where monitors report problems; and

(3) Close worksites where it finds serious or continual violations of the Act, the regulations or the grant which are not likely to be remedied by quick remedial action.

§ 97.26 Alternative remedies.

(a) In addition to the remedial procedures available to the Secretary under Subpart C of part 98 of this title, the Secretary, in view of the short-term nature, and the national program character, of the summer program, may employ any of the following remedies whenever the Secretary has reason to believe that a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations, the terms of the summer program grant, or that the program is being administered in an inefficient or incompetent way:

(1) The Secretary may immediately terminate or suspend the prime sponsor's program in whole or in part provided the Secretary offers the prime sponsor an opportunity for a subsequent hearing; or

(2) The Secretary, for good cause, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of the Secretary's order or on such other date as the Secretary determines. In cases of termination, the Secretary may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer of participants into other prime sponsor's summer program slots in accordance with the Secretary's directions. Whenever the Secretary orders termination of suspension of a subgrantee or contractor under this paragraph, the Secretary may take whatever action is necessary including direct legal action against the subgrantee or contractor, or an order to the prime sponsor that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) All grants, subgrants and contracts under the summer program shall contain the provisions of this section.

(c) Where a subgrant or contract is suspended or terminated in whole or in part, the Secretary shall offer the subgrantee or contractor an opportunity for a hearing.

Signed in Washington, D.C. this 17th day of May 1978.

RAY MARSHALL,
Secretary of Labor.

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