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federal register

WEDNESDAY, JUNE 14, 1978

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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
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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.

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This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

[Last Listing: June 12, 1978]

H.R. 11370 ..... Pub. L. 95-291

To authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV-A, VI, X, XIV, and XVI of the Social Security Act. (June 12, 1978; 92 Stat. 304) Price $.50

rules and regulations

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[ER-1053, Amdt. No. 10 to Part 250]

PART 250—PRIORITY RULES, DENIED BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

Notice of Approval by the Comptroller General

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation on the filing of copies of carriers' boarding priority and denied boarding compensation policies and procedures for flights which are oversold. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated May 31, 1978.

DATES: Effective: June 9, 1978. Adopted: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 250 of its economic regulations (14 CFR Part 250) by adding the following note at the end of Part 250:

NOTE.—The reporting requirements contained in sections 250.3 and 250.9 have been approved by the U.S. General Accounting Office under No. B-180226 (R0073).

This amendment is issued under authority delegated from the Board to the Secretary in 14 CFR 385.24(b) (sec. 204 of the Federal Avaiation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16477 Filed 6-13-78; 8:45 am]

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 377—SHORT SUPPLY CONTROLS

Exemption of Agricultural Commodities from Quantitative Limitations on Export

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

ACTION: Final rule.

SUMMARY: Adopted as a final rule, with minor modifications made for purposes of clarification, are the proposed regulations published in the FEDERAL REGISTER on January 23, 1978 (43 FR 3134). These establish a procedure under which agricultural commodities purchased by or for use in a foreign country may be stored in, and exported from, the United States free from any quantitative restrictions on export which may subsequently be imposed for reasons of short supply.

EFFECTIVE DATE OF ACTION: June 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-3795.

SUPPLEMENTARY INFORMATION: On January 23, 1978, the Department published proposed regulations implementing section 4(f) of the Export Administration Act (EAA) of 1969, as amended by section 105 of the Export Administration Amendments of 1977 (Pub. L. 95-52). Interested parties were invited to submit their comments, views, or data concerning these proposed regulations by February 28, 1978, to assist the Department in developing final regulations.

Twenty-nine comments were received in response to the proposed ruling. In addition, one comment on section 105 of the Export Administration Amendments of 1977 was received prior to publication of the proposed rule. Discussion of this comment is included in the discussion below of the other comments received.

Most of these comments were favorable, expressing interest in using the program and welcoming the establishment of rules applicable to the export of agricultural commodities during times of supply shortages. Other comments revealed a misunderstanding or misinterpretation of certain provisions of the proposed regulations. Where practicable, these have led to modification of the proposed regulations in order to clarify the Department's intent. Still other comments raised issues not germane to or outside the scope of the proposed rule. The principal comments received, including those which led to minor modification of the proposed rule for purposes of clarification, are discussed below.

1. PRIVATE VERSUS GOVERNMENTAL OWNERSHIP OF RESERVES

Two of those who commented evidently interpreted the regulations as requiring that reserves must be owned by the government of the country in which they are to be used in order to qualify under these regulations. They noted that such a requirement would inhibit use of the program by countries in which trade in agricultural commodities is in private hands.

The regulations are intended to permit reserves to be purchased by either governments or private persons but do require the government of the country of ultimate use to recognize any privately owned reserves as part of that country's agricultural commodity reserve. Modifications have been made in the final regulations in order to make this clear.

2. IDENTIFICATION OF THE COMMODITY BY GENERIC DESCRIPTION

One of those who commented proposed that the regulations provide for relatively broad designation, especially as to class and grade, of the commodity to be registered in order to reduce a buyer's reluctance to participate

based on uncertainty about future needs. This would permit him to draw on more ample supplies of the same general commodity in a tightening market rather than being restricted to specific classes or grades which might be in particularly short supply.

The Department believes that adoption of this proposal would be inconsistent with the purposes of the statute. Moreover, it could, in fact, constrain approvals under the program by preventing the registration of any lot of a commodity at a time when only a specific grade and class of that same commodity was in actual or foreseeable short supply.

3. Registration Requirement

One of those who commented inquired whether registration under this program would be required for all agricultural commodities purchased for use in a foreign country and stored in the United States for a period of time before shipment to the country in which they will be consumed.

The Regulations do not require the registration of foreign-owned agricultural commodities stored in the United States. Instead, they establish a procedure whereby a foreign purchaser may, at his option, apply for exemption from quantitative restrictions on export which may subsequently be imposed on such commodities for reasons of short supply. A foreign purchaser may, if he wishes, continue to purchase and store agricultural commodities in the United States without seeking their exemption from export controls through participation in the registered storage program.

4. Availability of Storage Space

One of those who commented noted that the provision limiting storage space under the program to that which is in excess of domestic needs creates uncertainty as to whether adequate space will be available in the United States on a continuing basis. This person also noted that the location of available storage space (i.e., in the interior or at port) is also important.

Section 4(f) of the EAA expressly requires that the Secretary of Commerce and the Secretary of Agriculture find "that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities," in order for a registration approval to be granted. This requirement is reflected in the regulations.

Because it is impossible to project regional storage availability for an indefinite period, the regulations provide that approvals will be granted for storage at a specified location for a specified period. However, the applicant selects the location of the facility, and the regulations contain a procedure for seeking extension of the registration period. Thus, the uncertainty expressed by the comment will be minimized to the extent possible under the law. This uncertainty could be further minimized were a foreign purchaser to construct a storage facility or otherwise add to the available storage capacity in the region where the commodities would be stored.

5. Credit Purchases

One of those who commented cited as a disadvantage of the regulations the absence of provisions for credit purchases or deferral of payment until time of export.

This reflects a misunderstanding of the regulations. Section 377.4(b)(1)(i) of the regulations states that the commodities are deemed "purchased" if "they are the subject of a binding contract for sale to a foreign purchaser and such contract describes the commodities by kind, grade, and quantity, contains a fixed price or basis for calculating price, and requires the commodities to be exported or delivered for export within a specified time." Thus, under this definition, cash payment need not have been made when the commodities are registered under this program, nor even prior to their actual export and consumption if the contract for sale provides otherwise. Thus, the regulations accommodate both cash and credit purchases. While, as discussed below, credit financing under the CCC Program may be compatible with registration of the commodities for exemption from short supply limitations on export, the actual financing (Government or private) of these transactions is outside the scope of these regulations.

6. Proof of Delivery Requirement

A further disadvantage cited in one comment is the required proof of delivery of the commodities to the country stated in the application when short supply controls are in effect. The comment noted correctly that this provision does not allow for storage in transit.

One statutory criterion of approval of a storage registration application is the receipt of adequate assurance by Commerce and the finding by both Commerce and Agriculture that the purpose of the storage is to establish a reserve for later use in a designated foreign country. Consequently, the Department considers it both reasonable and necessary during a period of short supply export controls to require proof of delivery of commodities exempted from those controls to the country of ultimate use designated at the time the approval was granted. While it is true that the requirement that proof of delivery be submitted within 60 days of export does not allow for an extended period of in-transit storage in a third country after the commodities have been withdrawn from registered storage in the United States and exported, it is believed that the need for such extended in-transit storage would not often arise. However, in exceptional circumstances, should a foreign purchaser desire to withdraw from registered storage in this country commodities for which there is no immediate need in the country of ultimate use but which are in short supply in the United States in order to place them in in-transit storage in a third country, the Department will consider a request from the Government of the country whose reserve the commodities constitute for an extension of the 60 day period during which proof of delivery must be submitted. Alternatively, the Department will consider a request for extension of the period for which registered storage approval was initially granted so as to permit continued storage in this country.

7. Changing the Country of Destination from that Originally Approved

One of those who commented stated that U.S. exporters lack the power to enforce destinations given to them by buyers and suggested that rather than attempt to trace the ultimate destination of the exported commodities, the regulations provide for acceptance of certification from the buyer as to intended destination at time of purchase, recognizing that this intention may be altered by subsequent events. Since the statute requires that "the purpose of such storage is to establish a reserve of such commodities for later use (in a specified country), not including resale to or use by another country," the Department believes that any change in the regulations to accommodate this comment would be inconsistent with the statute.

8. Status of the EEC as a "Country"

One of those who commented inquired whether the European Economic Community could be considered a "country" for purposes of these regulations, thus permitting a reserve purchased and stored by the EEC to be used in any one of the EEC member countries without designation of any particular country or the country of destination. In addition, this same comment criticized as excessively restrictive the requirement that the stored commodities be used only in the country designated at the time of storage, and noted that it would prevent the use of such reserves for food aid purposes.

As previously indicated, section 4(f) of the Export Administration Act requires as a precondition of approval that the Secretaries of Commerce and Agriculture find "that the purpose of

such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country." In view of the statutory language, no changes can be made in the regulations to accommodate this comment. However, where particular circumstances warrant, the Department will consider a request from an appropriate international organization, or a similar body such as the EEC (but not from a private firm), for an exception to the regulations to permit registered storage of commodities to be used as a food reserve for one or more countries specifically designated by the organization, or for a change in the country originally designated as that in which the registered commodities are to be used.

9. Sale of Registered Commodities in the U.S. Market or in a Country Other Than That Designated in the Registration Approval

One comment proposed that foreign purchasers be permitted to resell the registered commodities in the U.S. market at a time of domestic short supply and high prices. It was suggested that such a sale would merely defer the export shipment authorized in the registration approval to a time when domestic supplies are more ample.

To provide such an option to foreign purchasers would not only relieve them of the conditions under which the commodities were permitted to be registered but would also discriminate against owners of domestic stocks who, at a time of domestic short supply, would be faced with competition from stocks previously designated exclusively for the export market. In addition, such an option might foster use of the program for speculative purposes. However, the Department recognizes that, under certain circumstances, it may be in the national interest of the United States to permit disposition of registered commodities in a manner other than through export to the country stated in the registration application for use therein, and the Regulations provide for consideration of such requests.

10. Applicability of Pub. L. 480 and CCC Credit Programs

Two of those who commented inquired whether Pub. L. 480 or CCC Credit Programs could be used in establishing the agricultural reserves contemplated by these Regulations.

According to the Department of Agriculture, Pub. L. 480 programs can not be employed in establishing a reserve under the Regulations, since Pub. L. 480 requires that, among other things, priority attention be given to the immediate (as distinguished from future or reserve) food needs of recipient countries. CCC Credit Programs, on the other hand, can be used, according to Agriculture, in establishing such reserves so long as the purchaser complies with both CCC and these Regulations. Among other things, the reserve would have to be stored in a U.S. warehouse acceptable to the CCC, and the acceptable period for export established by CCC and the period of exemption approved by Commerce would have to be compatible.

11. "Complexity" of the Regulations

One of those who commented criticized the proposed regulations as too complicated, based on "a lot of subjective criteria," and further complicated by the need for approval by two different government agencies. Another comment suggested that the rules and procedures contained in the regulations are likely to discourage participation in the program, while still another expressed the belief that the requirement that both Commerce and Agriculture determine that "neither the sale nor export will result in an excessive drain of scarce materials and have a serious domestic inflationary impact" largely negates the value of the program.

In drafting the regulations, the Department sought to make the program as uncomplicated as possible within the constraints of the statutory provisions. However, since the very purpose of the program is to guarantee that commodities may be exported at the time they are most needed in the United States—i.e., in periods of short supply—it is believed that close monitoring of activities under this program is necessary to achieve the program's objectives while preventing circumvention of U.S. export policy. Accordingly, no changes can be made in the regulations to accommodate these comments.

12. Tobacco Leaf as an Agricultural Commodity

One comment was received inquiring if the regulations would apply to purchases of U.S. leaf tobacco.

The regulations apply to purchases of any agricultural commodity. Tobacco is considered to be an agricultural commodity for these purposes.

13. Local and State Taxation of Stored Commodities

One comment was received inquiring whether the commodities stored under this program would be subject to state and local taxes.

That is a matter of state, local, Federal and, perhaps, constitutional law and is to be determined independently of these regulations.

Accordingly, the Export Administration Regulations (15 CFR Part 368 et seq.) are amended by adding a new § 377.4 to read as follows:

§ 377.4 Registration of U.S. Agricultural Commodities for exemption from short supply limitations on export.

(a) *General.* Agricultural commodities of U.S. origin purchased by or for use in a foreign country and stored in the United States for export at a later date may be registered with the Department of Commerce under the provisions of this section for exemption from any quantitative limitations on export which may subsequently be imposed under Section 3(2)(A) of the Export Administration Act for reasons of short supply.

(b) *Definitions.* For the purpose of this § 377.4 the following definitions will apply:

(1) Agricultural commodities are deemed "purchased" by or for use in a foreign country if:

(i) Such commodities are in being and title thereto has been transferred to a foreign purchaser, or they are the subject of a binding contract for sale to a foreign purchaser and such contract describes the commodities by kind, grade, and quantity, contains a fixed price or basis for calculating price, and requires the commodities to be exported or delivered for export within a specified time; and

(ii) The purpose of the transaction is the creation of a reserve for later export to and use in a particular foreign country.

(2) The term "stored in the United States" means that the commodities are in storage, either on an identity preserved or commingled basis, in a particular storage facility in the United States.

(c) *Findings necessary for approval.* Applications to register such commodities may be approved by the Office of Export Administration if that Office receives adequate assurances and in conjunction with the Department of Agriculture determines:

(1) That such commodities will eventually be exported;

(2) That neither the sale nor the export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact;

(3) That storage of such commodities in the United States will not unduly limit the space available for storage of domestically-owned commodities; and

(4) That the purpose of such storage is to establish a reserve of such commodities for later use within a specified foreign country, not including resale to or use by or within another country.

(d) *Procedures for filing registration applications.* (1) Applications to register agricultural commodities must be submitted by a person or firm subject to the jurisdiction of the United States acting as a duly authorized agent for the foreign purchaser. Such applications shall be submitted, in du-

plicate, by letter addressed to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. The letter shall:

(i) Describe the commodities to be registered by kind, grade and quantity;

(ii) Identify the specific storage facility where they are or will be stored and indicate whether they are or will be stored on an identity preserved or commingled basis;

(iii) State the length of time during which it is proposed to keep the commodities in storage in the United States;

(iv) Identify the foreign purchaser of the commodities and the foreign country in which they will ultimately be used;

(v) set forth any other details that the applicant considers to be relevant to the proposed storage and export transactions; and

(vi) Contain the following certification: "I certify that the commodities described herein have been purchased as a reserve for export to (country) and use therein (not including resale to, or use by or within another country); that they will be stored in the facility identified herein; and that they will be exported to that country prior to the expiration of such period as may be approved by the Office of Export Administration or, in the absence of quantitative limitations on export, within 60 days thereafter. I understand that, if the commodities have not been exported within the registration period approved by the Office of Export Administration, they will be subject to any quantitative limitations on export that may be in effect at the time of proposed export; and that failure to export the commodities in accordance with the terms of the registration approval, or failure to comply with any other conditions of approval, may result in compliance action pursuant to section 387 of the Export Administration Regulations or any other applicable law."

(2) The following documents shall be submitted with the letter:

(i) Two copies of the contract of sale to the foreign buyer;

(ii) A statement, in duplicate, from an appropriate official representative of the government of the country in which the commodities are ultimately to be used, identifying the specific transaction to which the statement relates and describing the commodities by kind, grade, and quantity; stating that the commodities are a part of that country's agriculture commodity reserve (owned either by the government or private persons) for use in that country; and further stating that any necessary import authorizations or other documentation have been or will be issued for the entry of the commodities into that country;

(iii) An affidavit, in duplicate, from the operator of the facility where the commodities are to be stored, stating that storage in that facility of the commodities proposed to be registered will not limit his ability to meet anticipated storage needs of the facility's traditional customers, or if it will limit such ability, the extent of such limitation.

(e) *Preliminary advice.* Before submitting a formal application for registration, the applicant may consult with the Office of Export Administration in person or by letter as to the likelihood of approval of an application for registration. The Office of Export Administration will try to respond promptly and fully to such inquiries. However, a definitive determination on approval of an application can be made only on the basis of a fully documented application in light of all the facts and circumstances at the time of its filing.

(f) *Commerce action on registration applications.* Upon receipt by the Office of Export Administration, a copy of each request and accompanying documentation will be forwarded to the Department of Agriculture for that Department's determination of whether the application meets each of the criteria for approval and its recomendation on whether the application should be approved. No application will be approved unless the Department of Agriculture determines that the criteria for approval have been met. If the application is approved, the applicant will be informed of such approval by letter, identifying the commodities, storage facility and country of destination; stating the period for which the registration is effective; and setting forth any other conditions of approval. The period for which storage is approved will not necessarily equal the period requested in the application. The following general conditions are applicable to *all* approved registrations:

(1) The applicant will be required to: (i) Have the operator of the storage facility place on the original warehouse receipt a legend reading: "These commodities have been registered with the Department of Commerce for export to (country) and may be removed from storage only for purposes of export to that country, unless other disposal is permitted pursuant to advance written authorization from the Office of Export Administration", and (ii) within ten days of receipt of the notification of registration approval, provide Commerce with two certified copies of the original warehouse receipt bearing such legend.

(2) Registration approvals will be effective for a specified period, and the registered commodities will be exempt from quantitative limitations on export for reasons of short supply only during such period.

(3) Commodities which are or have been registered must be exported within the period of such registration or, in the absence of quantitative limitations on export, within 60 days thereafter. Should the foreign purchaser, for reasons beyond his control, be prevented from exporting such commodities within the specified period, the Department will consider a request for extension of such period. Such requests should be submitted in writing within the specified period, describe the circumstances which prevent the timely export of such commodities, and state when such commodities will be exported.

(4) Unless otherwise permitted by the Department of Commerce, commodities which are or have been at any time registered may be disposed of only by exporting to the country stated in the registration for use in that country.

(5) Failure to export commodities which are or have been registered as required by this section, the export or reexport of such commodities to a country other than that approved in the registration, or failure to comply with any other condition attached to the registration of these commodities by the Department of Commerce may result in compliance action pursuant to Part 387 of the Export Administration Regulations or any other applicable law.

(g) *Application for extension of registration.* An application for extension of the period for which registered storage approved was initially granted shall be made at least 30 days prior to expiration of that period. Such application shall be made by letter, in duplicate, and shall make reference to the original storage approval and state the reason or reasons why the extension is requested. Accompanying documentation, in duplicate, shall be submitted as necessary to update that submitted with the original application. The mere filing of an application for extension will not extend the original period, and if approval of extension is not granted before expiration of the original period, such period shall lapse in accordance with the terms of the original registration.

(h) *Export of registered commodities.* Upon export of commodities which are or have been registered, the person receiving registered storage approval shall report the export to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. Such report shall be by letter citing the storage approval and date issued and certifying that such commodities have been withdrawn from registered storage and exported. The report shall also transmit (1) a copy of the on board bill of lading and (2) an inde-

pendent inspector's certificate of analysis at the port of export attesting to the quantity and grade of the commodity being exported. If the quantity (less normal shrinkage) and grade do not conform to that shown on the warehouse receipt and the registered storage approval, appropriate documentation establishing the continuity of movement from warehouse to exporting carrier must also be transmitted. Such report shall be submitted within 15 calendar days of export except that if partial shipments are made the report and accompanying documentation may be held until final shipment has been made and then submitted within 15 calendar days of the final shipment.

(i) *Procedure for exporting registered commodities during a period when short supply controls are in effect.* (1) Should short supply export controls be imposed for a commodity being stored in the United States under a valid registered storage approval, the person to whom such approval was granted shall file an Application for Export License, Form DIB 622-P, in accordance with the procedure set forth in Part 372, except that no accompanying documentation shall be required. The application shall cite in Item 12 the relevant registered storage approval issued by the Office of Export Administration and shall state the quantity of the commodities covered by the registered storage approval already exported or which will be exported pursuant to the terms of any Saving Clause contained in the announcement imposing short supply export controls. Upon verification that the registered storage approval is valid, the Office of Export Administration will issue a validated export license for the quantity authorized in the registered storage approval, less any quantities previously exported or in process of being exported under any Saving Clause, without regard to any quantitative short supply export limitations which are then in effect. The license shall be valid through the date specified thereon.

(2) In addition to the report required under paragraph (h) of this section, the person to whom an export license has been issued under this provision shall report each export pursuant to such license, within 60 days of the final shipment under the license, to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, Washington, D.C. 20230, by letter citing the applicable registered storage approval and enclosing: (i) A statement from an appropriate official of the government of the importing country attesting to the fact that the commodities—which must be identified by kind, grade and quantity—have been imported into that country for use therein and (ii) the validated export license with the reverse side completed so as to record the shipment data and signature of the licensee or his duly authorized agent.

(j) *Effect of other provisions.* Unless inconsistent with the provisions of this § 377.4, all the provisions of the Export Administration Regulations, including Parts 387 and 388, apply equally to the procedure set forth in this section. Attention is called particularly to the provisions of § 387.11 under which pertinent records must be kept and made available for inspection and to the administrative and criminal sanctions in § 387.1 for violation of the Export Administration Act of 1969, as amended, or any order, regulation or license issued thereunder.

(Sec. 4 Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977); and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).)

NOTE.—The Office of Export Administration has determined that this document does not contain a major action which would require the preparation of an economic impact statement.

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

[FR Doc. 78-16327 Filed 6-9-78; 10:22 am]

[7020-02]

Title 19—Customs Duties

CHAPTER II—UNITED STATES INTERNATIONAL TRADE COMMISSION

PART 200—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Amendments to Financial Disclosure Regulations for Commission Staff

AGENCY: United States International Trade Commission

ACTION: Notice of rulemaking.

SUMMARY: This action amends the rules of agency organization, procedure, and practice, to provide that the Deputy Ethics Counselor with regard to matters covered by this part, "employee responsibilities and conduct" will be the Deputy General Counsel. Previously, the regulations had provided that the Assistant to the General Counsel of the Commission was to be the Deputy Ethics Counselor. Effective with the recent reorganization of the Commission, the second ranking officer in the General Counsel's office became the Deputy General Counsel, a new position, and the supervisory functions formerly exercised by the Assistant to the General Counsel were transferred to the Deputy General Counsel. It is therefore appropriate that the Deputy General Counsel of the Commission exercise the function of Deputy Ethics Counselor, since this would be consistent with the objectives of existing regulations. This amendment makes two other changes. First, the Ethics Counselor would be designated by the Chairman, rather than by the Commission as before, which is consistent with the Chairman's administrative authority enacted in Pub. L. 95-106 effective August 17, 1977. Second, the Deputy Counselor would be authorized to designate an employee to assist him and the Counselor, which is required by the increasing burden of ethics matters. It is expected that the Deputy Counselor will exercise discretion in his choice, designating an employee of suitable experience in whom the staff and the Commission are likely to repose confidence.

EFFECTIVE DATE: These regulations will be effective June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffery M. Lang, Esq., Deputy General Counsel, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202-523-0143.

The Commission's financial disclosure regulations are amended as follows:

Title 19, part 200, supart A—general provisions of the Code of Federal Regulations is hereby amended to delete the first paragraph of section 200.735-103 thereof and replace it with the following:

§ 200.735-103 Counseling service.

To provide advice and guidance to employees of the Commission with regard to the matters covered in this part, a Commissioner shall be designated by the Chairman to be the Counselor on such matters, the Deputy General Counsel of the Commission shall be the Deputy Counselor. The Deputy General Counsel may designate an employee to assist him and the Counselor.

* * * * *

Subparagraphs (a), (b), and (c) of this section are not affected by this amendment.

By order of the Chairman.
Issued: June 9, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-16480 Filed 6-13-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regs. No. 1]

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

Aid to Families With Dependent Children Programs; Solicitation of Public Comment

AGENCY: Social Security Administration, HEW.

ACTION: Solicitation of public comment.

SUMMARY: On January 30, 1978, the Social Security Administration (SSA) published interim regulations in the FEDERAL REGISTER (43 FR 3907) changing its regulations on the disclosure of official records and information. The changes reflected a requirement in Pub. L. 95-216 that SSA give earnings information to State and local government agencies and officials for administering programs of aid to families with dependent children (AFDC) established by Title IV-A of the Social Security Act. Those interim regulations also set out measures which the State or local agencies and officials should observe to ensure the disclosed information is used only for proper AFDC purposes.

At the time we published those interim regulations we did not solicit public comment. We are now inviting all interested persons or agencies to submit written comments on those interim regulations and on any experiences with them thus far. These comments will be used to determine if any changes are needed before publishing the interim regulations as final rules.

DATES: Comments must be received by September 12, 1978.

ADDRESSES: Please submit any comments in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5181, 330 Independence Avenue, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Armand Esposito, Legal Assistant, Office of Policy and Regulations, 6401 Security Boulvard, Baltimore, Md. 21235, telephone 301-594-7455.

(Secs. 1102, 1106(a), Social Security Act; 49 Stat. 647, 53 Stat. 1398; 42 U.S.C. 1302, 1306; sec. 411, Social Security Act (42 U.S.C. 611), as added by Pub. L. 95-216 (91 Stat. 1561).)

(Catalog of Federal Domestic Assistance Programs No. 13.800-13.807, Social Security Programs.)

Dated: April 25, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

Approved: June 5, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

[FR Doc. 78-16429 Filed 6-13-78; 8:45 am]

[4310-05]

Title 30—Mineral Resources

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

PART 837—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

Establishment of an Interest Rate For Delinquent Reclamation Fee Payments and Methods of Interest Computation

Correction

In FR Doc. 78-13072 appearing at page 20793, in the issue of Monday, May 15, 1978, make the following change:

On page 20795, in the 1st and 6th line of § 837.15, in paragraph (e), insert "June 15, 1978", and "June 14, 1978", in place of "(31 days after publication)", and "(30 days after publication)", respectively.

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DIS Reg 28-4]

PART 298a—DEFENSE INVESTIGATIVE SERVICE

Amendment of Exemption Rule

AGENCY: Defense Intelligence Agency (DIS).

ACTION: Final rule.

SUMMARY: The Defense Intelligence Agency is amending an existing exemption rule under the Privacy Act for a record system by deleting the exemption from the provisions of subsection (o) of the act. This provision of the exemption rule would exempt the DIS from submitting a new or altered system report as required by the act on the record system. This is contrary to the Department of Defense (DoD) policy that all DoD Components shall submit a report for a new or altered record system. The effect of this amendment is that the DIS shall be required to submit a new or altered system report in accordance with subsection (o) of the Privacy Act.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Dale L. Hartig, Assistant for Information (D0020), Defense Investigative Service, 1000 Independence Avenue SW., Washington, D.C. 20314, telephone, 202-693-1740.

SUPPLEMENTARY INFORMATION: The DIS issued a proposed amendment to an existing exemption rule for a record system identified as DIS 5-01, entitled: "Investigative Files", which was published in the FEDERAL REGISTER on May 8, 1978 (43 FR 19689), to delete the exemption from the provisions of subsection (o) of the Privacy Act. Interested persons were invited to comment on the proposed amendment. No public comments were received. Accordingly, the proposed amendment is hereby adopted as set forth below.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JUNE 9, 1978.

§ 298a.14 Exemptions.

* * * * *

(c) *Investigative files.—DIS 5-01.*

(1) Exemption. 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), (3), (5) and (8); and (g);

(2) Authority. 5 U.S.C. 552a(j)(2);

(3) Reasons. Records maintained by, or at the direction of the DIS Special Cases Division include criminal investigations for which DIS has primary responsbility and certain reports and reciprocal investigations, as well as security or counterintelligence information, which may be used in criminal prosecution. The withholding of this information will be to the extent necessary to allow the DIS Special Cases Division, a criminal law enforcement component, to conduct effective investigations into alleged unlawful activity, or crime conducive situations, without jeopardizing such investigations.

Knowledge of the investigations of the Special Cases Division would enable subjects or suspects to take actions to prevent detection of criminal activities, fabricate evidence, influence witnesses improperly, conceal or destroy evidence, or to escape prosecution. It would also lead to intimidation of, or harm to, sources, informants, witnesses and their families. Information from this system will be withheld only to the extent that its release would interfere with such investigations.

[FR Doc. 78-16431 Filed 6-13-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 911-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Yolo-Solano Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove changes to the Yolo-Solano Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: On Septemer 20, 1977 (42 FR 47227) EPA published a notice of proposed rulemaking for revisions to the Yolo-Solano APCD's rules and regulations submitted on June 6, 1977 by the California Air Resources Board for inclusion in the California SIP. The June 6, 1977 submittal contained only revisions to Rule 2.21, Vapor Control for Organic Liquid Transfer and Storage.

The notice of proposed rulemaking provided for a 30-day comment period. Comments were received from the Yolo-Solano APCD concerning those portions of Rule 2.21 which EPA is disapproving. The District commented that the requirements for submerged fill pipes on agricultural tanks are of questionable significance since there are a small number of farm tanks affected that are currently in use, and since the District regulations provide more stringent requirements for non-agricultural tanks than required by 40 CFR 52.255, Gasoline Transfer Vapor Control. However, the Yolo-Solano APCD has not submitted a detailed control strategy analysis indicating that their requirements provide the same amount of control as provided for in § 52.255. Thus, EPA cannot approve the relaxation of controls for agricultural tanks.

Yolo-Solano APCD also commented that the exemption for small bulk plants from vapor controls during outloading is consistent with State requirements. While this may be the case, such exemptions are not consistent with the EPA requirements, stated in § 52.255, and therefore cannot be approved.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

This notice approves Rule 2.21, submitted on June 6, 1977, with the exception of sections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(6) which are disapproved. The disapproved portions of Yolo-Solano's Rule 2.21 would have provided exemptions which are not allowed under 40 CFR 52.255 for small bulk plants, storage tanks less than 2000 gallons installed between July 1, 1975 and March 1, 1976, agricultural tanks, and delivery vessels. The Yolo-Solano APCD has not submitted a control strategy which shows that these exemptions will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards. Those portions of Rule 2.21 which are being approved are consistent with all EPA requirements. Paragraphs (c)(3)(iii), (d)(1) and (d)(2) of 40 CFR 52.255 as well as those portions of paragraph (c) necessary for their interpretation and enforcement will remain applicable in the Yolo-Solano APCD.

Paragraph (b) of § 52.255 has been restructured to allow for the above mentioned actions concerning Yolo-Solano's Rule 2.21. The substance of the previously promulgated paragraph (b) has not been altered by the restructuring.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraph (c)(39)(v) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(39) * * *

(v) Yolo-Solano APCD.

(A) Amended Rule 2.21.

* * * * *

2. Section 52.255 is amended by revising paragraph (b) as follows:

§ 52.255 Gasoline transfer vapor control.

* * * * *

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley and San Joaquin Valley Intrastate Air Quality Control Regions with the following exceptions:

(1) The control requirements of this section are limited to facilities with a total throughput less than 20,000 gallons per day, the refilling of delivery vessels at these facilities, and storage containers serviced by these facilities for those air pollution control districts identified below.

(i) Fresno County APCD.
(ii) Kern County APCD.
(iii) Merced County APCD.
(iv) Sacramento County APCD.
(v) San Joaquin County APCD.
(vi) Santa Barbara County APCD.
(vii) Southern California APCD.
(viii) Stanislaus County APCD.
(ix) Tulare County APCD.
(x) Ventura County APCD.

(2) The requirements of this section are limited to paragraphs (c)(3)(iii), (d)(1) and (d)(2) and those portions of paragraph (c) required for their interpretation and enforcement for the Yolo-Solano APCD.

* * * * *

3. Section 52.269 is revised by adding paragraph (c) as follows:

§ 52.269 Control strategy and regulations: Photochemical oxidants (hydrocarbons) and carbon monoxide.

* * * * *

(c) The following rules and regulations are disapproved because they represent a relaxation of promulgated EPA regulations, and an adequate control strategy demonstration has not been submitted showing that the re-

laxation would not interfere with the attainment and maintenance of the national standrds for photochemical oxidants:

(1) Sacramento Valley Intrastate AQCR.

(i) Yolo-Solano APCD.

(A) Rules 2.21(b)(1), 2.21(b)(2), 2.21(b)(4), 2.21(b)(5) and 2.21(b)(6), submitted on June 6, 1977.

* * * * *

[FR Doc. 78-16340 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 894-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: El Dorado County Air Pollution Control District (APCD)

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the El Dorado County APCD portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wayne Blackard, telephone 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 26, 1977 (42 FR 26997), EPA published a notice of proposed rulemaking for revisions to the rules and regulations of the El Dorado County APCD submitted by the California Air Resources Board (ARB) on July 25, 1973, April 10, 1975, and August 2, 1976 for inclusion in the California SIP. Since the April 10, 1975 and August 2, 1976 submittals supersede the July 25, 1973 submittal, only they will be addressed in this notice.

Revisions on rules concerning new source review have been submitted; however, no action is being taken at this time as these rules will be acted upon in a separate FEDERAL REGISTER notice.

The changes contained in the April 10, 1975 and August 2, 1976 submittals that are being acted on by this notice include the following:

(a) New definitions are added.

(b) The visible emission limitations are changed from Ringelmann No. 2 to No. 1 (emission of uncombined water is exempted from this rule).

(c) A new rule is adopted to control emissions from fossil fuel-steam generator facility.

(d) Allowable emission rates for particulate matter based on process weight rates are changed.

(e) A new rule governing equipment for the reduction of animal matter is adopted.

(f) Obsolete effective dates are dropped from certain rules.

(g) Rules for controlling open outdoor fires including agricultural burning are amended.

(h) New rules are added to specify permit system conditions: responsibility of permittee, responsibility of sources in recordkeeping and reporting, etc.

(i) Several administrative changes are made in the procedure before the hearing board.

(j) Rules are added to designate the manner in which measurements should be made in case of separation or combination of emissions.

(k) Minor wording changes, that do not involve the degree of control, are made to a number of rules.

(l) The language of the Health and Safety Code has been incorporated into a number of rules.

(m) The entire set of rules is recodified.

(n) The rule which indicates that if a part of a rule is found unconstitutional, the remaining part of the rule remains valid is deleted.

(o) The rule which indicates that all new applicable California laws shall have full effect in the District is deleted.

A list of the regulations considered by this notice was published as part of the May 26, 1977 notice of proposed rulemaking (42 FR 26997). The proposed rulemaking provided 30 days for public comments. No comments were received.

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted regulations as SIP revisions.

It is the purpose of this notice to approve all the revisions contained in the April 10, 1975 and August 2, 1976 submittals, and incorporate them into the California SIP, with the exception of those rules not being acted upon, those rules being disapproved, and certain rescission actions as discussed below.

No action is being taken on the following rules because they have been superseded by SIP revisions submitted by the ARB on November 4, 1977: Rules 201, 203, 205, 205(a), 207, 208, 210(b), 213, 215, 216, 216-49, 216-50, 216-51, 216-52, 216-53, 216-54, 216-55, 216-56, 216-1, 216-2, 216-3, 302, 303, 304, 307, 308, 314, 319, 320, 321, 322, 324, 402, 404, 407, 409, 507, 603, 700, 703, and 710. These rules will be addressed in another FEDERAL REGISTER notice.

Rule 211, Process Weight Per Hour, in the August 2, 1976 submittal and the companion Rule 212, Process Weight Table, in the April 10, 1975 submittal are analogous to the previously approved Rule 55, Dust and Condensed Fumes, in the February 21, 1972 submittal. Although Rule 211, which controls "dust" only, covers a narrower range of pollutants than the previously approved Rule 55, which controls both "dust and condensed fumes", Rule 212 contains allowable emission rates more stringent that those contained in Rule 55. Since Rules 211 and 212 are interdependent and since a control strategy demonstration has not been submitted to show that the replacement of Rule 55 with Rules 211 and 212 will not interfere with the attainment and maintenance of the NAAQS, EPA is disapproving Rules 211 and 212, and at the same time retaining Rule 55 for Federal enforcement purposes.

Rule 408, Source Recordkeeping and Reporting, in the April 10, 1975 submittal is a new rule that requires the owner or operator of a stationary source of air pollution to maintain files and records of the nature and amounts of emissions, and report findings to the APCD. This rule meets the requirements of 40 CFR 51.19(a) and is thus approved. El Dorado county APCD, therefore, is rescinded from the disapproval notice in 40 CFR 52.234(a) and the associated substitute regulations in 40 CFR 52.234(d).

Regulation VII revisions (which includes Rules 701, 702, 704 to 709, and 711 to 717 in the April 10, 1975 submittal) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The deletion in the April 10, 1975 submittal of Rule 5, Validity; Rule 6, New Laws; and Rule 7 Effective Date, approved in the February 21, 1972 submittal, is approved because these rules are not required by 40 CFR Part 51 and their omission will not cause any relaxation in the control regulations.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(27)(viii) and (c)(32)(vi) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(27) * * *
(viii) El Dorado County APCD.
(A) New or amended rules 101, 102, 202, 204, 206, 209, 210(a), 212, 214, 301, 305, 306, 309, 310, 311, 312, 313, 315, 316, 317, 318, 323, 401, 403, 405, 406, 408, 601, 602, 701, 702, 704, 705, 706, 707, 708, 709, 711, 712, 713, 714, 715, 716, 717.
(B) Previously approved and now deleted (without replacement) Rules 5, 6, 7.

* * * * *

(c) * * *
(32) * * *
(vi) El Dorado County APCD.
(A) Amended rule 211.

* * * * *

2. Section 52.234, paragraph (a)(3)(iv) is added as follows:

§ 52.234 Source surveillance.

(a) * * *
(3) * * *
(iv) El Dorado County APCD.

* * * * *

3. Section 52.275, paragraph (b)(2) is added as follows:

§ 52.275 Particulate matter control.

(a) * * *
(b) * * *
(2) Sacramento Valley Intrastate AQCR:
(i) El Dorado County APCD.
(A) Rule 211, Process Weight Per Hour, submitted on August 2, 1976, and Rule 212, Process Weight Table, submitted on April 10, 1975, are disapproved; while the analogous Rule 55, Dust and Condensed Fumes, previously approved in the February 21, 1972, submittal is retained and shall remain in effect for Federal enforcement purposes.

* * * * *

[FR Doc. 78-16341 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 903-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Yolo-Solano Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Yolo-Solano Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 24, 1977, in 42 FR 26438, EPA published a notice of proposed rulemaking for revisions to the Yolo-Solano Air Pollution Control District Rules and Regulations submitted on July 25, 1973; July 19, 1974; January 10, 1975; and April 21, 1976 by the California Air Resources Board for inclusion in the California SIP.

The changes contained in these submittals and being acted upon by this notice include the following: Changes to incorporate the recodification of the California Health and Safety Code; changes to the open burning and agricultural burning regulations; administrative and procedural changes in fee requirements and hearing board activities; the renumbering and retitling of regulations; additions and changes to the "Definitions" rule; changes to the rule on public availability of emission data; additions and changes to the "Organic Solvent" rule and other related rules; changes to the fuel burning rule; and the addition of a new process weight table.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

Rules concerning gasoline vapor recovery, emergency episode actions, and new source review have been added or revised; however, no action is being taken at this time and these rules will be acted upon in separate FEDERAL REGISTER notices.

The State has also submitted rules and regulations for the Yolo-Solano APCD concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Regulation VIII and Exhibit A). These regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They were, however, reviewed under the appropriate provisions of sections 111 and 112, and delegation of authority to implement and enforce the NSPS and NESHAPS standards was made to the State on behalf of the Yolo-Solano APCD on November 19, 1976. The FEDERAL REGISTER notice for this delegation of authority will be published at a future date.

Regulation V, Procedures Before the Hearing Board, contains procedures by which variances from emission limits may be obtained. While EPA is approving the changes to Regulation V, each variance must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

A list of the Rules being considered by this action was published as part of the notice of proposed rulemaking and can be found in 42 FR 26438 (May 24, 1977). Comments were received from the Yolo-Solano APCD during the 30-day public comment period. No other comments were received.

The APCD commented that the adoption of Rule 2.8(c)(4), while allowing for the burning of material on days when the Air Resources Board has determined that meteorological conditions exist which preclude such burning, is not a weakening of the air pollution program because other APCD regulations now prohibit some specified burning practices, and these other regulations more than compensate for the apparent relaxation of Rule 2.8(c)(4). Nevertheless, EPA is disapproving Rule 2.8(c)(4) because: (1) The APCD has not submitted a technical analysis supporting their comment; (2) No criteria have been established by the APCD, and submitted as an SIP revision to the EPA stating how the Air Pollution Control Officer (APCO) determines that such burning is "not to have a significant air pollution effect"; and (3) No indication is given as to what types of burning operations are allowed under this provision.

The APCD commented that disapproval of Rule 6.1(a) would be unwar-

ranted since the APCD regulations, which exempt range improvement burning from no-burn day criteria during the time period from January to May, are consistent with the State plan and strategy. While State law may allow for this type of exemption, this State law is not a part of the applicable SIP. The State must submit technical support to justify this regulatory relaxation (the superseded County Rule 4.1 did not provide for this exemption). EPA has not received a technical justification showing that the relaxation would not interfere with the attainment and maintenance of the NAAQS. EPA is therefore disapproving Rule 6.1(a).

The APCD commented on the disapproval of Rules 6.1(e)(6), 6.3, and 6.5. The APCD stated that these rules are in accord with State law and that EPA has implicitly approved such regulations previously, and that this disapproval is "unwarranted if not arbitrary." The EPA cannot approve rules that provide for exemptions from emissions control regulations when such exemptions are based solely upon a showing of economic harm. Such exemptions are permissible only if all other requirements of section 110 of the Clean Air Act are met. Without a showing that the granting of such exemptions will not interfere with the attainment or maintenance of the NAAQS, EPA must disapprove these three rules.

The APCD also commented on the disapproval of the new Rule 2.16 which contains a number of changes which require more stringent control than the old Rule 2.16. It is correct that the new Rule 2.16 does have several improved features. However, the new Rule 2.16 also contains a number of changes which could result in a relaxation of emission control requirements. No detailed strategy analysis, including a documented emission inventory analysis, has been presented to EPA to show that the net effect of these changes will not result in a relaxation of emission control requirements. Thus, these changes could interfere with the attainment and maintenance of the NAAQS; and for this reason EPA is disapproving this new submittal of Rule 2.16 and retaining the Rule 2.16 previously approved by EPA for inclusion in the SIP.

Rule 2.13, Organic Solvents, Rule 2.14, Architectural Coatings, and Rule 2.15, Disposal and Evaporation of Solvents, have been revised and are equivalent to the Federally promulgated requirements of 40 CFR 52.254. These rules are approved and Yolo-Solano APCD is rescinded from 40 CFR 52.254.

It is the purpose of this final rulemaking notice to approve all changes contained in the July 25, 1973; July 19, 1974; January 10, 1975; and April 21, 1976 submittals and incorporate them into the California SIP with the exception of those rules not being acted upon, and the rules discussed below.

Rule 1.3, Confidential Information, provides for public availability of emission data, but does not provide for correlation of emission data with applicable emission limitations as required by 40 CFR 51.10(e). This rule is approved. However, the portion of the substitute regulation which provides for correlation of emission data in 40 CFR 52.224, is retained.

Rule 2.8(c)(4), Open Burning, General, authorizes the Air Pollution Control Officer (APCO) to permit fires on all days which he determines necessary and not to have significant air pollution effects. This rule is disapproved since there are no guidelines provided which limit the authority to issue permits under this section. In addition, no data has been submitted which demonstrates that the exemption will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS).

Rule 2.8(c)(5), Open Burning, General, permits the burning of pesticide sacks on all days. This rule is disapproved since it provides for a new exception to the open burning rule without an accompanying analysis which demonstrates non-interference with the attainment and maintenance of the NAAQS.

EPA is disapproving Rule 2.16, Fuel Burning Heat or Power Generators, which contains emission limitations for SO_2, No_2, and particulate from fuel burning equipment. This rule has been revised by relaxing the particulate emission limit, and by adding provisions that apply during periods of gas fuel unavailability. This revision cannot be approved without an adequate control strategy demonstration that this relaxation will not interfere with the attainment and maintenance of the NAAQS.

Rule 6.1(a), Prohibitions, Burning Days, is disapproved because it exempts range improvement burning from January 1 to May 31 from the burning prohibition on "no burn" days and no analysis has been submitted which demonstrates that this additional burning will not interfere with the attainment and maintenance of the NAAQS. Rule 4.1(a), submitted on February 21, 1972, and previously approved under 40 CFR 52.223, will be retained for Federal enforcement purposes.

Rule 6.1(g), Prohibitions, Burning Hours, is disapproved because it allows more burning due to an increase in burning hours. The revision lengthens burning hours from 8:00 a.m. to 5:00 p.m. for materials other than rice straw or stubble and from 10:00 a.m. to 5:00 p.m. for rice straw or stubble. The burning hours in the old Rule 4.1(g) were 9:00 a.m. to 3:00 p.m. This rule is disapproved since it increases burning and no data has been submitted which demonstrates that this additional burning will not interfere with the attainment and maintenance of the NAAQS. Rule 4.1(g), submitted on February 21, 1972, and previously approved under 40 CFR 52.223 will be retained for Federal enforcement purposes.

Rule 6.1(e)(6), Prohibitions, Material Preparation, is disapproved because it authorizes the APCO to shorten required minimum drying times set forth in Rule 6.1(e) upon a determination that economic loss is threatened by denial of a permit. Rule 6.3, Special Permits, is disapproved since it fails to adequately specify the type of information required by an application for a special permit and allows threatened economic loss to be considered as a basis for granting a special permit.

Rule 6.5(a), Standards for Granting Applications, is disapproved since it authorizes special permits to be issued on "no-burn" days upon a showing of threatened economic loss. Economic factors are an impermissible basis upon which to condition the granting of variances from the emission limitations absent a demonstration showing that all other requirements of Section 110 of the Clean Air Act as well as the NAAQS will be met. Rules 4.1(e)(6), 4.3 and 4.5, submitted on February 21, 1972, and previously approved under 40 CFR 52.223, will remain in effect. However, these rules will be proposed for disapproval at a later date for the reasons indicated above.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 amd 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(21)(xiv), (24)(ix)(B), (26)(xiv) and (31)(xiv) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(xiv) Yolo-Solano APCD.

(A) New or amended Rules 1.2 (a, b, d to g, i to x, and z to ae), 1.4, 2.4(e), 2.8, 2.9, 4.1 to 4.5, 5.1 to 5.18, 6.1 (i) and (j), 6.2 to 6.5, and 6.7 to 6.8.

* * * * *

(24) * * *
(ix) * * *
(A) * * *
(B) New or amended Rules 1.2 (c, h, and y), 1.3, 2.11 to 2.16, 2.19, 4.3, 5.4, 5.6, and 5.12.

* * * * *

(26) * * *
(xiv) Yolo-Solano APCD.
(A) New or amended Rule 6.1 (a), (b), (c), (d), (e), and (g) (1, 2, and 3).

* * * * *

(31) * * *
(xiv) Yolo-Solano APCD.
(A) New or amended Rules 6.1(f) (1 and 2), (g)(4), (h) (1 and 2) and 6.6.

* * * * *

2. Section 52.224, paragraph (a)(2)(ii) is added as follows:

§ 52.224 General requirements.

(a) * * *
(2) * * *
(ii) Sacramento Valley Intrastate:
(A) Yolo-Solano APCD.

* * * * *

3. Section 52.254, paragraph (a)(3)(ii) is added as follows:

§ 52.254 Organic solvent usage.

(a) * * *
(3) * * *
(ii) Yolo-Solano APCD.

* * * * *

4. Section 52.273, paragraph (a)(1)(iv) is added as follows:

§ 52.273 Open burning.

(a) * * *
(1) * * *
(iv) Yolo-Solano APCD.
(A) Rule 2.8(c)(4) and Rule 2.8(c)(5) Open Burning, General, submitted on July 25, 1973.
(B) Rule 6.1(a), Prohibitions, Burning Days, submitted on January 10, 1975. Rule 4.1(a), Prohibitions, No Burn Days, submitted on February 21, 1972 and previously approved in 40 CFR 52.223, is retained.
(C) Rule 6.1(e)(6), Prohibitions, Material Preparation, submitted on January 10, 1975.
(D) Rule 6.1(g), Prohibitions, Burning Hours, submitted on January 10, 1975. Rule 4.1(g), Prohibitions, Burning Hours, submitted on February 21, 1972 and previously approved in 40 CFR 52.223, is retained.
(E) Rule 6.3, Special Permits, submitted on July 25, 1973.
(F) Rule 6.5(a), Standards for Granting Applications, submitted on July 25, 1973.

* * * * *

5. Section 52.280, paragraph (a)(2)(i) is added as follows:

§ 52.280 Fuel burning equipment.

(a) * * *
(2) Sacramento Valley Intrastate AQCR:
(i) Yolo-Solano APCD.
(A) Rule 2.16, Fuel Burning Heat or Power Generators, submitted on July 19, 1974 is disapproved; and Rule 2.16, Fuel Burning Equipment, submitted on June 30, 1972 and previously approved as part of the SIP in 40 CFR 52.223, is retained.

* * * * *

[FR Doc. 78-16342 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 901-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Del Norte County Air Pollution Control District (APCD)

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Del Norte County APCD portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-0217.

SUPPLEMENTARY INFORMATION: On June 14, 1977 (42 FR 30394) and July 11, 1977 (42 FR 35662), EPA published notices of proposed rulemaking for revisions to the Del Norte County Air Pollution Control District's Rules and Regulations submitted on July 25, 1973; October 23, 1974; April 10, 1975; July 22, 1975; and November 10, 1976. Since the November 10, 1976 submittal represents the most recent complete set of rules and regulations for the District, only it will be addressed in this notice.

The rules contained in the November 10, 1976 submittal comprise a complete revision of the Del Norte County APCD's rules and regulations and are identical for four of the five APCD's in the North Coast Air Basin. All rules have been renumbered, and many have been reworded or reorganized. In addition to those changes, the most significant changes to rules being acted upon by this notice are as follows:

(a) Language changes are made to conform with recodification of the State Health and Safety Code and to accommodate the Uniform Regulations of the North Coast Air Basin.
(b) Procedures are added regarding public records and trade secrets.
(c) Provisions are added regarding severability, intent of the regulations, and liberal construction.
(d) Monitoring requirements are made more specific.
(e) Exceptions to the visible emissions rule are added.
(f) Specific limits on particulates from steam generating units and Kraft recovery furnaces are established.
(g) Measures to be taken to control fugitive dust are added.
(h) Controls over incineration of animal matter are added.
(i) A requirement for submerged fill pipes for stationary gasoline tanks is added.
(j) Procedures for issuing orders for abatement are updated and detailed.
(k) Exemptions from open burning prohibitions are added.
(l) Open burning policies are specified.
(m) Use classifications under which open fires are allowed on "permissive-burn" days are specified.
(n) Procedures for notifying the public of "permissive-burn" and "no-burn" days are specified.
(o) Reporting procedures, exceptions to prohibition of burning on "no-burn" days, and agencies that may issue burning permits are specified.
(p) Conditions under which waste may be burned are specified, and an exception to the rule on drying time is provided.
(q) Penalties for violations of open burning rules are established.

Lists of the rules being considered by this action were published as part of the notices of proposed rulemaking on June 14, 1977 (42 FR 30394) and on July 11, 1977 (42 FR 35662). The notices of proposed rulemaking provided 30 days for public comment.

In response to EPA's Evaluation Reports on the Del Norte County APCD's rules, and to a letter dated July 21, 1977, from EPA to the Del Norte County APCD, the Humboldt County APCD sent two letters, dated July 27 and 28, 1977, to EPA. Both letters dealt with Regulation 2, Open Burning Procedures, while the July 28 letter also dealt with Rule 240(e), Mandatory Monitoring Requirements.

Regarding Regulation 2, and in particular the general prohibitions as set forth at page 1, the July 27 letter noted that certain exceptions would not allow the unregulated burning that EPA had questioned, because of limiting definitions, conditions normally included in the granting of exemptions, and a proposed revision of the general prohibitions. In an August 16, 1977 letter to the Humboldt County APCD, EPA responded to those comments by suggesting ways in which the regulation could be further improved, and pointing out that, until a revision is submitted to EPA by the California Air Resources Board as an official SIP revision, EPA cannot act upon it.

The July 28 letter noted that special burning practices permitted on the basis of economic considerations might "be further conditioned that they will not cause a violation of the SIP control strategy." EPA encourages such conditioning, provided also that a demonstration is made that such permitted burning practices will not prevent the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

Regarding Rule 240(e), the July 28 letter noted that the Del Norte County APCD has adopted a revised Rule 240(e). Although that revised rule was submitted to EPA by the California Air Resources Board on November 4, 1977, it has not yet been evaluated. It will be acted upon in a subsequent FEDERAL REGISTER notice.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions.

Rule 150, Public Records, is being approved. Because the rule does not provide for correlation of emission data with applicable emission limitations, however, the Del Norte County APCD is being retained under the substitute regulation (40 CFR 52.224(b)(4)).

Rule 240(d), Compliance Verification, has been added to provide additional source surveillance requirements. Except for paragraph (3), which is not being acted upon, it is being approved. Because Rule 240(d) meets the requirements of 40 CFR 51.19 (a) and (b), the Del Norte County APCD is being rescinded from the requirements of 40 CFR 52.234(d).

Rule 630, Decisions, is being approved as a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

It is the purpose of this notice to approve all changes contained in the November 10, 1976 submittal and to incorporate them into the California SIP, with the exceptions of the rules discussed below.

EPA is disapproving Rules 410(c)(2), 410(c)(7), and 420(e), and the following portions of Regulation 2, Open Burning Procedures: General prohibitions (all of page 1) (Open Burning Procedures), paragraphs (e) and (f) of Article I (Scope and Policy), paragraphs (f) and (g) of Article V (Burning Permits and Reports), and paragraph (f) of Article VI (Burning Preparation and Restrictions).

Paragraph (c)(7) of Rule 410, Visible Emissions, would exempt from the opacity limit of Rule 410(a) "dust and particulate matter released incident to completing and cleaning out a geothermal well and placing it in production." This paragraph is disapproved because no analysis has been submitted to show that the exemption would not interfere with the attainment/maintenance of the NAAQS.

Rule 420(e), Waste Incineration, would exempt from the emission limit of Rule 420(a) single chamber incinerators "used for the disposal of approved combustibles subject to permit conditions specified by the Control Officer after a finding that such use is compatible with the county solid waste management program and will not cause a violation of the control strategy." This rule is disapproved because it relaxes emission control, provides an excessive amount of discretion on the part of the Control Officer, and as such could interfere with the attainment/maintenance of the NAAQS.

Paragraph (c)(2) of Rule 410, Visible Emissions, would exempt from the opacity limit of Rule 410(a) "smoke from fires set pursuant to Regulation 2 (Open Burning Procedures) of the North Coast Air Basin." Several provisions of Regulation 2 are being disapproved for the reasons given in the four paragraphs immediately following. Rule 410(c)(2) is disapproved for the same reasons.

The general prohibitions (all of page 1) of Regulation 2 would permit the burning of specified substances under certain conditions. These general prohibitions (all of page 1) are disapproved because no analysis has been submitted to show that such burning would not interfere with the attainment/maintenance of the NAAQS.

Paragraph (e) of Article I of Regulation 2 would permit open outdoor fires "* * * on those days for which satisfactory meteorological burning conditions and adequate area ventilation are predicted to occur * * *." This provision is disapproved because it is too vague to be enforceable.

Paragraph (f) of Article I, paragraph (g) of Article V, and paragraph (f) of Article VI, all of which are contained in Regulation 2, are disapproved because each would allow the granting of exceptions from open burning rules if "imminent and substantial economic loss" is threatened by denial of an exception. Economic factors are an impermissible basis upon which to grant such an exception absent a showing that all other requirements of section 110 of the Clean Air Act, as well as the NAAQS, will be met.

Paragraph (f) of Article V of Regulation 2 would allow, from January 1 until May 31, range improvement or forest management burning on "no-burn" days, provided that more than 50 percent of the land has been "brush treated." This paragraph is disapproved because no analysis has been submitted to show that the allowance would not interfere with the attainment/maintenance of the NAAQS.

No action is being taken at this time on rules concerning emergency episodes, non-criteria pollutants, new source review, mandatory monitoring, nuisance, sulfide emission standards, organic gas emission, malfunction, and open burning (use classifications). Of these rules, Rule 140, Emergency Conditions; Chapter II, Permits (except Rule 240(d)); and Rule 540, Equipment Breakdown, will be or have been acted upon in separate FEDERAL REGISTER notices.

Rule 160, Ambient Air Quality Standards (excluding paragraph (a), which does not apply to the Del Norte County APCD), is being approved with the exceptions of the non-criteria pollutants, which are not appropriate for inclusion in the SIP.

Paragraph (3) of Rule 240(d), Compliance Verification, is not being acted upon because it relies upon Rule 540, Equipment Breakdown, which has been disapproved (43 FR 3275).

Rule 240(e), Mandatory Monitoring Requirements, which concerns the requirements of 40 CFR 51.19(e), has been replaced by a more recent submittal. Therefore, EPA is taking no action on this rule.

Paragraphs (a) and (c) of Rule 400, Public Nuisance, are not appropriate for inclusion in the SIP because they are not specifically directed at the attainment or maintenance of the NAAQS. Therefore, EPA is taking no action on these paragraphs.

Rule 450, Sulfide Emission Standards, is not appropriate for inclusion in the SIP because it would regulate a pollutant for which there is no NAAQS. Therefore, EPA is taking no action on this rule.

Use Classification 6 of Article III or Regulation 2, Open Burning Procedures, is not appropriate for inclusion in the SIP because it expired on January 1, 1977. Therefore, EPA is taking no action on this rule.

Paragraph (a) of Rule 160, Ambient Air Quality Standards; paragraph (b) of Rule 410, Visible Emissions; Rule

460, Organic Gas Emissions; Appendix (map) to Regulation 1; and Appendices A, B, and C (maps) to Regulation 2, Open Burning Procedures, although included in the Uniform Regulations of the North Coast Air Basin, do not apply to the Del Norte County APCD. Therefore, EPA is taking no action on these rules.

The State has submitted Rules 490 and 492, and Regulations 3 and 4, concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). These rules and regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in the SIP under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. NSPS and NESHAPS regulations were, however, reviewed under the appropriate provisions of sections 111 and 112, and delegation of authority to implement and enforce the NSPS and NESHAPS standards was made to the State of California, on behalf of the Del Norte County APCD, on July 10, 1975. The FEDERAL REGISTER notice for this delegation of authority was published on September 11, 1975 (40 FR 42237).

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended, 42 U.S.C. 7410, 7601(a).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(35)(ix)(C) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(35) * * *
(ix) * * *

(C) New or amended Rules 100, 110, 120, 130, 150, 160 (except 160(a) and non-criteria pollutants), 190, 240(d) (except paragraph (3)), 300, 310, 320, 340, 400(b), 410(a), 410(c), 420, 430, 440, 470, 480, 482, 500, 510, 520, 600, 610, 620, 630, 640, and 650; and the following portions of Regulation 2: general prohibitions (all of page 1), Articles I and II, paragraphs A1, A2, A3, A4, 5, 7, and 8 of Article III, and Articles IV to VII.

* * * * *

2. Section 52.224, paragraph (a)(2)(iii) is added as follows:

§ 52.224 General requirements.

* * * * *

(a) * * *
(2) * * *
(iii) North Coast Intrastate:
(A) Del Norte County APCD.

* * * * *

3. Section 52.234, paragraph (a) is amended to read as follows:

§ 52.234 Source surveillance.

(a) Except in the Air Pollution Control Districts (APCDs) listed in this paragraph, the requirements of § 51.19(a) of this chapter are not met since the plan does not provide for recordkeeping and periodic reporting of emission data by sources.
(1) * * *
(iii) Del Norte County APCD.

* * * * *

4. In § 52.273, paragraphs (a)(4) and (b)(3) are added as follows:

§ 52.273 Open burning.

(a) * * *
(4) North Coast Intrastate Region:
(i) Del Norte County APCD.
(A) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

* * * * *

(b) * * *
(3) North Coast Intrastate AQCR:
(i) Del Norte County APCD.
(A) Paragraph (e) of Article I of Regulation 2, submitted on November 10, 1976.

* * * * *

5. Section 52.275, paragraph (b)(3) is added as follows:

§ 52.275 Particulate matter control.

* * * * *

(b) * * *
(3) North Coast Intrastate:
(i) Del Norte County APCD.
(A) Rules 410(c)(7) and 420(e), *Waste Incineration,* submitted on November 10, 1976.

* * * * *

[FR Doc. 78-16343 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 894-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Bay Area Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to disapprove or take no action on changes to the Bay Area Air Pollution Control District's portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7288.

SUPPLEMENTARY INFORMATION: On September 7, 1977, in 42 FR 44822, EPA published a notice of proposed rulemaking for certain revisions to the Bay Area Air Pollution Control District's (APCD) Rules and Regulations submitted on July 25, 1973, April 21, 1976, and June 6, 1977 by the California Air Resources Board for inclusion in the California SIP.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

Rules concerning malfunction (submitted on April 21, 1976), New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPS) (submitted on June 6, 1977) were proposed on September 7, 1977; however, no action is being taken on the malfunction rules at this time, as these rules will be acted upon in a separate FEDERAL REGISTER notice.

The NSPS and NESHAPS regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They were, however, reviewed under the appropriate provisions of sections 111 and 112,

and delegation of authority to implement and enforce the NSPS and NESHAPS standards was made to the State on behalf of the Bay Area Air Pollution Control District on May 23, 1975 and June 15, 1977. The FEDERAL REGISTER notice for the May 23, 1975 delegation of authority was published on September 11, 1975 (40 FR 42194). The FEDERAL REGISTER notice for the June 15, 1977 delegation of authority will be published in the near future.

The changes contained in the July 25, 1973 submission and being acted on by this final rulemaking include the addition of Regulation 2, sections 1214 to 1214.3, Experimental Operations and Regulation 3, sections 1205 to 1205.3, Experimental Operations. These sections allow exemptions for certain investigative, experimental, or research operations from meeting the requirements of Regulation 2 and Regulation 3. Since these sections would permit the exemption of sources from the applicable emission limitations and therefore do not satisfy the enforcement imperatives of section 110 of the Clean Air Act, they are disapproved. In addition, a control strategy demonstration has not been submitted showing that these exemptions will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

A list of the Rules and Regulations initially considered for this notice was published as part of the notice of proposed rulemaking. The proposed rulemaking provided for a 30-day public comment period. Comments were received from the Bay Area APCD on the proposed disapproval of the Experimental Operations rules. According to the APCD, the granting of exceptions for experimental operations have been few in number, short in duration, and that their effect could not interfere with the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS). EPA's position is that emission limitation exemption rules, such as the APCD's experimental operations rules, should not be approved unless the rules contain the essential safeguard that the emission exemption permit not be issued unless it was demonstrated that the issuance of such a permit would not interfere with the attainment and maintenance of the NAAQS. It is EPA's conclusion that the APCD research exemption rules do not contain such a safeguard, and thus should be disapproved.

The APCD also commented on the fact that Regulation 2, sections 1214 to 1214.3 and Regulation 3, sections 1205 to 1205.3 submitted on February 21, 1972, as part of the original SIP were approved under 40 CFR 52.223. Those sections were approved, but will be proposed to be disapproved in the near future. The disapproval of research exemption rules is a result of a more thorough analysis by EPA of APCD research exemption rules and their relationship to the Clean Air Act requirements.

It is the purpose of this final rulemaking to disapprove of the addition of Regulation 2, sections 1214 to 1214.3, Experimental Operations and Regulation 3, sections 1205 to 1205.3, Experimental Operations submitted on July 25, 1973.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.C.S. 7410 and 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(21)(iv) (C) and (D) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(iv) * * *

(C) Regulation 2.

(1) Division 1, Sections 1214 to 1214.3.

(D) Regulation 3.

(1) Division 1, Sections 1205 to 1205.3.

* * * * *

2. Section 52.272, paragraph (a)(3) is added as follows:

§ 52.272 Research operations exemptions.

(a) * * *

(3) San Francisco Bay Area Intrastate Region:

(i) Bay Area APCD.

(A) Regulation 2, Division 1, sections 1214 to 1214.3, Experimental Operations, submitted on July 25, 1973 are disapproved.

(B) Regulation 3, Division 1, sections 1205 to 1205.3, Experimental Operations, submitted on July 25, 1973 are disapproved.

* * * * *

[FR Doc. 78-16344 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 901-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Plumas County Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Plumas County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 26, 1977 (42 FR 27000), EPA published a notice of proposed rulemaking for revisions to the rules and regulations of the Plumas County APCD submitted by the California Air Resources Board (ARB) on July 25, 1973, January 10, 1975, July 22, 1975 and August 2, 1976 for inclusion in the California SIP. Since the January 10, 1975, July 22, 1975 and August 2, 1976 submittals supersede the July 25, 1973 submittal, the latter will not be addressed in this notice.

Revisions to rules concerning new source review have been submitted; however, no action is being taken at this time as these rules will be acted upon in a separate FEDERAL REGISTER notice.

The changes contained in the January 10, 1975, July 22, 1975 and August 2, 1976 submittals that are being acted on by this notice include the following:

(a) New definitions are added.

(b) A statement is added to indicate that the rules and regulations are applicable in all parts of the District unless stated otherwise.

(c) The visible emission limitations are changed from Ringelmann No. 2 to No. 1 (emission of uncombined water is exempted from this rule).

(d) New rules are adopted to control emissions from fossil fuel-steam generator facilities.

(e) The rule governing equipment for the reduction of animal matter is amended.

(f) Special allowance is made for sources existing in 1974, prior to the adoption of the new regulations.

(g) Emission standards for sulfur dioxide are modified.

(h) New rules are adopted to control open outdoor fires including agricultural burning.

(i) New rules are added to specify permit system conditions: Responsibility of permittee, responsibility of sources in recordkeeping and reporting, etc.

(j) Several administrative changes are made in the procedure before the hearing board.

(k) A new rule is added to indicate the Section in the California Health and Safety Code from which the Air Pollution Control Officer (APCO) derives his authority.

(l) Minor wording changes, that do not involve the degree of pollution control, are made to a number of rules.

(m) Emission control requirements for 1955 through 1962 model year cars are deleted.

(n) The rule for control of organic solvents is deleted.

(o) The entire set of rules is recodified.

A list of the regulations considered by this notice was published as part of the May 26, 1977 notice of proposed rulemaking. The proposed rulemaking provided 30 days for public comments. No comments were received.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted regulations as SIP revisions.

It is the purpose of this notice to approve all the revisions contained in the January 10, 1975, July 22, 1975 and August 2, 1976 submittals, and incorporate them into the California SIP, with the exception of those rules not being acted upon, those rules being disapproved, and certain rescission actions as discussed below.

The following rules are not being acted upon because they have been superseded by SIP revisions submitted by the ARB on June 6, 1977: Rules 203, 205, 207, 208, 211, 212, 213, 215, 301, 302, 303, 304, 307, 308, 319, 320, 321, 322, 323, 402, 404, 407, 409, 507, 601, 602, 603, 700, 703, and 710. The corresponding rules submitted on June 6, 1977 will be addressed in a future FEDERAL REGISTER notice.

In addition, Rule 210(b), Total Reduced Sulfur; Rule 216-52, Nuisance; and Rule 216-53, Exceptions to Rule 216-52, in the January 10, 1975 submittal are not acted upon because these rules are not specifically directed at the attainment and maintenance of the NAAQS and thus are not appropriate for inclusion in the SIP.

Rule 210(a), Sulfur Compounds, and Rule 216-56(a), Specific Contaminants, in the January 10, 1975 submittal are disapproved because they relax the emission standard for sulfur dioxide from 0.1% to 0.2% without any showing that the NAAQS for sulfur dioxide will be maintained. Rule 56, Sulfur Oxide Emissions, previously approved in the February 21, 1972 submittal is retained and shall remain in effect for Federal enforcement purposes.

Rule 314, Exceptions to Rule 313, in the January 10, 1975 submittal is disapproved because it authorizes the APCO to shorten the required minimum drying times set forth for materials to be burned in Rule 313 upon a determination that "economic loss" is threatened by denial of a permit. Economic factors are an impermissible basis for the granting of variances absent a showing that all other requirements of section 110 of the Clean Air Act as well as the NAAQS will be met.

Rule 408, Source Recordkeeping and Reporting, in the January 10, 1975 submittal is a new rule that requires the owner or operator of a stationary source of air pollution to maintain files and records of the nature and amounts of emissions, and to report findings to the APCD. This rule meets the requirements of 40 CFR 51.19(a) and is thus approved. Plumas County APCD, therefore, is rescinded from the disapproval notice in 40 CFR 52.234(a) and the associated substitute regulations in 40 CFR 52.234(d).

Regulation VII revisions (which include Rules 701, 702, 704 to 709, and 711 to 717 in the January 10, 1975 submittal) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The deletion of Rule 51.7, Emission Control for Used Motor Vehicles, previously approved in the June 30, 1972 submittal, is approved because the emission control requirements of the rule, which are set by the State, are contained in California law.

The deletion of Rule 57.5, Organic Solvents, previously approved in the February 21, 1972 submittal, is approved because the promulgated rules in 40 CFR 52.254 will remain in effect for the District.

The deletion of Rule 62, Review of Standards, and Rule 70, Appeals from the Hearing Board, previously approved in the February 21, 1972 submittal, is approved because these rules are only administrative and procedural in nature, and their omission will have no effect on the control regulations.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(A)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(26)(xvi) and (c)(32)(v) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(26) * * *

(xvi) Plumas County APCD.

(B) New or amended Rules 101, 102, 201, 202, 204, 206, 209, 210(a), 214, 216, 216-49, 216-50, 216-51, 216-54, 216-55, 216-56, 216-1, 216-2, 216-3, 305, 306, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 401, 403, 405, 406, 408, 701, 702, 704, 705, 706, 707, 708, 709, 711, 712, 713, 714, 715, 716, 717.

(C) Previously approved and now deleted (without replacement) Rules 51.7, 57.5, 62, 70.

* * * * *

(32) * * *

(v) Plumas County APCD.

(A) Amended Rule 324.

* * * * *

2. Section 52.231, paragraph (a)(3) is added as follows:

§ 52.231 Regulations: Sulfur oxides.

(a) * * *

(3) Sacramento Valley Intrastate:

(i) Plumas County APCD.

(A) Rule 210(a), Sulfur Compounds, and Rule 216-56(a), Specific Contaminants, submitted on January 10, 1975 are disapproved; and Rule 56, Sulfur Oxide Emissions, previously approved in the February 21, 1972 submittal is retained and shall remain in effect for Federal enforcement purposes.

* * * * *

3. Section 52.234, paragraph (a)(3)(iii) is added as follows:

§ 52.234 Source surveillance.

(a) * * *

(3) * * *

(iii) Plumas County APCD.

* * * * *

4. Section 52.273, paragraph (a)(1)(iii) is added as follows:

§ 52.273 Open burning.

(a) * * *

(1) * * *

(iii) Plumas County APCD.

(A) Rule 314, *Exceptions to Rule 313,* submitted on January 10, 1975.

* * * * *

[FR Doc. 78-16345 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 901-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Amador County Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve, and where appropriate, disapprove or take no action on revisions to the Amador County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 31, 1977 (42 FR 27616), EPA published a notice of proposed rulemaking for revisions to the rules and regulations of the Amador County APCD submitted by the California Air Resources Board (ARB) on July 25, 1973, January 22, 1974, July 19, 1974 and April 21, 1976 for inclusion in the California SIP. Since the April 21, 1976 submittal supersedes all previous submittals, only it will be addressed in this notice.

Revisions on rules concerning new source review, malfunction and gasoline vapor recovery have been submitted; however, no action is being taken at this time as these rules will be acted upon in separate FEDERAL REGISTER notices.

The State has also submitted regulations concerning New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). These regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in the SIP under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS in the APCD under the appropriate provisions of sections 111 and 112. Announcement of any such delegation would appear in a separate FEDERAL REGISTER notice.

The changes contained in the April 21, 1976 submittal that are being acted on by this notice include the following:

(a) Additions and amendments are made to the definitions.

(b) References to the California Health and Safety Code are renumbered to conform with the recodification of the Code.

(c) New rules are added to provide penalties for violations.

(d) A new rule is added to indicate the effective date of the rules.

(e) A new rule is added to indicate that the rules and regulations are applicable in all parts of the District unless otherwise stated.

(f) A new rule is added to control asphalt concrete plants constructed or modified after 1975.

(g) The rule for controlling orchard heaters is modified.

(h) The coverage of the rule for controlling all fuel burning equipment is narrowed to control fossil-fuel steam generators only.

(i) New rules are added to control open burning including agricultural burning.

(j) New rules are added to specify the permit system conditions: Responsibility of permittee, authority of the Air Pollution Control Officer (APCO) to inspect sources, responsibility of sources in recordkeeping and reporting, public availability of emission data, etc.

(k) A fee system is set up for permits.

(l) Several administrative changes are made on the procedure before the hearing board.

(m) New requirements are added to petitions for variances.

(n) The control rule for architectural coatings is dropped.

(o) Emission control for 1955 through 1962 model year cars is deleted.

(p) Minor wording changes, that do not involve the degree of control, are made to some rules for clarification purposes.

(q) The entire set of rules is recodified.

A list of the regulations considered by this notice was published as part of the May 31, 1977, notice of proposed rulemaking (42 FR 27616). The proposed rulemaking provided 30 days for public comments. No public comments were received.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted regulations as SIP revisions.

It is the purpose of this notice to approve all the revisions contained in the April 21, 1976, submittal and incorporate them into the California SIP, with the exception of those rules not being acted upon, those rules being disapproved, and certain rescission actions as discussed below.

No action is being taken on the following rules because they have been superseded by SIP revisions submitted by the ARB on October 13, 1977: Rules 103, 203, 205, 207, 302, 304, 306, 313, 507, 602.1, 701, 703 and 710. The corresponding rules submitted on October 13, 1977, will be addressed in a future FEDERAL REGISTER notice.

Also, no action is being taken on Rule 210(B), Total Reduced Sulfur, because this rule is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), and thus is not appropriate for inclusion in the SIP.

Rule 209, Fossil Fuel-Steam Generator Facility, revises Regulation V, Rule 19, Fuel Burning Equipment, previously approved in the June 30, 1972, submittal, by limiting its coverage from all fuel burning equipment to fossil fuel-fired steam generators only. This new rule is disapproved because this narrowing in coverage is not supported by any analysis demonstrating non-interference with the attainment and maintenance of the NAAQS. The previously approved Regulation V, Rule 19, Fuel Burning Equipment, is retained and shall remain in effect for Federal enforcement purposes.

Rule 211, Process Weight Per Hour, and Rule 212, Process Weight Table—Dust and Condensed Fumes, revise Regulation V, Rule 13, Process Weight Rate, and Rule 14, Process Weight Table, previously approved in the June 30, 1972 submittal, by narrowing the pollutant coverage from the more inclusive "particulate matter" to "dust and condensed fumes" only. The two new rules are disapproved because no analysis has been submitted to demonstrate that this relaxation in control will not interfere with the attainment and maintenance of the NAAQS. The previously approved Regulation V, Rules 13 and 14 are retained and shall remain in effect for Federal enforcement purposes.

No action is being taken on the new Rule 213, Storage of Petroleum Products, and Rule 213.1, Organic Liquid Loading, because EPA is now in the process of re-evaluating the appropriateness of applying the vapor recovery programs specified in 40 CFR 52.255

and 40 CFR 52.256 to the districts within the area presently known as the Mountain Counties Air Basin. This Air Basin is allowed and expected to become a separate air quality control region pursuant to the 1977 Clean Air Act Amendments. Preliminary information supplied by the Mountain Counties Coordinating Council indicates that existing ambient air quality standard excursions for oxidant in the Mountain Counties Air Basin are due to transport from the Sacramento Valley and the San Joaquin Valley rather than to the emissions of hydrocarbons within the area. Thus, EPA, by this notice, is soliciting public comments on this thesis for the purpose of promulgating final approval or disapproval of Rules 213 and 213.1. Comments may be sent to the EPA Region IX Office at the aforementioned address. Comments received on or before July 14, 1978, will be considered and made available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

In addition, copies of the proposed rules and preliminary analysis are available for public inspection during normal business hours at the EPA Region IX Office and at the following locations:

Amador County Air Pollution Control District, 810 Court Street, Jackson Calif. 95642.
California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

Rule 308, Exceptions to Permit Requirements, is disapproved because it grants five exceptions to the general rule that specifies no burning on days designated by the ARB as "no-burn days." The most significant exception is set forth in 308(B) which permits the APCO to grant a special burning permit upon a showing of threatened economic loss. Economic factors are an impermissible basis upon which to condition the granting of a variance from emission limitations absent a showing that all other requirements of section 110 of the Clean Air Act as well as the NAAQS will be met. Thus Rule 308(B) must be disapproved. In addition, 308(A) exempts the burning of empty pesticide sacks and containers; 308(C) exempts range burning between January and May; 308(D) exempts open burning in agricultural operations at altitudes above 3,000 feet mean sea level (msl) and 308(E) exempts agricultural burning in areas above 6,000 feet (msl) from the "no-burn day" requirements with a special permit from the APCO. All are disapproved because no analysis has been submitted to demonstrate that the rules will not interfere with the attainment and maintenance of NAAQS.

Rule 312, Mechanized Burning, is a new rule that exempts open burning in mechanized burners from "no-burn day" requirements. Although a visible emission limitation of Ringlemann No. 1 is set, there is no analysis demonstrating non-interference with the attainment and maintenance of the NAAQS. Thus the rule is disapproved.

Rule 408, Source Recordkeeping and Reporting, is a revision of Regulation V, Rule 2, Analyses Required, previously approved in the June 30, 1972 submittal, that requires the owner or operator of a stationary source of air pollution to maintain files and records of the nature and amounts of emissions, and to report findings to the APCD. This rule meets the requirements of 40 CFR 51.19(a) and is thus approved. Amador County APCD, therefore, is rescinded from the disapproval notice in 40 CFR 52.234(a) and the associated substitute regulations in 40 CFR 52.234(d).

Rule 409, Public Records, is a new rule that provides for public availability of emission data furnished by source owners or operators. Since the rule does not require the emission data to be correlated with applicable emission limitations, it only partially satisfies the requirements of 40 CFR 51.10(e) and, therefore, is disapproved. The disapproval notice in 40 CFR 52.224(a) and the associated substitute regulations in 40 CFR 52.224(b), concerning public availability of emission data, will remain in effect for the District.

Regulation VII revisions (which include Rules 702, 704 to 709, 711 to 717) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The deletion of Regulation V, Rule 18.1, Architectural Coatings, previously approved in the June 30, 1972 submittal, is approved because the Federal regulation contained in 40 CFR 52.254 on control of organic solvent usage remains in effect.

The deletion of Regulation V, Rule 22, Emission Control for Used Motor Vehicles, previously approved in the June 30, 1972 submittal, is approved because the emission control requirements, which are set by the ARB, are contained in the California Health and Safety Code, Section 43650-43658, and are enforced by the State.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(31)(xviii) (B) and (C) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(31) * * *
(xviii) * * *

(B) New or amended Rules 101, 102, 104, 105, 106, 107, 201, 202, 204, 206, 207.1, 209, 210(A), 211, 212, 213.2, 213.3, 214, 305, 307, 308, 312, 401, 402, 403, 405, 406, 408, 409, 601, 602, 603, 702, 704, 705, 706, 707, 708, 709, 711, 712, 713, 714, 715, 716, 717.

(C) Previously approved and now deleted (without replacement) Rules 18.1 (Regulation V), 22 (Regulation V).

* * * * *

2. Section 52.234, paragraph (a)(2)(iii) is added as follows:

§ 52.234 Source surveillance.

(a) * * *
(2) * * *
(iii) Amador County APCD.

* * * * *

3. Section 52.273, paragraph (a)(3)(iv) is added as follows:

§ 52.273 Open burning.

(a) * * *
(3) * * *
(iv) Amador County APCD.

(A) Rule 308, *Exceptions to Permit Requirements;* and Rule 312, *Mechanized Burning,* submitted on April 21, 1976.

* * * * *

4. Section 52.275, paragraph (b) is added as follows:

§ 52.275 Particulate matter control.

(a) * * *

(b) The following regulations are disapproved because they relax the control on particulate matter emissions without any accompanying analyses demonstrating that these relaxations will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

(1) San Joaquin Valley Intrastate:

(i) Amador County APCD.

(A) Rule 211, Process Weight Per Hour, and Rule 212, Process Weight Table—Dust and Condensed Fumes, submitted on April 21, 1976 are disapproved; and Regulation V, Rule 13, Process Weight Rate, and Rule 14, Process Weight Table, previously approved in the June 30, 1972 submittal are retained.

* * * * *

5. Section 52.280 is added as follows:

§ 52.280 Fuel burning equipment.

(a) The following rules and regulations are disapproved because they relax the control on emissions from fuel burning equipment without any accompanying analyses demonstrating that these relaxations will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

(1) San Joaquin Valley Intrastate AQCR:

(i) Amador County APCD.

(A) Rule 209, Fossil Fuel-Steam Generator Facility, submitted on April 21, 1976 is disapproved; and Regulation V, Rule 19, Fuel Burning Equipment, previously approved in the June 30, 1972 submittal, is retained.

* * * * *

[FR Doc. 78-16346 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 901-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Placer County Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve or take no action on revisions to the Placer County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Telephone 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 26, 1977 (42 FR 26999), EPA published a notice of proposed rulemaking for revisions to the rules and regulations of the Placer County APCD submitted by the California Air Resources Board (ARB) on July 25, 1973, January 10, 1975, April 10, 1975, and February 10, 1976 for inclusion in the California SIP. Since the July 25, 1973 submittal and April 10, 1975 submittal were superseded by subsequent submittals, they are not considered in this notice. Also, the February 10, 1976 submittal is not addressed because it only involved the deletion of a rule that was proposed in the intermediate January 10, 1975 submittal. The only submittal that is addressed in this notice is the January 10, 1975 submittal.

Revisions to rules concerning new source review have been submitted; however, no action is being taken at this time as these rules will be acted upon in a separate FEDERAL REGISTER notice.

The changes contained in the January 10, 1975 submittal that are being acted on by this notice include the following:

(a) New definitions are added.

(b) The visible emission limitations are changed from Ringelmann No. 2 to No. 1 (emission of uncombined water is exempted from this rule).

(c) A new rule is adopted to control emissions from fossil fuel-steam generator facilities.

(d) Rules for controlling open outdoor fires including agricultural burning are amended.

(e) New rules are added to specify permit system conditions: Responsibility of permittee, authority of the Air Pollution Control Officer (APCO) to inspect sources, etc.

(f) Several administrative changes are made in the procedure before the hearing board.

(g) Minor wording changes, that do not involve the degree of control, are made to a number of rules.

(h) Rules are renumbered.

A list of the regulations considered by this notice was published as part of the May 26, 1977 notice of proposed rulemaking (42 FR 26999). The proposed rulemaking provided 30 days for public comments. No comments were received.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted regulations as SIP revisions.

It is the purpose of this notice to approve all the revisions contained in the January 10, 1975 submittal, and incorporate them into the California SIP, with the exception of those rules not being acted upon as discussed below.

No action is being taken on the following rules because they have been superseded by SIP revisions submitted by the ARB on October 13, 1977: Rules 101, 103, 104, 106, 107, 108, 203, 205, 205.1, 206, 207, 208, 210, 211, 212, 213, 214, 215, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 313, 401, 402, 407, 408, 409, 507, 601, 602, 603, 702, 703, 704, 706, 708, 709, 710 and 715. The corresponding rules submitted on October 13, 1977 will be addressed in a future FEDERAL REGISTER notice.

Regulation VII revisions (which include Rules 701, 705, 707, 711 to 714, 716 and 717) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(26)(xvii) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(26) * * *

(xvii) Placer County APCD.

(A) New or amended Rules 102, 105, 201, 202, 204, 209, 312, 403, 405, 406, 701, 705, 707, 711, 712, 713, 714, 716, 717.

* * * * *

[FR Doc. 78-16347 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 894-7]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision—Metropolitan Los Angeles Intrastate Air Quality Control Region (AQCR)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA takes final action to approve, and where appropriate, disapprove changes to the rules of county Air Pollution Control Districts (APCD) within the Metropolitan Los Angeles Intrastate AQCR portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division,

Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: Wayne A. Blackard, 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 26, 1977 in 42 FR 27000, EPA published a notice of proposed rulemaking for revisions to the rules of county APCDs within the Metropolitan Los Angeles Intrastate AQCR, submitted on July 25, 1973; April 10 and November 3, 1975; February 10, April 21, August 2, and November 10, 1976; and February 10, 1977 by the California Air Resources Board (CARB) for inclusion in the SIP.

Pursuant to section 110 of the Clean Air Act as amended and 40 CFR Part 51, the Administrator is required to approve or disapprove the rules as SIP revisions.

Rules concerning new source review, emergency episodes, gasoline vapor recovery, malfunction, in-stack monitoring, and permits for open burning are not being considered in this notice and will be acted upon in separate FEDERAL REGISTER notices.

Regulations II, III, and VII are not being acted upon in this notice because they concern new source review, superseded fee rules, and emergency air episodes respectively. These regulations will be the topic of separate FEDERAL REGISTER notices.

The Air Resources Board withdrew the rescission of Rule 67 for Los Angeles, San Bernardino, and Orange Counties, and Rule 72 for Riverside County (Fuel Burning Equipment) as a revision to the SIP in a letter to the EPA dated March 22, 1978. The effect of this withdrawal action is that Rules 67 and 72 remain part of the federally approved SIP.

Los Angeles, Riverside, San Bernardino, and Orange County APCD's separately submitted rules for inclusion in the original SIP in 1972. Revisions by these county APCD's to their rules were submitted in 1973, 1974, and 1975. These four county agencies combined in 1976 to form the Southern California APCD, which then submitted as further revisions to the SIP a comprehensive new set of rules applicable throughout the four counties. Those rules previously approved for inclusion in the original SIP for the four county APCD's remain in effect and federally enforceable until subsequent revisions are officially approved by EPA.

The new set of rules has been compared to those rules previously approved for each county, but only with respect to those portions of the above counties that lie within the Metropolitan Los Angeles Intrastate AQCR. This region, comprised of portions of six counties, was used for evaluation because of a subsequent change to the Southern California APCD. In January 1977, the State split the Southern California APCD into the South Coast Air Quality Management District (AQMD) on the west coast and three separate APCD's, formed out of the remaining parts of three counties, in the eastern desert areas. The area defined by the South Coast AQMD generally conforms to boundaries of the Metropolitan Los Angeles Intrastate AQCR. Rules of the Southern California APCD remain in effect for the South Coast AQMD until amended by the South Coast district board. (California Health and Safety Code 40440(b)).

General changes to the rules contained in the above mentioned submittals and being acted upon by this notice include the following: Rescission of most county rules; changes to combine the rules of the Orange, Los Angeles, San Bernardino, and Riverside County APCD's into the Southern California APCD; renumbering and retitling the county rules to incorporate them into the Southern California APCD; and updating changes involving deletion of the final compliance dates that have expired, conversion to metric system units, and reference number changes to the revised California Health and Safety Code.

Both the individual county APCD rules and the rules of the Southern California APCD are divided into functional groups called regulations. These regulations have the same numbers and titles in all four counties and were adopted unchanged by the Southern California APCD. The following paragraphs refer to the changes by the Southern California APCD to the rules within the regulations of the original four county APCDs. Unless otherwise specified, the individual rules discussed below are the same in all four counties.

The changes to Regulation I, General Provisions, contained in the above mentioned submittals and being acted upon by this notice include the following: Expansion of the scope of General Provisions, with addition of a new rule, which supplies a definition of the area comprising the Southern California APCD; and addition of procedural rules to authorize arrests and also to detail reporting requirements for source test data and compliance schedules.

The changes to Regulations IV, Prohibitions, contained in the above mentioned submittals and being acted upon include the following: New fugitive dust controls; exemption of liquid sulfur compounds from the concentration of particulate matter limitations; changes to the particulate matter-weight rule which establishes a process weight table in Riverside County, modify the table in San Bernardino County, and specify averaging times in all four counties; specification of averaging times for the calculation of carbon monoxide emissions; specification of minimum averaging times for combustion contaminant calculations; updating of gasoline specifications by referencing new ASTM methods; new exemptions for research operations; new safety pressure valve requirements; specification of minimum averaging periods for sulfur scavenging units; new definitions for a description of asphalt air blowing; new asphalt handling equipment controls (except Riverside County which already had a similar rule); new definitions for the reduction of animal matter; specification of averaging time for waste disposal; changes to fuel-burning equipment which modify the nitrogen oxide emission rate table in all four counties, and add a special rate table for steam generating equipment in San Bernardino and Riverside Counties; new electric and steam generating equipment rules; changes to the open fires rule which set forth stricter burning requirements in San Bernardino and Riverside Counties; and in San Bernardino County only, deletion of combustion contaminants (now covered by a separate rule) from the county's specific contaminants rule, new agricultural burning, forest burning, and new sandblasting rules.

The changes to Regulation V, Procedure Before the Hearing Board, contained in the above mentioned submittals and being acted upon by this notice include: Changing the number of board members necessary to specify actions; clarifications; changes in the length of grace periods; new addresses; changes in rule titles and number set; and addition of a new procedural rule outlining the bases of hearing board decisions.

The changes to Regulation VI, Orchard Grove Heaters, contained in the above mentioned submittals and being acted upon by this notice include total replacement of county rules by California Health and Safety Code sections covering Orchard Heaters.

Regulation VIII, Orders for Abatement, is a new regulation which specifies procedural requirements applying to hearings on abatement.

A listing of rules initially considered for this notice was published as part of the notice of proposed rulemaking and can be found in 42 FR 27000 (May 26, 1977).

The proposed rulemaking notice provided a 30-day public comment period. The South Coast AQMD returned specific remarks concerning three rules being acted on: Breakdown Provisions, a malfunction rule that EPA is considering for disapproval, was defended by the District on the grounds that a similar rule has EPA's approval. Action on this and other APCD's malfunction rules within the State of California

will be taken in a separate FEDERAL REGISTER notice. The South Coast AQMD also stated that they will review their rules dealing with research operations and fuel burning equipment, rules which EPA criticized.

It is the purpose of this notice to approve all changes, including rescissions, contained in the July 25, 1973, April 10, and November 3, 1975, February 10, April 21, August 2, and November 10, 1976, and February 10, 1977 submittals and incorporate them into the California SIP with the exception of those rules not being acted upon and the rules discussed below.

Rule 5, Public Availability of Emission Data of the San Bernardino County APCD is inadequate. Although it was part of the June 1973 submittal, it was subsequently rescinded in an April 1976 submittal except for part 5(a). This resulted in a rule inadequate to cover public availability of emission data; therefore 40 CFR 52.224 will continue to be enforced.

Rule 404, Particulate Matter—Concentration, is disapproved. This rule, submitted in July 1976 by the Southern California APCD, would exempt liquid sulfur compounds from particulate matter emission limitations. This could result in a relaxation of sulfur emission limits. In addition, non-sulfur particulate emissions could also be increased. Sources would be permitted to subtract sulfur compounds from total particulate measurements. Since the emission limit would remain unchanged, the non-sulfur fraction of particulates could be increased by the amount of sulfur compounds subtracted. No demonstration has been presented to show that this less stringent limit will not interfere with attainment and maintenance of National Ambient Air Quality Standards (NAAQS). Therefore the rescission of Rule 52 in Los Angeles, Riverside, and Orange Counties and 52A in San Bernardino County is disapproved. These county rules remain federally enforceable as part of the California SIP.

Rule 441, Research Operations, is disapproved. This new rule, submitted by Southern California APCD in July 1976 would permit exemptions for research operations. However, it could be used to exempt numerous sources from applicable emission limits. In addition, no control strategy demonstration has been presented to show that these research exemptions will not interfere with attainment and maintenance of NAAQS. Therefore this rule does not satisfy the enforcement imperatives of section 110 of the Clean Air Act.

Rule 465, Vacuum Producing Devices or Systems, is disapproved. This rule, submitted in July 1976 by the Southern California APCD, limits organic emissions from vacuum producing devices to 3.3 pounds per hour. This figure is 10 percent higher in allowable emissions than the county rules it would replace. No demonstration has been presented to show that this less stringent limit will not interfere with attainment and maintenance of NAAQS. Therefore the July 1976 rescission of Rule 69 in Orange, San Bernardino, and Los Angeles Counties, and Rule 74 in Riverside County is disapproved. These county rules remain federally enforceable as part of the California SIP.

Rule 473, Disposal of Solid and Liquid Wastes, is disapproved. This rule, submitted in July 1976 by the Southern California APCD, would permit increased emissions. In two counties, the particulate matter emission limit would be raised 20 percent (from 0.25 to 0.3 grains/ft^3). In addition, in all four counties the range of affected incinerators has been reduced. Presently incinerators with a design burn rate greater than 100 lbs/hr must be controlled. This revision would exempt incinerators smaller than 110 lbs/hr, a 10 percent increase. No demonstration by Southern California APCD has been presented to show that these less stringent limits will not interfere with attainment and maintenance of NAAQS. Therefore the July 1976 submittal rescinding Rule 58 in Orange, Riverside, and Los Angeles Counties and Rule 58A in San Bernardino County is disapproved. These county rules remain federally enforceable as part of the California SIP.

Rule 474, Fuel Burning Equipment-Oxides of Nitrogen, is disapproved for Orange County. This rule, submitted by the Southern California APCD in February 1977, was to replace approved county Rules 67.1 Fuel Burning Equipment, and 68, Fuel Burning Equipment-Oxides of Nitrogen. Although Rule 474 is being approved for Los Angeles, San Bernardino, and Riverside counties, it is not entirely adequate for Orange County. The nitrogen oxides emission limits set by new Rule 474 are not as restrictive as those of approved Rule 67.1 of Orange County, particularly for fuel burning equipment with a heat input between 250 and 2142 million BTU/hour not used for steam generation. Since no analysis has been presented to show that this relaxation will not interfere with attainment and maintenance of NAAQS as required by section 110 of the Clean Air Act, Rule 474 and the July 1976 rescission of Rules 67.1 and 68 are disapproved for Orange County. Orange County Rules 67.1 and 68 will continue to be federally enforced as part of the California SIP.

Rule 402, Nuisance, is not appropriate for inclusion in the SIP because it is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, EPA is taking no action on this rule.

Regulation V, Procedures Before the Hearing Board, establishes procedures by which variances from emission limits may be obtained. While EPA is approving the changes to Regulation V, each variance still must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The CARB has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(21)(xv), (c)(27)(v), (c)(27)(vi), (c)(28)(x), (c)(30)(x), (c)(31)(vi), (c)(32)(iv), and (c)(37) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(21) * * *

(xv) San Bernardino County APCD.

(A) New or amended Rules 5(a), 53A, 57, 57.1, 57.2.

* * * * *

(27) * * *

(v) San Bernardino County APCD.

(A) New or amended Rule 73.

(vi) Riverside County APCD.

(A) New or amended Rule 57.

* * * * *

(28) * * *

(x) Riverside County APCD.

(A) New or amended Rule 53.

* * * * *

(30) * * *

(x) Southern California APCD.

(A) New or amended Rules 501, 502, 506, 507, 508, 509, 511, 512, 513, 514, 515, 516, 517, 518, 801, 803, 804, 807, 808, 809, 810, 811, 813, 814, 815, 817.

* * * * *

(31) * * *

(vi) Southern California APCD.

(B) New or amended Rules 103, 104, 105, 106.

* * * * *

(iv) * * *

(iv) Southern California APCD.

(A) New or amended Rules 403, 404, 405, 407, 408, 409, 432, 441, 443, 464, 465, 467, 470, 471, 472, 473, 504, 505, 510, 802, 805, 806, 812, 816.

(B) Previously approved and deleted (without replacement).

(1) Los Angeles County APCD Rules 53.1, 55.

(2) San Bernardino County APCD Rules 50, 51.

(3) Riverside County APCD Rule 55.

(4) Orange County APCD Rule 55.

* * * * *

(37) Revised regulations for the following APCD's submitted on February 10, 1977, by the Governor's designee.

(i) Southern California APCD.

(A) New or amended Rules 102, 468, 469, 474, 475, 476.

(B) * * *

* * * * *

2. Section 52.227, paragraphs (b)(3) and (c) are added as follows:

§ 52.227 Control strategy and regulations: Particulate matter, Metropolitan Los Angeles Intrastate Region.

* * * * *

(b) * * *

(3) Southern California APCD:

(i) Regulation IV, Rule 404 Particulate Matter—Concentration, submitted on August 2, 1976.

(ii) Regulation IV, Rule 473 Disposal of Solid and Liquid Wastes, submitted on August 2, 1976.

(c) The rescission by the Southern California APCD of the following rules, which were previously approved in the May 31, 1972 (37 FR 10850) and September 22, 1972 (37 FR 19813) FEDERAL REGISTER issues, is disapproved since adequate replacement rules have not been submitted and no analysis has been presented to show that this rescission will not interfere with the attainment and maintenance of the NAAQS for particulate matter as required by section 110 of the Clean Air Act. In addition, the following rules, as submitted in June 1972 and approved for the SIP, remain federally enforceable:

(1) Los Angeles County APCD.

(i) Regulation IV, Rule 52 Particulate Matter—Concentration.

(ii) Regulation IV, Rule 58 Disposal of Solid and Liquid Wastes.

(2) San Bernardino County APCD.

(i) Regulation IV, Rule 52A Particulate Matter—Concentration.

(ii) Regulation IV, Rule 58A Disposal of Solid and Liquid Wastes.

(3) Riverside County APCD.

(i) Regulation IV, Rule 52 Particulate Matter—Concentration.

(ii) Regulation IV, Rule 58 Disposal of Solid and Liquid Wastes.

(4) Orange County APCD.

(i) Regulation IV, Rule 52 Particulate Matter—Concentration.

(ii) Regulation IV, Rule 58 Disposal of Solid and Liquid Wastes.

* * * * *

3. Section 52.229, paragraphs (b) and (c), are added as follows:

§ 52.229 Control strategy and regulations: Photochemical oxidants (hydrocarbons), Metropolitan Los Angeles Intrastate Region

(a) * * *.

(b) The following rules are disapproved because they would result in a relaxation of control requirements contained in the presently approved State Implementation Plan, and no analysis has been presented to show that this relaxation will not interfere with the attainment and maintenance of NAAQS for photochemical oxidants (hydrocarbons) as required by section 110 of the Clean Air Act.

(1) Southern California APCD.

(i) Regulation IV, Rule 465 Vacuum producing Devices or Systems, submitted on August 2, 1976.

(c) The rescission by the Southern California APCD of the following rules, which were previously approved in the September 22, 1972 (37 FR 19813) FEDERAL REGISTER issue, is disapproved since adequate replacement rules have not been submitted and no analysis has been presented to show that this rescission will not interfere with the attainment and maintenance of the NAAQS for photochemical oxidants (hydrocarbons) as required by section 110 of the Clean Air Act. In addition, the following rules, as submitted in June 1972 and approved for the SIP, remain federally enforceable:

(1) Los Angeles County APCD, Regulation IV, Rule 69, Vacuum Producing Devices or Systems.

(2) San Bernardino County APCD, Regulation IV, Rule 69, Vacuum Producing Devices or Systems.

(3) Riverside County APCD, Regulation IV, Rule 74, Vacuum Producing Devices or Systems.

(4) Orange County APCD, Regulation IV, Rule 69, Vacuum Producing Devices or Systems.

* * * * *

4. Section 52.230 is revised as follows:

§ 52.230 Control strategy and regulations: Nitrogen dioxide, Metropolitan Los Angeles Intrastate Region.

(a) The requirements of § 51.14(c)(3) of this chapter are not met since the plan does not provide for the degree of nitrogen oxides emission reduction attainable through application of reasonably available control technology in the Metropolitan Los Angeles Intrastate Region. Therefore, Rule 68.b of the Orange County Air Pollution Control District is disapproved.

(b) The following rules are disapproved since they are not part of the approved control strategy and do not provide for the degree of control necessary for the attainment and maintenance of NAAQS for nitrogen dioxide in the Metropolitan Los Angeles Intrastate AQCR:

(1) Orange County APCD, Regulation IV, Rule 474, Fuel Burning Equipment—Oxides of Nitrogen, submitted on February 10, 1977.

(c) The rescission by the Southern California APCD of the following rules is disapproved since adequate replacement rules have not been submitted and no analysis has been presented to show that this rescission will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards as required by section 110 of the Clean Air Act. In addition, the following rules, as submitted in June 1972 and approved for the SIP, remain federally enforceable:

(1) Orange County APCD, Regulation IV, Rule 68, Fuel Burning Equipment—NOx.

(2) Orange County APCD, Regulation IV, Rule 67.1, Fuel Burning Equipment.

* * * * *

5. Section 52.272, paragraph (a)(2) is added as follows:

§ 52.272 Research Operations Exemptions.

(a) * * *

(2) Metropolitan Los Angeles Intrastate Region.

(i) Southern California APCD.

(A) Rule 441, Research Operations, submitted on August 2, 1976 is disapproved.

* * * * *

[FR Doc. 78-16348 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 901-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Nevada County Air Pollution Control District

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on revisions to the Nevada County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended

effect of this action is to update rules and regulations, and to correct certain deficiencies in the SIP.

DATES: Effective Date: July 14, 1978. Comments on Rule 213 *only:* On or before August 14, 1978. See Supplementary Information for details.

ADDRESS: Comments on Rule 213 *only:* Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Tel: 415-556-7882.

SUPPLEMENTARY INFORMATION: On May 31, 1977 (42 FR 27617), EPA published a notice of proposed rulemaking for revisions to the rules and regulations of the Nevada County APCD submitted by the California Air Resources Board (ARB) on July 25, 1973, April 10, 1975 and April 21, 1976 for inclusion in the California SIP. Since the April 10, 1975 and April 21, 1976 submittals supersede the July 25, 1973 submittal, only they will be addressed in this notice.

Revisions to rules concerning new source review and gasoline vapor recovery have been submitted; however, no action is being taken at this time as these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes in the April 10, 1975 and April 21, 1976 submittals that are being acted upon by this notice include the following:

(a) New definitions are added.

(b) New rules are added to provide penalties for violations and for arrest of violators without warrant.

(c) The visible emission limitations are modified (emission of uncombined water is exempted from this rule).

(d) New rules are adopted to control orchard heaters, and fossil fuel-fired steam generators.

(e) A new rule is added to control emission of sulfur dioxide.

(f) Allowable emission rates for particulate matter based on process weight rates are modified.

(g) Special allowance is made for sources existing in 1974, prior to the adoption of the new regulations.

(h) New rules are adopted to control open outdoor fires, including agricultural burning.

(i) New rules are added to specify permit system conditions: responsibility of permittee, responsibility of sources in recordkeeping and reporting, etc.

(j) New rules are adopted to specify the analysis procedure in the case of separation of emissions and in the case of combination of emissions.

(k) Several administrative changes are made in the procedure before the Hearing Board.

(l) The entire set of rules is recodified.

A list of the regulations being considered by this action was published as part of the May 31, 1977 Notice of Proposed Rulemaking. The proposed rulemaking provided 30 days for public comments. No comments were received.

Under section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the submitted regulations as SIP revisions.

It is the purpose of this notice to approve all the revisions contained in the April 10, 1975 and April 21, 1976 submittals, and incorporate them into the California SIP, with the exception of those rules not being acted upon, those rules being disapproved, and certain rescission actions as discussed below.

No action is being taken on the following rules because they have been superseded by SIP revisions submitted by the ARB on June 6, 1977: Rules 103, 104, 205, 207, 304, 319, 320, 321, 402, 407, 409, 507, 514, 700, 704, and 710. The corresponding rules submitted on June 6, 1977 will be addressed in a future FEDERAL REGISTER notice.

Rule 203(g) (410/75 submittal), exceptions, should be disapproved because it exempts "the use of other equipment in agricultural operations" from the visible emission control rule without defining the term "other equipment", thus rendering certain visible emission limitations unenforceable. However, disapproving the rule at this time will have no legal effect because the analogous and also disapprovable rule 55(d), exceptions, mistakenly approved in the February 21, 1972 submittal will remain in effect. Therefore, final action on this rule, together with the rescission of the analogous rule in the February 21, 1972 submittal, will be taken in a future notice.

No action is being taken on rule 210(b) (4/10/75 submittal), total reduced sulfur, because this rule is not specifically directed at the attainment and maintenance of the NAAQS and thus is not apropriate for inclusion in the SIP.

Rule 211, process weight per hour, in the April 21, 1976 submittal and the companion rule 212, process weight table, in the April 10, 1975 submittal are analogous to the previously approved rule 52.1, process weight rate, in the June 30, 1972 submittal. Although rule 211, which controls "dust" only, covers a narrower range of pollutants than the previously approved rule 52.1, which controls all particulate matters, rule 212 contains allowable emission rates more stringent than those contained in rule 52.1. Since rules 211 and 212 are interdependent and since a control strategy demonstration has not been submitted to show that the replacement of rule 52.1 with rules 211 and 212 will not interfere with the attainment and maintenance of the NAAQS, EPA is disapproving rules 211 and 212, and at the same time retaining rule 52.1 for Federal enforcement purposes.

No action is being taken on rule 213 (4/10/75 submittal), storage of petroleum products, because EPA is now in the process of reevaluating the appropriateness of applying the vapor recovery programs specified in 40 CFR 52.255 and 40 CFR 52.256 to the districts within the area presently known as the mountain counties air basin. The air basin is allowed and expected to become a separate air quality control region according to the 1977 Clean Air Act Amendments. Preliminary information supplied by the Mountain Counties Coordinating Council indicates that existing ambient air quality standard excursions for oxidant in the mountain counties air basin are due to transport from the Sacramento Valley and the San Joaquin Valley rather than to the emissions of hydrocarbons within the area. Thus, EPA, by this notice, is soliciting public comments on this thesis for the purpose of promulgating final approval or disapproval of rule 213. Comments may be sent to the EPA Region IX office at the aforementioned address. Comments received within sixty (60) days following the publication of this notice will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

In addition, copies of the proposed revisions and the preliminary analysis are available for public inspection during normal business hours at the EPA Region IX Office and at following locations:

Nevada County Air Pollution, Control District, H.E.W. Complex, Nevada City, Calif. 95959.

California Air Resources Board, 1709-11th Street, Sacramento Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

Rule 302(C) (4/10/75 submittal), exceptions to rule 301, allows for the first time open burning of unsellable wood waste from property being developed for commercial or residential use. Since no control strategy has been submitted to demonstrate that this relaxation will not interfere with the attainment and maintenance of the NAAQS, the open burning related to development cannot be allowed. Thus Rule 302(C) is disapproved.

Rule 307 (4/10/75 submittal), exceptions to rule 306, is disapproved be-

cause it grants four exceptions to the general rule that there will be no burning on days designated by the ARB as "no-burn days." The most significant exception is set forth in 307(A)(1), which permits the APCO to grant a special burning permit upon a showing of threatened economic loss. Economic factors are an impermissible basis upon which to condition the granting of variances from emission limitations absent a showing that all other requirements of section 110 of the Clean Air Act as well as NAAQS will be met. In addition, 307(A)(2 exempts the burning of empty pesticide sacks and containers, 307(B) exempts range burning between January and May, and 307(C) exempts open burning of agricultural waste at altitudes above 6,000 feet (msl) from the "no-burn day" requirements. All are disapproved because no demonstration has been made by the District that these exemptions will not interfere with the attainment and maintenance of the NAAQS

Rule 314 (4/10/75 submittal), exceptions to rule 313, is disapproved because it authorizes the APCO to shorten the required minimum drying times for materials to be burned set forth in rule 313 upon a determination that "economic loss" is threatened by denial of a permit. As discussed in the critique of rule 307, above, economic factors are not a permissable basis for a variance.

Rule 322 (4/10/75 submittal), mechanized burners, is disapproved because it exempts open burning in mechanized burners from "no-burn day" requirements. Although a visible emission limitation of Ringelmann No. 1 is set, no analysis has been submitted by the District demonstrating noninterference with the attainment and maintenance of the NAAQS.

Rule 404 (4/10/75 submittal), upset conditions, breakdown or scheduled maintenance, was not submitted in the package and is therefore not reviewed by this office.

Rule 408 (4/10/75 submittal), source recordkeeping and reporting, is a new rule that requires the owner or operator of a stationary source of air pollution to maintain files and records of the nature and amounts of emissions, and report findings to the APCD. This rule meets the requirements of 40 CFR 51.19(a) and is thus approved. Nevada County APCD, therefore, is rescinded from the disapproval notice in 40 CFR 52.234(a) and the associated substitute regulations in 40 CFR 52.234(d).

Regulation VII revisions (which include rules 701 to 703, 705 to 709, and 711 to 717 in the April 10, 1975 submittal) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

Certification has been received from the ARB that the public hearing requirements of 40 CFR 51.4 have been satisfied.

AUTHORITY: Secs. 110 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410 and 7601(a)].

Dated: June 8, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraphs (c)(27)(vii) and (c)(31)(xv) are added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(27) * * *
(vii) Nevada County APCD.
(A) New or amended Rules 101, 102, 105, 106, 107, 201, 202, 203 [with exception of (g)], 204, 206, 208, 209, 210(a), 212, 214, 215, 301, 302, 303, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 322, 401, 403, 405, 406, 408, 601, 602, 701, 702, 703, 705, 706, 707, 708, 709, 711, 712, 713, 714, 715, 716, 717.

* * * * *

(31) * * *
(xv) Nevada County APCD.
(A) Amended Rule 211.

* * * * *

2. Section 52.234, paragraph (a)(3)(ii) is added as follows:

§ 52.234 Source surveillance.

(a) * * *
(3) * * *
(ii) Nevada County APCD.

* * * * *

3. Section 52.273, paragraph (a)(1)(ii) is added as follows:

§ 52.273 Open burning.

(a) * * *
(1) * * *
(ii) Nevada County APCD.
(A) Rule 302(C), exceptions to rule 301; rule 307, exceptions to rule 306; rule 314, exceptions to rule 313; and rule 322, mechanized burners, submitted on April 10, 1975.

* * * * *

4. Section 52.275, paragraph (b)(2)(ii) is added as follows:

§ 52.275 Particulate matter control.

(a) * * *
(b) * * *
(2) * * *
(ii) Nevada County APCD.
(A) Rule 211, process weight per hour, in the April 21, 1976 submittal and rule 212, process weight table, in the April 10, 1975 submittal are disapproved; and rule 52.1, process weight rate, previously approved in the June 30, 1972 submittal is retained and shall remain in effect for Federal enforcement purposes.

* * * * *

[FR Doc. 78-16489 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 899-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Merced County Air Pollution Control District (APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Merced County portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: July 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attention: Wayne A. Blackard, 415-556-7288.

SUPPLEMENTARY INFORMATION: On June 14, 1977, at 42 FR 30396, EPA published a notice of proposed rulemaking for revisions to the Merced County Air Pollution Control District's Rules and Regulations submitted on August 2, 1976 by the California Air Resources Board for inclusion in the California SIP.

The changes contained in this submittal and being acted on by this notice include the following: procedural changes update California Health and Safety Code citations; definitions have been deleted; procedures for handling confidential information are

modified; a rule is added which makes each rule severable; procedures for making air pollution records available to the public are added; a procedural change is made with regard to authority to arrest and issue notices to appear; prohibition of rule circumvention activities is specified; a requirement is made that a source be subject to the most stringent emission limits when more than one applies; rules regarding source sampling have been modified; the restrictions on emitting particulate matter from incinerator operations are changed; outdated compliance deadlines are eliminated from particulate matter emission rates; procedures for separation or combination of emissions are added; emission limitations for NOx and combustion contaminant emissions from fuel burning equipment are added; additional burning operations and exceptions to those operations classified as agricultural burning are added; a rule is added to require burning reports; emission rates for organic solvents have been modified; emission limitations from architectural coatings and disposal of solvents have been added; permit fee schedules have been changed; regulations have been renumbered; a wording change has been made for clarification of rules controlling organic liquid loading and storage; a language change is made to the rule specifying the content of petitions for variances; a change is made to the hearing notice time requirement for announcing variance or permit hearings; clarifying language is added to the rule specifying the effective date of a hearing board decision; and a change is made in the procedural requirements for making an appeal from a permit or variance denial.

Under section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

Rules concerning malfunction, vapor recovery, emergency episodes, new source review, in-stack monitoring and exceptions to visible emissions have been submitted; however, no action is being taken on these rules at this time and they will be acted on in separate FEDERAL REGISTER notices.

Rules concerning Standards of Performance for New Stationary Sources and rules concerning National Emission Standards for Hazardous Air Pollutants have also been submitted. These rules implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegage authority to the APCD to implement and enforce the appropriate provisions of Sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

Regulation V rule revisions (which include Rules 501 to 518 being acted on here) are approved as part of a procedure for the granting of variances. Each variance, however, must satisfy the requirements of section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

A list of the Rules initially considered for this notice was published as part of the Notice of Proposed Rulemaking and can be found in 42 FR 30399 (June 14, 1977). The proposed rulemaking provided 30 days for public comment. Merced County APCD commented on May 24, 1977 that small incinerators cannot comply with old Rule 407.1, Disposal of Solid or Liquid Wastes, and that the replacement of this rule with a weakened Rule 407.1 should be approved. An additional letter dated January 19, 1978 was submitted by the APCD which demonstrated that the impact of the relaxation of the emission limitation for incinerators burning less than 100 pounds would be small. However, since it has not been demonstrated that this relaxation will not interfere with the attainment and maintenance of the NAAQS, this rule cannot be approved. No other public comments were received.

Rule 409, Organic Solvents, is approved as consistent with the daily emission rate limitations of the federally promulgated regulation contained in 40 CFR 52.254. However, the rule does not contain the hourly emission rate limitations contained in 40 CFR 52.254 (b), (c), and (d). Therefore, the hourly emission limitations contained in paragraphs (b), (c), and (d) are retained for Federal enforcement purposes. In addition, 40 CFR 52.254 (e) through (l) and (o) through (q) are retained for interpretation and enforcement of these hourly emission limitations.

Rules 409.1 and 409.2 concerning architectural coatings and solvent disposal are approved as consistent with 40 CFR 52.254 (m) and (n). Therefore, paragraphs (m) and (n) of 40 CFR 42.254 are rescinded for Merced County APCD.

It is the purpose of this final rulemaking to approve all of the changes contained in the August 2, 1976 submittal for Merced County and to incorporate them into the California SIP, with the exception of those rules not being acted upon, and the rules discussed below.

Rule 416.1(II)(M), Agricultural Burning, Rule 418, Nuisance, and Rule 419, Exceptions are nuisance type rules which have been submitted and are not appropriate for inclusion in the SIP because they are not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, EPA will take no action on rules 416.1(II)(M), 418, and 419.

Rule 102(hh), Standards Cubic Foot of Gas, has been deleted from the definition rule by the August 21, 1976 submittal. This definition stated specifically that emissions would be calculated on a dry basis. Since the deletion of this definition could result in a relaxation of the emission control requirements, it is being disapproved. Rule 102(hh) submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained for Federal enforcement purposes.

Rule 103, Confidential Information, provides for public availability of emission data, but does not provide for correlation of emission data with applicable emission limitations as required by 40 CFR 51.10(e). The rule is approved. However, the portion of the substitute regulation which provides for correlation of emission data in 40 CFR 52.224, is retained.

Rule 407.1, Disposal of Solid or Liquid Waste is disapproved because it relaxes particulate matter concentration limits for certain incineration operations without an accompanying analysis to show that this relaxation will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards.

Rule 416(h), Exceptions, exempts agricultural operations, range improvements, and forest management from the open burning rule 415, but subjects these activities to the requirements of rule 416.1, Agricultural Burning. Since this new exemption allows more burning and no analysis has been submitted to demonstrate that this additional burning will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards, it is disapproved.

Rules 416.1 (I)(A)(2), (III)(A), (V)(A), (V)(B), (V)(C), and (V)(D) Agricultural Burning, are disapproved because they exempt agricultural burning operations from agricultural burning restrictions either on the basis of "brush treatment" criteria, altitude criteria, or because prohibition of such burning would threaten imminent and substantial economic loss. No analysis has been presented to show that these extensive exemptions will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards and they must therefore be disapproved.

Rule 421(b), Burning Reports, is not being acted on. This rule requires that reports be made concerning permit exemptions issued that authorize burning on "no-burn" days, when the denial of such a permit would threat-

en imminent and substantial economic loss. Since EPA is disapproving portions of the rule 416.1 which authorize such exemptions, no action is being taken on Rule 421(b) at this time.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

AUTHORITY: Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).

Dated: June 7, 1978.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c)(32)(iii) (C) and (D) is added as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

* * * * *

(32) * * *
(iii) * * *
(A) * * *
(B) * * *

(C) New or amended rules 102, 103, 103.1, 104, 105, 108.1, 110 to 115, 302, 401, 404, 405, 407.1, 408.1, 408.2, 409, 409.1, 409.2, 410, 412, 416, 416.1[(I), (II) (A-L), (II) (N-O), (III), (IV), (V), and (VI)], 421(a), 501, 504, 505, 511 and 518.

(D) Previously approved and now deleted (without replacement) Rules 102(hh) and 102(ii).

* * * * *

2. Section 52.224, paragraph (a) is revised as follows:

§ 52.224 General requirements.

(a) The requirements of § 51.10(e) of this chapter are not met except in certain Air Pollution Control Districts (APCD) as indicated in this paragraph since the plan does not provide procedures by which emission data, as correlated with applicable emission limitations, will be made available to the public.

(1) The following APCD's meet the requirements of § 51.10(e) of this chapter:

(i) Northest Plateau Intrastate
(A) Siskiyou County APCD.
(B) Shasta County APCD.
(ii) Sacramento Valley Intrastate:
(A) Sutter County APCD.
(B) Glenn County APCD.
(C) Tehama County APCD.
(D) Sierra County APCD.
(E) Shasta County APCD.
(F) Sacramento County APCD.
(iii) San Diego Intrastate:
(A) San Diego County APCD.
(IV) Southeast Desert Intrastate:
(A) San Diego County APCD.
(B) Kern County APCD.
(v) San Joaquin Valley Intrastate:
(A) Stanislaus County APCD.
(B) Fresno County APCD.
(C) Calaveras County APCD.
(D) Tuolumne County APCD.
(E) San Joaquin County APCD.
(F) Mariposa County APCD.
(G) Tulare County APCD.
(H) Kern County APCD.
(I) Madera County APCD.
(vi) North Coast Intrastate:
(A) Siskiyou County APCD.
(B) Lake County APCD.
(vii) Great Basin Valleys Intrastate:
(A) Great Basin Unified APCD.
(viii) Metropolitan Los Angeles Intrastate:
(A) Ventura County APCD.
(ix) North Central Coast Intrastate:
(A) Monterey Bay Unified APCD.

(2) The following APCD's do not provide for the correlation of emission data with applicable emission limitations as required by § 51.10(e) of this chapter. In these APCD's, only the requirements of § 52.224(b)(4) are in effect:

(i) San Joaquin Valley Intrastate:
(A) Merced County APCD.
(b) * * *

* * * * *

3. Section 52.226, paragraph (b)(10) is added as follows:

§ 52.226 Control strategy and regulations: Particulate matter, San Joaquin Valley Intrastate Region.

(a) * * *
(b) * * *

* * * * *

(10) Merced County APCD.

(i) Rule 407.1, Disposal of Solid or Liquid Wastes, submitted on August 2, 1976 is disapproved; and rule 407.1 submitted on June 30, 1972 and previously approved in 40 CFR 52.223 is retained.

* * * * *

4. Section 52.236, paragraph (c) is added as follows:

§ 52.236 Rules and regulations.

(a) * * *
(b) * * *

(c) Since the following Air Pollution Control Districts have deleted definitions which could allow a relaxation of emission limitations, the deletions are disapproved:

(1) San Joaquin Valley Intrastate Region:

(i) Merced County APCD.

(A) Rule 102(hh), Standard Cubic Foot of Gas, deleted by the August 2, 1976 submittal and previously submitted on June 30, 1972 and approved in 40 CFR 52.223 is retained.

* * * * *

5. Sections 52.254, paragraph (a)(1)(vi) is added as follows:

§ 52.254 Organic solvent usage.

(a) * * *
(1) * * *
(vi) Merced County APCD.

* * * * *

6. Section 52.273, paragraphs (a)(3)(iii) and (b)(2) are added as follows:

§ 52.273 Open burning.

(a) * * *

* * * * *

(3) * * *

* * * * *

(iii) Merced County APCD.

(A) Rule 416(h), Exceptions, submitted on August 2, 1976.

(B) Rule 416.1 (III)(A), (V)(A), (V)(B), (V)(C) and (V)(D), Agricultural Burning submitted on August 2, 1976. Rule 416.1(c)(2) submitted on June 30, 1972 and previously approved is retained. Rule 416.1(a)(1) submitted on June 30, 1972 and previously approved is retained for purpose of enforcing rule 416.1(c)(2).

* * * * *

(b) * * *

(2) San Joaquin Valley Intrastate AQCR:

(i) Merced County APCD.

(A) Rule 416.1(I)(A)(2), Agricultural Burning, General Definitions, submitted on August 2, 1976.

* * * * *

[FR Doc. 78-16490 Filed 6-13-78; 8:45 am]

[6560-01]

[FRL 898-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Missouri: Disapproval of State-Issued Variances Submitted as Revisions to the Missouri State Implementation Plan.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this rulemaking, the Administrator of EPA is taking final

action to disapprove four variances which were submitted by the State of Missouri as revisions to the State implementation plan (SIP). The specific variances being disapproved are those issued by the Missouri Air Conservation Commission to Meremac Mining Co. (Pea Ridge), Missouri Portland Cement Co. (Sugar Creek), Missouri Public Service Co. (Sibley power plant), and Tamko Asphalt Products, Inc. (Joplin). The intended effect of this action is that these sources continue to be subject to existing requirements in the approved SIP.

EFFECTIVE: June 14, 1978.

ADDRESSES: Copies of the variances disapproved in this rulemaking and corresponding EPA evaluation reports are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region VII, 1735 Baltimore, Kansas City Mo. 64108; Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Michael J. Sanderson or Gale A. Wright, Legal Branch, Enforcement Division, Environmental Protection Agency, 1735 Baltimore, Kansas City, Mo. 64108, telephone 816-374-2576.

SUPPLEMENTARY INFORMATION:

The variance orders which are the subject of this rulemaking action were submitted by the State of Missouri, pursuant to section 110(a)(3) of the Clean Air Act, as revisions to the Missouri State implementation plan. The variances were reviewed by EPA and determined to be unapprovable due to deficiencies in the accompanying control strategy demonstrations as required under 40 CFR 51.12. These deficiencies are more specifically described in the notice of proposed rulemaking for Meremac Mining Co., Missouri Portland Cement Co., and Missouri Public Service Co., which was published in the FEDERAL REGISTER on February 2, 1978 (43 FR 4442), and for Tamko Asphalt Products, Inc., which was published in the FEDERAL REGISTER on February 28, 1978 (43 FR 8160). No comments were received concerning the proposed disapproval of these variance orders. In the February 2, 1978, notice of proposed rulemaking (43 FR 4442), EPA also proposed disapproval of variances for City Utility of Springfield, Mo. (James River unit Nos. 1, 2, and 3), Empire District Electric Co. (Asbury power plant), and Noranda Aluminum, Inc. These three variances are still under review and final action will be taken on them in the near future.

This rulemaking will become effective immediately upon publication. The agency finds that good cause exists for not deferring the effective date of this rulemaking since, pursuant to 40 CFR 51.8, revisions of a State implementation plan are not considered part of the applicable plan until approved by the Administrator, and disapproval of a State variance order thus does not change the source's underlying obligation to comply with the existing requirements of the approved State implementation plan.

This rulemaking is promulgated pursuant to the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

Dated: June 8, 1978.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

Subpart AA—Missouri

1. In section 52.1335, the table in paragraph (b) is amended by adding the following:

§ 52.1335 Compliance schedules.

* * * * *

(b) * * *

Source	Location	Regulation involved	Date adopted
*	*	*	*
Meremac Mining Co., furnace and cooler Nos. 1 through 5.	Pea Ridge	II (10 CSR 10-3.050	Feb. 23, 1977
Missouri Portland Cement Co., clinker cooler No. 1.	Sugar Creek	II (10 CSR 10-2.030) V (10 CSR 10-2.060	June 22, 1977
Missouri Public Service Co., Sibley power-plant, unit Nos. 1, 2, and 3.	Sibley	III (10 CSR 10-2.040)	June 26, 1977
Tamko Asphalt Products, Inc., asphalt saturating line.	Joplin	V (10 CSR 10-3.080)	July 26, 1977

[FR Doc. 78-16491 Filed 6-13-78; 8:45 am]

[1505-01]

Title 41—Public Contracts and Property Management

CHAPTER 5A—FEDERAL SUPPLY SERVICE, GENERAL SERVICES ADMINISTRATION

[FSS-P 2800.8B CHGES 19-26]

PART 5A-72—PROCUREMENT OF STOCK ITEMS

Correction

In FR Doc. 78-15121, appearing at page 23575 in the issue for Wednesday, May 31, 1978, on page 23579, in the middle column, in § 5A-72.502-1(a)(3), in the sixth line, "PBA" should read "BPA".

proposed rules

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1214]

SPACE TRANSPORTATION SYSTEM

Articles Authorized To Be Carried on Space Transportation System Flights

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: The proposed regulations would authorize each individual participating on a space transportation system flight as a flight crew member or a payload specialist to carry on the flight a personal preference kit. The kit would consist of items to be given as momentoes to the individual's relatives or close friends. The items to be carried would be subject to restrictions as to their kind, number, and weight, as well as to their use. Under no circumstances will commercialization of personal items flown be allowed or tolerated. For the first time individuals who are not NASA employees will have the opportunity to participate in space flights as payload specialists. NASA intends to apply the same restrictions to these individuals as will apply to agency employees who will serve as flight crew members, insofar as the practice of carrying personal items on a flight is concerned.

DATE: Any comments received by July 15, 1978, will be considered before a final regulation is adopted.

ADDRESS: Office of General Counsel, Mail Code GG-1, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION:

Susan McGuire Smith, 202-755-3924.

SUPPLEMENTARY INFORMATION: In the past, NASA has had internal agency directives on this subject which affected only our own employees, namely the astronauts who have flown on missions. Under these directives, limits were placed on the kinds, numbers, weights, and use of items that would be flown by a crew member to be used as momentoes or personal gifts to relatives and close friends.

The space transportation system, which will include the reusable space shuttle, signals a new era in manned space flight. For the first time individuals who are not NASA employees will have the opportunity to participate in space flights as payload specialists. NASA intends to apply the same restrictions to these individual as will apply to agency employees who will serve as flight crew members, insofar as the practice of carrying personal items on a flight is concerned. However, because the proposed regulations would affect individuals outside the agency, public comment is being invited on the proposal.

ROBERT A. FROSCH,
Administrator.

1. 14 CFR Part 1214 is amended by adding a new subpart 1214.6 reading as follows:

Subpart 1214.6—Articles Authorized To Be Carried on Space Transportation System Flights

Sec.

AUTHORITY: Pub. L. 85-568, 72 Stat. 426, 42 U.S.C. 2473(c).

Subpart 1214.6—Articles Authorized To Be Carried on Space Transportation System Flights

§ 1214.600 Scope.

This subpart establishes policy, procedures, and responsibilities governing the selection, approval, packing, storage, post-flight disposition, and public announcement of articles authorized to be carried on space transportation system flights.

§ 1214.601 Definitions.

(a) The official flight kit contains selected items such as flags, patches, medallions, and other memorabilia to be presented to government officials, Members of the Congress, and others who receive such awards as a result of individual contributions to the space program, as determined by the Administrator.

(b) The personal preference kit contains individual items of a personal nature selected by each flight crew member and payload specialist for each space transportation system flight.

(c) The flight crew consists of the commander, pilot, and mission specialist(s).

(d) A payload specialist is an individual selected to operate assigned payload elements on a specific space transportation system flight.

§ 1214.602 Policy.

Articles authorized to be carried on a space transportation system flight, other than articles related to the execution of a mission, are limited to those items approved by the Administrator for carrying in the official flight kit or a personal preference kit, in accordance with the requirements of this subpart.

§ 1214.603 Approval and disposition of contents of the official flight kit.

(a) *Proposed contents.* Both the Director, Johnson Space Center, and the program Associate Administrator responsible for payload mission management for a given flight shall suggest items for inclusion in the official flight kit to the associate administrator for space transportation systems.

(b) *Recommendation by Associate Administrator for Space Transportation Systems.* The Associate Administrator for Space Transportation Systems shall recommend to the Administrator a final list to be included in the official flight kit.

(c) *Disposition of kit.* Once the flight is completed the contents of the official flight kit shall be forwarded by the Director, Johnson Space Center, through the Associate Administrator for Space Transportation Systems, to the Administrator.

(d) *Approval authority.* The Administrator shall make all decisions concerning the contents and disposition of the official flight kit.

§ 1214.604 Policy on personal preference kits.

(a) *Purpose.* Each flight crew member and payload specialist shall be permitted to carry certain items of a personal nature in his/her personal preference kit on each space transportation system flight for use by him/her as personal gifts for immediate family and relatives (spouses, children, parents, in-laws, brothers, and sisters) or close friends. No more than one article may be given to one individual.

(b) *Limit on number of items.* No more than 20 items will be included in the personal preference kit.

(c) *Weight limitations.* Each personal preference kit will be limited to 1.5 pounds, which limitation may be reduced on a given flight because of overall weight considerations, if approved by the Associate Administrator for Space Transportation Systems upon the recommendation of the Director, Flight Operations, Johnson Space Center. Under no circumstances will an increase in the limitation be authorized.

(d) *Sale or commercial use prohibited.* Items carried in the personal preference kit shall not be sold or transferred for sale, or used, or transferred for economic gain or for any commercial or fund-raising purpose. Items will not be approved for carrying that by their nature may lend themselves to exploitation by the recipients, create problems with respect to good taste, or have a known or suspected commercial value, such as philatelic covers and coins.

(e) *Certification required.* At the time a list of proposed contents is submitted, each flight crew member and payload specialist shall make the following written certification:

"In compliance with the requirements of 14 CFR 1214.6—Articles Authorized to be Carried on Space Transportation System Flights—I submit this certification along with my proposed list of items to be carried in my Personal Preference Kit on _____ (applicable flight).

1. I have read and understand the requirements of 14 CFR 1214.6 and agree to comply with those requirements.

2. My proposed list of items to be carried in my personal preference kit complies with the requirements.

3. Other than items approved by the Administrator for inclusion in my personal preference kit, I will carry no other items for use by myself or anyone else.

4. The items carried in my personal preference kit will be used as personal gifts. I will present no more than one item to an individual. The items will not be sold or transferred for sale, or used, or transferred for economic gain or for any commercial or fund-raising purpose.

5. I understand and agree that if I carry an item in violation of the requirements of 14 CFR 1214.6, that item will become the property of the U.S. Government, and that I may be subject to disciplinary or appropriate legal action.

6. I understand and agree that I assume the risk of loss for items carried in my kit, no matter what the cause.

_____
Signature.

(f) *Violations.* Any item carried by a flight crew member or payload specialist in violation of the requirements of this subpart shall become the property of the U.S. Government subject to applicable Federal laws and regulations.

(g) *Exceptions.* No exceptions to the policy of this section on personal preference kits will be authorized. Flight crew members and payload specialists will not receive any U.S. Government or other property carried on the flight unless it is property contained in a personal preference kit.

§ 1214.605 Safety requirements.

Items included in the official flight kit and personal preference kits shall meet the safety requirements of the NASA Headquarters document "Safety Policy and Requirements for Payloads Using the STS."

§ 1214.606 Procedures for approval of contents of personal preference kits.

(a) *Individual submits list.* At least 60 days before the scheduled launch date an individual desiring to carry a personal preference kit shall provide the Director, Flight Operations, Johnson Space Center, a list with the following information:

(1) A description of each item proposed to be included;

(2) The intended recipient of each item and his/her relationship;

(3) The certification required by § 1214.604(e).

In the case of a payload specialist, the list shall first be approved by the program Associate Administrator responsible for the payload mission management.

(b) *Action by Johnson Space Center.* The Director, Flight Operations, Johnson Space Center, shall review the lists for compliance with this subpart, and will submit them with weight data through the Director, Johnson Space Center, to the Associate Administrator for Space Transportation Systems, not later than 45 days before the scheduled launch date.

(c) *Action by headquarters.* The Associate Administrator for Space Transportation Systems shall submit the lists with his/her recommendation to the Administrator for approval. A final decision will be made not later than 30 days before the scheduled launch date.

(d) *Approved list.* A copy of each approved list, including the required certification, shall be provided to the individual flight crew member or payload specialist, as well as the Associate Administrator for External Relations, the Associate Administrator for Space Transportation Systems, the General Counsel, and the Director, Johnson Space Center.

§ 1214.607 Preflight packaging and storage of kits.

The Director, Flight Operations, Johnson Space Center, shall:

(a) Ensure that the official flight kit and the personal preference kits are packaged and sealed in his/her presence and that the contents of each kit correspond with the lists approved by the Administrator;

(b) Verify that each kit meets the weight requirements of § 1214.604(c);

(c) Place the packed kits in bonded storage not less than 21 days before the scheduled launch date; and

(d) Certify in writing to the Associate Administrator for Space Transportation Systems, through the Director, Johnson Space Center, that the above actions have taken place.

§ 1214.608 Public announcements of contents of kits.

(a) *Official flight kit.* The contents of the official flight kit shall be announced in a NASA press release no later than 30 days after the flight has been completed.

(b) *Personal preference kits.* The contents of each personal preference kit shall be announced in a NASA press release no later than 30 days after the flight has been completed. At the request of the individual flight crew member or payload specialist the contents of his/her kit may be announced sooner by NASA, but only after the contents of the kit have been approved by the Administrator.

(c) *Responsibility.* The Associate Administrator for External Relations is responsible for ensuring that the required press releases are issued.

(d) *Inquiries before announcements.* The Director, Flight Operations, Johnson Space Center, will respond to all inquiries concerning the contents of the kits prior to the required press releases being issued.

§ 124.609 Disposition of kits after flight.

The Director, Flight Operations, Johnson Space Center, shall:

(a) Ensure the removal and safekeeping of the kits following the flight;

(b) Return the personal preference kits to the individual flight crew members or payload specialists; and

(c) Forward the official flight kit as required by § 1214.603(c).

§ 1214.610 Loss or theft.

(a) *Responsibility.* Each individual who carries a personal preference kit assumes the risk of loss for that kit or any item in it, regardless of the cause. The National Aeronautics and Space Administration shall not be responsible for the loss, theft of, or damage to a personal preference kit.

(b) *Report of loss of theft.* Any NASA employee who becomes aware that an item contained in a personal preference kit or the official flight kit has been lost or is missing shall immediately notify the Inspections Division and the Installation Security Office.

§ 1214.611 Applicability of this subpart.

(a) *Acknowledgement of requirements.* (1) When this subpart goes into effect, or upon his/her selection, each flight crew member and payload spe-

cialist shall sign an acknowledgement that he/she has read the subpart and will comply with its requirements, and provide the acknowledgement to the Director, Johnson Space Center.

(2) The acknowledgement required by this section shall be updated upon the assignment of an individual to a flight.

(3) Acknowledgements required by this section and made by flight crew members, or payload specialists who are NASA employees, shall be retained in the individual's official personnel folder.

(4) Acknowledgements made by payload specialists who are not NASA employees shall be retained by the program Associate Administrator sponsoring their payload activities, or by the Associate Administrator for Space Transportation Systems, as appropriate.

(b) *Procedures required to bring non-NASA employees under this subpart.* (1) The requirements of this subpart will be made applicable to payload specialists who are not NASA employees.

(2) The Associate Administrator for External Relations, the Associate Administrator for Space Transportation Systems, or the Director, Procurement Office, is responsible for ensuring that payload specialists not employed by NASA are made subject to these requirements through the terms of the applicable interagency agreement, contract, or other agreement.

[FR Doc. 78-16518 Filed 6-13-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM

Filing of Applications and Other Forms; Decision to Develop Regulations

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Decision to Develop Regulations

SUMMARY: The Social Security Administration plans to rewrite and reorganize its current regulations on filing an application for social security benefits under title II of the Social Security Act. The purpose is to make these regulations clearer and easier to understand.

As part of the overall revision, we plan to change the regulations to reflect a new statutory limitation on the retroactivity of an application for reduced benefits. Under this change in the law, benefits may not be paid retroactively in certain cases for months before the filing of an application.

FOR FURTHER INFORMATION, CONTACT:

James MacDonald, Room 4212, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, (301)-594-5298.

Dated: May 15, 1978.

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-16430 Filed 6-13-78; 8:45 am]

[4810-25]

DEPARTMENT OF THE TREASURY

Office of the Secretary

[31 CFR Part 10]

PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Proposed Revision of the Provisions Governing Solicitation by Practitioners Before the Internal Revenue Service

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The proposed rule amends and revises the advertising and soliciation provisions of the regulations governing practice by attorneys, certified public accountants, enrolled agents and others who represent clients before the Internal Revenue Service. Further, the solicitation provisions formerly found in § 10.24 of the regulations have been combined with the provisions of § 10.30. The general purpose of these changes is to permit the expansion of advertising by professions, consistent with recent judicial determinations on the subject.

DATE: Comments must be in writing and must be received on or before (30 days after publication). The effective date will be 30 days after publication of the anticipated final rule in the FEDERAL REGISTER. No hearing is contemplated, but one may be held at a time and place set in a later notice in the FEDERAL REGISTER if requested by an interested person desiring an opportunity to comment orally and raising a genuine issue.

ADDRESS: Comments and requests for a hearing should be addressed to the Office of Director of Practice, U.S. Department of the Treasury, Washington, D.C. 20220.

FOR FURTHER INFORMATION CONTACT:

Mr. Leslie S. Shapiro, Director of Practice, 202-376-0767.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The United States Supreme Court, in *Bates* v. *State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed. 2d 810 (1977), held that an absolute ban on lawyer advertising violated the First Amendment right of free speech and that some forms of lawyer advertising should be permitted. *Bates* specifically allowed lawyers the right to publish in the newspaper fee information about routine services they provided. That decision has prompted many professional organizations to re-evaluate their regulations governing advertising and solicitation, and some have adopted new rules in this area.

31 CFR, Part 10 (reprinted in Treasury Department Circular No. 230) contains regulations governing the conduct of attorneys, certified public accountants, enrolled agents and others in their practice before the Internal Revenue Service. These regulations include provisions which address the subject of advertising and solicitation of employment in matters related to the Internal Revenue Service. Since Circular 230 regulates segments of both the accounting and legal professions, the Department of the Treasury has reviewed the new advertising and solicitation rules of the National Society of Public Accountants, the American Institute of Certified Public Accountants, and the American Bar Association.

The Department of the Treasury referred to the ethical rules of those professional organizations for guidance in ascertaining the accounting and legal professions' interpretations of the *Bates* decision. The Department of the Treasury felt that their rules helped answer many questions left unresolved by the Court. In this connection, the American Bar Association's recently adopted rules provided the Department of the Treasury with a basic format for its proposed regulations. The proposed advertising and solicitation rules set forth will not supersede or preempt any advertising and solicitation rules applied to practitioners before the Internal Revenue Service by any national, state, or local organizations controlling the professional conduct of Internal Revenue Service practitioners.

DESCRIPTION OF PROPOSED CHANGES

It is proposed that the absolute ban which prohibits any attorney, certified public accountant or enrolled agent from soliciting employment, directly or indirectly, in matters related to the Internal Revenue Srvice, be changed.

Section 10.30(a), as proposed, outlines those forms of advertising which still are not permitted. That section prohibits advertising containing any false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim. The proposal also prohibits advertising a past or present connection with the Internal Revenue Service with the exception of one's en-

rollment to practice before the Internal Revenue Service or description of an area of practice. In addition, in-person solicitation is generally prohibited; however, it does not apply to certain tax exempt organizations.

Section 10.30(b), as proposed, enumerates those forms of public communication (information) that practitioners before the Internal Revenue Service are permitted to use. Section 10.20(b)(x) gives the revision flexibility by permitting one to publish, broadcast, or use facts which would be relevant in selecting a practitioner before the Internal Revenue Service.

Section 10.30(c), as proposed, provides guidance as to the advertisement of fee information. This guidance is designed to make the advertisement of fees more informative to the public and less susceptible to misinterpretation.

Section 10.30(d), as proposed, defines public communication media practitioners are permitted to use. They include professional lists, telephone directories, newspapers, radio and television.

Section 10.30(e), as proposed, currently is a part of § 10.24 of the regulations. Section 10.24 provides that persons eligible to practice before the Internal Revenue Service may not accept employment from organizations which solicit business contrary to the provisions contained in the regulations. The Department of the Treasury wishes to place all the solicitation provisions under one section of its regulations and therefore proposes to transfer the solicitation segment of § 10.24 to § 10.30 and, accordingly, to make appropriate revision to § 10.24.

These amendments and revisions are proposed under the authority of section 3, 23 Stat. 258, sections 2-12, 60 Stat. 237 et seq., 5 U.S.C. 301, 500, 551-59, 31 U.S.C. 1026, Reorg. Plan No. 26 of 1950, 15 FR 4935, 64 Stat. 1280, 3 CFR 1949-1953 Comp.

Drafting Information

The principal author of this amendment is Mr. Leslie S. Shapiro, Director of Practice, Office of the General Counsel, Department of the Treasury, and members of his staff. Personnel from other offices of the Office of General Counsel and from the Internal Revenue Service also participated in developing this amendment.

Proposed Amendments to the Regulations

In consideration of the foregoing, it is proposed to amend 30 CFR Part 10 as follows:

Paragraph 1. § 10.24, is revised to read as set forth below:

§ 10.24 Assistance from disbarred or suspended persons and former Internal Revenue Service employees.

No attorney, certified public accountant or enrolled agent shall, in practice before the Internal Revenue Service, knowingly and directly or indirectly:

(a) Employ or accept assistance from any person who is under disbarment or suspension from practice before the Internal Revenue Service.

(b) Accept employment as associate, correspondent, or subagent from, or share fees with, any such person.

(c) Accept assistance in a specific matter from any person who participated personally and substantially or had official responsibility in such matter as an Internal Revenue Service officer or employee. See paragraph (c)(1) and (2) of § 10.26.

Paragraph 2. Section 10.30, is revised to read as set forth below:

§ 10.30 Solicitation.

(a) *Solicitation restrictions.* (1) No attorney, certified public accountant, enrolled agent, or other individual eligible to practice before the Internal Revenue Service shall, with respect to any Internal Revenue Service matter, in any way use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim. For the purposes of this subsection, the prohibition includes, but is not limited to, statements pertaining to the quality of services rendered, claims of specialized expertise not authorized by State or Federal agencies having jurisdiction over the practitioner, statements or suggestions that the ingenuity and/or prior record of a representative rather than the merit of the matter are principal factors likely to determine the result of the matter.

(2) No attorney, certified public accountant, enrolled agent or other individual eligible to practice before the Internal Revenue Service shall, by letterhead, professional card, or in any public communication, make any written or oral statement referring to a past or present connection with, or relationship to, the Internal Revenue Service. However, reference to the Internal Revenue Service in a description of services offered or in the area of limitation of one's practice as provided for in § 10.30 (b)(1)(iii) or (viii), or reference to the enrollment status of an enrolled agent as provided for in § 10.30(b)(1)(ix) shall not be considered in violation of this prohibition.

(3) No attorney, certified public accountant, enrolled agent or other individual eligible to practice before the Internal Revenue Service shall solicit employment, directly or indirectly, in matters related to the Internal Revenue Service without the intervention of permissible print or electronic media. Solicitation includes in-person contacts, telephone communications, and personal mailings by practitioners or by another person or entity acting for them. This restriction does not apply to in-person solicitation by those eligible to practice before the Internal Revenue Service while acting as an employee, member, or officer of an exempt organization listed in section 501(c)(3) through (8), (19) or (20) of the Internal Revenue Code of 1954 (26 U.S.C.). This restriction also does not apply to solicitation by personal mailings which are not specifically designed and/or intended for an individual potential client.

(b) Public Communication. (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service, may publish, broadcast, or use in a dignified manner:

(i) The name, address, telephone number, and office hours of the practitioner or firm.

(ii) The names of individuals associated with the firm.

(iii) A factual description of the services offered.

(iv) Acceptable credit cards and other credit arrangements.

(v) Foreign language ability.

(vi) Membership in pertinent, professional organizations.

(vii) Pertinent professional licenses.

(viii) A statement that an individual's or firm's practice is limited to certain areas.

(ix) In the case of an enrolled agent, the phrase "enrolled to represent taxpayers before the Internal Revenue Service."

(x) Other facts relevant to the selection of a practitioner in matters related to the Internal Revenue Service which are not prohibited by these regulations.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may use customary biographical insertions in approved law lists and reputable professional journals and directories, as well as professional cards, letterheads and announcements: *Providing*, That: (i) Attorneys do not violate applicable standards of ethical conduct adopted by the American Bar Association, (ii) certified public accountants do not violate applicable standards of ethical conduct adopted by the American Institute of Certified Public Accountants, and (iii) enrolled agents do not violate applicable standards of ethical conduct adopted by the National Society of Public Accountants or the National Association of Enrolled Agents, of whichever they are members, but enrolled agents who are not members of either organization may meet the applicable standards of ethical conduct adopted by either organization.

(c) *Fee Information.* (1) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue

Service may disseminate the following fee information: *Provided*, That clients or potential clients are notified that they are entitled, without charge, to a written estimate of the fees likely to be charged for the services to be rendered:

Fixed fees for specific routine services, provided a statement clearly indicates that the quoted fees are for services in matters of average complexity and that the actual fees for such services will depend upon the actual complexity of the client's particular matter.

(ii) Hourly rates.

(iii) Range of fees for particular services.

(2) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service may also publish the availability of a written schedule of fees, as well as the fee charged for an initial consultation.

(3) Attorneys, certified public accountants, enrolled agents and other individuals eligible to practice before the Internal Revenue Service shall be bound to charge the hourly rate, the fixed fee for specific routine services, the range of fees for particular services, or fee for an initial consultation published for a reasonable period of time, but no less than thirty days from the last publication of such hourly rate or fees.

(d) *Public Communications.* Public communications, including fee information, shall be limited to professional lists, telephone directories, print media, radio and television. In the case of radio and television broadcasting, the broadcast shall be pre-recorded and the practitioner shall retain a recording of the actual transmission.

(e) *Improper Associations.* No attorney, certified public accountant or enrolled agent shall, in matters related to the Internal Revenue Service, knowingly and directly or indirectly employ or accept assistance as an associate, corresopondent, or subagent from, or share fees with, any person or entity who, to the knowledge of the practitioner, obtains clients or otherwise conducts his practice in a manner forbidden under this section.

Dated: May 26, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 78-16367 Filed 6-13-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[FRL 911-2; OPP-300015]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Exemptions From Requirement of a Tolerance for Certain Inert Ingredients in Pesticide Formulations

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that certain additional inert (or occasionally active) ingredients in pesticide formulations be exempted from tolerance requirements. The proposal was submitted by various firms. This amendment to the regulations would permit the use of the exempted ingredients in pesticide products.

DATE: Comments must be received on or before July 14, 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:

Mr. David L. Ritter, Toxicology Branch, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-426-2680.

SUPPLEMENTARY INFORMATION: At the request of several interested persons, the Administrator is proposing to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water, baits such as sugar, starches, and meat scraps, dust carriers such as talc and clay, fillers, wetting and spreading agents, propellants in aerosal dispensers, emulsifiers. The term inert is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologally active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name under consideration, the name and address of the firm making the request for exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Firm	Bases for approval
Calcium hypochlorite	Olin Corp., 275 Winchester Ave., New Haven, Conn. 06504.	Analogue of sodium hypochlorite, which was cleared under 40 CFR 180.1001 and which has a similar toxicity profile. Potential residues, if any, would be in the form of calcium carbonate and calcium chloride, both of which are generally recognized as safe (GRAS) under 21 CFR 1191 and 1193, respectively. Neither use conditions nor time factors involved would result in residues of theoretical halocarbons popularly described as carcinogens resulting from water chlorination.
Silicon dioxide	Cabot Corp., 125 High St., Boston, Mass. 02110.	Highly purified silica product differing from other previously cleared silica products in 40 CFR 180.1001 only in its physical form.

Based on the above information, available information on the chemistry of these substances, and a review of their uses, it has been found that, when used in accordance with good agricultural practice, these substances are useful and do not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation 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 July 14, 1978, that this rulemaking proposal be referred to an ad-

visory 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, "OPP300015". 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.

Dated: May 16, 1978.

HERBERT S. HARRISON,
Acting Director,
Registration Division.

STATUTORY AUTHORITY: Sec. 408(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(e)).

It is proposed that Part 180, Subpart D, § 180.1001 be amended by revising the item "Silica, hydrated silica" in paragraph (c) to read "Silica, hydrated" and by alphabetically inserting new items in the tables in section 180.1001 (c) and (d) to read as follows:

1. Section 180.1001 is amended as follows:

§ 180.1001 [Amended]

Section 180.1001(c) is amended in the table by revising the words "Silica, hydrated silica" to read "Silica, hydrated."

2. Section 180.1001 (c) and (d) is amended by alphabetically inserting the following new items in the tables:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Calcium hypochlorite		Sanitizing and bleaching agent.
* * * * * * *		
Silicon dioxide, fused, amorphous.		Flow control, anticaking, and carrier agent.
* * * * * * *		

[FR Doc. 78-16493 Filed 6-13-78; 8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION

[45 CFR Part 1050]

[CSA Instruction 6800-10, Ch. 1]

UNIFORM FEDERAL STANDARDS

Payment Requirements (Uniform Federal Standard)

AGENCY: Community Services Administration.

ACTION: Proposed rule.

SUMMARY: The Community Services Administration is proposing regulations to inform grantees that the aggregate annual advance requiring issuance of a Letter-of-Credit has been reduced from $250,000 to $120,000. This change is required to implement Treasury Circular No. 1075. This will immediately affect organizations receiving an initial grant. Current grantees will not be affected until time of refunding.

DATES: CSA welcomes comments on this proposed rule. Comments received on or before July 14, 1978 will be considered and proposed regulations will be revised if warranted. Please address comments to: Ms. Maryann J. Fair, Community Services Administration, Office of Community Action, Policy Development and Review Division, 1200 19th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Ms. Maryann J. Fair, 202-254-5047.

(AUTHORITY: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.)

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR 1050 Subpart J, is amended as follows:

§ 1050.92 [Amended]

In § 1050.92(b)(1) "$250,000" is changed to read "$120,000".

§ 1050.93 [Amended]

In § 1050.93(a) "$250,000" is changed to read "$120,000", in each place it appears.

In § 1050.93(b) "$250,000" is changed to read "$120,000", in every place it appears. In § 1050.93(c) "$250,000" is changed to read "$120,000".

[FR Doc. 16330 Filed 6-13-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-168; RM-2922; RM-2966]

FM BROADCAST STATION IN CAPE MAY COURT HOUSE, NEW JERSEY

Proposed Changes in Table of Assignments; Memorandum Opinion and Order

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order and Notice of Proposed Rulemaking.

SUMMARY: This action proposes to assign a class A channel to Cape May Court House, N.J., as a first FM channel. A counterproposal to assign a class B channel to this community is denied for failure to demonstate that an exception should be made to the Commission's policy of assigning class A channels to small communities.

DATE: Comments must be filed on or before August 7, 1978, and reply comments on or before August 28, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: June 8, 1978.

Released: June 15, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cape May Court House, N.J.) BC Docket No. 78-168, RM-2922, RM-2966.

1. The Commission has before it a petition for rulemaking to assign channel 288A to Cape May Court House, N.J., filed by Shore Broadcasting Associates ("Shore"). A counterproposal to assign channel 225 to Cape May Court House by substituting channel 288A for channel 224A at Rehoboth Beach, Del., and by substituting channel 221A for channel 288A at Salisbury, Md.,[1] was filed by Triplett Broadcasting Co., Inc. ("Triplett"), licensee of various stations in Ohio. Comments in opposition to both pro-

[1]The petition also includes a request to assign channel 224A to Snow Hill, Md., which would become available for assignment if the same channel were deleted from Rehoboth Beach as proposed.

posals were submitted by Avalon Broadcasting Co., Inc., licensee of Station WWOC (FM), Avalon, N.J. Comments in opposition to the Triplett proposal were received from WMID, Inc., licensee of station WMID (AM), Atlantic City, N.J., and station WGRF (FM), Pleasantville, N.J.; from GCC Communications of Chicago, Inc., licensee of station WIFI (FM), Philadelphia, Pa.; Radio WAYV, licensee of Station WAYV (FM), Atlantic City, N.J.; and Seashore Broadcasting Corp., licensee of Station WOBM (FM), Toms River, N.J.[2]

2. Cape May Court House (pop. 2,062)[3] is the seat of Cape May County (pop. 59,554). It is located approximately 46 kilometers (29 miles) southwest of Atlantic City, N.J. Cape May Court House has no local aural service. The county has two AM stations (full-time station WCMC, Wildwood, and daytime-only station WSLT, Ocean City-Somers Point) and four FM stations (station WWOC (channel 232A), Avalon; station WRIO-FM (channel 272A), Cape May; station WSLT (channel 292A), Ocean City-Somers Point; and Station WCMC-FM (channel 264), Wildwood).

THE TRIPLETT PROPOSAL

3. By way of background, the Commission, on October 14, 1975, denied a request by Triplett for the same channel assignment (channel 225) to Cape May Court House. See Cape May Court House, N.J. and Rehoboth Beach, Del., 40 FR 49338, 35 R.R. 2d 278 (1975).[4] Triplett's proposal was then rejected for failure to demonstrate that an exception to the Commission's policy of assigning class A channels to small communities was warranted. In particular, Triplett was unable to show that any first or second FM or aural service could be provided by the proposed station. It was also noted that a class A channel (channel 288A) could be assigned to Cape May Court House, if some interest in applying for the channel were forthcoming. However, no such party came forward and that channel assignment was also denied.

4. In its petition, Triplett reiterates the public interest benefits that it asserts would accrue from the proposal, essentially as it did in docket No. 20374. In this regard it is contended that a greater number of persons would receive the signal of a class B station than of a class A station especially during the summer months when there is a large influx of vacationers. Further, Triplett notes that no class B station within 50 miles of Cape May County provides service to the entire county and that the proposed class A station for Cape May Court House would also fail to offer such service. In an attached engineering study, Triplett asserts that a second FM service would be provided by its proposal to an area around and including most of Cape May City (population 4,392) at the southernmost tip of New Jersey. Finally, Triplett brings up to date some growth factors concerning business and other activities of Cape May Court House to demonstrate the county is undergoing rapid growth. We are warned by Triplett that channel 225 cannot be used elsewhere in the area and will, if not assigned as proposed, lie fallow. It cites Cape Charles, Va., docket No. 21355, 43 FR 6606 (1978), as holding in effect that to permit an available channel to go to waste if not assigned would result in an inefficient use of the spectrum. Triplett also notes that Snow Hill would receive its first FM channel assignment and that no existing stations would be adversely affected under the proposal. Finally, although information concerning the request to assign a class A channel to Snow Hill is set forth, it is not necessary to relate that information in light of the discussion that follows.

5. Opponents are all in agreement that Triplett's proposal is nothing more than a repetition of its previously rejected petition and therefore it offers no basis for granting an exception to the Commission's policy to refuse class B assignments to small communities. Rather, contending that the proposal is in actuality designed to be a county-wide station and to reach the Atlantic City market, and that the county is already well served by existing stations, they assert that the class A proposal would adequately serve the needs of Cape May Court House itself.[5]

6. After carefully analyzing Triplett's proposal, we again find no basis for granting an exception to our policy to assign class A channels to small communities,[6] nor has Triplett offered any new information that would justify reversing our previous decision in docket No. 20374. Triplett's allegation that second FM service would be provided to the southernmost portion of Cape May County is incorrect. That area, under ROANOKE RAPIDS[7] criteria, would receive service from stations WRIO-FM, Cape May and WCMC-FM, Wildwood. Thus, no first or second FM or aural service will be provided by Triplett's proposed class B station. As for the contention that no station presently provides service to the entire county, it is noted that station WCMC, Wildwood, could do so by an improvement in its present facilities. Also, station WWOC, Avalon, serves most of the county (except Cape May Point (pop. 204)) and a portion of Cape May City, and the proposed class A station for Cape May Court House (channel 288A), depending on the transmitter site, could serve the entire county. While we recognize that Cape May County has undergone considerable growth in recent years it has not been shown that radio service is inadequate to meet the county's needs. Triplett cites Cape Charles, Va., supra, for the proposition that available frequencies should be assigned if unavailable to any other qualified community. However, in that case, the basis for assigning a class B channel to Cape Charles was the need for area-wide coverage stations in the Delmarva peninsula where there are few population centers. This consideration is not present in the instant case. Accordingly, the request to assign channel 225 to Cape May Court House is denied. In addition, we note that the request to assign channel 224A to Snow Hill, Md., has elicited no interest and Triplett has not stated that it is interested in applying for the channel. Thus, that proposal is also denied since it is Commission policy to refuse the assignment of channels where no demand has been shown.[8]

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[2] A "Motion to Accept Supplemental Statement in Support of Counterproposal" was submitted on behalf of the Triplett Broadcasting Co., Inc. on May 15, 1978, more than 6 months late. The previous deadline for filing comments was December 9, 1977. We are asked to accept this pleading since it addresses certain matters to which triplett had no previous opportunity to respond and it sets forth facts not previously available. Basically, this information consists of survey responses and township resolutions in support of its proposal, arguments concerning population and economic growth and recent news pertaining to exploratory oil drilling off the coast of New Jersey. The latter information is included to make the point that since substantial numbers of workers will be engaged in oil drilling in an area with inadequate radio service, a high powered station would be needed to reach them. We find that most of this information either was previously obtainable or that attempts could have been made to make the Commission and all parties aware that more time would be needed to acquire the information. To the extent that some of the facts were unavailable we find that they are of such little consequence considering all the factors which will be discussed herein that the proceeding should not be delayed for that purpose. Therefore, the Motion to Accept is denied.

[3] Population data are taken from the 1970 U.S. Census.

[4] At that time, it was not necessary to substitute channels at both Rehoboth Beach and Salisbury as would now be required. The request to "drop in" channel 224A to Snow Hill is also new.

[5] Seashore Broadcasting Corp. notes that if the channel 225 assignment were granted, its own station at Toms River, operating on a first adjacent channel, would be locked into its present transmitter site by the Commission's minimum mileage separation requirements.

[6] See, e.g., Cabool, Mo., 52 FCC 2d 240 (1975).

[7] FCC 2d 672 (1972).

[8] Schulenberg, Tex., 50 FCC 2d 1005 (1975); West Memphis, Ark., 41 FR 44712 (adopted September 28, 1976).

THE SHORE PROPOSAL

7. In its petition, Shore notes that the Commission previously proposed to assign channel 288A to Cape May Court House but since no interest was expressed in the channel, the assignment was denied. It states that but for its expression of interest, the relevant facts have not changed materially since then. Avalon Broadcasting Co. disagrees with the assertion that the situation has not changed, arguing that there is no showing that the assignment is still feasible from a technical standpoint and that a sixth station has commenced operation in Cape May County since that earlier proceeding was terminated. In any event, it contends that the community is well served by broadcast and print media. In reply, Shore argues, in effect, that if Avalon Broadcasting is correct in stating that service from outside sources is sufficient to override the need for local service then the city of Avalon would never have received its channel assignment. Further, in Shore's opinion, there is considerable precedent for the channel assignment as a first local service here. Rather than detail the demographic data of the community, Shore refers us to the showing made by Triplett.

8. We believe that the Shore request for first local service to Cape May Court House, should be pursued. This community is the seat of a growing county and a class A station can provide a valuable service to the residents of the community. In view of the stated willingness of Shore to apply for the channel if assigned, we shall propose the assignment of channel 288A to Cape May Court House.

9. Accordingly, it is proposed to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, with respect to the city listed below as follows:

City: Cape May Court House, N.J.; proposed channel No. 288A.

10. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

11. Interested parties may file comments on or before August 7, 1978, and reply comments on or before August 28, 1978.

12. *It is ordered,* That the Motion to Accept Supplemental Statement in Support of Counterproposal submitted by Triplett Broadcasting Co., Inc. is denied.

13. *It is further ordered,* That the petition of Triplett Broadcasting Co., Inc. to assign channel 225 to Cape May Court House, N.J., and to assign channel 224A to Snow Hill, Md., is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found 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(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and Regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-16440 Filed 6-13-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FLUE-CURED TOBACCO ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

NAME: Flue-Cured Tobacco Advisory Committee.

DATE: June 29, 1978.

PLACE: Tobacco Division, Agricultural Marketing Service, U.S. Department of Agriculture, Laboratory, Room 223, Flue-Cured Tobacco Cooperative Stabilization Corporation, 1306 Annapolis Drive, Raleigh, N.C. 27505.

TIME: 1 p.m.

PURPOSE: To discuss marketing area opening dates and selling schedules for flue-cured tobacco to be sold in each marketing area for the 1978 season. Also, other matters as specified in 7 CFR, Part 29, Subpart G, § 9404.

The meeting is open to the public but space and facilities are limited. Public participation will be limited to written statements submitted before or at the meeting unless their participation is otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting should contact Mr. Leonard J. Ford, Acting Director, Tobacco Division, Agricultural Marketing Service, 300 12th Street SW., U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-2567.

Dated: June 8, 1978.

WILLIAM T. MANLEY,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 78-16368 Filed 6-13-78; 8:45 am]

[3410-11]

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

Meeting Cancellation

The Committee of Scientists meeting announced in the FEDERAL REGISTER on May 30, 1978, scheduled in Portland, Oreg., on June 19-21, 1978, has been cancelled.

This meeting will be rescheduled for a later time in July.

Dated: June 7, 1978.

GLENN P. HANEY,
Associate Deputy Chief.

[FR Doc. 78-16369 Filed 6-13-78; 8:45 am]

[3410-16]

Soil Conservation Service

CONNEAUTVILLE FLOOD PREVENTION R.C. & D. MEASURE, PENNSYLVANIA

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Conneautville Flood Prevention R.C. & D. Measure, Crawford County, Pa.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Graham T. Munkittrick, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The measure concerns a plan for flood prevention. The planned works of improvement includes a single-purpose flood prevention dam and conduit for an adequate outlet through the Borough of Conneautville.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Graham T. Munkittrick, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pa. 17108, 717-782-2202.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: June 5, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-16409 Filed 6-13-78; 8:45 am]

[3410-16]

HAMILTON CREEK WATERSHED, TEXAS

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Hamilton Creek Watershed, Burnet County, Tex.

The environmental assessment of this federally assisted action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention and watershed protection. The planned works of improvement consist of three floodwater retarding structures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement.

The draft environmental impact statement will be developed by Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Tex. 76501; 817-774-1255.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: June 5, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-16410 Filed 6-13-78; 8:45 am]

[3410-16]

JOHNSON LAKE PUBLIC WATER-BASED RECREATION R.C. & D. MEASURE, INDIANA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Johnson Lake Public Water-Based Recreation R.C. & D. Measure, Jefferson County, Ind.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for public water-based recreation. The planned works of improvement include lake reconstruction and the development of water-based recreation facilities. Facilities planned are: shelter houses, playground equipment, associated facilities, and 6 acres of recreation area planting.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, 317-269-6515. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: June 5, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service.

[FR Doc. 78-16412 Filed 6-13-78; 8:45 am]

[3410-16]

LITTLE WALNUT CREEK WATERSHED PROJECT, INDIANA

Intent to Not Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Little Walnut Creek Watershed project, Putnam and Parke Counties, Ind.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection, flood prevention, and recreation. The planned works of improvement remaining include installation of recreation facilities at the previously constructed multiple-purpose structure.

The notice of intent to not prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, 317-269-3785. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until July 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated June 5, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-16414 Filed 6-13-78; 8:45 am]

[3410-16]

ROSE GAFFNEY SCHOOL LAND DRAINAGE R.C. & R. MEASURE, MAINE

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Rose Gaffney School Land Drainage R. C. & D. Measure, Washington County, Maine.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Warwick M. Tinsley, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for providing surface water control for the Rose Gaffney School property. The planned works of improvement include a grassed waterway and vegetative stabilization of disturbed areas.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Warwick M. Tinsley, Jr., State Conservationist, Soil Conservation Service, USDA Building, Orono, Maine 04473, 207-866-2132. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken July 14, 1978.

(Catalog of Federal Domestic Assistance program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: June 5, 1978.

[FR Doc. 78-16411 Filed 6-12-78; 8:45 am]

[3410-16]

FORT STANTON FARM IRRIGATION R.C. & D. MEASURE, NEW MEXICO

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Fort Stanton Farm Irrigation R.C. & D. Measure, Lincoln County, N. Mex.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. A. W. Hamelstrom, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for rehabilitation of the irrigation system on the Fort Stanton State Hospital and Training School farm. The present system utilizes water diverted from the Rio Bonito and earthen ditches. The proposed plan calls for the drilling of a well and approximately 3,300 feet of plastic irrigation pipe. The end result of both systems is flood prevenion.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. A. W. Hamelstrom, State Conservationist, Soil Conservation Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87103, 505-766-3277. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until July 14, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: June 5, 1978.

[FR Doc. 78-16413 Filed 6-13-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 31633; Order 78-6-10]

ALLEGHENY AIRLINES, INC.

Order on Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of June 1978.

Allegheny Airlines has filed a petition for reconsideration of Order 78-2-79, which dismissed without prejudice its application for exemption authority to operate a maximum of two daily round-trips between Cleveland, Ohio, and Rochester, N.Y.

In support if its reconsideration petition, Allegheny asserts that the Board has been granting permissive route authority without traditionally required financial information and has awarded authority by show-cause procedures where less economic data have been supplied than have been here; and that the Board should either grant it an exemption or process its application by show-cause procedures.

American Airlines answered in opposition to Allegheny's petition. It states that the recent Board decisions granting permissive awards in subpart A and subpart M proceedings provide no excuse for not complying with the regulations concerning exemption applications; that the rules require that more than financial information be filed; that, under section 416 of the act, exemptions are to be granted only in certain circumstances; that the circumstances surrounding the show-cause proceedings referred to by Allegheny are different from these; and that show-cause procedures are not proper here because of the competitive implications of the application.

We have decided to grant Allegheny's petition for reconsideration and to remove its one-stop restriction in the Cleveland-Rochester market by the use of show-cause procedures. Our original decision to dismiss the exemption application because it did not include the information required by section 302.402(c) of the Board's regulations was correct, and even Allegheny in its reconsideration petition states that it recognizes that it has not supplied all of the data required by the regulations. Upon review of the original application, however, we have determined that enough data have been supplied to support the use here of show-cause procedures to amend Allegheny's certificate. Furthermore, we favor the certificate amendment route rather than merely exemption. Certification is the norm under the act and results in permanent authority. We therefore tentatively conclude that the public convenience and necessity require the removal of Allegheny's one-stop restriction in the Cleveland-Rochester market. We also tentatively conclude that a hearing is not necessary. No competing applications have been filed, and only American objects to the restriction removal. Our conclusions are supported by the tentative findings below.[1]

The Cleveland-Rochester market generated 31,110 O&D plus connecting passengers during the year ended September 30, 1977.[2] Service consists of American's one daily nonstop flight in each direction, Allegheny's daily one-stop flight eastbound, and Allegheny's nonstop connecting flights at Buffalo.[3] Despite its inferior authority, Allegheny has a market share of 38 percent.[4] Allegheny proposes to operate a maximum of two daily nonstop round trips. Under these circumstances, we believe that the public convenience and necessity require the removal of Allegheny's one-stop restriction and the grant to it of permissive nonstop authority.

American objects that the competitive implications of the application disqualify it from show-cause procedures, that Allegheny has failed to show that there is a need for additional Cleveland-Rochester nonstop service, and that American's low load factors indicate that such service would be uneconomic. We see no reason to retain Allegheny's stop restriction on the basis of these objections. We have long believed that such restrictions are inherently wasteful and inconvenient for the traveling public, and should be removed unless there are affirmative reasons for retaining them.

The fact that additional nonstop service may be uneconomic does not dissuade us from our decision. We need not find that the proposed operations will be profitable in order to find that they will be in the public interest. As we have stated before, it is up to the carrier's management, responding to market forces, to determine the level of service most profitable for it, the carrier.[5] Since Allegheny's authority will be permissive, it will be able to discontinue nonstop service if it finds it uneconomic. We also do not believe that the authorization of a second carrier will result in either conducting uneconomic operations. In fact, it may actually stimulate the market through the introduction of competitive service benefits such as lower fares and new price/quality options. Even the threat of the entrance of a competitor may benefit the public by encouraging the incumbent carrier to provide better service.

Allegheny has requested a waiver of the requirement to file an environmental evaluation. However, its application contains insufficient information upon which to make a finding concerning the environmental effect. We will therefore require the carrier to submit an environmental evaluation

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[1] We further tentatively find that Allegheny is a citizen of the United States within the meaning of the act, and is fit, willing, and able to perform properly the transportation proposed here and to conform to the provision of the act and the Board's rules, regulations and requirements.

[2] Tables 8 and 10, CAB O&D survey.

[3] OAG, May 1, 1978.

[4] Table 10, CAB O&D survey, year ended September 30, 1977.

[5] Buffalo-St. Louis subpart M Proceeding, Order 77-4-25, April 6, 1977.

of its proposed service within the time period given interested persons for comment.

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If a full evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. Allegheny Airlines' petition for reconsideration in order 78-2-79 in docket 31633 be granted;

2. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions stated here and amend the certificate of public convenience and necessity of Allegheny Airlines for Route 97 so as to remove its one-stop restriction in the Cleveland-Rochester market;

3. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here shall, within 30 days after the service date of this order, file with the Board and serve upon all parties in docket 31633 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; answers to such objections may be filed 10 days thereafter; [6]

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here; and

6. Allegheny Airlines be directed to file an environmental evaluation pursuant to Part 312 of the Board's Procedural Regulations within 30 days after the date of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[7]
Secretary.

[FR Doc. 78-16465 Filed 6-13-78; 8:45 am]

[6320-01]

[Docket No. 32741; Order 78-6-46]

FRONTIER AIRLINES, INC.

Order Granting Exemption

Issued under delegated authority June 6, 1978.

By application filed May 25, 1978, Frontier Airlines, Inc. (Frontier) requests an exemption from Order 74-12-109 [1] to the extent necessary to permit it to establish a fare between Denver and Cheyenne, Wyo., which matches the fare that will be charged by Rocky Mountain Airways, Inc. (RMA), a commuter air carrier scheduled to operate in this market pursuant to part 298 of the Board's Economic Regulations.

In support of its application, the carrier states that it and Western are the only Board-certificated air carriers currently providing service between Cheyenne and Denver, and its standard class fare is $26.85; on June 1, 1978, RMA is scheduled to inaugurate service with a standard class fare of $25.93 between Cheyenne and Denver and that, without the exemption, Frontier will be placed at a competitive disadvantage; it desires to match RMA's fare but is precluded from doing so by the coach fare formula of phase 9 of the Domestic Passenger-Fare Investigation (DPFI) which sets the lowest fare at $26.85; the Board has in the past granted it an exemption in similar situations; [2] the Board has explicitly recognized that certificated carriers should be allowed to establish fares below those prescribed by phase 9 to meet competition from noncertificated carriers; the Board has similarly held, in Investigation of Interstate and Intrastate Fares In California and Texas Markets,[3] that fares of certificated carriers may be lowered below phase 9 minima to the extent necessary to meet competition from intrastate carriers.

No answer has been filed in opposition to Frontier's application.

Upon review of the statements contained in the application and all other relevant matters we find that enforcement of the requirements of phase 9 of the DPFI, insofar as they would prevent Frontier from matching standard class fares offered by RMA between Cheyenne and Denver, would be an undue burden on the carrier by reason of the limited extent of and unusual circumstances affecting its operations and would not be in the public interest.

We believe that granting the requested exemption authority comports with our long-standing policies according the maximum possible pricing flexibility to local service carriers and permitting certificated carriers, generally, to match genuinely competitive fares.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404, and 1002, and the authority duly delegated in the Board's Regulations, 14 CFR 385.14(b),

It is ordered, That

1. Frontier Airlines, Inc. is exempted from the requirements of Orders 74-12-109 to the extent necessary to permit it to file tariffs containing fares between Cheyenne, Wyo. and Denver, Colo., matching the published fares of Rocky Mountain Airways, Inc. in this market.

2. To the extent not granted herein, the application in docket 32741 is denied; and

3. A copy of this order be served upon all U.S. certificated air carrier parties in phase 9 of the Domestic Passenger-Fare Investigation [4] and Rocky Mountain Airways, Inc.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petition within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-16466 Filed 6-13-78; 8:45 am]

[6320-01]

[Docket Nos. 28273; 32709; Order 78-5-127]

FRONTIER AIRLINES, INC.

Order Instituting Investigation Regarding Tucson-San Diego Nonstop Route

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of May 1978.

[6] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

[7] All Members concurred.

[1] The Board's Opinion and Order on Reconsideration in phase 9 of the Domestic Passenger Fares Investigation, (DPFI) December 27, 1974. In order to be competitive with RMA, Frontier is requesting short-notice permission.

[2] Orders 78-4-97, April 18, 1978, 78-2-43, February 9, 1978, and 77-1-164, January 31, 1977.

[3] Order 76-7-23, July 7, 1976.

[4] Order 74-12-109, December 27, 1974.

On August 8, 1977, Frontier Airlines filed a motion for immediate hearing on its application in Docket 28273. Although the application included Tucson-Phoenix-San Diego authority, the motion is limited to Tucson-San Diego authority.[1] In support of its application for nonstop authority in the Tucson-San Diego market, Frontier states that: Service by Hughes Airwest and American Airlines has been erratic; there is an insufficient level of service offered by Airwest and American in this market as indicated by the lack of convenient arrival and departure times and the number of passengers who are forced to use connecting rather than single-plane service; it will add three nonstop round trips and provide important beyond-market benefits, particularly in the Albuquerque-San Diego market; and service in the Tucson-San Diego market will reduce its subsidy need by approximately $580,000.

Answers in support of Frontier's motion were filed by the city and Chamber of Commerce of Albuquerque and the Tucson Airport Authority.[2]

Answers in opposition to Frontier's motion were filed by Airwest, American, and Trans World Airlines. Airwest contends that the market is receiving sufficient service and that there is no reason to give Frontier's application priority over other applications involving markets with no service and/or substantially more traffic than the San Diego-Tucson market.[3] American alleges that: there is no pressing need for a third nonstop carrier in the market, as indicated by American's average nonstop load factor of 48 percent for the year ended July 31, 1977; Frontier, under its service proposal, would experience only a 42-percent load factor, on the basis of its own figures; Frontier's service proposal fails to correct the alleged lack of turnaround service in the market; and Frontier's attempt to prove service deficiencies in the Tucson-San Diego market by reliance on the number of passengers using connecting service is invalid because the figure cited—40 percent—includes both online and interline connecting passengers, the number of interline connecting passengers is decreasing, and the existence of Phoenix as a strong, direct connecting point distinguishes the Tucson-San Diego market from other Tucson and San Diego markets that Frontier cites as having a higher through-to-connecting passenger ratio. Finally, TWA argues that there is a greater need for service in the San Diego-St. Louis/Kansas City markets for which TWA has filed an application and motion for immediate hearing in Docket 30387.[4]

In accordance with Board instructions at the sunshine meeting on February 1, 1978, the Board's Office of Community and Congressional Relations (OCCR), February 24, held a discussion with civic parties and the incumbent carriers concerning service in the Tucson-San Diego market and filed its report on March 13, 1978. OCCR concluded that improved service in the market would only be achieved if provided by a carrier with relatively small capacity equipment and/or a different geographic system than the incumbents.

Answers to OCCR's report were filed by Airwest, Frontier, the Arizona Department of Transportation, the San Diego Chamber of Commerce, and the Tucson Airport Authority. Both the Arizona Department of Transportation and Frontier suggest show cause or other non-oral expedited procedures to permit Frontier to enter the market. San Diego and Tucson urge expedited consideration of Frontier's application. Airwest, on the other hand, restates its opposition to grant of Frontier's motion for immediate hearing on the ground that a third competitor might jeopardize the service it now offers in the market, the increased service it anticipates providing as a result of the award it received in the *Phoenix-Des Moines/Milwaukee Route Proceeding*, and the low fares it plans to inaugurate.

We have decided to institute the *Tucson-San Diego Nonstop Route Investigation*, Docket 32709, to consider the need for additional nonstop service in the Tucson-San Diego market.

In accordance with the policy announced in our order instituting the *Chicago - Albany / Syracuse - Boston Competitive Service Investigation* (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier(s) should be selected. We therefore expect the instituted case to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50.[5] We repeat, however, that traditional service benefits, including the benefits of city/pair competition, are important issues which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

Accordingly, it is ordered, That: 1. The motion for hearing of Frontier Airlines in Docket 28273 be granted;

2. An investigation designated as the *Tucson-San Diego Nonstop Route Investigation*, Docket 32709, be instituted under section 204 of the Act and be set for hearing before an Administrative Law Judge of the Board at a time and place to be designated later;

3. This investigation shall consider whether the public convenience and necessity require that new authority be granted in the Tucson-San Diego market; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, conditions or limitations;

4. Frontier Airlines' application in Docket 28273 be consolidated to the extent it conforms to the scope of the issues in the proceeding initiated by paragraph 2, above, and be dismissed to the extent it does not conform to the scope of the issues in paragraph 3, above;

5. Any authority awarded in this investigation shall be Class II-subsidy ineligible;

6. The motion of the City and Chamber of Commerce of Albuquerque for leave to file an otherwise unauthorized document be granted;

7. American Airlines, Hughes Airwest, Trans World Airlines, the City and Chamber of Commerce of Albuquerque, the Arizona Department of Transportation, the San Diego Chamber of Commerce, and the Tucson Airport Authority be made parties to this investigation;

8. Applications, amendments to applications, motions to consolidate, and

[1] We will dismiss Frontier's application in Docket 28273 to the extent that it does not conform to the scope of the investigation that we are insitituting.

[2] Albuquerque's answer was accompanied by a motion for leave to file an otherwise unauthorized document which we will grant.

[3] Airwest's argument that it is waiting action on two motions for immediate hearing is moot. Its applications in Dockets 30550 and 29554 have been incorporated in whole or in part into the *Twin Cities-Las Vegas/Phoenix-San Diego Route Proceeding*, (Docket 31955) and the *Las Vegas-Houston Competitive Service Investigation* (Docket 32152).

[4] By Order 78-1-132, TWA's application was consolidated into the *St. Louis/Kansas City-San Diego Route Proceeding*, Docket 32061.

[5] We are contemplating a change in our direction to the administrative law judges concerning their analysis of low-fare proposals, and we will be issuing a second order shortly discussing that aspect of this case in more detail. Normally, staff components of the Board become parties to proceedings at the time of the instituting order. Because of the need in this case for further expert analysis on this point, no staff component will become a party until we have issued the second order; we see no reason, however, why the staff cannot submit a statement of issues and requests for evidence as required by the administrative law judge.

petitions for reconsideration of the order shall be filed within 20 days from the date of service of this order and answers within 10 days thereafter; [6] and

9. All other carriers filing applications that they seek to have consolidated into the investigation shall file environmental evaluations pursuant to § 312.12 of the Board's regulations within 30 days of the date of service of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[7]
Secretary.

[FR Doc. 78-16467 Filed 6-13-78; 8:45 am]

[6320-01]

[Docket Nos. 31951, etc.; Order 78-6-59]

PAN AMERICAN WORLD AIRWAYS, INC., ET AL.

Order Regarding Suspension Authority

Adopted by the Civil Aeronautics Board, at its office in Washington, D.C. on the 8th day of June 1978.

Application of Pan American World Airways, Inc., for suspension authority, Docket 31951; Application of Eastern Air Lines, Inc., Docket 31947, National Airlines, Inc., Docket 31950, Braniff Airways, Inc., Docket 31991, and Western Air Lines, Inc., Docket 32039, for Florida-Mexico exemption authority; applications of National Airlines, Inc., Docket 31949, Eastern Air Lines, Inc., Docket 31990, Western Air Lines, Inc., Docket 31992, and Braniff Airways, Inc., Docket 32026, for certificate or certificate amendments; Florida-Mexico City Investigation, Docket 32830.

On January 4, 1978, Pan American World Airways filed an application for authority to suspend service at Miami, Tampa, Merida and Mexico City on Segment II and at Merida on Segment I(B)(3)(c)(iii) of Route 136. The carrier states that the markets have insufficient traffic to justify B-747 service and involve shorter stage lengths than are economically feasible with its fleet; that, as a result, it incurred an operating loss of $4.7 million for the year ended September 30, 1977; that other carriers can achieve reasonable load factors using smaller aircraft without sacrificing any service benefits to the public; and that suspension will allow it to concentrate on its major intercontinental markets where it can best and most efficiently serve the traveling public.

Eastern, National, Braniff and Western have filed both certificate and exemption applications for Florida-Mexico authority in response to Pan American's proposal to suspend service (see Appendix A). The exemption applications of the first three parallel their requests for certificate authority. Specifically, they ask for exemption authority to provide foreign air transportation between Miami and Tampa, on the one hand, and Merida and Mexico City, on the other. Western, however, requests exemption authority only between Miami and Tampa, on the one hand, and Mexico City, on the other. Its certificate amendment application requests authority over both that routing and a separate Miami-Tampa-Merida-Mexico City routing.

In support of their various exemption requests, the applicants state that the withdrawal of Pan American from the Florida-Mexico markets will leave these markets without U.S.-flag service; that they are ready to step in immediately to fill the void; that their service proposals include low fares and meet the needs of the Florida-Mexico markets without causing any adverse impact on any other carrier; and that the *Kodiak* Doctrine [1] is not a bar because there is a compelling need for continued U.S.-flag service. Eastern and Braniff note that they serve three of the points (Miami, Tampa, Mexico City), that they have been recommended by an administrative law judge for Merida authority in the *Houston/New Orleans-Yucatan Route Proceeding*, Docket 29789, and that they are fare innovators. Western notes that it serves both Miami and Mexico City and that expenses of opening a station at Tampa would be minor compared to those which National would incur in opening two stations in Mexico. National, on the other hand, points to its strong identity throughout Florida and argues that a Mexican route is a natural adjunct to its domestic and European authority.

Numerous answers, replies and motions were filed (see Appendix B). The civic parties and the Department of State urge the Board to grant Pan American's suspension and to authorize substitute exemption service. The Tampa Bay Area Parties explicitly support National to provide the replacement service. National and Eastern support Pan American's request and urge their own selection as replacement carrier. Western, in a consolidated answer in opposition to National's and Eastern's exemption applications, states that all the carriers are seeking authority to operate over a new route and that grant of an exemption would prejudice the outcome of any Florida-Mexico certification proceeding; that the facts will not support the necessary statutory findings under section 416(b) of the Act; and that grant of exemption authority to National would violate the *Kodiak* Doctrine.

National filed a motion to dismiss Eastern's exemption application, contending that the application was deficient as it did not contain the data required by section 402 of the Board's Rules of Practice. Eastern filed an answer stating that National's motion is moot as a result of its January 13 supplement which included all the required data.[2] The U.S. Department of Transportation (DOT) also filed an answer to National's motion to dismiss, urging the Board to suspend Pan American and select a carrier or carriers to provide replacement services, but suggesting that the Board do so through an expedited certificate proceeding rather than the exemption process. If the Board chooses to exercise its exemption powers, DOT urges it to submit the decision to the President for section 801 review.

Replies to the various answers were filed by the carriers.

We have decided to institute the *Florida-Mexico City Investigation*, Docket 32830, to consider the need for U.S.-flag service between Miami and Tampa, on the one hand, and Mexico City, on the other, and the suspension or deletion of Pan American's authority in these markets. We are consolidating for hearing the applications in Dockets 31949 (National), 31990 (Eastern), 31992 (Western) and 32026 (Braniff) to the extent they seek Miami/Tampa-Mexico City authority.[3] Under the new civil aviation agreement with Mexico, Pan American's former Miami-Tampa-Merida-Mexico City route has been split into three segments: Route C.2 (Miami/Tampa-Mexico City), Route D.9 (Miami-Merida/Cancun/Cozumel) and Route D.10 (Tampa-Merida/Cancun/Cozumel). In addition, the agreement provides for U.S.-flag service between the Yucatan points and a number of other U.S. cities.[4] We intend shortly to institute a proceeding to consider U.S.-Yucatan service, to include Miami/Tampa-Merida authority and the suspension or deletion of Pan American's rights in the markets.

The certificate applicants have proposed various discount fares in the

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[6] We delegate to the presiding administrative law judge the authority to consolidate by order any applications which conform to the scope of the proceeding.

[7] All Members concurred.

[1] *Kodiak Airways, Inc.*, v. *C.A.B.*, 447 F.2d 341 (D.C. Cir. 1971).

[2] We will dismiss National's motion in view of Eastern's supplement.

[3] We will grant Western's motion to consolidate its application in Docket 31992 with National's application in Docket 31949. All persons who filed pleadings in Dockets 31947, 31949, 31950, 31991, and 32039 will be made parties to the certificate proceeding.

[4] Atlanta, Chicago, Cleveland, Dallas/Fort Worth, Detroit, Houston, New Orleans, New York, and Washington/Baltimore.

Miami/Tampa-Mexico City markets. Mexico City is a major tourist destination and, as such, it is particularly price sensitive. We will solicit additional reduced-fare proposals from the applicants. In accordance with the policy announced in our order instituting the *Chicago-Albany/Syracuse-Boston Competitive Service Investigation*, Order 77-12-50, the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and if so, which carrier(s) should be selected. We therefore expect the investigation to include an examination of the need for, and feasibility of, various new price/quality options and related issues, as we explained in Order 77-12-50.[5] We repeat, however, that traditional service benefits are important issues which will be weighed with price and price/quality considerations.

Western has not submitted sufficient information for us to determine the environmental consequences of its certificate amendment application at this time. Therefore, we will require Western to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow Western and all other carriers filing applications in this proceeding 30 days from the date of service of this order to file their environmental evaluations.

We also have decided to authorize Pan American to suspend its services on Segment II and at Merida on Segment I of Route 136, and to grant Eastern exemption authority to provide replacement service pending final decision in the proceeding instituted here and the soon-to-be instituted U.S.-Yucatan case.[6] We take these actions because an investigation will take some time to complete, the incumbent carrier has asked to be relieved of its obligations, and there are willing carriers ready to step in and provide replacement service.

Despite the fact that Pan American pioneered service in the Miami-Merida and Mexico City-Florida markets and has made substantial contributions to their development, now it is faced with unacceptable operating losses. It states that these services accounted for $4.7 million in operating losses for the year ended September 30, 1977. This estimate appears reasonable, and there is no prospect for improved results for Pan American in the near term. Moreover, it has reduced service to one weekly Miami-Merida and two weekly Miami/Tampa-Mexico City round trips. Our failure to act immediately could lead to even greater reductions in Miami/Tampa-Mexico service, creating a further hardship on the traveling and shipping public. Since we will exempt another carrier to provide replacement service, discontinuation of Pan American's service will not result in substantial inconvenience to the public. Under these circumstances, we find that grant of the suspension is in the public interest.

Pan American's Florida-Mexico services were, until recently, the only direct U.S.-flag services between Miami and Tampa, on the one hand, and Mexico, on the other. The Tampa-Mexico City flights, formerly offered on a daily basis, are Tampa's only direct link with Mexico and, pending decision in the *Yucatan* case, the Miami-Merida services are the only U.S.-flag services from any point in the U.S. to the Yucatan. Continuation of these services is vital to the commerce of Miami and Tampa and to the maintenance of the economic balance of the bilateral agreement. It is imperative that there be no interruption in U.S.-flag services in these markets; consequently, we find that there is a compelling need for *pendente lite* exemption authority to replace Pan American.

We agree with the applicants that *Kodiak* is not a bar to granting an exemption. However, the size of the markets[7] and the practical reality that the United States may designate only one carrier to serve each route agreed on under the U.S.-Mexico bilateral effectively prevent us from granting exemption authority to more than one carrier. The needs of the traveling and shipping public are paramount and force us to choose one of the applicants.

Looking at the various applicants and their proposals, we believe there are arguments that could be made for each one. For example, National could integrate its Florida-Europe and Florida-Mexico services, and Western could complete the last side of its Miami-Los Angeles-Mexico City triangle. In the final analysis, however, we must reach a decision based on short-term factors which will leave us with a maximum flexibility to decide the long-term issues in the route proceedings. National does not serve Mexico and would have to open two stations there and train personnel to staff them. While we do not believe that this would necessarily require a very large, irretrievable commitment of resources, it argues against a temporary award to that carrier. Similarly, Western does not serve Tampa or Merida (and does not in its exemption request propose to serve the latter), so its position is about the same as National's. It would be easier and less expensive for Braniff or Eastern to institute temporary replacement service because each has existing stations at Miami, Tampa and Mexico City. We find that granting authority to Eastern will be more compatible with meeting the objectives discussed above.

Eastern's service proposal, equipment mix and comprehensive discount-fare package appear to offer excellent consumer benefits. But more important, Eastern has a far greater identity at Miami, Tampa and Mexico City than Braniff has.[8] It is also a significant participant in the O&D traffic in these markets, accounting for the largest share of revenue passenger-miles after Pan American of any of the U.S.-flag carriers during 1976. This is the decisive factor in our selection of Eastern here. The problem with selecting one of several applicants for an exemption pending the outcome of a route proceeding is that its investment under the exemption may sway the Board to prefer it at the time of decision. The Board has consistently taken the view that it will not take exemption operations into account in deciding certification cases. So it is here. Moreover, in this case, Eastern already has significant historic participation and operates at three of the points,[9] so its selection for temporary authority is least likely to have an influence, however unconscious, on the ultimate selection of a carrier in the route proceedings. We emphasize that the question of an award of Florida-Mexico authority to any carrier is not being decided here, nor is the question of carrier selection for such service. The *Florida-Mexico City* proceeding and the U.S.-Yucatan case remain the proper forums for dealing with the various certificate applications. In the interim, the public interest will best be served by suspending Pan American, authorizing Eastern to provide replacement service and denying the other exemption applications. As noted, our grant

[5] We are contemplating a change in our direction to the administrative law judges concerning their analysis of low-fare proposals, and we will be issuing a second order shortly discussing that aspect of this case in more detail.

[6] Pan American now possesses suspension authority at Merida over all of Segment I until 60 days after final decision in the *Caribbean Area Service Investigation*, Docket 30697, under the terms of Order 77-4-27, April 6, 1977. Merida is not in issue in that case, however, The suspension we are granting here supersedes the grant in Order 77-4-27.

[7] During the year ended September 30, 1977, Pan American only carried 52,780 passengers over its Miami/Tampa-Mexico City sector and 15,358 passengers over its Miami/Merida sector.

[8] Enplan passengers, December 31, 1976—Miami (Braniff, 303,970; Eastern, 2,773,936), Tampa (Braniff, 97,309; Eastern, 772,858), and Mexico City (Braniff, 62,461; Eastern, 101,487).

[9] On May 12, 1978, the Board voted to recommend to the President an award to Eastern of authority to serve the fourth point, Merida, in the *Houston/New Orleans-Yucatan Route Proceeding*, Docket 2978.

of an exemption is motivated solely by the need for effective measures to assure dependable scheduled service to Mexico to the thousands of passengers who now use Miami or Tampa.[10]

The exemption authority granted to eastern is of limited extent in terms of scope and duration. To require it to undergo a certificate proceeding first to perform the daily Miami/Tampa-Mexico City round trip and the less than daily Miami-Merida round trip would have the practical effect of precluding the proposed operations, thus depriving the public of needed service. Accordingly, we find that enforcement of section 401 of the Act and the terms, conditions, and limitations of Eastern's certificate for Route 131, to the extent that they would otherwise prevent it from providing the services authorized, would be an undue burden on the carrier by reason of the limited extent of its operations, and would not be in the public interest.[11]

Accordingly, it is ordered, That:

1. The *Florida-Mexico City Investigation,* Docket 32830, be instituted under section 204 of the Act and set for hearing before an administrative law judge of the Board, at a time and place to be designated later;

2. The investigation instituted in paragraph 1, above, shall consider the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in foreign air transportation between Miami and Tampa, Fla., on the one hand, and Mexico City, on the other;

(b) If the answer to (a) is affirmative, in whole or in part, which air carrier(s) should be authorized and should the authority be subject to any terms, conditions, or limitations;

(c) Should Pan American's authority between Miami/Tampa and Mexico City be suspended or deleted;

3. Any authority awarded in this investigation shall be ineligible for subsidy;

4. The applications of National Airlines (Docket 31949), Eastern Air Lines (Docket 31990), Western Air Lines (Docket 31992), and Braniff Airways (Docket 32026) be consolidated into the investigation instituted by paragraph 1, above, to the extent consistent with its scope; and to the extent not consolidated, they be dismissed;

5. The motion of Western Air Lines to consolidate Docket 31992 with Docket 31949 be granted;

6. The Tampa Bay Parties, Dade County and the Greater Miami Traffic Association, the U.S. Department of State, Pan American and the U.S. Department of Transportation be made parties to this investigation;

7. The authority of Pan American World Airways to serve Miami, Tampa and Mexico City on Segment II of Route 136 be suspended under section 401(j) until 90 days after final decision in Docket 32830;

8. The authority of Pan American World Airways to serve Merida on Segments I and II of Route 136 be suspended under section 401(j) until 90 days after decision in an investigation to be instituted on U.S.-Yucatan service;

9. The applications of National Airlines (Docket 31950), Braniff Airways (Docket 31991) and Western Air Lines (Docket 32039) for exemption authority be denied;

10. Eastern Air Lines be exempted from section 401 of the Act and the terms, conditions, and limitations of its certificate for Route 131 to the extent necessary to permit it to provide foreign air transportation between Miami and Tampa, Fla., on the one hand, and Mexico City, on the other, until 90 days after final decision in Docket 32830, and between Miami and Tampa, Fla., on the one hand, and Merida, on the other, until 90 days after final decision in an investigation to be instituted on U.S.-Yucatan service;

11. The motion of National Airlines to dismiss Eastern's exemption application, in Docket 31947, be dismissed;

12. The motions of the Department of State and Eastern Air Lines, in Dockets 31947, 31950, 31951, and 31991, to file late or otherwise unauthorized documents be granted;

13. The motion of the Miami Parties for immediate action, in Dockets 31947, 31950, 31951, 31991, and 32039, be granted;

14. The authority granted above shall be effective on the date of adoption of this order;

15. Western Air Lines and all other carriers filing applications in this proceeding shall file environmental evaluations under § 312.12 of the Board's Procedural Regulations within 30 days of the date of service of this order;

16. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 20 days of the date of service of this order and responsive answers shall be filed within 10 days later; and

17. This order may be amended or revoked in the discretion of the Board without hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[12]
Secretary.

[FR Doc. 78-16468 Filed 6-13-78; 8:45 am]

[10] Further, we wish to comment on DOT's suggestion that any exemption grant be submitted to the President under section 801 of the Act. Its approach raises legal problems and is unnecessary to protect the President's foreign policy interests. The courts have determined that exemptions under section 416(b) are not subject to presidential review, *Northwest Airlines, Inc.* v. *C.A.B.*, 539 F.2d 749 (D.C. Cir. 1976). Moreover, the authority we are granting is quite limited in extent and time. The President will, of course, have the opportunity to review the Board's actions in the certificate cases.

[11] On review of the environmental evaluations submitted by Eastern and Pan American in their applications, to which no answers were filed, we find that our decision does not constitute a major Federal Action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

[12] All Members concurred.

[3510-03]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-614]

APOLLO MARINE CO. AND ARTEMIS MARINE CO.

Notice of Application

Notice is hereby given that applications dated May 9, 1978, have been filed under the Merchant Marine Act, 1936, as amended (the Act), for operating-differential subsidy (ODS) with respect to the operation of two Catug OBO vessels for service in the U.S. foreign trade. The applicants intend to operate the vessels in both the domestic and foreign trade (including foreign-to-foreign trading) in the carriage of both liquid and dry bulk cargo. The applicants have requested ODS on a standby basis to cover only that period during which the vessels are in the foreign trade.

Inasmuch as companies affiliated with the applicants own vessels operating in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if their applications for operating-differential subsidy are to be granted, and the applicants have requested such permission.

Amherst Shipping Co., Inc.; Kingston Shipping Co., Inc.; Bolton Shipping Co., Inc., and Colby Shipping Co., Inc., companies affilitated with the applicants, own the *St. Aries, St. Capricorn, St. Pisces* and *St. Virgo,* respectively, each of which is operated in the domestic trade. In addition, Judge Oil Transport, Inc., an affiliate of the limited partners in Worth Oil Transport Co. (which is affiliated with the applicants) operates a barge in the coastwise trade.

The applicants have also requested written permission under section 805(a) of the Act to operate their respective vessels in the domestic, coastwise, and/or intercoastal service periodically.

Any person, firm, or corporation having any interest (within the mean-

ing of section 805(a)) in such applications and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the applications must, by close of business on June 21, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: June 9, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-16470 Filed 6-13-78; 8:45 am]

[3510-22]
[4310-55]

National Oceanic and Atmospheric Administration

Fish and Wildlife Service

USSR Ministry of Fisheries

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216 and 18).

1. Applicant:

(a) Name: USSR Ministry of Fisheries, Main Administration for Conservation and Reproduction of Fish Resources and Regulation of Fishing.

(b) Address: Verkhnyaya Kranoselskaya Ulitsa, 17a, Moscow 107140.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals:

Ribbon seal (*Histriophoca fasciata*)	100
Harbor seal (*Phoca vitulina*)	200
Ringed seal (*Pusa hispida*)	350
Bearded seal (*Erignathus barbatus*)	100
Walrus (*Odobenus rosmarus*)	200

4. Type of Activity: To kill in the wild for the purpose of studying the biology and distribution (morphometry, age, characteristics, and reproduction) of the species. The project is in accordance with the 1972 Agreement on Environmental Protection between the USSR and the USA.

5. Location of Activity: D Chukchi Sea, U.S. Fishery Zone.

6. Period of Activity: 1 year.

Concurrent with the publication of this notice in the Federal Register the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on that portion of this application dealing with pinnipeds other than walrus should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before July 14, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. Comments, views or requests for a public hearing on that protion of this application dealing with walrus should be submitted to the Director, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service or the Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802; and
Director, Fish and Wildlife Service, 18th and C Streets NW., Washington, D.C.

Dated: June 8, 1978.

ROLAND F. SMITH,
Acting Assistant Director for Fisheries Management.

[FR Doc. 78-16325 Filed 6-13-78; 8:45 am]

[3510-17]

Office of the Secretary

CENSUS ADVISORY COMMITTEE ON THE ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), and Office of Management and budget Circular A-63 (revised), and after consultation with GSA, it has been determined that the renewal of the Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in June 1976, with an initial termination date in June 1978. Its purpose is to provide an organized and continuing channel of communications between the Asian and Pacific Americans Population and the Bureau of the Census on problems and opportunities of the Twentieth Decennial Census as they relate to the Asian and Pacific Americans population of the United States. Major efforts to improve decennial census data are necessary since such data are widely used for such critical matters as legislative apportionment, allocation of government funds, and public and private program planning.

Having an established channel of communication has been helpful to the Census Bureau in its efforts to develop the procedures and techniques which are expected to result in a reduction in the undercount of the Asian and Pacific Americans population. To the extent that these efforts are successful, there will be direct and substantial gains to the Asian and Pacific Americans population.

The Committee will continue to draw on the knowledge and expertise of its members to provide advice during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, recommending subject content and tabulations of especial use to the Asian and Pacific Americans population, expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community, and generally maximizing the usefulness of the census product.

The Committee will consist of 21 members appointed from among a broad spectrum of community leaders. The Committee will report and be responsible to the Director, Bureau of the Census. The Committee will function solely as an advisory body, and in compliance with the Federal Advisory

Committee Act, as amended, and Office of Management and Budget Circular A-63 (revised).

Copies of the Committee's revised charter will be filed with appropriate Committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Clifton S. Jordan, Decennial Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md. 20233, telephone 301-763-5169.

Dated: June 7, 1978.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for Administration.

[FR Doc. 78-16464 Filed 6-13-78; 8:45 am]

[3510-17]

CENSUS ADVISORY COMMITTEE ON THE BLACK POPULATION FOR THE 1980 CENSUS

Notice of Renewal

In accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 (revised), and after consultation with GSA, it has been determined that the renewal of the Census Advisory Committee on the Black Population for the 1980 Census is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in September 1974, with an initial termination date in June 1976, and renewed for a 2-year period ending in June 1978. Its purpose is to provide an organized and continuing channel of communication between the black population and the Bureau of the Census on problems and opportunities of the Twentieth Decennial Census as they relate to the black population of the United States. Major efforts to improve decennial census data are necessary since such data are widely used for such critical matters as legislative apportionment, allocation of government funds, and public and private program planning.

Having an established channel of communication has been helpful to the Census Bureau in its efforts to develop the procedures and techniques which are expected to result in a reduction in the undercount of the black population. To the extent that these efforts are successful, there will be direct and substantial gains to the black population.

The Committee will continue to draw on the knowledge and expertise of its members to provide advice during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, recommending subject content and tabulations of especial use to the black population, expanding the dissemination of census results among present and potential users of census data in the black community, and generally maximizing the usefulness of the census product.

The Committee will consist of 21 members appointed from among a broad spectrum of community leaders. The Committee will report and be responsible to the Director, Bureau of the Census. The Committee will function solely as an advisory body, and in compliance with the Federal Advisory Committee Act, as amended, and Office of Management and Budget Circular A-63 (revised).

Copies of the Committee's revised charter will be filed with appropriate Committees of Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. Clifton S. Jordan, Decennial Census Division, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md. 20233, telephone 301-763-5169.

Dated: June 7, 1978.

GUY W. CHAMBERLIN, Jr.,
Assistant Secretary for Administration.

[FR Doc. 78-16463 Filed 6-13-78; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN VISAED COTTON APPAREL FROM INDIA

Additional Import Controls

JUNE 9, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton apparel in Category 335 (visaed cotton women's, girls' and infants' coats) during the twelve-month period which began on January 1, 1978. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421) and March 3, 1978 (43 FR 8828).)

SUMMARY: Under the terms of paragraph 14 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, the Government of the United States has decided to control imports of visaed cotton apparel in Category 335, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1978, in addition to those categories previously designated (See 43 FR 4451).

EFFECTIVE DATE: June 12, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On February 2, 1978, there was published in the FEDERAL REGISTER (43 FR 4451) a letter dated January 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool, and man-made fiber textile products, produced or manufactured in India, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1978, and extends through December 31, 1978. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports in Category 335 for the agreement year which began on January 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that imports in this category be limited to the designated level of restraint. The level has not been adjusted to reflect any imports during the period which began on January 1, 1978. Adjustments will be made to account for imports during the period beginning on January 1, 1978, and extending through the effective date of this action.

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements.

JUNE 9, 1978.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive further amends, but does not cancel, the directive issued to you on January 27, 1978, by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in India.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made

Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the previsions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 12, 1978, and for the twelve-month period beginning on January 1, 1978, and extending through December 31, 1978, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton textile products in Category 335 (visaed), produced or manufactured in India, in excess of the following level or restraint:

Category and Twelve-Month Level of Restraint [1]

335 (visaed)—16,949 dozen

Cotton textile products in the foregoing category which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1977 (43 FR 3421) and March 3, 1978 (43 FR 8828)).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of India and with respect to imports of cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 78-16499 Filed 6-13-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

EXPORTATION OF TRIS-TREATED CHILDREN'S WEARING APPAREL AND OTHER TRIS PRODUCTS

Statement of Policy

AGENCY: Consumer Product Safety Commission.

ACTION: Statement of policy.

SUMMARY: In this notice, the Commission states and discusses its enforcement policy concerning the exportation of certain TRIS products that it believes are banned hazardous substances under the Federal Hazardous Substances Act.

DATES: The policy became effective on May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan Shakin, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 202-634-7770.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Since April 1977 the Commission has taken a number of actions concerning the chemical flame retardant TRIS, and certain products containing TRIS, that it believes are "banned hazardous substances" under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261 et seq.). These actions, as well as some litigation that has resulted from them, are discussed in FEDERAL REGISTER notices dated April 8 (42 FR 18850), June 1 (42 Fr 28060), and December 6, 1977 (42 FR 61593 and 61621).

On October 20, 1977 the Commission considered issues relating to the export of the TRIS products that the Commission believes are banned hazardous substances. On May 5, 1978 the Commission reconsidered these issues.

STATEMENT OF POLICY

The Commission's existing policy, based on its interpretation of the FHSA, is that it has authority to prohibit the export of TRIS products which have ever been sold or offered for sale in domestic commerce and which are banned hazardous substances. For the reasons discussed in the December 6 FEDERAL REGISTER statement of policy, the Commission believes that the TRIS products named in the April 8 and June 1 FEDERAL REGISTER notices are "banned hazardous substances" (in the discussion below, these products will be referred to as "TRIS products").

In addition, the Commission has considered the question of when a TRIS product has been sold or offered for sale in domestic commerce, and is thus within the scope of this export policy. In the Commission's view:

(1) If a TRIS product has been sold or offered for sale in domestic commerce in its present form, it would clearly be within the policy. For example, if a TRIS-treated children's garment had been on the shelf of a retail store and was then recalled, it would be included within the policy. Similarly, if a bolt of TRIS-treated fabric intended for use in children's wearing apparel has been sold in domestic commerce, it would be included within the policy.

(2) If a TRIS product has not been sold or offered for sale in domestic commerce in its present form, it would be within the export policy as long as a component which is a TRIS product has been sold or offered for sale in domestic commerce. For example, even if a TRIS-treated children's garment has never left the factory where it was manufactured, it would be included within the policy if one or more of its components that are banned hazardous substances such as TRIS-treated fabric, have been sold or offered for sale in domestic commerce.

Any parties who disagree with the Commission's policy, or with its application to particular products, will have ample opportunity to contest it at a hearing in Federal district court, if and when the Commission files enforcement actions against the products of such parties.

Dated: June 9, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-16437 Filed 6-13-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

MOBILE LAND-BASED INTERCONTINENTAL BALLISTIC MISSILE SYSTEM

Intent to Prepare Environmental Impact Statement

JUNE 6, 1978.

This is to advise that, in accordance with the National Environmental Policy Act, Pub. L. 91-190, the United States Air Force intends to prepare an Environmental Impact Statement (EIS) on the Mobile Land-Based Intercontinental Ballistic Missile (ICBM) System known as MX.

In fiscal year 1979, the Air Force plans to submit evaluations of various programs and alternatives for the considerations of the Defense System Acquisition Review Council (DSARC) regarding full-scale development of MX systems, construction and flight testing of prototype systems, and selection of a preferred basing mode. An EIS will be submitted as part of these evaluations. This EIS will in general address the overall MX program and will specifically evaluate the environmental impacts of the above items to be considered and decided upon by the DSARC.

In event that decisions are made to implement these items, subsequent EIS's are planned for future MX decision points regarding such matters as deployment site selection and full scale production and operation.

Anyone desiring to comment on the preparation of the forthcoming EIS

[1] The level of restraint has not been adjusted to account for imports after December 31, 1977.

should submit their comments to Dr. Carlos Stern, Deputy for Environment and Safety, SAF/MIQ, Office of the Secretary of the Air Force, Pentagon, Washington, D.C. 20330, telephone 202-697-9297.

FRANKIE S. ESTEP,
Air force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-16362 Filed 6-13-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON SSBN SECURITY

Change in Meeting Date

The meeting date for the Defense Science Board Task Force Quarterly Review of SSBN Security Technology Program scheduled for a closed session on June 20, 1978 in the Pentagon, as published in the FEDERAL REGISTER (43 FR 23755), June 1, 1978, has been changed to June 28, 1978. In all other respects the original notice cited above remains the same.

Dated: June 8, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives DoD/WHS.

[FR Doc. 78-16370 Filed 6-13-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, August 1, 1978; Tuesday, August 8, 1978; Tuesday, August 15, 1978; Tuesday, August 22, 1978; and Tuesday, August 29, 1978, at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

Dated: June 8, 1978.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 78-16371 Filed 6-13-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

CONSERVATION AND SOLAR APPLICATIONS FOOD INDUSTRY ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Food Industry Advisory Committee will meet Wednesday, July 12, 1978, at 9 a.m., in Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C.

The Committee was established to provide the Secretary of Energy with recommendations and advice with respect to the development and implementation of policies and programs affecting the food industry.

The agenda for the meeting is as follows:

1. Opening Remarks.
2. Committee Administration.
3. Organization of Committee.
4. Food Industry Advisory Committee Charter.
5. Priority Issues in the Food Industry.
6. Goals and Objectives of the Committee.
7. Assignments and Responsibilities of Committee Membership.
8. Remarks From Floor (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-577-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Transcripts of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcripts from the reporter.

Issued at Washington, D.C. on June 9, 1978.

WILLIAM P. DAVIS,
Deputy Director of Administration.

[FR Doc. 78-16361 Filed 6-13-78; 8:45 am]

[3128-01]

CONDUCT OF EMPLOYEES

Waiver Pursuant to Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91)

Subsection 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of subsection 602(a) of the Act to "supervisory employees" (as defined in subsection 601(a) of the Act) of the Department of Energy who have financial interests in "energy concerns" (as defined in subsection 601(b) of the Act), where exceptional hardship would result.

It has been established to my satisfaction that the interest of the individual "supervisory employee" of the Department of Energy whose name is listed below satisfies the requirements of subsection 602(c) of the Act. Accordingly, I have granted him a waiver from the divestiture provisions of subsection 602(a) of the Act until such time as the entity in which he has an

interest no longer qualifies as an "energy concern" within the meaning of the Act, or until his employment with the Department of Energy terminates, whichever first occurs.

Name and Energy Concern

George M. Crossland—Osage Indian Tribe of Oklahoma.

The employee named above will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on the energy concern in which he has a financial interest, unless the employee's supervisor and the counselor agree that the financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the employee.

Dated: May 12, 1978.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 78-16439 Filed 6-13-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Project Nos. 2284 and 2834]

CENTRAL MAINE POWER CO.

Application for New License for Constructed Project and Amendment of License

JUNE 2, 1978.

Take notice that applications were filed with the Federal Energy Regulatory Commission by the Central Maine Power Co. (correspondence to: Charles E. Monty, Senior Vice President, Engineering and Production, Central Maine Power Co., Edison Drive, Augusta, Maine 04336; and copy to: Seward B. brewster, General Counsel, same address) (1) on January 11, 1978, for the proposed Brunswick Hydroelectric Project, FERC No. 2834 and (2) on May 8, 1978, for amendment to the license for the existing Brunswick-Topsham Project No. 2284, on the Androscoggin River in the Towns of Brunswick (Cumberland County) and Topsham (Sagadahoc County), Maine. The porposed Brunswick Project No. 2834 would be built at the site of the existing licensed 2.3 MW Brunswick-Topsham Project, FERC No. 2284. In view of the extensive redevelopment proposed, Applicant is requesting a new 50-year license for Project No. 2834.

Project No. 2284 consists of:

Brunswick—a lower dam comprised of two timber crib overflow sections and a short concrete masonry non-overflow section connecting to the powerhouse on the right bank; a reservoir, with an area of about 12 acres and normal water surface at elevation 17.4 feet (USGS) contained within the river banks; a powerhouse containing four 483-horsepower turbines connected to three 375-kilowatt generators and one 348-kilowatt generator; step-up transformers; and appurtenant facilities;

Topsham—an upper dam comprised of two concrete and one timber crib sections; two intake sections, one on each shore; a reservoir, with an area of about 300 acres and normal water surface at elevation 39 feet (USGS), extending upstream about 4½ miles; an enclosed concrete flume extending from the left bank intake to a powerhouse containing three 400-horsepower turbines each connected to a 300-kilowatt generator; and overhead circuit to a non-project substation; semi-automatic control equipment; step-up transformer; and appurtenant facilities.

Applicant requests that the license for Project No. 2284 be amended by changing the expiration date of the license from December 31, 1993, to five (5) months after issuance of the new license for Project No. 2834 to allow continued operation of the existing project during initial construction stages of Project No. 2834.

Project No. 2284 would also be subject to Federal takeover under sections 14 and 15 of the Federal Power Act.

The Applicant has calculated that the estimated net investment would amount to $496,576 as of December 31, 1977. The Applicant estimated severance damages as of December 31, 1977, would amount to $175,000. The taxes paid by the Applicant for 1977 amounted to $38,190.48.

Existing project facilities licensed under Project No. 2284 to be retained in the redevelopment for Project No. 2834 consist of: (1) the wood crib dam located between Shad Island and Topsham (The wood crib dam is to be reduced in height to 14.2 feet msl and used as a fish barrier. The remaining portion of the lower dam extending between Shad Island and Brunswick and the integral powerhouse are to be removed); and (2) an existing 3-foot high, 20-foot long concrete fish barrier weir across Granny Hole Stream.

New Project facilities to be constructed as part of Project No. 2834 would consist of: (1) a concrete dam 35 feet high and 605 feet long in the same location as, and replacing, the existing upper dam and powerhouse; (2) a reservoir having a surface area of 300 acres at a normal water surface elevation of 39.4 feet msl and extending 4.5 miles upstream; (3) a powerhouse and intake structure integral with the dam, located adjacent to the Brunswick shoreline, containing a single turbine and generator having an installed capacity of 12 MW; (4) a fishway adjacent to the new powerhouse; (5) a 21-foot high fish barrier wall between the new dam and Shad Island; and (6) appurtenant facilities. The total cost of the project is estimated at $13,500,000.

The Applicant proposes to designate lands in the project area for future recreational use when esthetic and water quality conditions improve. Some fishing by boat will continue to be practical from an existing municipal boat launching ramp located 0.4 miles below the U.S. Highway 201 Bridge.

Applicant intends to use all of the power developed at the project in the Applicant's distribution system for sale to its customers.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All such petitions or protests should be filed on or before July 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16399 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-415]

Duke Power Co.

Proposed Tariff Change

JUNE 7, 1978.

Take notice that Duke Power Co. (Duke) on June 1, 1978, tendered for filing proposed changes in its FPC Electric Service Tariff, Volume Nos. I-VI. Duke indicates that the proposed changes would increase revenues from jurisdictional sales and service by approximately $15,339,000 based on the twelve-month period ending December 31, 1978.

Duke states that the reasons for the proposed changes are as follows. For the twelve months ending December 31, 1977, Duke earned a rate of return on its wholesale business of only 6.35 percent. Such a rate of return is considered inadequate and will not permit Duke to attract necessary capital on

reasonable terms to provide reliable service to its customers. The rates proposed in this filing would give the Company the opportunity to earn a rate of return more closely approaching that required to attract the necessary capital. Duke proposes an effective date of July 1, 1978.

Copies of the filing were served upon the public utility's jurisdictional customers, the Southeastern Power Administration, the North Carolina Utilities Commission and The Public Service Commission of South Carolina, according to Duke.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16400 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP76-148; (PGA78-2)]

GAS GATHERING CORP.

Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

JUNE 8, 1978.

Take notice that Gas Gathering Corp. (GGC), on May 31, 1978, tendered for filing proposed changes in its F.E.R.C. Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corp. (Transco), its sole jurisdictional customer, under GGC's PGA Clause. The proposed changes would increase the rate charged Transco by 28.06652 cents per Mcf over those rates presently in effect. The proposed rates are proposed to be made effective on July 1, 1978.

GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to permit it to recover the balance of its Unrecovered Purchase Gas Cost Account as of March 31, 1978 through a six-month surcharge.

A copy of the filing has been served upon Transco.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16401 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-417]

KENTUCKY UTILITIES CO.

Filing of Increased Rates

JUNE 7, 1978.

Take notice that on June 1, 1978, Kentucky Utilities Co. ("KU") filed an increased rate designated rate WPS-78. KU indicates that the increased rate applies to service to its affiliate Old Dominion Power Co., to Jackson Purchase Electric Cooperative, to Berea College, and to Nicholasville (Sub. No. 3). KU states that a corresponding increase designed to produce the same return was also filed applicable to the City of Paris. KU states that the filing would increase rates to the affected customers by $7,557,918 on an annual basis. KU states that it has not implemented a wholesale rate increase since 1973 and that the increase is necessary in order to recover the current cost of providing service.

In addition KU states that it has given notice of the filing to its other wholesale customers currently served under what the Commission has determined to be fixed-rate contracts. KU states that it intends to put such other customers on the rate filed herein or superseding rate at such time as the fixed-rate contracts of each individual customer expires.

KU requests an effective date of July 1, 1978.

Any person desiring to be heard in regard to this filing should file a petition to intervene or protest on or before June 19, 1978, with the Federal Energy Regulatory Commision, Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16402 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. CP78-341]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

JUNE 1, 1978.

Take notice that on May 22, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-341 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing July 13, 1978, and operation of facilities, to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

The application states that the total cost of the proposed facilities would not exceed $12,000,000, with the cost of no single offshore project exceeding $2,500,000 and the cost of no single onshore project exceeding $1,500,000, which cost would be financed with cash on hand.

Any persons desiring to be heard or to make any protest with reference to said application should on or before June 23, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate

action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16403 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-398]

NORTHERN STATES POWER CO.

Supplement No. 1

JUNE 2, 1978.

Take notice that Northern States Power Co., on May 26, 1978 tendered for filing Supplement No. 1, dated May 15, 1978, to the Municipal Resale and Transmission Service Agreement with the City of Sioux Falls, S. Dak.

Waiver of the Commission's notice requirements is requested to allow for an effective date of May 15, 1978.

Supplement No. 1 provides a second Point of Delivery between the parties in the City of Sioux Falls, according to Northern States.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before June 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16404 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. CP78-348]

NORTHWEST PIPELINE CORP.

Application

JUNE 8, 1978.

Take notice that on May 25, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-348 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Colorado Interstate Gas Co. (CIG), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that CIG has acquired, or otherwise controls, certain natural gas reserves in Garfield County, Colo., which are distant from its existing transmission system, and that in order to make the gas produced from such reserves available to CIG's system, CIG and Applicant have entered into a gas gathering and transportation agreement (Agreement) dated March 16, 1978. Pursuant to the subject agreement, Applicant proposes to provide CIG with a wellhead gathering and transportation service for volumes of natural gas, up to a maximum of 5,00 Mcf per day, which gas CIG would have available from the several wells presently listed in the agreement. Additional wells may be added from time to time, as necessary to provide for the gathering and transportation of future volumes acquired by CIG in the area covered by the agreement, it is asserted.

Applicant proposes to receive the volumes of gas tendered by CIG from the specified wells, and to transport such volumes from the well-heads to various points of delivery on RMNG Gathering Company's (RMNG) South canyon gathering system. It is indicated that pursuant to a gas purchase, transportation and exchange agreement between Applicant and RMNG, dated February 2, 1977, as amended September 12, 1977 and February 20, 1978, RMNG would, inter alia, receive the above-described volumes delivered by Applicant and would redeliver equivalent volumes to Applicant, less certain volumes which RMNG has the right to purchase from Applicant, at the existing RMNG exchange meter station located on Applicant's mainline in Mesa County, Colo. Applicant states that it would further transport the subject volumes of gas, on Applicant's mainline system, from the RMNG exchange meter station to the existing point of interconnection between Applicant and CIG in Sweetwater County, Wyo., where Applicant would deliver volumes of gas to CIG which are thermally equivalent to 75 percent of the volumes received by Applicant from CIG hereunder, reduced by CIG's pro rata share of compressor fuel utilized by Applicant in gathering and transporting CIG's gas.

It is indicated that Applicant would purchase 25 percent of the volume of gas received from CIG at each wellhead, and that the price to be paid by Applicant for the volumes of gas so purchased would be equal to the price then paid by CIG for such gas, including taxes and other permissable adjustments. The proposed deliveries of natural gas would, to the extent possible, be balanced monthly on a heating value basis, it is said.

Applicant indicates that for the transportation of gas for CIG as described, it proposes to charge CIG a three-part rate as follows:

(1) A gathering rate based on Applicant's cost-of-service attributable to gathering CIG's gas and delivering such gas to the points of interconnection with RMNG's South Canyon gathering system. The initial rate which Applicant would charge CIG for the proposed gathering service is 36.72 cents per Mcf.

(2) A transportation rate based on RMNG's cost-of-service attributable to the transportation of CIG's gas through RMNG's South Canyon gathering system for Applicant's account. As set forth in Applicant's petition to amend in Docket No. CP77-263 being filed concurrently herewith, the initial rate which RMNG would charge Applicant, and consequently Applicant would charge CIG, for the proposed transportation on RMNG's system is 8.0 cents per Mcf.

(3) A mainline transportation rate equal to Applicant's average, rolled-in system transmission cost for all volumes transported by Applicant for CIG's account from the point of interconnection between RMNG and Applicant to the point of redelivery to CIG. The initial rate which Applicant would charge CIG for the proposed mainline transportation service is 16.03 cents per Mcf, which is the rate utilized in settlement of Applicant's most recent general rate filing in Docket No. CP76-115.

Applicant states that it would construct the gathering facilities necessary to connect to RMNG's gathering system each of the wells from which Applicant proposes to gather for CIG pursuant to its budget-type certificate authority granted in Docket No. CP77-507.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practices and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16405 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-408]

NORTHERN INDIANA PUBLIC SERVICE CO.

Filing

JUNE 7, 1978.

Take notice that on May 31, 1978, Northern Indiana Public Service Co. (Northern Indiana) tendered for filing Memorandum No. 70 providing for use of release capacity under the Supplemental Electric Service Agreement between Commonwealth Edison Co. of Indiana, Inc. and Northern Indiana dated as of January 1, 1960, as amended. Northern Indiana proposes an effective date of July 1, 1978.

According to Northern Indiana copies of this filing were served upon Commonwealth Edison Co. of Indiana, Inc. and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16372 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP76-158]

NORTH PENN GAS CO.

Proposed Changes in FERC Gas Tariff

JUNE 7, 1978.

Take notice that North Penn Gas Co. (North Penn) on May 31, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1, pursuant to Article II of the Settlement Agreement of March 3, 1978 and ordering paragraph No. (4) of the Federal Energy Regulatory Commission's (Commission) Letter Order dated May 11, 1978 at Docket No. RP76-158.

North Penn states that Second Substitute Fifty-Fourth Revised Sheet No. PGA-1 reflects a Base Tariff Rate of $1.51462 per Mcf, which is a decrease of $0.02925 per Mcf from the presently effective Base Tariff Rate $1.54387 and will result in an annual decrease in jurisdictional revenues of $404,612 from the increase of $1,339,790 filed for by North Penn in its original filing of September 30, 1976.

Although North Penn believes no waiver of the Commission's rules and regulations are required in order to permit the proposed tariff sheet to become effective June 1, 1978, should waivers be required, North Penn requests that they be granted. A June 1, 1978 effective date is necessary in order that North Penn may meet in a timely manner the refund and interest obligations specified in Article III of the Settlement Agreement and Ordering Paragraph No. (5) of the Commission's Order.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16373 Filed 6-13-78; 8:45 am]

[6740-02]

[Project No. 77]

PACIFIC GAS AND ELECTRIC CO. (POTTER VALLEY PROJECT)

Further Extension of Time

JUNE 6, 1978.

On May 17, 1978, the Forest Service filed a letter requesting an extension of time until July 20, 1978 to file comments on the Draft Environmental Impact Statement (DEIS) in the above-captioned proceeding. A similar request was filed by the State of California for an extension to July 9, 1978. A previous extension had been granted to June 30, 1978 by notice issued May 12, 1978.

Upon consideration, notice is hereby given that an extension of time is granted to and including July 20, 1978 for submitting comments on the DEIS.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16374 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-410]

PHILADELPHIA ELECTRIC CO. AND SUSQUEHANNA ELECTRIC CO.

Proposed Tariff Change

JUNE 7, 1978.

Take notice that Philadelphia Electric Co. and Susquehanna Electric Co. (Applicants) on May 31, 1978, tendered for filing proposed changes in electric service provided to Conowingo Power Co. The Applicants indicate that the proposed changes would increase revenues by approximately $3,177,900.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.,

Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16375 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. CP76-249]

SOUTHERN NATURAL GAS CO.

Petition To Amend

JUNE 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulations adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on May 19, 1978, Southern Natural Gas Co. (Petitioner), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP76-249 a petition to amend the order of May 24, 1976 (55 FPC ——) issued in the instant docket pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for the transportation of natural gas for Cone Mills Corp. (Cone Mills) and Nabisco, Inc. (Nabisco) for an extended 2-year period, and to provide for an increased in the maximum volume of gas that it is authorized to transport for Cone Mills, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to the order of May 24, 1976, Petitioner was authorized to transport up to 1,875 Mcf of natural gas per day for Cone Mills and up to 1,125 Mcf of natural gas per day for Nabisco for a 2-year period, which transportation commenced on June 24, 1976, and will expire June 24, 1978.

The petition states that Cone Mills and Nabisco have obtained extensions of their gas purchase contracts with Edwin L. Cox, Sam P. Bennett and Alfred Lamson (Sam P. Bennett and Alfred Lamson being successors in interest to Emerald Exploration) and the Dow Chemical Co. for a 2-year period ending June 24, 1980. Such gas would be produced from the Bayou Bouillon Field, Iberville and St. Martin Parishes, La., it is said. It is indicated that Cone Mills has contracted with these same producers to purchase such volumes as may be available and which it may require over and above those provided for in its original gas purchase contracts.

Petitioner states that it, Cone Mills and Nabisco have agreed to maintain in effect their gas transportation agreement for the proposed 2-year period. Consequently, Petitioner requests that the Commission amend the order of May 23, 1976, in the instant docket so as to provide for the transportation service for Cone Mills and Nabisco for an extended period ending June 24, 1978, and to provide for an increase in the maximum volume of gas transported for Cone Mills from 1,875 Mcf per day to 3,000 Mcf per day.

It is indicated that during the first year of the 2-year extension, Cone Mills' purchase price for the first 1,875 Mcf of gas per day from its gas supply in southern Louisiana would $1.75 per million Btu's and for any volumes exceeding 1,875 Mcf per day up to the maximum of 3,191 Mcf per day the price will be no more than $1.72 per million Btu's. During the second year of the extended period, the price that Cone Mills will pay for the subject gas would not exceed $2.25 per million Btu's, it is said.

It is indicated that Nabisco would pay a price during the extended period, equal to the average of the three highest prices being paid by a pipeline purchaser or purchasers for gas produced in Cameron, Vermillion, St. Martin and Iberville Parishes, La., and sold under contracts which are in existence 90 days prior to the beginning of such additional year and which have a primary term of 2 or more years, *Provided however,* That such price would not exceed the higher of $2.25 per million Btu's or the highest price established by any governmental authority which is applicable to agreement of this nature.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 27, 1978 filed with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16376 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP73-64; (PGA78-1b)]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

JUNE 7, 1978.

Take notice that Southern Natural Gas Co. (Southern), on May 31, 1978, tendered for filing proposed changes to its FPC Gas Tariff, Sixth Revised Volume No. 1, to be effective for the one day of January 1, 1978. Such filing is pursuant to the Commission's Order issued December 30, 1977 in Docket No. RP73-64 (PGA78-1a and DCC78-1a) and reflects amended rates filed by Southern's pipeline supplier, United Gas Pipe Line Co., which is effective for the one day of January 1, 1978. Southern states that upon Commission approval of the revised tariff sheet, Southern will issue approximately $41,000 of credits to its customers for the one day of January 1, 1978.

Copies of the filing are being served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16377 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP77-32; (PGA No. 78-2)]

SOUTH GEORGIA NATURAL GAS CO.

Revision to Tariff

JUNE 7, 1978.

Take notice that, on May 30, 1978 South Georgia Natural Gas Co. (South Georgia) tendered for filing Seventh Revised Sheet No. 4 to First Revised Volume No. 1 of its FPC Gas Tariff. The proposed changes would increase South Georgia's rates as a result of the following items:

(1) A Current Adjustment, as provided for under its PGA clause, for the purpose of tracking a rate increase filing made by Southern Natural Gas Co. (Southern) on May 16, 1978. South Georgia states that the instant filing will increase South Georgia's jurisdictional rates by $1,424,974.

(2) A Surcharge Adjustment, as provided for under section 14.3 of the General Terms and Conditions of South Georgia's FPC Gas Tariff, for the purpose of returning the balance which has accumulated in the Unrecovered Purchased Gas Cost Account. The total balance in its Unrecovered Purchased Gas Cost Account of $(74,178) will be refunded over the estimated sales for the six-month period commencing July 1, 1978 by a Surcharge Adjustment rate of (0.89) cents per MMBtu.

South Georgia is making this filing as provided for in section 14 (Purchased Gas Adjustment) of the General Terms and Conditions of South Georgia's FPC Gas Tariff. Therefore, South Georgia requests this proposed increase to be made effective July 1, 1978, or such other date as the rate increase proposed by Southern is permitted to go into effect.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16378 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket Nos. RP77-62 and RP73-114, et al.]

TENNESSEE GAS PIPELINE CO. A DIVISION OF TENNECO INC.

Filing of Revised Tariff Sheets Pursuant to Stipulation and Agreement

JUNE 7, 1978.

Take notice that on May 31, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), tendered for filing revised tariff sheets to its FERC Gas Tariff, to be effective June 1, 1978, consisting of the following:

NINTH REVISED VOLUME NO. 1

Substitute Twenty-First Revised Sheet Nos. 12A and 12B.
First Revised Sheet No. 213C.

SIXTH REVISED VOLUME NO. 2

Second Revised Sheet No. 141A.
Third Revised Sheet Nos. 246D, 247D, 248D, 249H and 249I.
Fourth Revised Sheet No. 245D.
Fifth Revised Sheet Nos. 76 and 215.
Sixth Revised Sheet Nos. 53, 54 and 77.
Seventh Revised Sheet No. 141.
Ninth Revised Sheet Nos. 11 and 12.

Tennessee states that these tariff sheets reflect the reduced Base Tariff Rates in Docket No. RP77-62 resulting from the Commission's May 1, 1978 letter order approving the Stipulation and Agreement (February 24, 1978) in Docket Nos. RP75-13, et al.

Tennessee also tendered for filing Substitute Twenty-Second Revised Sheet Nos. 12A and 12B and Substitute Alternate Twenty-Second Revised Sheet Nos. 12A and 12B, to be effective July 1, 1978. Tennessee states that these tariff sheets amend its May 19, 1978 filing in Docket Nos. RP73-114, et al. to reflect the reduced Base Tariff Rates in Docket No. RP77-62 described above.

Tennessee states that copies of the filing have been mailed to all its jurisdictional customers and affected State regulatory commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16379 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP77-141, et al]

TENNESSEE GAS PIPELINE CO., ET AL

Filing of Settlement Agreement

JUNE 7, 1978.

In the matter of Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Pike Natural Gas Co. and Delta Natural Gas Co.) (Docket No. RP77-141); Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Pike Natural Gas Co. and Delta Natural Gas Co.) (Docket No. RP77-132); Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Pike Natural Gas Co. and Delta Natural Gas Co.) (Docket No. RP77-133-1); Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Springfield Gas System, Springfield, Tenn.) (Docket No. RP77-134).

Take notice that on May 17, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee) submitted for the Commission's consideration and approval a Settlement Agreement (Agreement) in these proceedings. Tennessee states that, when approved, the Agreement will resolve all outstanding issues in these cases.

Tennessee explains that these cases arose from various pleadings filed with the Commission requesting special treatment under Tennessee's curtailment plan for the small customers on its system. Tennessee notes that the Agreement provides this treatment by (1) exempting Small Customers from daily curtailment; (2) assuring that Curtailment Period Quantity Entitlements (CPQEs) for the Small Customers will not be reduced below their originally announced level if Tennessee changes the CPQEs of its other customers; and (3) Small Customers' originally announced CPQEs may increase to the combined level of their Priority 0, 1, and 2 requirements if Tennessee increases the CPQEs of other customers.

Tennessee also states that the Agreement (1) modifies the grouping

provisions of the Settlement Agreement in Docket No. RP75-50 to assure that a non-qualifying customer does not benefit from the instant agreement; (2) relieves certain parties of payback requirements; and (3) reserves the parties' rights to raise issues concerning rates and storage sprinkling in other proceedings.

Tennessee states that copies of the Agreement have been served on its jurisdictional customers, affected state commissions, parties to these proceedings, and participants in the various settlement conferences, including Commission Staff Counsel.

Since the Agreement is not unanimous, the Commission will provide for the filing of initial and reply comments. Persons opposing the Settlement Agreement shall state if they request a hearing. Further any request for hearings should outline the scope and issues to be heard. Any person desiring to be heard or to protest such Settlement Agreement should file initial comments by June 20, 1978, and reply comments by June 27, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All protests and comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any party wishing to become a party must file a petition to intervene in accordance with the Commission's rules; provided, however, that persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. Copies of this Settlement agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16380 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. CP78-350]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

JUNE 7, 1978.

Take notice that on May 26, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-350 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79), for a certificate of public convenience and necessity authorizing Applicant to transport up to 645 Mcf of natural gas per day on an interruptible basis for Corning Glass Works (Corning), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for a period of two years up to 645 Mcf of natural gas per day (at 14.65 psia) for Corning, an existing industrial customer of the City of Danville, Va. (Danville), one of Applicant's resale customers served under its Rate Schedule CD-2, pursuant to an agreement dated April 10, 1978, among Applicant, Corning, and Danville.

It is stated that Corning has purchased from Driscoll Production Co. (Driscoll) and Tejano Development Co., Inc. (Tejano) up to 645 Mcf of natural gas per day (at 14.65 psia) to be produced in the Benavides Field, Duval County, Tex., and in the Plymounth Field, San Patricio County, Tex., at a price of $1.90 per million Btu's. The gas would be delivered to Applicant at the inlet side of metering facilities owned and operated by Applicant at a mutually agreeable point in said counties. It is further stated that Applicant would redeliver the transportation volumes to Danville for the account of Corning and Danville would then deliver such natural gas to Corning's Danville plant. Applicant states that no additional facilities would be required to effectuate the transportation service.

Applicant proposes to charge an initial rate of 55.08 cents per dekatherm equivalent of natural gas delivered to Danville for Corning's account and to retain 3.8 percent of the transportation volumes for compressor fuel and line loss make-up.

The application states that the gas is intended for Priority 2 process purposes in the manufacturing of optical glasses which requires precise temperature control, precise flame characteristics, and atmospheric purity.

Applicant asserts he was unable to purchase the subject natural gas supply because of the unwillingness of the producer to sell the gas for resale in the interstate market.

It is stated that Corning's Danville plant is experiencing a total curtailment from its supplier, Danville, because the latter is being curtailed by Applicant. It is asserted that such curtailment would result in a complete shutdown of the plant on or about April 16, 1978, and lead to extensive layoffs and subsequent economic hardship to the respective communitions as well as a substantial deleterious ripple effect.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 29, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16381 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP72-133, PGA78-2]

UNITED GAS PIPE LINE CO.

Filing of Revised Tariff Sheet

JUNE 7, 1978.

Take notice that on May 24, 1978, United Gas Pipe Line Co. (United) tendered for filing Forty-Fourth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information are being filed 30 days before the effective date of July 1, 1978, pursuant to the Purchased Gas Cost Adjustment provisions set out in section 19 of United's tariff.

Copies of the revised sheet and supporting data are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and proce-

dure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16382 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP78-68]

UNITED GAS PIPE LINE CO.

Proposed Changes in FERC Gas Tariff

JUNE 7, 1978.

Take notice that United Gas Pipe Line Co. (United), on May 31, 1978, tendered for filing proposed changes in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. The proposed changes are based on the twelve-month period ending January 31, 1978, as adjusted, and would increase jurisdictional sales and transportation revenues by $28,842,293.

United states that the proposed rate increase is necessary to permit it to recover its jurisdictional cost of service for the test period of twelve months ended January 31, 1978, as adjusted. The cost of service reflects increases in all levels of cost, except gas costs which are reflected in the cost of service on the basis of the average unit cost of gas purchased as contained in United's PGA rate change effective January 2, 1978.

Copies of the filing have been served upon United's jurisdictional customers and the public service commission of the states of Alabama, Florida, Louisiana, and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16383 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RI78-60]

HUBERT K. ELROD, C. DAVID LONG

Petition for Special Relief

JUNE 5, 1978.

Take notice that on May 1, 1978, Hubert K. Elrod and C. David Long (Petitioners), 125 N. Roosevelt, Box 292, Guymon, Okla. 73942 filed a petition for special relief in Docket No. RI78-60 pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76) for the sale of gas from the Bacon Gas Well Unit, Sec. 17-3N-15 ECM, Texas County, Okla. to Western Gas Interstate.

Petitioners currently receive 41.84 cents per Mcf and request a rate of 76.188 cents per Mcf for the sale of said gas. Petitioners state that the well is under produced creating a financial hardship on Petitioners who must pay for the rising costs of operating items.

Any person desiring to be heard or to make any protest with reference to said petition should on or before June 27, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16384 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. EL78-26]

ANZA ELECTRIC COOPERATIVE, INC.

Application to Establish a New Physical Connection and to Revise Rate Schedule

JUNE 7, 1978.

Take notice that Anza Electric Cooperative, Inc. (Anza) on May 19, 1978, tendered for filing an application requesting that the Commission direct Southern California Edison Co. (Edison) (1) to establish a new delivery point on its existing 33 kv line between San Juacinto and Idylweld, Calif. from which service can be provided to Anza, and (2) to modify Edison's existing FPC Rate Schedule 19 under which Edison provides electric service to Anza to allow for combined billing for service to Anza from the two delivery points. Anza indicates that these actions are necessary to permit Anza to build and to operate, at its own expense, a new transmission line to its service area which will provide needed additional reliability for its customers.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.1). All such petitions or protests should be filed on or before June 23, 1978. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16385 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-403]

CENTRAL TELEPHONE & UTILITIES CORP.

Filing

JUNE 7, 1978.

Take notice that Central Telephone & Utilities Corp. (CTU) on May 30, 1978, tendered for filing an Addendum dated May 1, 1978, to the contract between Central Telephone & Utilities Corp. and Central Kansas Electric Cooperative, Inc., dated June 27, 1963. (FPC No. 35).

CTU indicates that the Addendum provides for an additional point of delivery in the NE ¼, section 7, T22S, R13W, Stafford County, Kans. CTU further indicates that the delivery voltage of this point of delivery is designated as 115 Kv and the kilowatt capacity is designated as 24,000 Kw.

CTU proposes an effective date of May 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to Central Kansas Electric Cooperative, Inc., and the Utilities Division of the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the

Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16386 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP73-65 (PGA78-3)]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FERC Gas Tariff

JUNE 7, 1978.

Take notice that Columbia Gas Transmission Corp. (Columbia) on May 31, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1. The proposed changes to be effective July 1, 1978, provide for a purchased gas adjustment to reflect increased costs of gas purchased from pipeline suppliers of $60,951,762.

Copies of the filing were served upon the company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16387 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP72-157]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FERC Gas Tariff

JUNE 7, 1978.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on June 1, 1978 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to its PGA clause for rates to be effective July 1, 1978. The proposed rate increase would produce approximately $69.0 million annually in jurisdictional revenues.

Consolidated stated that the PGA filing was made to reflect increased rates of Texas Eastern Transmission Corp. and Tennessee Gas Pipeline Co. (Tennessee), both for effectiveness July 1, 1978. Additionally Tennessee filed alternate rates which reflect the elimination of certain purchases from Tenneco Oil Company which are anticipated to commence in July 1978.

Accordingly, Consolidated included in its filing Alternate Fourth Revised Sheet No. 16. The alternate sheet reflects the alternate rates of Tennessee and would produce $61.5 million annually in jursidictional revenues.

Consolidated requests a waiver of any of the Commission's rules and regulations as may be required.

Copies of this filing were served upon Consolidated's jursidictional customers, as well as interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16388 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-414]

DELMARVA POWER & LIGHT CO.

Rate Schedule Filing

JUNE 7, 1978.

Take notice that Delmarva Power & Light Co. on May 31, 1978 tendered for filing revisions in the rates for wholesale electric service to all of its wholesale customers. The proposed effective date for the tariffs filed herein is July 1, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16389 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-406]

DUKE POWER CO.

Supplement to Electric Power Contract

JUNE 7, 1978.

Take notice that Duke Power Co. (Duke Power) tendered for filing on May 30, 1978 a supplement to the Company's Electric Power Contract with the City of Newberry. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule EPC No. 268.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increases in contract demand: Delivery Point No. 3, from 5,000 Kw to 8,000 Kw.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of July 19, 1978.

According to Duke Power copies of this filing were mailed to the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and proce-

dure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before June 26, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16390 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-407]

ELECTRIC ENERGY, INC.

Filing

JUNE 7, 1978.

Take notice that on May 30, 1978, Electric Energy, Inc. (EEI) tendered for filing Supplement No. 10 to Rate Schedule FERC No. 8, dated May 11, 1978, and entitled "Fourth Revised Service Schedule B" to the Interim, Supplemental and Surplus Power Agreement, Amendment No. 5. This agreement is between EEI and its Sponsoring Companies: Central Illinois Public Service Co. (CIPS), Illinois Power Co. (IP), Kentucky Utilities Co. (KU), and Union Electric Co. (UE).

EEI further states that Fourth Revised Service Schedule B provides for an increase in the reservation charge for the supply of Supplemental Power by the Sponsoring Companies to EEI.

The Company requests that Fourth Revised Service Schedule B be permitted to become effective on July 1, 1978.

According to EEI copies of this filing have been sent to the Missouri Public Service Commission, the Illinois Commerce Commission, and the Kentucky Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16391 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket Nos. RM77-14 and RP71-15]

EAST TENNESSEE NATURAL GAS CO.

Proposed PGA Rate Adjustment

JUNE 7, 1978.

Take notice that on May 31, 1978 East Tennessee Natural Gas Co. (East Tennessee) tendered for filing Second Substitute Twenty-Sixth Revised Sheet No. 4 to be effective June 1, 1978 and Substitute Twenty-Seventh Revised Sheet No. 4 and Substitute Alternative Twenty-Seventh Revised Sheet No. 4 to be effective July 1, 1978.

East Tennessee states that the sole purpose of these revised tariff sheets is to adjust rates previously filed by East Tennessee to reflect decreased purchased gas costs resulting from a rate decrease filed May 31, 1978, by its sole long-term supplier, Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

East Tennessee further states that copies of the filing have been mailed to all of its jursidictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16392 Filed 6-13-78; 8:45 am]

[6740-02]

EASTERN SHORE NATURAL GAS CO.

[Docket No. RP72-134]

Adjustment to Rates and Charges

JUNE 7, 1978.

Take notice that Eastern Shore Natural Gas Co. (Eastern Shore) on May 25, 1978, tendered for filing Substitute Second Revised Sheet No. 5, Superseding Second Revised Sheet No. 5, and Second Revised PGA-1: Substitute Revised Sheets No. 10, 11 and 12, to its FERC Gas Tariff, Original Volume No. 1. These revised Tariff sheets, to be effective June 1, 1978, will decrease the commodity or delivery charges of Eastern Shore's Rate Schedules CD-1, CD-E, G-1, E-1, and PS-1 by 6.4 cents per dekatherm to reflect credits to Eastern Shore's Account 191 from revenues received for transportation of natural gas pursuant to Order No. 533. The tariff sheets also increase the commodity or delivery charges of Eastern Shore's Rate Schedules CD-1, CD-E, G-1, E-1, I-1, and PS-1 by 0.12 cent per dekatherm to track an increase filed by its pipeline supplier, Transcontinental Gas Pipe Line Corporation, pursuant to the Commission's Opinion No. 11 issued in Docket No. RM77-14 (March 22, 1978).

Copies of this filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 20, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16393 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-404]

ILLINOIS POWER CO.

Filing

JUNE 7, 1978.

Take notice that on May 30, 1978, Illinois Power Co. (Illinois Power) tendered for filing proposed Modification No. 6, dated April 17, 1978, to the Interconnection Agreement, dated March 30, 1973, between Central Illinois Light Co. and Illinois Power Co.

Illinois Power indicates that this filing is made for an increase Short-Term Firm Capacity, Maintenance Power and Short-Term Non-Firm Power reservation charges and for a return of equivalent Emergency Energy by mutual agreement.

Illinois Power requests an effective date of June 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Illinois Power states that a copy of the filing was served upon Central Illi-

nois Light Co. and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16394 Filed 6-13-78; 8:45 am]

[6740-02]

KANSAS GAS AND ELECTRIC CO.

[Docket No. ER78-416]

Proposed Tariff Change

JUNE 7, 1978.

Take notice that Kansas Gas and Electric Co. (KG&E) on June 1, 1978 tendered for filing proposed changes in its FPC Electric Service Tariff No. 48. KG&E indicates that the proposed Amendment changes the maximum and minimum amounts of power at Delivery Point No. 9 and provides for the removal of Delivery Point No. 4 for the Radiant Electric Cooperative, Inc.

KG&E states that the Amendment is necessary because the Cooperative has exceeded the maximum amount of power at Delivery Point No. 9 and is requesting that Delivery Point No. 4 be removed because the load is being transferred to another delivery point.

KG&E requests an effective date of March 10, 1978, and therefore requests waiver of the Commission's notice requirements. Copies of this filing were served on the Radiant Electric Cooperative, Inc., according to KG&E.

Any person desiring to be heard or to protest said application should file a petition to inervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are of file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16395 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ES78-39]

MONTANA DAKOTA UTILITIES CO.

Application

JUNE 7, 1978.

Take notice that on May 20, 1978, Montana-Dakota Utilities Co. (Applicant) a corporation organized under the laws of the State of Delaware and qualified to do business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismark, N. Dak., filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to $40,000,000 of Promissory Notes that will be issued either in the form of ordinary unsecured Promissory Notes or in the form of commercial paper (both forms of Promissory Notes being hereinafter sometimes referred to as the "Notes"). The Notes will be dated as of the respective dates of their issue, which dates will not be later than December 31, 1980, and in no event will any of such Notes be due later than December 31, 1981.

The Notes issued as ordinary unsecured Promissory Notes will be issued to commercial banks and will bear interest at the best rate for bank loans available to comparable companies on the dates such Notes are issued. Such Notes issued directly to the purchasing commercial banks shall be due not more than one year after their respective dates of issue.

The Notes issued in the form of commercial paper will bear interest at the prevailing commercial paper rates for Prime-1 companies in effect on the dates such Notes are issued. Such Notes will be issued in bearer form to A. G. Becker & Co., or other recognized investment bankers in an amount not exceeding $15,000,000 at any one time and will be issued at a discount which will not be in excess of the discount rate per annum prevailing at the dates of issuance for commercial paper of comparable quality and like maturities. Applicant proposes to sell commercial paper only so long as the discount rate or the effective cost for such commercial paper does not exceed the equivalent cost of borrowings from commercial banks on the date of sales. The commercial paper will have varying 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 $1,000,000.

The proceeds from the issuance of the Notes is to provide temporary financing for part of the cost of Applicant's 1978, 1979 and 1980 construction programs.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 19, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16396 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. ER78-279]

NIAGARA MOHAWK POWER CORP.

Filing

JUNE 7, 1978.

Take notice that Niagara Mohawk Power Corp. (Niagara) on May 25, 1978, tendered for filing, in order to cure the deficiency in the above-noted Docket, the following information: (1) A rate of return computation for Niagara for calendar years 1975, 1976, and 1977; (2) a cross-reference between New York State Public Service Commission Accounts and the accounts established under the Uniform System of Accounts for Public Utilities under the Federal Power Act; (3) the New York State Public Service Commission description of items properly includible in Account 501-Fuel, and (4) the October 31, 1968 agreement among Niagara, Central Hudson and Consolidated Edison Co. of New York, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before June 21, 1978. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16397 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Tariff Filing

JUNE 8, 1978.

Take notice that Transcontinental Gas Pipe Line Corp. (Transco) on May 31, 1978, tendered for filing revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1 and Original Volume No. 2 to become effective July 1, 1978. Pursuant to the provision contained in its Tariff providing for "tracking" of curtailment credits, Transco proposes to increase its rates effective July 1, 1978 to reflect the balance of credits in the Deferred Account as of April 30, 1978.

Seventh Revised Sheet No. 12 and Sixth Revised Sheet No. 15 to Second Revised Volume No. 1, and Fifteenth Revised Sheet No. 121 to Original Volume No. 2 included in the filing reflect an increase of 0.1 cent in the commodity rate or delivery charge of the Company's CD, G, OG, E, PS, S-2, and X-20 rate schedules.

The Company states that copies of the filing were mailed to each of the Company's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16407 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket No. RP73-94 (PGA 78-2)

VALLEY GAS TRANSMISSION, INC.

PGA Rate Increase

JUNE 7, 1978.

Take notice that on May 31, 1978, Valley Gas Transmission Inc. (Valley), filed as part of its FERC Gas Tariff, Original Volume No. 1, its proposed Thirteenth revised Sheet No. 2A. The proposed effective date is July 1, 1978.

Valley states that this tariff sheet is filed in order to make certain corrections in its proposed purchased gas charges under the regular operation of its Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment. Such adjustments are supported by computations attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 21, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16408 Filed 6-13-78; 8:45 am]

[6740-02]

EL PASO NATURAL GAS CO.

[Docket No. CP78-346]

Application

JUNE 8, 1978.

Take notice that on May 24, 1978, El Paso Natural Gas Co. (applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in docket No. CP78-346 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery, on a best efforts basis, of up to 10,000 Mcf of natural gas per day for Natural Gas Pipeline Co. of America (Natural), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Natural has acquired natural gas supplies in the San Juan basin area of New Mexico, which supplies are located in close proximity to applicant's existing field gathering and other related facilities. Natural desires to have such gas delivered to its system and has entered into an agreement dated March 8, 1978, with applicant, whereby Natural would cause the delivery to applicant at one or more specified receipt point(s) of up to 10,000 Mcf of natural gas per day. Applicant proposes to accept, on a best-effort basis, the subject gas, and gather, process and transport such supplies for Natural's account and deliver such gas to Natural, on a best-effort basis, at an existing delivery point in the Lockridge field, Ward County, Tex. The gas redelivered would be an aggregate quantity of natural gas equivalent to 90 percent of the quantity of natural gas received by applicant from Natural at the receipt point(s), it is stated.

Applicant indicates that its undertaking pursuant to the transportation agreement to receive, gather, process, and transport the gas for Natural and to redeliver to Natural equivalent quantities, is predicated on the availability of excess idle capacity in applicant's system. Applicant further indicates that if it becomes necessary or desirable, with Natural's concurrence, to add additional facilities of whatever nature in order to accomplish the purpose of the transportation agreement, Natural would reimburse applicant for the actual cost of such additional facilities, including capital costs, carrying charges and related taxes, and operating costs, if any, not otherwise provided for. Should an imbalance occur between quantities of natural gas received by applicant for the account of Natural and the quantities of natural gas delivered by applicant to Natural, the parties would cooperate to eliminate, as soon as practicable, any such imbalances that may occur from time to time, it is stated.

The application indicates that the proposed transportation is a back-haul or displacement arrangement in that applicant's delivery point to Natural is upstream of the points of receipt of natural gas by applicant. Therefore, applicant is not required physically to transport the quantities of natural gas to Natural and, in effect, can reduce, on an Mcf for Mcf basis, the required flow in a segment of its pipeline system, it is indicated. Natural would compensate applicant for such back-haul transportation service through the payment of an administrative fee consisting of 1 cent for each Mcf of natural gas delivered by applicant at the delivery point, it is said. It is indicated that Natural would pay applicant, for the gathering and processing of the natural gas received from Natural, the rates in effect and reflected from time to time as the "production area charge—field gathering" and the "production area charge—processing," respectively, which are each set forth on sheet No. 1-D:2 of applicant's FERC gas tariff, third revised volume No. 2 or superseding tariff. The volumes of natural gas to which such production area changes are to apply are those volumes which applicant receives at the receipt point(s) less than 10-percent reduction for shrinkage which results from field gathering and processing operation, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the

proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction confered upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16417 Filed 6-13-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-292 and ER78-313]

OHIO POWER CO. AND INDIANA & MICHIGAN ELECTRIC CO.

Order Accepting for Filing, Suspending Rate Increase, Waiving Regulations, and Consolidating Proceeding

MAY 26, 1978.

On April 7, 1978, American Electric Power Service Corp. (AEPSCO) on behalf of its affiliates, Indiana & Michigan Electric Co. (I&M), and Ohio Power Co. (OPCO) tendered for filing modification No. 5, dated March 15, 1978, to the interconnection agreement, dated December 12, 1949, among I&M, OPCO, and the Cincinnati Gas & Electric Co. (Cincinnati) designated I&M rate schedule FPC No. 16 and OPCO rate schedule FPC No. 21. Also tendered for filing on April 7 were Cincinnati's certificate of concurrence and certain cost support data.

On April 17, 1978, AEPSCO on behalf of OPCO tendered for filing modification No. 7, dated April 15, 1978, to the facilities and operating agreement, dated September 6, 1962, between OPCO and Duquesne Light Co. (Duquesne), designated as OPCO rate schedule FPC No. 33. Also tendered on April 17 were Duquesne's certificate of concurrence and certain cost-support data.

Both the April 7 and April 17 filings by AEPSCO contain proposed new service schedules[1] amending the aforementioned interconnection agreements and providing for the sale and delivery of conservation energy during an energy emergency among the parties to the subject agreements and further providing for flexibility to permit such transactions with interconnected third-party utilities. AEPSCO states that the filings were made because of the recent coal miners strike which adversely affected the supply of fuel to OPCO, I&M, Cincinnati, Duquesne, and neighboring utilities.

Public notice of AEPSCO's April 7, 1978, filing was issued on April 13, 1978, with comments, protests, or petitions to intervene due on or before April 24, 1978. Public notice of AEPSCO's April 17, 1978, filing was issued on April 22, 1978, with comments, protests, or petitions to intervene due on or before May 8, 1978. No such comments, protests, or petitions were filed.

AEPSCO states that possible energy shortages resulting from the recent coal miners strike and other events beyond the control of the parties may necessitate near-term use of the proposed schedules. Accordingly, pursuant to 18 CFR § 35.11, AEPSCO submits that good cause exists for waiver of notice requirements and requests that the Commission waive its notice requirements and order the proposed conservation schedules to be effective as soon as possible. Proposed schedule E will terminate on February 28, 1979, and proposed schedule G will terminate on april 5, 1979, unless extended by mutual agreement. Neither schedule will take the place of existing schedules.

The proposed conservation schedules provide that parties to the proposed rate schedule modifications may arrange to obtain conservation energy when, in the judgment of the supplying party, such party has the capability and fuel resources to provide the same. The proposed schedules also provide for delivery of conservation energy for periods of 1 or more weeks, with the parties determining the number of megawatts per hour to be supplied, the period of supply, the source and destination of the energy, and the estimated cost of the energy.

AEPSCO asserts that the terms and conditions of the service proposed by its filings are substantially the same as modification No. 10 to the interconnection agreement, dated November 27, 1961, between I&M and Illinois Power Co. (I&M rate schedule FPC No. 23), which was filed on February 24, 1978 (docket No. ER78-229) and similar to the agreement between the Allegheny Power Service Corp.—Pennsylvania, New Jersey, Maryland group recently filed (Docket Nos. ER78-107, 108, and 109).

To comply with 18 CFR § 35.13(a), AEPSCO states that section 2.1 of proposed schedules E and G provide that the charge for conservation energy is 110 percent of the out-of-pocket replacement cost of generating the energy, plus 5 mills per kilowatt-hour. Section 2.3 of proposed schedules E and G defines the replacement cost of generating the energy as the out-of-pocket cost of generating said energy, plus or minus an adjustment to reflect increases or decreases in the cost of fuel on a Btu basis between the month in which the energy is delivered and the second month after such month of delivery.

AEPSCO states that proposed schedule E provides for transmission service charges excluding transmission losses of 1.1 mills per kilowatt-hour (deliveries to OPCO and I&M) and 1.7 mills per kilowatt-hour (deliveries to Cincinnati) and that proposed schedule G provides for similar charges of 1.4 mills per kilowatt-hour (deliveries to OPCO) and 1.7 mills per kilowatt-hour (deliveries to Duquesne).

To comply with 13 CFR § 35.13 (b), AEPSCO states that "because of the uncertainty of events which might determine the need for conservation energy transfers and because of variable operating restrictions in the event transfers are required, estimates of the transactions and revenues under" the proposed conservation schedules have not been made. Accordingly, AEPSCO requests that, to the extent 18 CFR § 35.13(b) is deemed applicable to the April 7 and April 17 filings, the Commission waive the requirements of such regulation.

AEPSCO's filings of April 7 and April 17 indicate that the recent coal miners strike may have resulted in a weakened ability of the electric utilities, to which the filings relate, to respond to fuel curtailments or similar emergency conditions until fuel stocks are restored to prestrike levels. Transactions to conserve fuel supplies and to avoid threats to reliability of electric service could require the use of the proposed conservation service schedules on relatively short notice. Accordingly, we shall waive 18 CFR § 35.11 notice requirements and accept AEPSCO's submittals for filing in order to assign them early effective dates, as hereinafter ordered and conditioned.

On May 5, 1978, the Commission Secretary advised AEPSCO that its April 7, 1978, filing was deficient regarding the provision of cost-support data. Similarly, on May 17, 1978, the Commission Secretary advised AEPSCO that its April 17, 1978, filing was likewise deficient.[2] Notwithstand-

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[1] Conservation service schedule E (Docket No. ER78-292) and conservation service schedule G (Docket No. ER78-313).

[2] The cost-support data submitted by AEPSCO in its April 7 and April 17 filings is

Footnotes continued on next page

ing, the Commission will waive the filing requirements not yet complied with in order to accept the proposed revised rate schedules for filing. However, we shall require AEPSCO to submit the cost-support data required by our regulations.

The proposed conservation schedules tendered for filing on April 7, 1978, in docket No. ER78-292 and on April 17, 1978, in docket No. ER78-313 have not been shown to be just and reasonable and therefore may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The Commission finds good cause exists to consolidate docket Nos. ER78-292 and ER78-313. Due to common issues of law and fact, the consolidation of these dockets will save time and expense for all parties.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission accept for filing the proposed rate schedule modifications filed on April 7, 1978, in docket No. ER78-292 and on April 17, 1978, in docket No. ER78-313 by AEPSCO and that such proposed schedules be suspended and their use deferred, all as hereinafter ordered.

(2) Good cause exists to waive the Commission's notice and filing requirements set out in the Commission's rules and regulations.

(3) Good cause exists to consolidate docket Nos. ER78-292 and ER78-313.

The Commission orders: (A) Proposed modification No. 5 filed by AEPSCO on behalf of I&M and OPCO on April 7, 1978, in docket No. ER78-292, is hereby accepted for filing as of April 7, 1978, suspended, and the use thereof deferred until April 8, 1978, when it shall become effective subject to refund.

(B) Proposed modification No. 7 filed by AEPSCO on behalf of OPCO on April 17, 1978, in docket No. ER78-313 is hereby accepted for filing as of April 17, 1978, suspended and the use thereof deferred until April 18, 1978, when it shall become effective subject to refund.

(C) AEPSCO is hereby directed to file the cost support data required by our regulations.

(D) Docket Nos. ER78-292 and ER78-313 are hereby consolidated.

(E) Upon the filing of the cost-support data described in paragraph (C) above, the Commission shall further evaluate the filings and shall set a date for a public hearing, should such procedure be appropriate.

(F) Pursuant to the provisions of 18 CFR § 35.11, the notice requirements of 18 CFR § 35.3 are hereby waived. 18 CFR § 35.13 filing requirements not yet complied with are hereby waived.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-16419 Filed 6-13-78; 8:45 am]

Footnotes continued from last page
similar to that filed in docket No. ER78-229. Staff is currently reviewing AEPSCO's response to a staff data request in this docket. The cost-support data submitted herein on behalf of Cincinnati and Duquesne is incomplete with respect to 18 CFR § 35.13. A staff data request with respect to the April 7 filing is currently outstanding.

[6740-02]

[Docket No. ER78-342]

FLORIDA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Notice of Cancellation, Granting Intervention, and Establishing Procedures

MAY 31, 1978.

On April 28, 1978, Florida Power & Light Co. (F.P. & L.) tendered for filing pursuant to section 35.15 of the Commission's regulations a notice of cancellation of service under its tariff to the Fort Pierce Utilities Authority (Fort Pierce). The proposed effective date of the cancellation is June 1, 1978. The company indicates that this proposed cancellation of service is in accordance with the terms of the service agreement initiating service to Fort Pierce, filed on March 29, 1978, in docket No. ER78-282.

F.P. & L. states that in its order issued April 28, 1978, the Commission indicated that before service can be terminated under this rate schedule, it must be shown to be consistent with the public interest.

F.P. & L. submits that the termination of the service is in the public interest because:

F.P. & L.'s rate schedule PR has been designed on the basis of the load characteristics of customers which are dependent upon F.P. & L. for a portion of the power supply needed to meet the needs of the consumers whom they serve. In contrast, Fort Pierce is a fully self-sufficient municipal electric system with reserve capacity of more than 90 percent. In addition, Fort Pierce and F.P. & L. have executed a full service interchange agreement pursuant to which they may exchange power and energy under service schedules for economy service, emergency service, and short-term and limited-term firm service.

The notice of the proposed cancellation indicated that petitions to intervene or protests should be filed by May 15, 1978. On that date, Fort Pierce filed a protest, petition to intervene, and request for summary rejection. Fort Pierce argues that F.P. & L.'s filing is a continuation of its unlawful refusal to sell it wholesale power and its anticompetitive and discriminatory design. It also maintains that F.P. & L.'s intent to terminate service to it on June 1, 1978, is in violation of its current and proposed tariffs. Fort Pierce posits that F.P. & L. has not shown that its proposed termination is lawful.

Fort Pierce states:

> At or about 5 p.m. on March 24, 1978 (i.e., immediately after F.P. & L., as cited above, again admitted Fort Pierce's eligibility for service under the current (SR-1 tariff), F.P. & L. delivered to Fort Pierce a new response (docket Nos. ER78-19, et al.* to the request for SR-1 service made by Fort Pierce (through counsel) on March 17, 1978, in Docket Nos. ER78-19, et al.* F.P. & L. stated that Fort Pierce's request would be honored, and supplied Fort Pierce with a service agreement. The proposed service agreement, however, provided for the termination of service on June 1, 1978. On March 27, 1978,* Fort Pierce accepted the offer of power—but, by written transmittal to F.P. & L., expressly rejected F.P. & L.'s condition that service be terminated on June 1, 1978. As Fort Pierce made clear, it accepted power under the terms of F.P. & L.'s tariff—including the (2-year) notice and (5 year) initial term provisions the tariff contains. (*Denotes where transcript references have been omitted.) (At pages 8-9.)
>
> * * * * *
>
> F.P. & L.'s requested June 1, 1978, termination (after 2 months of service) is directly contrary to the "term provision of both F.P. & L.'s present (SR-1) and proposed (PR) tariff, which states:
>
> "10. *Term.*
>
> The contract for service with respect to each delivery point shall remain in effect from the date of execution thereof until terminated by either party by giving the other party at least 2 year's written notice, specifying the point or points of delivery where service is to be terminated and specifying the date of termination as to each delivery point; *Provided, however,* The initial term for service at a point of delivery shall not be less than 5 years from the effective date shown on the exhibit A for such point of delivery." (Page 9.)

Fort Pierce requests that:

(1) It be granted intervention in this proceeding;

(2) That the Commission find that F.P. & L.'s proposal to terminate service to Fort Pierce on June 1, 1978, is contrary to F.P. & L.'s tariff and the Federal Power Act and inconsistent with the Commission's April 28, 1978, order in docket No. ER78-282;

(3) That the Commission find that F.P. & L. has not shown that its proposed termination of service is consistent with the public interest;

(4) That F.P. & L.'s request for approval of a June 1, 1978, termination be rejected; and

(5) If the Commission does not summarily reject F.P. & L.'s filing, a 5-month suspension should be ordered.

In the Commission's order of April 28, 1978, in docket No. ER78-282, it declared that any self-executing termi-

nation provision in the service agreement which would effect a termination of service to Fort Pierce was inconsistent with the public interest. The Commission made it clear that before F.P. & L. could terminate service to Fort Pierce it had to file pursuant to section 35.15 of the Commission's regulations, a notice to terminate; on April 28, 1978, F.P. & L. so filed. Commission review of F.P. & L.'s notice of cancellation filed herein indicates that the proposed termination has not been shown to be consistent with the public interest and may be unlawful. Consequently, the Commission will suspend F.P. & L.'s notice of cancellation for 5 months and order an expedited hearing to determine if the proposed cancellation of service to Fort Pierce is in the public interest.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfullness of F.P. & L.'s notice of cancellation to Fort Pierce filed on April 28, 1978, and suspend the proposed notice for 5 months.

(2) Partícipation by Fort Pierce in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act, a hearing shall be held to determine whether F.P. & L.'s proposed cancellation of service to Fort Pierce is consistent with the public interest.

(B) F.P. & L.'s notice of cancellation of service to Fort Pierce is hereby suspended for 5 months.

(C) A presiding administrative law judge to be designated by the chief administrative law judge for that purpose, shall convene a prehearing conference within 20 days of the issuance of this order to establish an expedited procedural schedule that will insure prompt resolution of the issues in this proceeding.

(D) Fort Pierce is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That participation of Fort Pierce shall be limited to the matters specifically set forth in its petition to intervene; and *Provided, further,* That the admission of Fort Pierce shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(E) The Secretary shall cause prompt publication of this order.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-16420 Filed 6-13-78; 8:45 am]

[6740-02]

EL PASO NATURAL GAS CO.

[Docket No. RP78-18]

Order Granting Motion To Make Effective Revised Tariff Sheets After Suspension, Motion To Withdraw Tariff Sheets, and Waiver of the Regulations, and Denying Motion To Reject Revised Tariff Sheets

ISSUED MAY 31, 1978.

By order issued December 30, 1977, the Commission accepted for filing and suspended for five months, until June 1, 1978, tariff sheets reflecting a proposed rate increase of $112 million. Acceptance was subject to a condition that El Paso Natural Gas Co. (El Paso) file revised tariff sheets on or before June 1, 1978, adjusting the rate increase to eliminate costs attributable to facilities not in service on June 1, 1978. Also, the Commission rejected alternative tariff sheets reflecting El Paso's estimate of the maximum cost impact of enactment of the Pearson-Benson deregulation proposal, $122 million annually, and El Paso's proposal that it be permitted to track in its rates changes in royalty payments and production taxes.

On May 1, 1978, El Paso filed a motion to place in effect on June 1, 1978, the suspended tariff sheets, as revised to include in the proposed base rates a rate increase under the purchase gas adjustment (PGA) provision in El Paso's tariff that was accepted by the Commission and permitted to become effective on April 2, 1978, and a Gas Research Institute (GRI) surcharge of 0.12 cents per Mcf for research, development and demonstration (R.D. & D.) pursuant to Opinion No. 11, issued March 22, 1978, in Docket No. RM77-14. These tariff sheets are shown in Appendix A to this order. El Paso also tendered alternate tariff sheets, shown in Appendix B, reflecting its estimate of additional costs, $61.6 million annually that would result from enactment of a compromise deregulation proposal; and El Paso again requested that it be permitted to track changes in royalty payments and production taxes. Finally, El Paso stated that all facilities for which costs were reflected in its original filing has been placed in service and therefor that further revision of the proposed rates was not necessary.

Notice of this filing was issued on May 9, 1978, providing for protests or petitions to intervene to be filed on or before May 19, 1978. Arizona Electric Power Cooperative, Inc. (AEPCO) and the City of Willcox, Ariz. filed, on May 11, 1978, a joint motion to reject El Paso's motion and the revised tariff sheets. On May 19, 1978, El Paso filed a response to AEPCO's motion and a notice of partial withdrawal. El Paso moved to withdraw those tariff sheets reflecting deregulation cost increases and its tracking proposal. On May 19, 1978, AEPCO filed a pleading raising substantially the same issues it raised in its May 11, 1978, pleading and which also requested that the Commission suspend El Paso's revised tariff sheets if AEPCO's motion to reject is denied. [On May 26, 1978, El Paso filed an answer to AEPCO's May 19, 1978 pleading and on May 30, 1978, AEPCO filed a reply thereto. These two pleadings raise no arguments that have not already been made in this proceeding.]

El Paso will be permitted to make effective subject to refund on June 1, 1978, the rate increase originally accepted and suspended, and to revise the tariff sheets reflecting that increase to include the PGA increase already accepted and suspended for one day by the Commission during the suspension period and the GRI surcharge, upon condition that collection of the surcharge shall be subject to compliance with the requirements stated in any further orders on El Paso's GRI surcharge in Docket No. RM77-14.

Our review of AEPCO's motion to reject and its request for suspension indicates that they should be denied. The major issues raised by AEPCO have been mooted by El Paso's motion for partial withdrawal. To the extent not covered by the partial withdrawal or otherwise dealt with by this order, we find that the arguments raised in AEPCO's pleadings do not represent good cause for rejection or further suspension of El Paso's filing, as revised. AEPCO is of course free to raise any issues not resolved by this order and by El Paso's partial withdrawal in the evidentiary proceedings in this docket.

Pursuant to section 154.66 of the Regulations, the Commission shall grant special permission El Paso to modify the proposed rates under suspension as it now proposes. The PGA rate increase to be included in the base rates to be effective on June 1, 1978 has already been reviewed by the Commission and permitted to become effective subject to refund on April 2, 1978, by order issued March 31, 1978 in Docket Nos. RP77-18 and RP72-155 (PGA78-1 and AP78-1). Inclusion of this PGA increase within the base rates proposed in this docket will not affect the collection of these charges subject to refund; and this adjustment has been permitted routinely by the Commission. It is also appropriate to allow El Paso to include its GRI surcharge of 0.12 cents per Mcf in the

proposed rates. This amount will be collected subject to an explicit condition that El Paso comply with the terms of any further order on this matter following a review of the claimed costs of R.D. & D. funding to GRI in Docket No. RM77-14.

Finally, AEPCO suggests that El Paso is attempting to retroactively amend the proposed rates to reflect additional costs attributable to facilities that were not in service when El Paso's original rate tender was made. In the order of December 30, 1977, the Commission granted waiver of section 154.63(e)(2)(ii) and permitted El Paso to include in its proposed rates the costs of certain facilities expected to be in service prior to June 1, 1978, the end of the five month suspension period, upon condition that on or before June 1, 1978, El Paso file revised tariff sheets eliminating the costs of any facilities not in service by June 1, 1978. Because all of the subject facilities have been placed in service, the filing of revised tariff sheets is not required. Further, review of El Paso's filings in this docket indicates that El Paso has not increased the originally proposed rates to include the cost of additional facilities.

The Commission finds: Good cause has been shown to grant special permission to El Paso to revise the tariff sheets accepted for filing in this docket on December 30, 1977, to include increased purchased gas costs and a GRI funding surcharge, to grant El Paso's motion to partially withdraw the tariff sheets tendered in this docket on May 1, 1978, and to permit El Paso to place into effect on June 1, 1978, the revised tariff sheets tendered on May 1, 1978, subject to refund and the condition hereafter ordered.

The Commission orders: (A) El Paso's motion to make effective is hereby granted; and appropriate waiver of the Commission's regulations shall be granted to permit El Paso to make effective on June 1, 1978, the tariff sheets shown in Appendix A to this order, subject to refund and the condition that El Paso shall comply with the terms of any further order of the Commission on its GRI funding surcharge in Docket No. RM77-14.

(B) El Paso's motion to partially withdraw filed on May 19, 1978 in this docket is hereby granted.

(C) AEPCO's motion to reject, filed on May 11, 1978, and its request for suspension of the filing in its May 19, 1978, pleading in this docket is hereby denied.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX A

EL PASO NATURAL GAS CO.

The following sheets are included in the instant tender under the tab designated "Revised Tariff Sheets" and "Alternative Tariff Sheets" and are described by category.

REVISED TARIFF SHEETS

Category I. The following tariff sheets reflect the suspended rates at Docket No. RP77-18, modified to include: (1) the increase in rates authorized in El Paso's PGAC notice of change in rates which became effective on April 2, 1978, and (ii) the GRI R.D. & D. Funding Unit of 0.12 cents per Mcf proposed and expected to become effective on June 1, 1978:

Tariff Volume No. and Sheet Designation

Original volume No. 1, substitute twenty-second revised sheet No. 3-B.
Third revised volume No. 2, substitute twelfth revised sheet No. 1-D.
Original volume No. 2A, substitute fourteenth revised sheet No. 1-C.

Category II. The following tariff sheets contain the surcharge rate applicable to the Rhodes Reservoir Storage operations and reflect the 0.50 cents per Mcf increase in the surcharge rate making the total surcharge rate 1.65 cents per Mcf. Such sheets are identical to their counterpart sheets suspended at Docket No. RP77-18, except the effective date of June 1, 1977, has been inserted thereon.

Tariff Volume No. and Sheet Designation

Original volume No. 1, sixth revised sheet No. 63-C.6.
Third revised volume No. 2, sixth revised sheet No. 1-M.6.
Original volume No. 2A, sixth revised sheet No. 7-MM.6.

Category III. The following tariff sheet contains the rates suspended at Docket No. RP78-18 under special rate schedules modified to include the GRI R.D. & D. Funding Unit of 0.12 cent per Mcf proposed and expected to become effective on June 1, 1978:

Tariff Volume No. and Sheet Designation

Third revised volume No. 2, substitute fifth revised sheet No. 1-D.2.

APPENDIX B

EL PASO NATURAL GAS CO., ALTERNATIVE TARIFF SHEETS

The following tariff sheets contain the suspended rates at Docket No. RP78-18, adjusted as described in Category I above and further modified to incorporate proposed rate adjustments resulting from pending Federal legislation on deregulation of natural gas on or before June 1, 1978.

Tariff Volume No. and Sheet Designation

Original volume No. 1, substitute twenty-second revised sheet No. 3-B.
Third revised volume No. 2, substitute twelfth revised sheet No. 1-D.
Original volume No. 2A, substitute fourteenth revised sheet No. 1-C.

[FR Doc. 78-16421 Filed 6-13-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 897-3]

CALIFORNIA STATE MOTOR VEHICLE POLLUTION CONTROL STANDARDS

Waiver of Federal Preemption

I. INTRODUCTION

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce the California exhaust emission standards applicable to 1979 and subsequent model year passenger cars. Under section 209(b) of the Act, the Administrator is required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[2] A waiver cannot be granted if I find that the determination of the State of California is arbitrary and capricious, that the State does not need such State standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification and test procedures are inconsistent. For the reasons given below, I have concluded that I cannot make the findings required for the denial of the waiver under section

[1] 42 U.S.C. § 7543(b)(1), as amended by Pub. L. No. 95-95, 91 Stat. 755 (1977).

[2] Public hearings were held on May 16-19 and August 4, 1977, pursuant to notices published by the Environmental Protection Agency (EPA) in the FEDERAL REGISTER, *see* 42 Fed. Reg. 19372 (April 13, 1977); 42 Fed. Reg. 36009 (July 13, 1977), to consider the questions that pertain to today's decision. On September 30, the California Air Resources Board (CARB) found that the standards under consideration in today's decision were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards. *See* State of California, Air Resources Board, *Resolution 77-48*, September 30, 1977. This determination, as well as changes to the 1981 and subsequent model year California standards, was considered at a public hearing held on October 13, 1977, pursuant to notice published by EPA in the FEDERAL REGISTER. *See* 42 Fed. Reg. 45942 (September 13, 1977).

209(b) of the Act in the case of these California standards.

In light of the fact that the California Air Resources Board (CARB) has recently taken many actions in this area of emissions regulation, I believe that it is necessary to clarify at the outset the scope of my decision today. This decision is concerned with the 1979 and subsequent model year California passenger car standards, certification procedures and high altitude regulations considered at the May 16–19, August 3–4 and October 13, 1977, Environmental Protection Agency (EPA) public hearings,[3] including certain administrative changes which have been made to these regulations at various times.[4] This decision further considers the waiver request for California's compliance testing and inspection program with respect to 1979 model year gasoline-powered passenger cars and 1980 and subsequent model year gasoline and diesel-powered passenger cars, conducted under sections 2100 et seq. of title 13 of the California Administrative Code, and "California New Motor Vehicle Compliance Test Procedures," adopted on June 24, 1976, last amended June 30, 1977.[5] However, this waiver decision does not include the waiver requests concerning limitations on allowable maintenance during the certification of 1980 and subsequent model year passenger cars adopted by the CARB on May 26, 1977, or certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism. These waiver requests will be the subject of a waiver decision to be published in the FEDERAL REGISTER in the near future.

[3]The California high altitude certification regulations adopted on November 23, 1976, as amended June 8, 1977, have been the subject of a previous waiver decision. *See* 43 Fed. Reg. 1829, 1832 (January 12, 1978). I believe that the findings previously made in that decision with regard to these regulations are also applicable to today's decision. *See id.*

[4]By letter dated June 9, 1977, the CARB informed the EPA that it had adopted revisions of an administrative nature to its regulations covering 1978 and 1979 standards and certification procedures. In addition, by letter dated July 6, 1977, the CARB informed the EPA that it had taken a minor administrative action to correct the model year referenced under a section of the California Administrative Code considered in this decision. I have determined that those actions taken with respect to the 1978 standards and test procedures fall within the scope of a waiver currently in effect, and therefore, do not require a new waiver. *See* 42 Fed. Reg. 1503, 1504 (January 7, 1977).

[5]The California compliance testing and inspection program, as applicable to light-duty trucks, medium-duty vehicles and heavy-duty vehicles and engines, has been the subject of a previous waiver decision. *See* 43 Fed. Reg. 9344 (March 7, 1978). I believe that the findings previously made in that decision with regard to this program are also applicable to today's decision. *See id.*

II. DISCUSSION

Public and Health and Welfare. Under one of the criteria of section 209(b) of the Act, I cannot grant a waiver if I find that California's determination that its "standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards" is arbitrary and capricious. On September 30, 1977, the CARB determined[6] that the standards under consideration in this decision were, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards.[7] With regard to the 1979 and primary set of 1981 California standards, it is clear that these standards (except for the 1981 oxides of nitrogen [NO_x] standard under the optional 100,000 mile certification procedure) are at least as stringent as the applicable Federal standards[8] and are therefore deemed under the Act to be at least as protective of public health and welfare as the comparable Federal standards.[9] Thus, I cannot find that California's determination concerning these standards is arbitrary and capricious.

As to the 1980, optional 1981, and 1982 and subsequent model year California standards, the California determination was based on the conclusion that given the Federal standards man-

[6]*See* State of California, Air Resources Board, *Resolution 77-48*, September 30, 1977.

[7]The California exhaust emission standards under consideration in this decision are as follows (expressed in grams per vehicle mile):

Model year	Hydrocarbons (HC)*	Carbon monoxide (CO)	Oxides of nitrogen (NO_x)**
1979	0.41	9.0	1.5
1980	0.39 (0.41)	9.0	1.0 (1.5)
1981	(0.41)	3.4 or***	1.0 (1.5)
	0.39 (0.41)	7.0	0.7
1982	0.39 (0.41)	7.0 or***	0.4 (1.0)
	0.39 (0.41)	7.0	0.7
1983 and subsequent	0.39 (0.41)	7.0	0.4 (1.0)

*Beginning in 1980, the hydrocarbon standard is expressed as a non-methane hydrocarbon standard. Hydrocarbon standards in parentheses apply to total hydrocarbons, or, for 1980 models only, to emissions corrected by a methane content correction factor. The requirements for the demonstration of compliance with this standard are set forth in subparagraph 3(a) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

**Oxides of nitrogen standards in parentheses are applicable to engine families which are certified under the optional 100,000 mile certification procedure set forth in paragraph 6 of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

***Throughout this decision, the first set of standards set forth above for the 1981 and 1982 model years shall be referred to as the "primary" set of standards for these model years. The second set of passenger car standards is optional. This set of standards shall hereinafter be referred to as the "optional" set of standards for either the 1981 and 1982 model years. A manufacturer must select either the primary or optional set of standards for his full gasoline-powered or diesel-powered product line for the entire two-year period. *See* Letter from Thomas C. Austin, CARB, to Benjamin R. Jackson, Director, Mobile Source Enforcement Division (MSED), EPA, November 1, 1977.

The applicable Federal exhaust emission standards are as follows (expressed in grams per vehicle mile):

Model year	HC	CO	NO_x
1979	1.5	15.0	2.0
1980	0.41	7.0	2.0
1981 and subsequent	0.41	*3.4	**1.0

*The Administrator may prescribe a CO standard not exceeding 7.0 grams per vehicle mile for the 1981 and 1982 model years if certain statutory criteria are met. *See* 42 U.S.C. § 7521(b), as amended by Pub. L. No. 95-95, 91 Stat. 751 (1977).

**For the 1981 and 1982 model years, certain manufacturers may be subject to a 2.0 grams per vehicle mile NO_x standard. *See* 42 U.S.C. § 7521(b), as amended by Pub. L. No. 95-95, 91 Stat. 751, 752 (1977). In addition, if certain statutory criteria are satisfied, the Administrator may waive this standard to not exceed 1.5 grams per vehicle mile for any class or category of passenger cars manufactured during any period of up to four model years beginning after the 1980 model year if a manufacturer demonstrates that such waiver is necessary to permit the use of an innovative power train technology, or innovative emission control device or system in such class or category of passenger cars, or for the four model year period beginning with the 1981 model year, if a manufacturer can show that such waiver is necessary to permit the use of diesel engine technology in such class or category of passenger cars. *See id.*

Ford contended that it was improper for me to assume the level of applicable Federal standards for the purposes of reviewing California's determination in the absence of the promulgation of such Federal standards. *See* Memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Company, to B. R. Jackson, Director, MSED, EPA, December 2, 1977. I cannot agree. Since the Clean Air Act Amendments of 1977 provide that regulations applicable to emissions from 1979 and subsequent model year passenger cars must contain specific emission standards, I believe that I may consider the Federal standards required under these Amendments for the purposes of reviewing California's determination in this matter.

[8]*See* Memorandum from Eric O. Stork, former Deputy Assistant Administrator for Mobile Source Air Pollution Control, EPA, to Norman D. Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA, January 13, 1978; Memorandum from Eric O. Stork, former Deputy Assistant Administrator for Mobile Source Air Pollution Control, EPA, to Norman D. Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA, April 4, 1978.

[9]41 U.S.C. § 7543(b)(2), as added by Pub. L. No. 95-95, 91 Stat. 755 (1977).

dated under the Clean Air Act Amendments of 1977, additional control of NOx emissions from motor vehicles was necessary to protect the public health in California and to attain the California ambient air quality nitrogen dioxide (NO_2) standard and the Federal ambient air quality oxidant standard. This determination was also based on the fact that the adoption of a carbon monoxide (CO) emission standard less stringent than the Federal standard would still be adequate to meet the Federal and California CO ambient air quality standard by 1985 or 1990.[10] Based on its belief that emissions of NO_x pose a more significant threat to public health in California than emissions of CO, the CARB stated that it was reasonable to permit California to adopt and enforce its CO standard if it was necessary to ensure that the required reduction in NO_x emissions could be achieved.[11] In adopting the standard for hydrocarbon (HC) emissions, the CARB concluded that any increase in HC control associated with a 0.41 total HC standard compared with a 0.39 non-methane HC standard was a function of the technology used to meet the HC standard and that such increase in HC control was only marginal at best and not justified at the present time. Although its HC standard may provide less HC control than a 0.41 total HC standard, the CARB believed that it was reasonable to conclude that this slight difference in HC control was completely offset by the significant reduction in NO_x emissions provided under the California standards as compared to the Federal standards.[12]

The CARB indicated that it had considered all arguments raised against adopting such emission standards and that it had adopted these standards on account of the peculiar oxidant and NO_2 air quality problems in the California South Coast Air Basin.[13] This situation was clearly anticipated by Congress in enacting the Clean Air Act Amendments of 1977. The Administrator is precluded from substituting his judgment for that of California. Based on the public record, I cannot find that there is clear and compelling evidence that California acted unreasonably in making its determination.[14] As a result, I cannot find that California's determination with regard to these standards is arbitrary and capricious.

Lead Time and Technology. Under section 209(b), I also cannot grant a waiver if I find that California standards and accompanying enforcement procedures are not "consistent with section 202(a)." Section 202(a) states that standards promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." In order for California standards to be consistent with section 202(a), it is not required that the requisite technology be developed at present, but rather that the available lead time appear to be sufficient to permit the development and application of that technology.[15]

With respect to the 1979–1980 California standards, Ford Motor Co. testified that it would support the waiver request for these standards if the certification mileage accumulation fuel were not required to contain 0.125 gram per gallon of methylcyclopentadienyl manganese tricarbonyl (MMT).[16] No such requirement will exist for certification in California.[17] Even though General Motors Corporation was not confident it could sell vehicles meeting these standards due to the California assembly-line, compliance and inspection testing requirements, the manufactur-

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[10] *See* Transcript of Public Hearing on California Waiver Requests, San Francisco, California, October 13, 1977, at 26-27, 29, 30-35, 51-52, 168 (hereinafter "Tr. of October 1977 Hearing"); Transcript of Public Hearing on California Waiver Request (August 4, 1977), Volume II, at 262-264, 265, 268 (hereinafter "Tr. of August 1977 Hearing"); Letter from Thomas C. Austin, CARB, to Ben Jackson, Director, MSED, EPA, August 31, 1977, at Attachment V; State of California, Air Resources Board, "Control Strategies for Oxidant and Nitrogen Dioxide," January 25, 1977; State of California, Air Resources Board, *Staff Report No. 76-18-2*, September 21, 1976, at 1-2; State of California, Air Resources board, *Staff Report No. 76-22-2(a)*, November 23, 1976, at 2, 5, 28-30 (hereinafter "CARB November Staff Report"); State of California, Air Resources Board, *Staff Report No. 77-20-3*, September 12, 1977, at 22; State of California, Air Resources Board, *Supplement to Staff Report 77-20-3*, September 26, 1977, at 1-3 (hereinafter "Supplement to CARB September 1977 Staff Report"); Brief for California Air Resources Board at 5-6, 7-9, In the Matter of Application of California Air Resources Board for a Waiver From the Provisions of Section 209(a) of the Clean Air Act for the California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, adopted November 22, 1976, amended June 22, 1977, last amended September 29, 1977; State of California, Air Resources Board, *Resolution 76-44*, November 23, 1976; State of California, Air Resources Board, *Resolution 77-5*, January 25, 1977; State of California, Air Resources Board, *Resolution No. 77-13-2*, June 22, 1977; Transcript of Public Hearing to Consider Amendments to Vehicle Emission Regulations in Light of New Federal Waiver Requirements, State of California, Air Resources Board, Public Hearing No. 77-20-2, Los Angeles, California, September 29-30, 1977, at 4, 10-13, 117-118, 125-128, 158-169, 184 (hereinafter "Tr. of CARB September 1977 Hearing"); Transcript of Meeting of State of California Air Resources Board, Sacramento, California, June 22, 1977, at 1, 4, 10-17, 94-96, 105-106 (hereinafter "Tr. of CARB June 1977 Meeting"); "Statement by American Motors Corporation in Response to the California Air Resources Board Proposed Changes in the Emissions Standards and Test Procedures for 1979 and Subsequent Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," Presented at the CARB Hearing, November 23, 1976, at 7.

[11] Brief for California Air Resources Board at 16-17, In the Matter of Application of California Air Resources Board for a Waiver From the Provisions of Section 209(a) of the Clean Air Act for the California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, adopted November 22, 1976, amended June 22, 1977, last amended September 29, 1977. In this connection American Motors Corporation stated that there is scientific evidence that a 3.4 and 9.0 CO standard are equivalent with respect to the protection of furture health. *See* Tr. of CARB September 1977 Hearing, *supra* note 10, at 68-69. General Motors Corporation also agreed that there was no need for a CO standard more stringent than 9.0 grams per vehicle mile. *See* "General Motors Statement to the California Air Resources Board on Proposed 1979 and Subsequent Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicle Emission Standards," Presented at the CARB Hearing, Los Angeles, California, November 23, 1976, at 2.

[12] *See* Tr. of October 1977 Hearing, *Supra* note 10, at 28, 46-47, 50-51, 234-239; Supplement to CARB September 1977 Staff Report, *supra* note 10, at 2; Letter from Thomas C. Austin, CARB, to Benjamin R. Jackson, Director, MSED, EPA, November 1, 1977. Ford Motor Company and General Motors also indicated that a 0.41 grams per vehicle mile total HC standard would result in a marginal difference in reactive HC control as compared to a 0.39 grams per vehicle mile non-methane HC standard. *See* Letter from D. A. Jensen, Ford Motor Company, to B. R. Jackson, Director, MSED, EPA, October 28, 1977; Tr. of October 1977 Hearing, *supra* note 10, at 200.

[13] *See* Tr. of October 1977 Hearing, *supra* note 10, at 16, 223-224.

[14] H.R. Rep. No. 95-294, 95th Cong., 1st sess. 302 (1977).

[15] *See* 41 FEDERAL REGISTER 44209, 44210 (October 7, 1976).

[16] *See* Transcript of Public Hearing on California Waiver Request (May 16-20, 1977), Volume III, at 391-397, 401, 408, 411-415 (hereinafter "Tr. of May 1977 Hearing"); Tr. of October 1977 Hearing, *supra* note 10, at 129. General Motors, Chrysler Corp. and American Motors Corp. shared Ford's concerns with the use of methylcyclopentadienyl manganese tricarbonyl (MMT). *See* Tr. of May 1977 Hearing at 445-447, 501; Letter from Michael W. Grice, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, EPA, June 8, 1977.

[17] On July 7, 1977, the CARB adopted a prohibition against the addition of any manganese additives to fuels sold in California after September 8, 1977. *See* 13 Cal. Admin. Code § 2254 (1977). As a result, the CARB stated that MMT will not be required in the test fuel for the certification of 1979 and subsequent model year light-duty trucks and medium/duty vehicles. *See* 13 Cal. Admin. Code § 1960 (1976); Letter from G. C. Hass, CARB, to all Motor Vehicle Manufacturers, July 8, 1977.

er stated that it would be able to certify some vehicles to these standards in 1980.[18] General Motors also stated that its diesel-powered passenger cars could not meet a 1.0 gram per vehicle mile NO_x standard in combination with a 0.41 gram per vehicle mile HC standard.[19] Chrysler Corp. indicated that the requisite technology was currently available to meet emission levels of 0.41 total HC, 9.0 CO and 1.0 NO_x.[20] Although American Motors Corp. claimed that the 1980 NO_x standard was not technologically feasible within the available lead time and that it could not estimate at the present time the lead time required for the development of the requisite technology, it nevertheless stated that test results on the physical durability of three-way catalysts were satisfactory and that it might be able to certify one engine family to the California standards in 1980.[21] Volkswagen of America stated that it had undertaken a developmental program in order to sell gasoline-powered passenger cars in California in 1980, but had already concluded that it would not be able to sell diesel-powered cars in California if the NO_x standard was below 1.5 grams per vehicle mile.[22] Honda Motor Co. stated that it would offer three passenger car models for sale in California in 1980.[23] Mercedes-Benz claimed that its diesel-powered passenger car product line, with the exception of its very light vehicles with small diesel engines at low mileages, could not meet the 1980 1.0 NO_x standard.[24] Mercedes-Benz further claimed that its vehicles would show adverse performance effects and increased maintenance costs if these vehicles were required to certify to a 1.5 NO_x standard under the 100,000 mile optional certification procedure.[25] Nissan Motor Co. indicated that its 1980 passenger cars would be able to meet the applicable California standards.[26] Subaru of America stated that the requisite technology is currently available to meet a 1.0 NO_x passenger car standard with certain fuel economy, driveability and cost penalties.[27] Toyota Motor Co. suggested that the 1980 standards could be met through the use of an oxidation catalyst-exhaust gas recirculation emission control system with fuel economy and driveability penalties, or through the use of a three-way catalyst emission control system with a retail price increase of 350 dollars over 1977 California models.[28] Finally, the CARB testified that the requisite technology was currently available to meet these standards. In support of this conclusion, the CARB presented 1977 certification data provided by 16 manufacturers showing that 38 engine families had met the emission levels required under the 1980 standards.[29] The CARB also stated that there was adequate lead time to permit the development and application of three-way catalyst technology in the event that any manufacturer should decide to utilize this technology in order to meet these standards.[30]

With respect to the cost of compliance with the 1979-1980 standards, Honda expected a retail price increase of forty dollars for its 1980 model year vehicles as a result of these standards.[31] Mercedes-Benz estimated a fuel economy penalty ranging from 0.2 to 1.0 miles per gallon due to these standards.[32] General Motors estimated a zero to twenty percent fuel economy penalty and a 110 to 130 dollar retail price increase over 1977 Federal models associated with these standards.[33] Finally, the CARB testified that the 1980 standards would result in a retail price increase ranging from zero to 506 dollars over 1979 model year costs and a fuel economy benefit of approximately five percent.[34]

In light of the above discussion as well as the judgment of my technical staff,[35] giving appropriate consideration to the cost of compliance within such period, I cannot conclude that the appropriate technology cannot be developed and applied within the available lead time to permit manufacturers to meet California's 1979-1980 passenger cars standards.

As to the primary set of 1981 California standards and the optional set of 1981-1982 California standards, Ford contended that there was inadequate lead time available to meet a 0.41 total HC standard and that therefore the primary set of 1981 standards was not technologically feasible.[36] Ford claimed that the HC standard would present both higher certification risks and significant fuel economy penalties for both six and eight cylinder engine passenger cars.[37] However, in order to achieve compliance with this standard, Ford has initiated a program to reduce the amount of total hydrocarbons in the tailpipe emissions.[38] Although it presented data indicating that its small four cylinder engine vehicles could meet a 0.7 NO_x standard and stated that its larger engine vehicles could meet this stand-

[18] *See* Tr. of May 1977 Hearing, *supra* note 16, at 446-449, 455-456, 459-460, 462; Tr. of October 1977 Hearing, *supra* note 10, at 191.

[19] *See* Tr. of May 1977 Hearing, *supra* note 16, at 430.

[20] *See* Tr. of August 1977 Hearing, *supra* note 10, at 339, 347-348.

[21] *See* Tr. of May 1977 Hearing, *supra* note 16, at 499-500, 523-530; Letter from Stuart R. Perkins, American Motors Corp., to Benjamin R. Jackson, Director, MSED, EPA, December 22, 1977; Memorandum from Eric O. Stork, former Deputy Assistant Administrator for Mobile Source Air Pollution Control, EPA, to Norman Shutler, Deputy Assistant Administrator for Mobile Source and Noise Enforcement, EPA, October 31, 1977, at 7, 11. American Motors indicated, however, that a one engine family California product line was not viable from a marketing standpoint. *See* "Statement by American Motors Corp. in Response to the California Air Resources Board Proposed Changes in the Emissions Standards and Test Procedures for 1979 and Subsequent Passenger Car, Light-Duty Trucks and Medium-Duty Vehicles," Presented at the CARB Hearing, Los Angeles, Calif., November 23, 1976.

[22] *See* Letter from J. Kennebeck, Volkswagen of America, Inc., to Director, MSED, EPA, October 21, 1977.

[23] *See* Letter from Hideo Sugiura, Honda Motor Co., Ltd., to G. C. Hass, CARB, July 27, 1976.

[24] *See* Letter from Daimler-Benz Aktiengesellschaft to G. C. Hass, CARB, July 19, 1976, Letter from H. W. Gerth, Mercedes-Benz of North America, Inc., to Benjamin R. Jackson, August 22, 1977; von Manteuffel, Peter, Daimler-Benz A. G., "Statement Before the State of California Air Resources Board," Presented at the CARB Hearing, Los Angeles, Calif., November 23, 1976.

[25] *See* Letter from Daimler-Benz Aktiengesellschaft to G. C. Hass, *supra* note 24.

[26] *See* Letter from Motoo Harada, Nissan Motor Co., Ltd., to G. C. Hass, CARB, July 19, 1976.

[27] *See* "Statement by Subaru of America, Inc. to the California Air Resources Board," Presented at the CARB Hearing, Los Angeles, Calif., November 23, 1976.

[28] *See* "Toyota Comments on the Proposed Exhaust Emission Standards and Test Procedures for 1979 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," Presented at the CARB Hearing, Los Angeles, Calif., November 23, 1976; Letter from Keitaro Nakajima, Toyota Motor Co., to G. C. Hass, CARB, October 18, 1976.

[29] *See* "Statement of the California Air Resources Board Before the U.S. Environmental Protection Agency Regarding California's Request for a Waiver of section 209(a) of the Clean Air Act In Order That California May Implement More Stringent Emission Standards and Test Procedures for 1978 and Later Model-Year Motorcycles, Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," Presented at the EPA California Waiver Hearing, San Francisco, Calif., May 18, 1977.

[30] *See* Tr. of May 1977 Hearing, *supra* note 16, at 3410342, 358-363; *State of California*, Air Resources Board, Resolution 76-44, November 23, 1976; CARB November Staff Report, *supra* note 10, at 21-26.

[31] *See supra* note 23.

[32] *See* Letter from Daimler-Benz Aktiengesellschaft to G. C. Hass, *supra* note 24.

[33] *See* Tr. of May 1977 Hearing, *supra* note 16, at 429, 451-452, 454.

[34] *See id.* at 342-343, 345-346. The CARB has provided data submitted by the manufacturers on this question. *See* CARB November Staff Report, *supra* note 10, at 11-20.

[35] *See* Memorandum from Eric O. Stork to Norman Shutler, *supra* note 21, at 8-12.

[36] *See* Tr. of October 1977 Hearing, *supra* note 10, at 70-71, 86, 120-129; Jensen, D. A., "Statement of D. A. Jensen, Director, Automotive Emissions and Fuel Economy Office, Ford Motor Co." Presented at the EPA California Waiver Hearing, San Francisco, Calif., October 13, 1977, at Attachment 1-7.

[37] *See* Letter from D. A. Jensen to B. R. Jackson, *supra* note 12.

[38] *See id.*

ard with a fifty percent confidence level, Ford testified that it did not know at the present time whether a 0.7 NO_x standard was technologically feasible.[39] Consequently, based on the available data, Ford recommended that I grant California a waiver for a 0.39 non-methane HC/7.0 CO/1.0 NO_x set of standards for the 1981 model year.[40]

Volkswagen testified that any NO_x standard for gasoline and diesel-powered engines below 1.0 and 1.5, respectively, was not technologically justified.[41] Volkswagen was confident, though, that its gasoline-powered vehicles could meet a 0.41 total HC/9.0 CO/1.0 NO_x set of standards by 1981,[42] but it had serious reservations with regard to the technological feasibility of the 100,000 mile optional certification procedure.[43]

Chrysler Corp. testified that it would comply with either set of 1981 California standards.[44]

General Motors indicated that its diesel-powered vehicles may not be able to meet either a 0.41 total HC standard or a 0.39 non-methane HC standard.[45] Nevertheless, it stated that it would not be able to offer some presently undetermined product line for sale in 1980.[46] General Motors further stated that its vehicles would have difficulty in meeting a NO_x standard below 1.0 grams per vehicle mile.[47]

The Automobile Importers of America (AIA) contended that the record did not support the finding that these standards were technologically feasible.[48]

Finally, the CARB indicated that the increase in the stringency of the CO standard over that originally adopted by the CARB should not create any lead time problems.[49] It further indicated that the primary set of standards for the 1981 model year were intended to be identical to the applicable Federal standards for that year.[50]

Concerning the cost of compliance with these standards, very little information was provided by the manufacturers at the hearing.

With respect to the 1982 primary set of standards as well as the 1983 and subsequent model year standards, General Motors stated that neither its gasoline nor diesel-powered vehicles could currently meet the 0.4 NO_x standard,[51] but that it would probably be able to certify gasoline-powered vehicles to this standard in 1982.[52] It also claimed that it was premature to consider the technological feasibility of the 100,000 mile optional certification procedure at the present time.[53]

Although Ford identified certain emission control systems which may have the future capability to meet a 0.4 NO_x standard, it testified that the requisite technology was not currently available to meet this standard and it could not determine at the present time when such level of NO_x control would be feasible.[54] As a result, it concluded that the 1982 standards were currently not technologically feasible.[55] Ford also testified that its vehicles could achieve the same emissions performance as the Volvo vehicle product line if its vehicles were equipped with fuel injection technology, but it believed that this could not be accomplished on its entire passenger car product line by 1982.[56] Consequently, Ford expressed concern that the enforcement of this standard may result in significant compromises in model availability, fuel economy and costs of compliance which might outweigh the potential beneficial effects on air quality associated with such a standard.[57] On the other hand, Ford indicated that it was presently undertaking a conventional engine and PROCO engine research program in order to develop viable technology for meeting a 0.41 total HC/3.4 CO/0.4 NO_x set of standards.[58] Ford further indicated that there would be no lead time problems with meeting a 0.4 NO_x standard if this research and development program proceeded successfully as scheduled.[59] Based on its ongoing research efforts, Ford recommended that I defer a decision on the waiver request for these standards for at least one year in order to permit it to evaluate the results of this program.[60] In addition, Ford submitted data on 20 research test cars which had met emission levels of 0.41 HC/3.4 CO/0.4 NO_x at low mileages and on two other test vehicles which had met emission levels of 0.41 HC/9.0 CO/0.4 NO_x also at low mileages.[61]

Chrysler testified that it could not certify production vehicles to a 0.4 NO_x standard at the present time in light of the Federal fuel economy requirements and the California assembly-line testing requirements. It also suggested that there may be an inadequate amount of lead time available to meet such a standard by 1982.[62] This conclusion was not affected by whether the applicable CO standard was 7.0 or 9.0 grams per vehicle mile.[63] Chrysler further indicated that its diesel-powered vehicles would not be able to meet any NO_x standard below 1.0 at the present time.[64] On the other hand, Chrysler testified that it was continuing its developmental efforts to achieve a 0.4 NO_x standard and presented test data from its advance emission control system developmental program showing emissions performance below 0.41 HC/3.4 CO/1.0 NO_x emission levels.[65]

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[39] *See* Tr. of October 1977 Hearing, *supra* note 10, at 72, 85, 88, 91, 94-100, 103-104.

[40] *See id.* at 73, 87-88, 134; Tr. of August 1977 Hearing, *supra* note 10, at 330-331.

[41] *See* Tr. of October 1977 Hearing, *supra note 10, at 158-160.*

[42] *See id.* at 161.

[43] *See id.* at 163-165.

[44] *See id.* at 214-215.

[45] *See* Letter from T. M. Fisher, General Motors Corp., to Benjamin R. Jackson, Director, MSED, EPA, June 17, 1977, at 61.

[46] *See* Tr. of October 1977 Hearing, *supra* note 10, at 193-194.

[47] *See id.* at 197.

[48] *See id.* at 216.

[49] *See id.* at 229.

[50] *See id.*

[51] *See* Tr. of August 1977 Hearing, *supra* note 10, at 368-369, 380, 386, 390, 392-393, 396.

[52] *See id.* at 382-383.

[53] *See id.* at 385, 395.

[54] *See id.* at 300, 302-304, 306, 313; Tr. of October 1977 Hearing, *supra* note 10, at 72-73, 131-132; Memorandum from John P. Eppel and Helen O. Petrauskas, Ford Motor Co., to B. R. Jackson, Presiding Officer, EPA, September 9, 1977, at 15-23; Jensen, D.A., "Statement of Donald A. Jensen, Director, Automotive Emissions and Fuel Economy Office," Presented at EPA California Waiver Hearing, San Francisco, Calif., August 4, 1977, at Attachment IV, V (hereinafter "Ford August 1977 Statement").

[55] *See* Tr. of August 1977 Hearing, *supra* note 10, at 313. However, Ford did point out that its statements on these standards should not be interpreted as an indication that it believed that these standards would not be attainable at some future date. *See id.* at 302.

[56] *See id.* at 326-327.

[57] *See id.* at 300, 307-308. Ford indicated, though, that PROCO engine vehicles experience 20 percent better fuel economy than those vehicles equipped with a conventional engine. *See id.* at 332. Data from the PROCO engine research program indicated that vehicles with such engines would suffer a five to ten percent fuel economy penalty in meeting a 0.4 NO_x standard over that in meeting a 1.0 NO_x standard. *See id.*

[58] *See* Ford August 1977 Statement, *supra* note 54, at Attachment IV, V.

[59] *See* Tr. of August 1977 Hearing, *supra* note 10, at 318, 322-329.

[60] *See id.* at 337.

[61] *See* Ford August 1977 Statement, *supra* note 54, at Attachment III; Letter from E. E. Weaver, Ford Motor Co., to Benjamin R. Jackson, Director, MSED, EPA, August 25, 1977. Ford also stated that its PROCO engine vehicles could meet a 0.4 NO_x standard at low mileages. *See* Tr. of August 1977 Hearing, *supra* note 10, at 331-332.

[62] *See* Tr. of August 1977 Hearing, *supra* note 10, at 341, 345-346, 348, 350, 352, 354-357, 360; Letter from R. M. Wagner, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, EPA, August 25, 1977. For the reasons stated in a prior waiver decision, I cannot agree with the contention raised by Chrysler that an emission standard which is likely to result in civil penalties due to a violation of the Federal fuel economy standards is not technologically feasible as a matter of law. *See* 42 FEDERAL REGISTER 1829, 1831 (January 12, 1978).

[63] *See id.* at 346-347.

[64] *See id.* at 341; Letter from R. M. Wagner to Benjamin R. Jackson, *supra* note 62.

[65] *See* Tr. of August 1977 Hearing, *supra* note 10, at 348-349, 352; Letter from R. M. Wagner to Benjamin R. Jackson, *supra* note 62.

Other manufacturers also submitted comments on this question. American Motors Corp. stated that its vehicles would not be able to meet a 0.4 NO_x standard in 1982.[66] American Motors further stated that an additional period of lead time beyond that necessary for the development and application of the requisite technology would be required for low volume, vendor dependent manufacturers if such a NO_x standard were enforced in California.[67] Mercedes-Benz contended that a 0.4 NO_x standard was not technologically feasible within the time frame proposed by the CARB.[68] While Volkswagen stated that the technology was not currently available to meet a 0.4 NO_x standard, the CARB reported that Volkswagen has previously indicated that a 1982 0.4 NO_x standard was technologically feasible within the available lead time.[69] Although test data on a Toyota vehicle using three-way catalyst technology showed emission levels less than 0.4 NO_x at 31,000 miles, Toyota Motor Co. claimed that it still faced emission control system deterioration problems in meeting this standard, and as a result, it was doubtful that it could comply with such a standard by 1982.[70] Subaru of America stated that its vehicles could probably comply with a 0.4 NO_x standard in spite of the fact that such a standard would force the unwise and impractical use of catalyst technology on its vehicles.[71] Honda reported that its low NO_x CVCC system showed test results between 0.3 and 0.4 grams of NO_x per vehicle mile.[72] The Motor and Equipment Manufacturers Association (MEMA) contended that the CARB had not made the requisite findings with regard to the technical feasibility of the 100,000 mile optional certification procedure.[73]

Finally, the CARB testified that the vehicles of two different manufacturers have already met 0.4 NO_x emission levels during 1977 model year certification.[74] The CARB believed that the technology used by these manufacturers could be applied to the vehicles of other manufacturers to permit these vehicles to meet a 0.4 NO_x standard within the available lead time.[75] The CARB also stated that a 7.0 grams of CO per vehicle mile standard would pose no additional technical burdens on any manufacturer other than those already imposed by a 9.0 CO standard.[76] With respect to the standards under the optional 100,000 mile certification procedure, the CARB stated that this procedure was adopted in response to the manufacturers' concerns with the problem of emission controls on diesel-powered vehicles.[77] Although the CARB noted that all diesel-powered vehicles may not be able to certify to a 1.0 NO_x standard, it nevertheless concluded that the "* * * use of exhaust gas recirculation on diesel engines can provide sufficient control, even for large diesel-powered passenger cars, to achieve a 1.0 g/mi [grams per mile] NO_x standard."[78] As a result, the CARB concluded that the 1982 primary set of standards as well as the 1983 and subsequent model year standards were technologically feasible within the lead time remaining.[79] In support of its conclusion, the CARB reported that various manufacturers have indicated that a 0.4 NO_x standard was feasible at low mileages and submitted 1977 quality audit test data obtained from the assembly-line testing of Volvo and Saab vehicles and test data from the CARB Volvo test program.[80]

In light of the above discussion, as well as the judgment of my technical staff and the ongoing developmental efforts of the manufacturers,[81] I am unable to conclude that the requisite technology cannot be developed and applied within the available lead time in order to achieve compliance with the 1981 and subsequent model year California standards.

With respect to the cost of compliance with the 1981 and subsequent model year California standards, the CARB concluded that this cost would not be excessive.[82] Although both Ford and General Motors stated that there would be a fuel economy penalty associated with a 0.4 NO_x standard, Ford believed that it would still be able to meet the applicable Federal fuel economy requirements.[83] Chrysler stated that a 1.0 or 0.4 NO_x standard would result in adverse effects on fuel eoncomy, limitations in product availability, and increases in vehicle cost.[84] Chrysler further stated that "* * * the minimum fuel economy *penalty* in going from 1.5 HC, 15.0 CO and 2.0 NO_x to 0.4 HC, 3.4 CO and 0.4 NO_x is about 15 percent even if three-way catalyst techniques are used."[85] Very little specific information was provided by American Motors, although it indicated that its vehicles would suffer a fuel economy penalty under a 0.4 NO_x standard.[86] Subaru

[66] *See* "Statement by American Motors Corp. on the California Air Resources Board Proposal for 1982 and Later Passenger Car, Light-Duty Truck and Medium-Duty Vehicle NO_x Exhaust Emission Standards," Presented at the CARB Hearing, June 22, 1977; "Statements by American Motors Corp. in Response to the California Air Resources Board Proposed Changes in the Emissions Standards and Test Procedures for 1982 and Later Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," Presented at the CARB Hearing, January 25, 1977; "Statement by American Motors Corp. in Response to the California Air Resources Board Proposed Changes in the Emissions Standards and Test Procedures for 1979 and Subsequent Passenger Car, Light-Duty Trucks and Medium-Duty Vehicles," Presented at the CARB Hearing, November 23, 1976.

[67] *See* Tr. of August 1977 Hearing, *supra* note 10, at 397-399, 402, 404-406.

[68] *See* Letter from H. W. Gerth to Benjamin R. Jackson, *supra* note 24.

[69] *See* Letter from J. Kennebeck, Volkswagen of America, Inc., to Director, MSED, EPA, October 21, 1977; CARB November Staff Report, *supra* note 10, at 20.

[70] *See* Letter from Keitaro Nakajima, Toyota Motor Co., Ltd., to G. C. Hass, CARB, October 18, 1976; Nakajima, Keitaro, "Toyota Comments Before the Environmental Protection Agency Waiver Hearing on the California Exhaust Emission Standard for 1982 and Subsequent Light and Medium-Duty Vehicles," August 4, 1977.

[71] *See* Tr. of August 1977 Hearing, *supra* note 10, at 407, 410, 415.

[72] *See Supra* note 22.

[73] *See* Tr. of August 1977 Hearing, *supra* note 10, at 279-280, 290.

[74] *See id.* at 265-266, 357; Letter from Thomas C. Austin to Ben Jackson, *supra* note 10.

[75] *See* Tr. of August 1977 Hearing, *supra* note 10, at 266, 270-274.

[76] *See id.* at 276-278.

[77] *See id.* at 266; Tr. of CARB June 1977 Meeting, *supra* note 10, at 5-6.

[78] State of California, Air Resources board, "Staff Report 77-13-2," June 22, 1977, at 9-10 (hereinafter "CARB June Staff Report").

[79] *See id.* at 5, 9-13; Tr. of August 1977 Hearing, *supra* note 10, at 266, 272-274; CARB November Staff Report, *supra* note 10, at 21-26; State of California, Air Resources Board, "Resolution 77-13-2", June 22, 1977; State of California, Air Resources Board, "Resolution 77-48," September 30, 1977; State of California, Air Resources Board, "Staff Report 76-18-2," September 21, 1976.

[80] *See* Tr. of August 1977 Hearing, *supra* note 10, at 266; Letter from Thomas C. Austin to Ben Jackson, *supra* note 10, at Attachments, V, IX, X.

[81] *See* Memorandum from Eric O. Stork to Norman D. Shutler, January 13, 1978, *supra* note 8; Memorandum from Eric O. Stork to Norman D. Shutler, April 4, 1978, *supra* note 8. Based on a certain set of assumptions, my technical staff has previously concluded that a 0.41 HC/3.4 CO/0.4 NO_x set of standards could be met as early as the 1982 model year. *See* Emission Control Technology Division, Mobile Source Air Pollution Control, Office of Air and Waste Management, EPA, "Automobile Emission Control—The Development Status, Trends, and Outlook as of December 1976," A Report to the Administrator, EPA, April 1977.

[82] *See* Tr. of August 1977 Hearing, *supra* note 10, at 275. The CARB also presented information provided by the manufacturers on this question. *See* CARB November Staff Report, *supra* note 10, at 10-20. I have also considered information relevant to this question in prior waiver decisions. *See* 43 FEDERAL REGISTER 1829, 1832 (January 12, 1978); 43 FEDERAL REGISTER 15490, 15492 (April 13, 1970).

[83] *See* Tr. of August 1977 Hearing, *supra* note 10, at 329-330, 388-389.

[84] *See id.* at 341. In this regard Chrysler indicated that the cost of equipping passenger cars with three-way catalyst emission control technology would be approximately 300 to 350 dollars per vehicle. *See id.* at 358-359.

[85] Letter from R. M. Wagner to Benjamin R. Jackson, *supra* note 62.

[86] *See* CARB November Staff Report, *supra* note 10, at 14.

stated that it would cost approximately three hundred dollars per vehicle, in addition to increased maintenance expenses, in order to equip passenger cars with a three-way catalyst emission control system.[87] MEMA stated that the competitive impact of the 100,000 mile optional certification procedure "* * * would be devastating, in that it would result in a substantial loss of business for automotive manufacturers, independent garages and other repair outlets."[88]

In spite of the concerns expressed by some of the manufacturers, I do not believe that the costs of compliance are so excessive as to warrant a denial of a waiver on these grounds, given the intent of Congress in adopting section 209 of the Act.[89]

Certification and Test Procedures. Under section 209(b), I also cannot grant a waiver if I find that the California certification and test procedures are in conflict with the corresponding Federal procedures. This situation may arise where: (1) A manufacturer elects the 100,000 mile optional certification procedure during the certification of 1981 and subsequent model year passenger cars and the demonstration of compliance with this procedure does not satisfy the applicable Federal requirements for this vehicle; or (2) two test vehicles representing the same engine family are required to go through Federal and California certification procedures in order to satisfy the Federal "line-crossing" requirements.[90] In the event that a manufacturer should elect the 100,000 mile optional certification procedure, I have decided that EPA will, pursuant to section 209(b)(3), accept the data used to successfully certify any vehicle under this procedure for Federal certification purposes. With respect to the second situation, I have decided that EPA will, pursuant to section 209(b)(3), accept the data used to successfully certify any vehicle under the California test procedures as demonstrating that such vehicle complies with the applicable Federal standards, and the appropriate Federal certificate of conformity will be issued on this basis. With respect to both of the foregoing points, the resulting Federal certificate of conformity issued on the basis of compliance with the corresponding California standards will cover only those vehicles introduced into commerce for sale in the State of California and possibly in States which have adopted California standards pursuant to section 177 of the Act. Whether the certificate would apply in those States, and under precisely what circumstances, are issues not before me now.

Objections to granting the waiver. For the reasons stated in a prior decision concerned with 1979 through 1982 model year light-duty trucks and medium-duty vehicles,[91] I must dismiss the objections raised concerning the applicable standard of review in a California waiver decision and the adequacy of the opportunity to comment on the 1980 0.39 grams per vehicle mile non-methane HC standard and the California high altitude regulations.[92] In that decision I have also addressed the manufacturers' request that I consider the impacts of a California waiver decision in light of section 177 of the Act.[93]

Ford objected to the granting of the waiver on the grounds that section 202 of the Act does not permit the regulation of methane emissions. Ford stated that the legislative history behind the Act clearly indicates that the intent of Congress was to control only detrimental HC emissions and not harmless exhaust constituents such as methane.[94] After careful consideration of this objection, I have determined that Ford's interpretation of the Clean Air Act is not correct.[95] Furthermore, it is EPA's practice to leave the decisions on controversial matters of public policy, such as whether to regulate methane emissions, to California.[96]

Ford argued that I should not grant California a waiver of Federal preemption unless I can make the findings required to support California's contention that a waiver should be granted.[97] However, as has been stated in prior waiver decisions, I have interpreted section 209 of the Act to impose on the manufacturers the burden of demonstrating that the conditions exist which warrant the denial of a waiver request.[98]

Ford and others claimed[99] that these standards may result in a restricted vehicle offering incapable of meeting basic market demand in California contrary to *International Harvester* v. *Ruckelshaus.*[100] I cannot agree. While the information presented on this issue does indicate that California's emission standards may limit the number of models of passenger cars which may be sold in California in the future, I cannot conclude on the basis of this record that any limitation will in fact occur or that any such limitation will cause basic market demand not to be satisfied.[101]

AIA contended that the CARB had not provided interested parties with a fair and adequate opportunity to comment on the 1981 and 1982 California standards at the CARB public hearing of September 29, 1977.[102] If this argument has any validity, the EPA waiver hearing is not the proper forum in which to raise it. Section 209(b) does not require that EPA insist on any particular procedures at the State level. Furthermore, a complete oppor-

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[87] *See* Tr. of August 1977 Hearing, *supra* note 10, at 407, 410, 419.

[88] *See id.* at 284.

[89] *See* Memorandum from Eric O. Stork to Norman D. Shutler, January 13, 1978, *supra* note 8, at 1, 2, 20–23; Memorandum from Eric O. Stork to Norman D. Shutler, April 4, 1978, *supra* note 8, at 18–22.

[90] *See* 40 CFR § 86.077–28 (1975). The term "line-crossing," as defined by the Federal procedures, refers to the situation where the durability vehicle interpolated 4,000 or 50,000 mile points on the least-squares fit straight line drawn through the test data points exceed the Federal exhaust emission standards. This situation does not include the case where no applicable durability vehicle test data point exceeded the applicable standard. The California "line-crossing" requirements may be found in subparagraph 3(c) of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended September 30, 1977.

[91] *See* 43 FEDERAL REGISTER 1829, 1833 (January 12, 1978).

[92] *See* 43 FEDERAL REGISTER 1829, 1832, 1833, 1834 (January 12, 1978); *see also* letter from Stuart R. Perkins to Benjamin R. Jackson, *supra* note 21.

[93] *See* 43 FEDERAL REGISTER 1829, 1833 (January 12, 1978).

[94] *See* Tr. of October 1977 Hearing, *supra* note 10, at 69, 76–85, 129–130; Ford Motor Co., "Non-Methane Hydrocarbon Motor Vehicle Standards Under the Clean Air Act Amendments of 1977," Presented at the EPA California Waiver Hearing, San Francisco, Calif., October 13, 1977.

[95] The EPA has previously indicated that compliance with the statutory requirements of section 202(b) of the Act would be based on a total HC standard. *See* 42 FEDERAL REGISTER 32906 (June 28, 1977); Letter from David G. Hawkins, Assistant Administrator for Air and Waste Management, EPA, to Herbert Misch, Ford Motor Co., November 17, 1977. Although Ford contends that the Clean Air Act Amendments of 1977 require otherwise, I continue to believe that the express language of section 202(b) of the Act permits the regulation of methane emissions. The legislative history behind the Clean Air Act contains no statement to the contrary.

[96] *See* 41 FEDERAL REGISTER 44209, 44210 (October 7, 1976); 42 FEDERAL REGISTER 31641 (June 22, 1977).

[97] *See* Memorandum from John P. Eppel and Helen O. Petrauskas to B. R. Jackson, *supra* note 6.

[98] *See* 41 FEDERAL REGISTER 44209 (October 7, 1976); 42 FEDERAL REGISTER 25755, 25756 (May 19, 1977).

[99] *See* Tr. of August 197 Hearing, *supra* note 10, at 300, 308, 341, 343–344, 352–354; Tr. of October 1977 Hearing, *supra* note 10, at 75, 159; Letter from Michael W. Grice, Chrysler Corp., to Benjamin R. Jackson, Director, MSED, EPA, October 28, 1977.

[100] 478 F.2d 615 (D.C. Cir. 1973).

[101] *See supra* notes 16–81. I am not deciding here that the "basic demand" test of *International Harvester* is applicable in the context of a California waiver. Any determination in this matter would be guided by the interpretation of the applicability of *International Harvester* in a California waiver situation as set forth in a previous waiver decision. *See* 41 FEDERAL REGISTER 44209, 44212, 44213 (October 7, 1976).

[102] *See* Tr. of October 197 Hearing, *supra* note 10, at 216.

tunity was provided at the EPA waiver hearing for the presentation of views.

Subaru of America contended that the adoption and enforcement of an optional 100,000 mile certification procedure violated the consistency requirement of section 209.[103] Subaru took the position that since section 202(a) states that emission standards "shall be applicable to * * * vehicles and engines for their useful life (as determined under subsection (d))," then in order to be consistent with section 202(a) any certification procedure required by California must be related to a vehicle's "useful life." However, inasmuch as this certification procedure is merely optional, and any manufacturer may, if it chooses, comply with the 50,000 mile California certification procedure, I cannot deny this waiver request on this ground.

In any event, the concept of a 100,000 mile certification procedure is not in violation of the requirement of consistency. Congress has intended that the question of being "consistent with section 202(a)" only relate to whether the standards are technologically feasible within the available lead time, given appropriate consideration to the cost of compliance within this time frame, or whether the California certification and test procedures are in conflict with the applicable Federal procedures.[104] Inasmuch as the problems of conflicting procedures have been resolved above, it it therefore in the framework of technology and lead time that California's use of a 100,000 mile certification procedure has entered into the question of consistency, especially in analyzing durability data supplied by the manufacturers and in determining the lead time requirements for distance accumulation during certification. The questions of technology and lead time as they relate to this certification procedure have been previously discussed.

American Motors contended that the 1981 and 1982 model year California standards must be consistent with section 202(b) of the Act and that therefore the CARB must seek an additional waiver of the 1981 and subsequent model year Federal standards for light-duty vehicles produced by low volume manufacturers who are dependent on other manufacturers for technology development.[105] However, given the legislative history of the Clean Air Act Amendments of 1977, I do not concur with this interpretation of section 209 and the responsibilities of the State of California thereunder as suggested by American Motors. In enacting these Amendments, I believe Congress intended that all passenger cars would be required to meet any standard set by California and waived by me under section 209 of the Act.[106] Furthermore, the legislative history of the Clean Air Act Amendments of 1977 contains no statement imposing such an additional burden on the State of California as American Motors contends. In fact, these Amendments specifically reaffirm the original intent of Congress behind section 209 "* * * to afford California the broadest possible discretion in selecting the best means to protect the health of its citizens and the public welfare." [107] As a result, I believe that it would be inconsistent with the intent of Congress in enacting section 209 to impose such a burden on California.[108]

Finally, various manufacturers questioned the need for these standards and the wisdom of California's emission control strategy. These arguments, however, are not grounds for denying California a waiver. Such arguments all fall within the EPA practice of leaving the decision on controversial matters of public policy to California's judgment.[109]

III. Finding and Decision

Having given due consideration to the record of the public hearings of May 16-19, August 3-4, and October 13, 1977, all material submitted for this record and other relevant information, I find that I am unable to make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore, I hereby waive application of section 209(a) of the Act to the State of California with respect to the following sections of title 13 of the California Administrative Code:

Section 1959.5, adopted on June 8, 1977, as amended June 22, 1977, and "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted on June 8, 1977, with respect to 1979 model year passenger cars,

Sections 1960 (a) and (b), adopted November 23, 1976, as amended September 30, 1977, and "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," adopted on November 23, 1976, as amended September 30, 1977, with respect to 1980 and subsequent model year passenger cars, and

Sections 2100 *et seq.*, adopted June 24, 1976, as amended June 30, 1977, and "California New Motor Vehicle Compliance Test Procedures," adopted June 24, 1976, last amended June 30, 1977, with respect to 1979 model year gasoline-powered and 1980 and subsequent model year gasoline and diesel-powered passenger cars.

As stated above, this decision does not include (i) the California certification requirements covering the carburetor idle air/fuel mixture adjustment mechanism and (ii) the limitations on allowable maintenance incorporated by reference in section 1960 of title 13 of the California Administrative Code under the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles."

In addition, I find that those actions of an administrative nature taken by the CARB with regard to the 1978 passenger car standards and test procedures fall within the scope of a waiver currently in effect, and therefore, do not require a new waiver.

My decision to grant the waiver will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce passenger vehicles for sale in California. For this reason I hereby determine and find that this decision is of nationwide scope and effect.

A copy of the above standards and procedures, as well as the record of these hearings and those documents used in arriving at this decision, is available for public inspection during

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[103] *See* Tr. of August 1977 Hearing, *supra* note 10, at 409.

[104] *See* H.R. Rep. No. 95-294, 95th Cong., 1st sess. 301-302 (1977); *see also* 41 Federal Register 44209, 44212 (October 7, 1976); S. Rep. No. 403, 90th Cong., 1st sess. 33-34 (1967); "Hearings on S. 780 Before the Subcommittee on Air and Water Pollution of the Senate Committee on Public Works," 90th Cong., 1st sess. pt. 3, at 1765 (1967); 116 Cong. Rec. 30950, 30968 (1976). Even if this were not the case, I am not persuaded that I must deny California a waiver unless the State adopts the same period of applicability of the standard as the Federal period. Allowing California to adopt a longer period of applicability than the Federal period is fully in keeping with the Congressional intent behind section 209. *See* 41 Federal Register 44209, 44212 (October 7, 1976). Therefore, for the reasons given in addressing a similar question in a prior waiver decision concerned with motorcycle emission standards, I also consider this issue to be relevant to my determination of the stringency of the California standard or to my review of California's determination as to whether its standards, in the aggregate, are at least as protective of the public health and welfare as the applicable Federal standards. *See id.*

[105] *See* Letter from Stuart R. Perkins to Benjamin R. Jackson, *supra* note 21.

[106] *See* S. Rep. No. 95-127, 95th Cong., 1st sess. 71 (1977).

[107] H.R. Rep. No. 95-294, 95th Cong., 1st sess. 301-302 (1977).

[108] *See id.* at 71, 301-302; H.R. Rep. No. 95-564, 95th Cong., 1st sess. 170 (1977); 41 Federal Register 44209, 44210 (October 7, 1976).

[109] *See* Tr. of August 1977 Hearing, *supra* note 10, at 299-302, 334-336, 338, 345, 365-367, 369, 371-372, 374, 376-379, 381, 409, 411-414; Memorandum from John P. Eppel and Helen O. Petrauskas to B. R. Jackson, *supra* note 54, at 8-11; Letter from Stuart R. Perkins to Benjamin R. Jackson, *supra* note 21; 43 Federal Register 1829, 1833 (January 12, 1978).

normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 292 (EPA Library), 401 M Street SW., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, Sacramento, Calif. 95812.

Dated: June 7, 1978.

BARBARA BLUM,
Acting Administrator.

[FR Doc. 78-16492 Filed 6-13-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

TV BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING PURSUANT TO SECTION 1.573(d) OF THE COMMISSION'S RULES

Adopted: June 7, 1978.

Released: June 8, 1978.

By the Chief, Broadcast Bureau.

Notice is hereby given, pursuant to section 1.573(d) of the Commission's rules, that the television broadcast applications listed below will be considered to be ready and available for processing on July 24, 1978. Since the listed applications are mutually exclusive and have been cut off, no other application which involves a conflict with these applications may be filed. Rather, the purpose of this notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under section 1.522(a)(2) of the rules and pleadings to specify issues pursuant to section 1.584.

BPCT-5002 (new), Lima, Ohio, Associated Christian Broadcasters, Inc., Channel 44.
BPCT-5046 (new), Lima, Ohio, Strang Telecasting, Inc., Channel 44.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16424 Filed 6-13-78; 8:45 am]

[6712-01]

COMMON CARRIER SERVICES INFORMATION

Publishing Cost

JUNE 8, 1978.

Due to the high cost of publishing notices listing Common Carrier applications accepted for filing with the Commission, they will, as of July 1, 1978, no longer be published in the FEDERAL REGISTER. This information is available in various industrial publications and as part of FCC news releases.

Questions concerning this revision may be directed to George Combs, FCC Rules Section, at 632-7024.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16423 Filed 6-13-78; 8:45 am]

[6712-01]

[Docket No. 20546; FCC 78-372]

ITT WORLD COMMUNICATIONS, INC. AND WESTERN UNION INTERNATIONAL, INC.

Instituting Investigation

MEMORANDUM OPINION AND ORDER

Adopted: May 31, 1978.

Released: June 7, 1978.

By the Commission: Commissioners Ferris, Chairman; and Brown absent.

In the matter of ITT World Communications, Inc. Revisions to Tariff F.C.C. No. 43, Docket No. 20546; ITT World Communications, Inc. Revisions to Tariff F.C.C. No. 43, Transmittal No. 2081; Western Union International, Inc. Revisions to Tariff F.C.C. No. 4, Transmittal No. 1238.

1. By Memorandum Opinions and Orders, FCC 78-37, released January 27, 1978, and FCC 78-112, released February 27, 1978, the Commission suspended the proposed rate reductions of Western Union International, Inc. (WUI), and RCA Global Communications, Inc. (Globcom) for alternate voice/data (AVD) channel service between Hawaii and U.S. mainland. Now before the Commission for its consideration are (a) ITT World Communications Inc. (Worldcom) transmittal No. 2081 which contains a proposed rate reduction matching the WUI and Globcom suspended rates and a proposed reduction in the Hawaii-Guam rate; (b) WUI transmittal No. 1238 which contains a proposed rate reduction from the current rate for AVD circuits but which is higher than the suspended rate; (c) Petitions to reject these proposed reductions, filed by Hawaiian Telephone Co. (HTC); and (d) Opposition filed by Worldcom and WUI.

BACKGROUND

2. In an order released September 15, 1977, Western Union International, Inc., 66 FCC 2d 373 (1977), we determined that an investigation was warranted into the rate reduction for AVD circuits from $3,770 to $2,965 per month then proposed by WUI. In a subsequent order released October 4, 1977, ITT World Communications, Inc., 66 FCC 2d 330 (1977), we announced our intention to investigate Worldcom's proposed reduction from $3,770 to $2,944 per month for the same service. By Memorandum Opinion and Order, FCC 77-749, released November 2, 1977, we announced that the investigation would also include Globcom's proposed reduction from $3,770 to $2,920 per month for this service. We further stated in this last order that should the other carriers propose to match Globcom's proposed rate that the investigation would relate to the $2,920 rate rather than the higher rates then in effect. None of these reductions was suspended.

3. In those orders we noted that the cost support material supplied by the carriers raised substantial questions in the areas of entrance facility costs,[1] fill factors, impact on other services and projected rates of return. Our analysis of those submissions indicated that the proposed rates in the $2,900 range may cover the carriers' estimated operational expenses and, therefore, we did not suspend those reductions. However, we noted that the reasonableness of the rates was, at best, speculative.

4. In our two suspension orders, supra, pertaining to WUI's and Globcom's proposed further reductions (to $2,735 for WUI and $2,720 for Globcom), the carriers' cost support was found deficient since the cost support material reflected earlier contract rates for entrance facilities as opposed to the higher tariff rates then in effect. Moreover, the proposed rates were less than the carriers' own estimated revenue requirement. Thus, the question of cross-subsidy was clearly raised. Also, the reasonableness of the rate was even more in question since the rate of return on the service appeared to be less than cost of capital. No explanations were offered concerning how the deficiencies would be handled and the proposed reductions were suspended for the maximum statutory period.

PRESENT PROPOSALS AND CONTENTION OF THE PARTIES

A. WUI

5. WUI now proposes a rate of $2,830 per month to be effective on May 22, 1978.[2] (Its suspended $2,735 rate becomes effective on June 20, 1978 following the suspension period.) WUI estimates its revenue requirement for the service at $2,811 per month, an increase over the estimated revenue requirement for the $2,735 rate. WUI's support material indicates that the new rate proposal recognizes increased

[1] "Entrance facilities" are the facilities the international record carriers obtain between their operating units and cable heads or earth stations. These facilities are generally obtained from the telephone company.

[2] By order of the Chief, Common Carrier Bureau requiring full statutory notice, WUI has deferred the effective date of this revision to June 8, 1978

entrance facility charges [3] which are offset by other reductions. In part, WUI claims its rate base has been modified in light of an agreement to purchase additional satellite circuits from AT&T/GSAT between San Francisco and Hawaii. Thus, the larger number of circuits will affect its other revenue requirements by spreading them over more facilities. WUI also projects, for ratemaking purposes, a fill factor of 75 percent.

6. HTC argues that the fill factor utilized by WUI does not comport with WUI's own projection. Using WUI's projected utilization forecast, HTC claims that a 67 percent fill ratio should be employed. In addition, HTC assets that WUI has also agreed to purchase 10 additional circuits for service between Hawaii and the east coast of the U.S. mainland. Adding these circuits into the San Francisco-Hawaii total, will result in, according to HTC, a fill factor of 61 percent. Utilizing its estimated adjustments to WUI's figures, HTC claims WUI's revenue requirement would be $3,025 per month. Finally, HTC argues that not only is the $2,830 rate non-compensatory, but also that WUI has not sought or obtained Commission authorization to acquire the additional 40 or 50 new domestic satellite circuits.

7. In operation, WUI argues that its ratemaking principles are in accord with accepted principles and that the proposed rate reflects the most current cost data available. Specifically WUI argues that it should not include circuits from its east coast gateway since the proposed rate is from its west coast gateway. WUI also argues that since it intends to seek an amendment to its authority to acquire satellite circuits, it was proper to include these prospective facilities in its calculations. WUI also notes that since the proposed rate would only be effective for 29 days, a possible violation of § 61.59(a) of the Commission's rules, WUI would be willing to defer the effective date of its $2,735 rate for one additional day, should the Commission deem such action necessary.

B. WORLDCOM

8. Worldcom proposes to reduce its main-land Hawaii AVD rate from $2,920 to $2,720 per month to become effective May 16, 1978.[4] In its cost support material it estimates a monthly revenue requirement of $2,720 based on a return requirement of 2.5 percent. Worldcom asserts that this rate change will not impact traffic or revenue from other services provided by Worldcom. In addition, Worldcom shows no investment in U.S./Hawaii cable No. 1 on the grounds that average cable/repeater depreciation life is between 20-23 years and cable No. 1 was put in service in 1957. Moreover, Worldcom utilizes an allocation of circuits rather than taking total cable investment. It also employs a cable-satellite fill ratio of 85 percent.

9. With regard to the Mainland-Hawaii rates HTC asserts that since Worldcom assigns three circuits to U.S.-Hawaii Cable No. 1, it must allocate its investment in that cable to this offering and Worldcom's investment would increase from $96,326 to $109,462. HTC also claims that the 85 percent fill ratio used to support the proposal is not supported in Worldcom's cost justification schedule and must be rejected as improper ratemaking. HTC also asserts that Worldcom's own projected 2.5 percent rate of return is inadequate to cover even interest on debt, and thus the existence of cross-subsidization and burden on other services is necessarily apparent. HTC notes that this rate was developed apparently in response to the procurement policy announced by the Defense Commercial Communications Office (DECCO), which directs carriers to propose rates below tariff rates and that contract awards will be based on its cost projections subject only to the expiration of the required tariff notice period and statutory suspension period. Thus, HTC concludes a new dimension has been added to carrier ratemaking and in light of the obvious deficiencies in the filing, the proposed tariff should be rejected.[5]

10. In opposition, Worldcom submits that the Hawaii No. 1 Cable has been substantially depreciated and that inclusion of the cost of that cable with the lower costs of other facilities would create a significant inflation in the overall costs. Worldcom further argues that the use of any fill factor is necessarily somewhat arbitrary, however, the 85 percent figure is Worldcom's world-wide average. Thus, Worldcom asserts that its use for the Hawaii market is appropriate. Worldcom also argues that the proposed rates were developed in response to a competitive market, and that the return produced by such rates should not be a factor. Finally, Worldcom asserts that rejection is not an appropriate remedy and if the Commission believes that reasonableness of any element is questionable, the appropriate course of action would be an investigation pursuant to Section 204 of the Communications Act.

DISCUSSION

11. In our orders suspending WUI's and Globcom's proposed rates supra, we noted that substantial questions as to the lawfulness to the rates within the meaning of section 201 of the Communications Act, 47 U.S.C. 201, existed. We further noted that rejection of the proposed rates was not an appropriate remedy in those particular factual circumstances. It is clear that the Worldcom filing raises similar questions to those we previously noted. Since we are instituting an investigation of the WUI and Globcom rates, we will enlarge that proceeding to include the present Worldcom proposal. Inasmuch as the tariff revisions filed by Worldcom proposing a mainland-Hawaii rate of $2,720 is not contrary to a prior Commission decision, and is not otherwise clearly unlawful on its face, rejection is not warranted. Similarly, the Hawaii-Guam rate is also not rejectable; however, in light of the serious questions raised concerning this rate and the existing investigation we believe suspension is warranted. As to the present WUI filing, we find that it violates § 61.59 of the rules, which requires that, without special permission granted prior to filing, a tariff change must remain effective for not less than 30 days. At present, WUI's suspended rate has not been effective for thirty days and WUI has not sought special permission to file the instant interim rate proposal. Therefore, the filing is in violation of Commission Rules and Regulations and will be rejected.[6]

12. Although the present WUI filing is being rejected, we note that it shows a revenue requirement larger than that shown to support its $2,720 rate. This larger deficiency exacerbates our concern that the $2,720 rate may be unreasonably low, thus making cross-subsidization by other services more likely. In light of the other questions previously raised, e.g. projected fill factors, operational and maintenance costs, and questions concerning the proper allocation of entrance facility

[3] WUI utilizes a weighted average cost for such facilities as opposed to actual lease charges for AVD entrance facilities.

[4] Worldcom also proposes to reduce the AVD rate between Hawaii and Guam from $6,840 per month to $6,435 per month. By order requiring these changes to be fied on full statutory notice, the effective date of these proposed revisions has been extended to June 5, 1978.

[5] HTC also argues that the Hawaii-Guam rate should be rejected for similar deficiencies. Since the Commission has an on-going investigation of Hawaii-Guam rates, docket 20456, we believe that such investigation should address the current proposal.

[6] Even if allowed, WUI's offer to defer the effectiveness of the $2,735 rate for one day would not cure the violation of the rule. Section 61.59(a) of the rules states that "after notice of a change has been published and filed, the new changes or regulations must be allowed to become effective and remain so for at least 30 days from their effective date before any change can be made therein." Therefore, since the $2,735 rate was filed and published before the $2,830 rate, it (i.e., the $2,735 rate) must, absent special permission, become effective and remain so for 30 days before being changed.

costs, the reasonableness of WUI's present rate proposal and suspended rate appear to be even more questionable. The present Worldcom filing in which the carrier forecasts only a 2.5 percent rate of return clearly raises an additional question of reasonableness. Questions of reasonableness in the context of the Communications Act, not the procurement policies of DECCO, clearly exist in the present filings as well as the previously suspended rates. We will therefore consolidate the present Worldcom filing with the presently suspended WUI and Globcom rates for investigation and hearing. This investigation will address the carriers' allocations of cost, the reasonableness of the rate of return, and the extent and permissibility of any cross-subsidization of other services resulting from the rates charged for AVD service. Finally, the hearing will address whether the Commission should prescribe rates and practices for the service offering.[7]

13. *Accordingly, it is ordered,* That, pursuant to the provisions of section 204 of the Communications Act of 1934, as amended, 47 U.S.C. 204, the tariff revisions contained in ITT World Communications, Inc., Transmittal No. 2081 are hereby suspended until October 16, 1978;

14. *It is further ordered,* That, by separate order, an investigation into the lawfulness of the tariff revisions filed by ITT World Communications, Inc., in transmittal No. 2081, proposing a reduction in its mainland-Hawaii rate, including any revisions thereof, shall be instituted.

15. *It is further Ordered,* That the tariff revisions contained in ITT World Communications, Inc. transmittal No. 2081 establishing charges between Honolulu, Hawaii and Guam shall be included in the on-going investigation, in docket No. 20546, of rates between the U.S. Mainland and Guam.

16. *It is further ordered,* That the tariff schedules filed by Western Union International Inc. contained in transmittal No. 1238 are rejected.

17. *It is further ordered,* That the petitions to reject the captioned transmittals filed by Hawaiian Telephone Co. are granted to the extent indicated above but are denied in all other respects.

18. *It is further ordered,* That the Secretary shall send a copy of this order by certified mail, return receipt requested, to ITT World Communications, Inc., and shall cause a copy to be published in the FEDERAL REGISTER.

[7]The issues for a consolidated hearing involving all of these Hawaii-mainland rates will be set forth in a subsequent order upon our completion of the evaluation of the material submitted in docket No. 20778, the international record carrier preliminary audit proceeding.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-16427 Filed 6-13-78; 8:45 am]

[8712-01]

[SS Docket No. 78-163]

JOSEPH E. CASTELLETTI, JR.

Designating Application for Hearing on Stated Issues

Adopted: June 7, 1978.

Released: June 8, 1978.

In the matter of the application of Joseph E. Castelletti, Jr., 214 8th Avenue SW., Largo, Fla. 33540, for amateur radio station and novice class operator licenses.

The Chief, Safety and Special Radio Services Bureau, has under consideration an application for an amateur radio station license and a novice class operator license filed by Joseph E. Castelletti, Jr., on July 28, 1977.

1. Castelletti was granted a citizens band radio station license on June 3, 1975, for a 5-year term. On February 15, 1978, the Commission released an order (SS-535-77) revoking Castelletti's citizens band license. That order concluded that Castelletti transmitted on the frequencies 27.536 and 27.546 MHz without a Commission license authorizing such operation, in willful violation of section 301 of the Communications Act of 1934, as amended. The order further concluded that Castelletti, by his unlicensed operation, disrupted the legitimate use of frequencies and circumvented the Commission's scheme of regulation. The order further concluded that Castelletti did not identify his transmissions by a call sign assigned to him by the Commission, but instead used the designator "27W192," a designator of the type assigned by organizations known as "Whiskey" Clubs. The order concluded that organizations such as the "Whiskey" Clubs actively promote and encourage unlicensed and illegal operation and that Castelletti had further demonstrated his unfitness to be a Commission licensee by adhering to the operating procedures of the Florida "Whiskey" organization.

2. In view of the findings and conclusions of the order of revocation (SS-535-77) released on February 15, 1978, it cannot be determined that a grant of Castelletti's application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the application for hearing. The findings and conclusions of the order of revocation shall be res judicata as to the applicant and shall not be relitigated in this proceeding.

Accordingly, It is ordered, Pursuant to section 309(e) of the Commications Act of 1934, as amended, and §§ 0.331 and 1.973 of the Commission's rules, that the captioned application is designated for hearing at a time and a place to be specified by subsequent order, upon the following issues:

(1) To determine the effect of the facts and conclusions contained in the order of revocation, released February 15, 1978 (SS-535-77), upon the applicant's qualifications to be a licensee of the Commission.

(2) To determine, in light of the evidence adduced under the foregoing issue, whether the applicant has the requisite qualifications to be a licensee of the Commission.

(3) To determine whether the public interest, convenience, and necessity would be served by a grant of the application for amateur radio station and novice class operator licenses.

It is further ordered, That to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in the order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

It is further ordered, That a copy of this order shall be sent by certified mail—return receipt requested, and by regular mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory, and Enforcement Division.

[FR Doc. 78-16426 Filed 6-13-78; 8:45 am]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

EDP EXAMINATION, SCHEDULING, AND REPORT DISTRIBUTION

Policy Statement

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Policy statement.

SUMMARY: This policy statement reflects the judgment of the Corporation that its adoption will result in more efficient use of its examination staff and will eliminate the multiple examinations of individual data centers. The policy statement also specifies the procedure for distribution of examination reports.

EFFECTIVE DATE: June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Dollar, Chief, Automation Section, Federal Deposit Insurance Corporation, Washington, D.C. 20429, 202-389-4351.

STATEMENT OF POLICY CONCERNING EDP EXAMINATION, SCHEDULING, AND REPORT DISTRIBUTION

DEFINITIONS

1. *Insured institution.* Any bank, savings and loan association, or other financial institution whose deposits or shares are insured by a Federal agency.

2. *Service institution.* Any insured institution which receives data processing services.

3. *Independent data center.* Any data center that provides data processing services to an insured institution, but is not owned by or affiliated with an insured institution.

4. *Holding company.* Any organization which has control over one or more insured institutions.

5. *Bank service corporation.* A servicing corporation as defined in the Bank Service Corporation Act, 12 U.S.C. 1861-1865.

I. EXAMINATION RESPONSIBILITY

A. *Insured institutions.* Data centers operated by an insured institution, or its subsidiary, will be examined by the Federal regulatory agency responsibility for the insured institution.

B. *Holding companies.* 1. Data centers operated by a holding company, or its affiliate, which services only one class of insured institution will be examined by the Federal regulatory agency responsible for that class of insured institution.

2. Data centers operated by a holding company, or its affiliate, which services more than one class of insured institutions will be examined jointly, or on a rotated basis, as agreed to by the Federal regulatory agencies responsible for those classes of insured institutions.

3. Data centers operated by holding companies which control only one insured institution, or its affiliate, will be examined by the Federal regulatory agency responsible for the insured institution.

C. *Independent data centers.* Responsibility for the examination of independent data centers will be based on the class of insured institution being serviced. The guidelines for holding companies (item B) will apply.

D. *Bank service corporations.* Responsibility for the examination of bank service corporations will be based on the class of insured institutions being serviced. The guidelines for holding companies (item B) will apply.

E. *Independent examinations.* No Federal regulatory agency is precluded from conducting an independent examination of any data center that is providing data processing services to an insured institution for which the agency is responsible or where and agency has regulatory responsibility for holding company data centers.

II. SCHEDULING AND REPORT PREPARATION

A. *Joint examinations.* 1. Joint examinations will be scheduled at the regional level. Examination duties will be divided and rotated among the EDP examiners assigned.

2. One report will be prepared and signed by the examiner-in-charge from each agency. The participating examiners will reach an agreement on the report comments and the responsibility for authoring the finished report.

3. Interested state agencies will be invited to participate when institutions operating under their charter are being serviced.

B. *Rotated examinations.* 1. When joint examinations are not scheduled for servicers of various classes of insured institutions, the examination responsibilities will be rotated among the appropriate agencies for 2-year periods. However, when the data center's overall condition is determined to be less than satisfactory, joint examinations must be scheduled for the subsequent examination.

2. The examining agency will complete its standard report of examination when conducting rotated examinations.

III. REPORT DISTRIBUTION POLICIES AND PROCEDURES

A. At the conclusion of the examination the examiner will discuss the report comments with the senior management. Management will be informed that, as a matter of policy, these or similar report comments will be distributed to all insured serviced institutions. The distribution policy will be repeated in the cover letter transmitting the completed report to the data center.

B. The examining agency will furnish all other affected agencies (at the district or regional level) a copy of the completed report, a complete list of serviced institutions, and an outline of any request for corrective action. If the receiving agency feels additional follow-up is warranted, it will immediately request the initiating agency to do so.

C. Each agency will be responsible for reproducing and distributing the report comments to its serviced institutions. A transmittal letter will be used to advise each recipient that the comments are for their internal use only, are not to be construed to satisfy audit requirements, and remain the confidential property of the sending agency. A written receipt will be obtained from each recipient. Report comments resulting from joint examinations will be distributed by the participating agencies to their respective serviced institutions.

These procedures do not affect existing distribution agreements with State agencies. The agency conducting the examination will be the only one permitted to provide nonparticipating State authorities copies of the report. In the case of joint examinations, participation by State agencies and report distribution to those State agencies will be decided on an individual basis (at the district or regional level) by the participating Federal agencies.

D. Regardless of the distributing agency, report comments transmitted to serviced institutions will be limited to the examiner's conclusions, recommendations and comments. Matters of a proprietary or competitive nature relating to the servicer will be excluded from report comments prepared for distribution to serviced institutions, but will be contained in the report provided to the servicer and other Federal agencies. Requests for additional information will be considered on an individual basis. Each agency with serviced institutions will have access to examiner work papers in addition to the complete report (including confidential sections).

E. In cases where the servicer is examined by a single agency and does not respond to corrective action requests, it may be necessary to report the uncorrected deficiencies to the serviced institutions. However, the regulatory agencies of all serviced institutions will first agree on the need and jointly meet with the servicer.

By order of the Board of Directors, June 9, 1978.

ALAN R. MILLER,
Executive Secretary.

[FR Doc. 78-16450 Filed 6-13-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 117-R]

CARBONELL FORWARDING CO.

Order of Revocation

On May 16, 1978, Carbonell Forwarding Company, previously located at 1170 Broadway, New York, NY 10001, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 117-R 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. 117-R issued to Carbonell Forwarding Company be and is hereby revoked effective May 16, 1978, without prejudice to reapply for a license in the future.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served upon Carbonell Forwarding Company, c/o Mr. Alfonso Silva, 23 Clinton Road, Garden City, New York 11530.

ROBERT M. SKALL,
Deputy Director, Bureau of Certification & Licensing.

[FR Doc. 78-16462 Filed 6-13-78; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY:

Change in Location of Meeting

AGENCY: Department of Health, Education, and Welfare Office of Education.

ACTION: Revision of notice.

SUMMARY: Notice is hereby given of a change in location of the meeting of the Advisory Committee on Accreditation and Institutional Eligibility. Notice of the meeting was published previously in the FEDERAL REGISTER on April 20, 1978, 43 FR 16810-16811. The meeting will be held at the International Inn, No. 10 Thomas Circle NW., Washington, D.C. 20005. Notice is also given of a change in time for the meeting on June 22. The meeting will begin

at 8:30 a.m., local time, and will end at 6:00 p.m.

DATES: June 21, 1978, 9:00 a.m. to 5:00 p.m., local time; June 22, 1978, 8:30 a.m. to 6:00 p.m.; and June 23, 1978, 9:00 a.m. to 3:00 p.m.

FOR FURTHER INFORMATION CONTACT:

John R. Proffitt, Director, Division of Eligibility and Agency Evaluation, Office of Education, Room 3030, ROB 3, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9873.

Signed at Washington, D.C. on June 9, 1978.

JOHN R. PROFFITT,
Director, Division of Eligibility and Agency Evaluation, Office of Education.

[FR Doc. 78-16494 Filed 6-13-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[FDAA-3063-EM; Docket No. NFD-630]

MISSISSIPPI

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of emergency declaration for the State of Mississippi (FDAA-3063-EM—), dated April 24, 1978.

DATED: May 19, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The notice of emergency for the State of Mississippi, dated April 24, 1978, is hereby amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of April 24, 1978:

The counties of Coahoma, Grenada, and Panola.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-16483 Filed 6-13-78; 8:45 am]

[4210-01]

[FDAA-558-DR; Docket No. NFD-632]

MONTANA

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Montana (FDAA-558-DR), dated May 29, 1978, and related determinations.

DATED: May 29, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 29, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Montana resulting from severe storms, and flooding beginning about May 16, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Montana.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Montana to have been adversely affected by this declared major disaster. The Counties of: Big Horn, Powder River, Rosebud, Treasure, and Yellowstone.

(Catalog of Federal Domestic Asst. No. 14.701, Disaster Asst.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 78-16482 Filed 6-13-78; 8:45 am]

[4210-01]

[FDAA-557-DR; Docket No. NFD-6317]

WYOMING

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This is a notice of the presidential declaration of a major disaster for the State of Wyoming (FDAA-57-DR), dated May 29, 1978, and related determinations.

DATED: May 29, 1978.

FOR FURTHER INFORMATION CONTACT:

A. C. Reid, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on May 29, 1978, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Wyoming resulting from severe storms, flooding and mudslides beginning about May 15, 1978, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Wyoming.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 1795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Donald G. Eddy of the Federal Disaster Assistance Administration to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following areas of the State of Wyoming to have been adversely affected by this declared major disaster.

The Counties of: Big Horn, Converse, Hot Springs, Park, Niobrara, Washakie, Campbell, Crook, Johnson, Natrona, Sheridan, and Weston.

(Catalog of Federal Domestic Asst. No. 14.710, Disaster Asst.)

WILLIAM H. WILCOX,
Federal Disaster Assistance Administration.

[FR Doc. 78-16481 Filed 6-1378; 8:45 am]

[4210-01]

[Docket No. D-78-502]

DIRECTOR OF THE BOSTON DISASTER FIELD OFFICE

Redelegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of authority.

SUMMARY: This document redelegates certain authority, originally delegated by the Secretary to the Regional Administrator, to the Director of the Boston Disaster Field Office.

EFFECTIVE DATE: February 10, 1978.

SUPPLEMENTARY INFORMATION: The Director of the Boston Disaster Field Office, established pursuant to the President's declaration of a major disaster in Massachusetts on February 10, 1978, is authorized to exercise the authority delegated to the Regional Administrator by the Assistant Secretary for Housing to implement specified provisions of section 404 of the Disaster Relief Act of 1974 (41 FR 37659 (September 7, 1976)). This authority is to be exercised in conformity with HUD rules and regulations and subject to Assistant Secretary for Housing—Federal Housing Commissioner mission assignments. The program policies contained in § 2205.45, proposed rules, 42 FR 47 (March 10, 1977), shall be followed with the exception of section 2205.45(r), Federal responsibility.

In order to exercise the authority delegated above, the Director's authority includes, but is not limited to, the power to:

(a) Appoint and fix compensation of temporary employees at disaster sites in accordance with section 309(b) of Pub. L. 93-288;

(b) Administer the oath of office required by 5 U.S.C. 3331 incident to entrance into the executive branch, or any other oath required by law in connection with employment in the executive branch as authorized under 5 U.S.C. 2903(b); (c) Establish a basic work week of 40 hours for full time employees as provided in 5 U.S.C. 6101;

(d) Certify time and attendance and other records to support salary payments;

(e) Designate the administrative officer to administer oaths in connection with employment matters;

(f) Designate employees who report directly to him the authority to: (1) certify time and attendance records and reports; and (2) approve disbursements for petty cash purchases or travel advances from the imprest fund, provided that the person designated as imprest fund cashier shall not be an employee who makes or approves purchases or travel advances;

(g) Designate an agent and an alternate to receive, safeguard, and distribute salary checks, provided the designees are not authorized to maintain and certify time and attendance records and reports, and initiate personnel actions.

This designation shall be in writing to the Assistant Regional Administrator for Administration, Boston Regional Office;

(h) Certify to the necessity of official commercial long distance telephone calls placed through official telephone facilities;

(i) Direct essential travel within region I by employees under his jurisdiction and approve travel vouchers submitted by HUD employees while assigned to the Disaster Field Office;

(j) Certify for payment processing all documents related to costs and other disbursements to be made in connection with this disaster activity;

(k) Enter into and administer procurement contracts; and

(l) Execute leases for temporary housing of disaster victims.

The Director of the Boston Disaster Field Office may redelegate to employees of the Department of Housing and Urban Development any of the authority delegated above.

(E.O. 11795 of July 11, 1974, 39 FR 25939; sec. 7d, Department of HUD Act, 42 U.S.C. 3535(d); redelegation of authority, 41 FR 37659, September 7, 1976.)

Issued at Boston, Mass., February 24, 1978.

EDWARD T. MARTIN,
Regional Administrator, Region I, Department of Housing and Urban Development.

[FR Doc. 78-16484 Filed 6-13-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

RELOCATION OF FAIRBANKS, ALASKA, DISTRICT OFFICE

The Fairbanks, Alaska, District Office of the Bureau of Land Management will relocate all of its present office personnel, equipment and functions from its present 1028 Aurura Drive site to a new site located on North Post, Fort Wainwright, Alaska.

This move will be effective and completed by 8 a.m., June 23, 1978. The relocation involves the move of the District Land Office which will close for business at 4 p.m. on June 22, 1978, and open for business at 10 a.m. on June 23, 1978. The mailing address and telephone number for the new location will remain: Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska, 99707, telephone 907-452-4725.

A Public Information Office, including land office information, will be maintained at the Fairbanks Federal Office Building, 101 12th Avenue, Room 112.

ARNOLD E. PETTY,
Acting Associate Director.

JUNE 9, 1978.

[FR Doc. 78-16471 Filed 6-13-78; 8:45 am]

[4310-10]

Office of the Secretary

ANIMAL DAMAGE CONTROL POLICY STUDY

Advisory Committee Meeting

Notice is hereby given in accordance with the Animal Damage Control Act of March 2, 1931, that a meeting of the Animal Damage Control Policy Study Advisory Committee will be held on June 29 and 30, 1978.

PURPOSE OF THE COMMITTEE

The purpose of the committee is to provide advisory services in coordination with a policy analysis of the problems of mammal predation of western livestock with major emphasis on the problems of coyote depredation. The analysis will address issues related to mammal predation damage as opposed to migratory bird damage control. The study will be an objective examination of the nature and scope of the predation problems affecting the western livestock industry, the environmental concerns and impacts associated with predatory damage control, and will present options, including the consequences of various levels and methods of predator control.

COMMITTEE MEETING

The advisory committee meeting will be held on June 29 and 30, 1978, at 9 a.m. and will conclude at 5 p.m. each day at the American Institute of Architects, Board Room, 1735 New York Avenue NW., Washington, D.C. 20006. The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited (about 40 spaces) and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file, with the committee, written statements concerning the matters to be discussed.

Persons wishing further information concerning the meeting or who wish to submit written statements, may contact Ms. Sheila Minor, Office of the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, Washington, D.C. 20240, telephone 202-343-4945.

Minutes of the meeting will be available for public inspection thirty days after the meeting and the public hearings in Room 3145, Main Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

Dated: June 9, 1978.

RICHARD J. MYSHAK,
Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 78-16436 Filed 6-13-78; 8:48 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-53]

CERTAIN SWIVEL HOOKS AND MOUNTING BRACKETS

Notice of Investigation

Notice is hereby given that on May 9, 1978, Coats & Clark, Inc. (complainant), 72 Cummings Point Road, Stamford, Conn. 06904, filed a complaint with the United States International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). The complaint alleges unfair methods of competition and unfair acts in the unauthorized importation and sale of certain swivel hooks and mounting brackets for hanging plants and other objects in the home, by reason of the following:

(1) The alleged coverage of the swivel hooks by claims 1, 2, 3, and 4 of U.S. Patent No. 2,995,822, which patent is owned by the complainant;

(2) The alleged coverage of the mounting brackets by all claims of U.S. Patent No. 4,049,255, which patent is owned by the complainant;

(3) The alleged violation of the common law trademarks "Swivel Hook/Eye" and "Swivel Ceiling Hook," which are allegedly common law trademarks owned by the complainant;

(4) The alleged unlawful copying of trade dress associated with the swivel hooks and mounting brackets produced and sold by the complainant which are subject to this investigation;

(5) The alleged unlawful importation sale, and offers for sale of swivel hooks and mounting brackets bearing false designations of origin; and

(6) The alleged unlawful acquisition and use of know-how transmitted in confidence by the complainant to one of the respondents named below, Sato Metal Trading Company, Ltd., concerning such swivel hooks and mounting brackets.

The complaint alleges that such unfair methods of competition have the effect or tendency to destroy or substantially injure an industry efficiently and economically operated in the United States.

Complainant requests a permanent exclusion order against swivel hooks and mounting brackets which infringe its U.S. Patents Nos. 3,995,822 and 4,049,225; which infringe its trademarks; which falsely designate origin; and which copy its trade dress.

Having considered the complaint, the United States International Trade Commission on June 7, 1978, ordered:

1. That, pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine, under subsection (c) whether, on the basis of the allegations set forth in the complaint and the evidence adduced, there is a violation of subsection (a) of this section in the unauthorized importation of certain swivel hooks and mounting brackets into the U.S., or in their subsequent sale by reason of:

(1) The alleged coverage of the swivel hooks by claims 1, 2, 3, and 4 of U.S. Patent No. 3,995,822, which patent is owned by the complainant;

(2) The alleged coverage of the mounting brackets by all claims of U.S. Patent No. 4,049,225, which patent is owned by the complainant;

(3) The alleged violation of the common law trademark "Swivel Hook Eye" and "Swivel Ceiling Hook," which are allegedly common law trademarks owned by the complainant;

(4) The alleged unlawful copying of trade dress associated with the swivel hooks and mounting brackets produced and sold by the complainant which are the subject of this investigation;

(5) The alleged unlawful importation sale and offers for sale of swivel hooks and mounting brackets bearing false designations of origin; and

(6) The alleged unlawful acquisition and use of know-how transmitted in confidence by the complainant to one of the respondents named below, Sato Metal Trading Company, Ltd., concerning such swivel hooks and mounting brackets;

the effect or tendency of which is to destroy or substantially injure an industry efficiently and economically operated in the United States.

2. That, for the purpose of this investigation so instituted, the following are hereby named as parties:

a. The complainant is Coats & Clark, Inc., 72 Cummings Point Road, Stamford, Conn. 06904.

b. The respondents are the following companies alleged to be involved in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complainant and this notice are to be served.

(1) Jordan Industries, Inc., 3030 NW 75 Street, Miami, Fla. 33147.

(2) Carol Cable Co., 249 Roosevelt Avenue, Pawtucket, R.I. 02862.

(3) Sato Metal Trading Co., Ltd., No. 13, 2-Chome, Kanda-Sudacho, Chiyoda-ku, Tokyo, 101, Japan.

(4) Sato American Metal, Inc., 60 East 42nd Street, New York, N.Y. 10017.

(5) Japan Hardcraft, Inc., c/o Ostrolenk, Faber, Gerb & Soffer, 260 Madison Avenue, New York, N.Y. 10016.

c. Jo Ann Miles, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation.

3. That, for the purpose of the investigation so instituted, Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby appointed as presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure, (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute waiver of the right to appear and contest the allegations of the complaint and of this notice, and will authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination, respectively, containing such findings.

The complaint, with the exception of business confidential information, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the New York City office of the Commission, 6 World Trade Center.

By Order of the Commission.

Issued: June 9, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-16478 Filed 6-13-78; 8:45 am]

[4810-25]

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

MEETING

Notice is hereby given that the Joint Board for the Enrollment of Actuaries will meet in Room 4121, Main Treasury Building, 1500 Pennsylvania

Avenue NW., Washington, D.C. on July 7, 1978, beginning at 9:30 a.m.

The purpose of the meeting is to discuss with representatives of the American Society of Pension Actuaries, the Society of Actuaries, and the Casualty Actuarial Society the feasibility of jointly administered examinations to meet the basic and pension actuarial knowledge requirements of the regulations governing enrollment to perform actuarial services under the Employee Retirement Income Security Act of 1974.

The meeting will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Joint Board members and representatives of the actuarial organizations, interested persons may make statements germane to the topic. Persons wishing to make oral statements should advise the Executive Director of the Joint Board in writing by June 30, 1978, and should submit the written text or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to 10 minutes in length. In addition, any interested person may file a written statement for consideration by the Joint Board. All requests and statements must be sent to Mr. Leslie S. Shaprio, Executive Director, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, D.C. 20220.

Dated: June 9, 1978.

ROWLAND E. CROSS,
Chairman, Joint Board for the Enrollment of Actuaries.

[FR Doc. 78-16331 Filed 6-13-78; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES VS. GUILD SAVINGS AND LOAN ASSOCIATION

Proposed Consent Judgment and Competitive Impact Statement

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b) through (h), a proposed consent judgment and a competitive impact statement (CIS) as set out below have been filed with the U.S. District Court for the Eastern District of California, in *United States* vs. *Guild Savings and Loan Association*, Civil Action No. S-76-360, filed June 30, 1976. The complaint in this case alleged that the defendant violated section 1 of the Sherman Act by contracting with builders to commit to builders low interest government subsidized mortgage commitments on the condition that the builders also purchase construction loans. The proposed judgment enjoins defendant from conditioning the availability of Government National Mortgage Association commitments on the builder's purchase of construction loans. The CIS describes the terms of the judgment and the background of the action. Public comment is invited within the statutory sixty (60) days waiting period. These comments and the Department of Justice's responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Kenneth C. Anderson, Chief, Special Regulated Industries Section, Antitrust Division, Department of Justice, Safeway Building, Room 504, Washington, D.C. 20530, within the statutory 60 day comment period.

Dated: June 2, 1978.

JOHN H. SHENEFIELD,
Assistant Attorney General, Antitrust Division.

Keneth C. Anderson, George Edelstein, Steven J. Gordon, U.S. Department of Justice, Antitrust Division, Room 504, Safeway Building, Washington, D.C. 20530, telephone, 202-739-2244.

UNITED STATED DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Guild Savings and Loan Association*, Defendant.

Civil Action No. S-76-360.

Filed:June 2, 1978.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto 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 entry of the proposed Final Judgment by serving notice thereof on 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 the plaintiff and defendant in this and any other proceedings.

For the Plaintiff: John H. Shenefield, William E. Swope, Charles F. B. McAleer, Kenneth C. Anderson, George Edelstein, Steven J. Gordon, *Attorneys, Department of Justice.*

For the Defendant: Paul Fitting, Charles G. Miller, Esq., McKenna & Fitting, 1920 Mills Tower, 220 Bush Street, San Francisco, Calif. 94104.

Kenneth C. Anderson, George Edelstein, Steven J. Gordon, U.S. Department of Justice, Antitrust Division, Room 504, Safeway Building, Washington, D.C. 20530, telephone (202)-739-2244.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Guild Savings & Loan Association*, Defendant.

Civil Action No. S-76-360.

Filed: June 2, 1978.

FINAL JUDGMENT

Plaintiff, United States of America, having filed its Complaint herein on June 30, 1976, and defendant, Guild Savings and Loan Association, having appeared by its counsel, and both parties by their respective attorneys having consented to the making and entry of this Final Judgment without this Final Judgment constituting evidence or an admission by either party in respect to any issue;

Now, Therefore, before any testimony has been taken herein, without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed, as follows:

I

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states claims upon which relief may be granted against the defendant under Section I of the Sherman Act.

II

As used in this final Judgment:

(A) "Defendant" shall mean Guild Savings and Loan Association;

(B) "Person" shall mean any corporation, partnership, firm, individual, or any other business or legal entity;

(C) "GNMA" means the Government National Mortgage Association, an agency of the federal government, created to subsidize mortgages for residential buildings;

(D) "GNMA mortgage loan" means a below market or low interest rate mortgage subsidized by GNMA pursuant to the Emergency Housing Act of 1975, which mortgage is purchased by GNMA after the loan has been made to a qualified purchaser of a single-family residence;

(E) "GNMA mortgage take-out commitment" means a promise for consideration by a lender, who has a forward commitment from GNMA, to a builder of a single family residence to set aside a specified sum of GNMA funds to make a GNMA mortgage loan which can be used at a later time by the builder's customers in financing their homes;

(F) "Construction loan" means those monies borrowed at interest by a builder to build homes.

III

The provisions of this Final Judgment applicable to the defendant shall also apply to each of its officers, employees, agents, successors and assigns, and to all other persons in active concert of participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

Defendant is enjoined and restrained from making or offering to make any GNMA mortgage take-out commitment to any person on the condition, express or implied, that such person obtain any construction loan from defendant.

Nothing herein shall be deemed to prevent defendant from making or offering to make both GNMA mortgage take-out commitment and a construction loan to any person.

V

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 the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant, made to its principal office, be permitted, subject to any legally recognized privilege: (a) access during the office hours of defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession, or under the control of defendant relating to any matters contained in this Final Judgment; and (b) subject to the reasonable convenience of defendant, and without restraint or interference from it, to interview officers, directors, agents, servants or employees of the defendant, who may have counsel present, regarding any such matters. Upon the written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, defendant shall submit such reports in writing with respect to any of the matters contained in this Final Judgment as from time to time may be requested. No information obtained by the means provided in this Section V or previously obtained by plaintiff from defendant 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, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law. If at any time information or documents are furnished by defendant to plantiff, defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which defendant is not a party.

VI

Jurisdiction is retained for the purpose of enabling either of the parties 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 modification, construction or carrying out of this Final Judgment, for the enforcement of compliance therewith, and for the punishment of violations thereof.

VII

This Final Judgment shall remain in full force and effect for a period of ten (10) years from the date it is entered.

VIII

Entry of this Final Judgment is in the public interest. Date:

United States District Judge

Kenneth C. Anderson, George Edelstein; and Steven J. Gordon, U.S. Department of Justice, Antitrust Division, Room 504, Safeway Building, Washington, D.C. 20530, telephone 202-739-2244.

UNITED STATES DISTRUCT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

United States of America, Plaintiff, v. *Guild Savings and Loan Association*, Defendant.

Civil Action No. S-76-360.
Filed: June 2, 1978.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16(b)-(h), P.L. 93-528 (December 21, 1974)) the United States of America hereby files this competitive impact statement relating to the proposed Final Judgment in this civil antitrust proceeding.

I

NATURE AND PURPOSE OF THE PROCEEDINGS

This is a civil antitrust action by the United States against Guild Savings and Loan Association, Sacramento, California. The complaint, which was filed on June 30, 1976, alleges that the defendant has entered into unlawful contracts which restrain interstate trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

The instant case was brought to enjoin defendant from entering into such contracts.

II

PRACTICES AND EVENTS GIVING RISE TO THE ALLEGED VIOLATION OF THE ANTITRUST LAWS

During the early 1970's mortgages for single family residences were either not available or were available only at high interest rates ranging between 9 and 10⅛ percent. The housing industry was in a depressed state. The Congress responded by passing the Emergency Home Purchase Act of 1974 (12 U.S.C. 1723(e)) a central purpose of which was to authorize the Secretary of the Department of Housing and Urban Development to make available low interest home mortgage money whenever the Secretary deemed the economic circumstances to warrant such action. A 1975 Amendment (12 U.S.C. 1723e § 206) authorized the Secretary to make available a maximum of $10 billion in mortgage money at any given time. Mortgages under this program have a maximum interest rate of 7½ percent.

The act provides that the Secretary of Housing and Urban Development shall delegate the overall administration and policy direction of the emergency mortgage program to the Government National Mortgage Association (hereinafter "GNMA"). GNMA distributes the mortgage funds to lenders through the Federal National Mortgage Association (hereinafter "FNMA") and the Federal Home Loan Mortgage Corporation (hereinafter "FHLMC").

Each participating lender receives an allocation of the GNMA mortgage money. A builder will then request that the lender commit a portion of its allocation of this money for his proposed project. The builder, in turn, will be able to guarantee that qualifying purchasers will be able to finance the purchase of the builder's home at an interest rate considerably below the prevailing market rate for conventional mortgages. Thus, the commitments of GNMA mortgage money are valuable to the builder in that it makes his homes more attractive to potential buyers.

For the commitment, a lender can charge the builder a commitment fee of a maximum of 1 percent of the amount of the commitment. This commitment fee is then remitted by the lender to GNMA.

In July, 1975, $2 billion of GNMA mortgage funds were released for distribution to lenders. The defendant received an allocation of $2,374,000. The defendant then committed its entire allocation of these funds to builders in eastern California.

The complaint alleged that beginning in 1975, the defendant entered into contracts with builders for the commitment of GNMA mortgage funds under which the defendant would commit GNMA mortgage funds to the builders on the condition that the builders obtain from the defendant the construction loans for the homes to be financed by GNMA mortgages.

According to the complaint, these contracts prevented the builders from obtaining construction loans from lenders of their own choosing, and deprived lenders which compete with the defendant of the opportunity to issue construction loans to such builders.

III

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The United States and defendant have agreed that a Final Judgment, in the form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. The stipulation provides that there has been no admission by any party with respect to any issue of law or fact. Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act, entry of the Judgment is conditioned upon a determination by the Court that it is in the public interest.

Section IV of the proposed final judgment enjoins the defendant from making or offering to make any GNMA mortgage take-out commitment to any person on the conditions, express or implied, that such a person obtain any consturction loan from defendant. However, Section IV does not prevent defendant from otherwise making or offering to make both a GNMA mortgage take-out commitment and a construction loan to any person.

The proposed Final Judgment expressly provides in Section III that its terms apply to the defendant's officers, employees, agents, successors, and assigns, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

Under Section V of the proposed Final Judgment, the Department of Justice will have access upon reasonable notice to the records and personnel of the defendant in order to determine the defendant's compliance with the provisions of the Final Judgment. Under Section VI of the Final Judgment, jurisdiction is retained by the Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the Final Judgment, for modification of any of its provisions, or for punishment of violations of it.

Section VII of the proposed Final Judgment limits its forces and effect to a period of ten (10) years from the date it is entered.

REMEDIES TO THE PRIVATE PLAINTIFF

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action.

Under the provision of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment may not be used as *prima facie* evidence in any subsequent private lawsuit which may be brought against the defendant since it is a consent judgment that will be entered before any testimony has been taken.

V

PROCEDURES AVAILABLE FOR MODIFICATIONS OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedure and Penalties Act any person believing that the proposed Final Judgment should be modified may submit written comments to Kenneth C. Anderson, Chief, Special Regulated Industries Section, Department of Justice, Safeway Building, Room 504, Washington, D.C. 20530 within the 60-day period provided by the Act. These comments and responses to them will be filed with the Court and published in the FEDERAL REGISTER. All comments will be given due consideration by the Department of Justice which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should be determined that some modification of the Final Judgment is necessary.

VI

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment prohibits the defendant from engaging in the illegal conduct alleged in the complaint. The only possible alternative to the judgment would be to litigate the issues. This case, however, does not involve any unusual or novel desirable alternative that entry of the proposed Final Judgment.

VII

OTHER MATERIALS

There are no materials or documents which the Government considered determinative in formulating this proposed Final Judgment. Therefore none are being filed along with this Competitive Impact Statement.

Kenneth C. Anderson, *Chief, Special Regulated Industries Section;* George Edelstein and Steven J. Gordon, *Attorneys, Department of Justice.*

[FR Doc. 78-16449 Filed 6-13-78; 8:45 am]

[4410-01]

UNITED STATES v. WITCO CHEMICAL CORP.

Proposed Consent Judgment in Action To Enjoin Discharge of Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on May 24, 1978, a proposed consent decree in *United States* v. *Witco Chemical Corp.* was lodged with the United States District Court for the Eastern District of Louisiana. The proposed decree would abate discharges from the defendant's Gretna, LA plant into the Mississippi River.

The Department of Justice will receive on or before July 14, 1978, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Witco Chemical Corp.*, D.J. Ref. 90-5-1-1-865.

The proposed consent decree may be examined at the office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, at the regional office of the United States Environmental protection Agency, 1st International Building, 1201 Elm Street, Dallas, TX 75270, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Department of Justice Building, Room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C., 20530. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

SANFORD SAGALKIN,
Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 78-16448 Filed 6-13-78; 8:45 am]

[4510-23]

NATIONAL COMMISSION ON EMPLOYMENT AND UNEMPLOYMENT STATISTICS

PUBLIC MEETING

Notice is hereby given that the National Commission on Employment and Unemployment Statistics will hold a public meeting on July 25 and 26, 1978, in Room 6510, 2020 K Street NW., Washington, D.C. 20006.

The National Commission on Employment and Unemployment Statistics was established under section 13 of the Emergency Jobs Program Extension Act of 1975, Pub. L. 94-444. Its purpose is to advise the President and the Congress on reliable and comprehensive measurements of employment and unemployment by examining the procedures, concepts, and methodology involved in employment and unemployment statistics, and suggesting ways and means of improving them.

The meeting will begin each day at 9:30 a.m. to discuss alternative labor force measures and appraise the concepts and definitions underlying the counting of special groups in the labor force. The meeting on July 25 will conclude at 4:30 p.m. The meeting on July 26 will conclude at 12:30 p.m. The public is invited to attend. Official records of the meetings will be available for public inspection by contacting: Mr. Wesley H. Lacey, Adminstrative Officer, National Commission on Employment and Unemployment Statistics, Suite 550, 2000 K Street NW., Washington, D.C. 20006.

Signed at Washington, D.C. this 8th day of June 1978.

SAR A. LEVITAN,
Chairman.

[FR Doc. 78-16326 Filed 6-13-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-592 and STN 50-593]

ARIZONA PUBLIC SERVICE CO., ET AL. (PALO VERDE NUCLEAR GENERATING STATION, UNITS 4 AND 5)

Receipt of Antitrust Information and Application for Construction Permits and Operating Licenses: Time for Submission of Views on Antitrust Matters

Arizona Public Service Co. on behalf of itself and 10 joint applicants—Southern California Edison Co., El Paso Electric Co., San Diego Gas and Electric Co., Nevada Power Co., Department of Water and Power of the city of Los Angeles, city of Anaheim, city of Burbank, city of Glendale, city of Pasadena, and city of Riverside, Calif. (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed portions of their application. These parts which consist of the Safety Analysis Report, general and financial information were accepted for docketing on March 31, 1978, and are assigned Docket Nos. STN 50-592 and STN 50-593.

In addition a portion of the application filed contains the information requested by the Attorney General for the purpose of an antitrust review of the application as set forth in 10 CFR 50, appendix L, and was also accepted for docketing and is assigned Docket Nos. STN50-592-A and STN 50-593-A.

The application is for authorization to construct and operate two pressurized water reactors designated as the Palo Verde Nuclear Generating Station, Units 4 and 5 on the applicants' site in Maricopa County, Ariz. The reactor is designed for operation at a core power level of 3,800 megawatts thermal, with an equivalent net electrical output of approximately 1,307 megawatts.

A Notice of Hearing setting forth the radiological issues to be considered

during the review is being published separately. A date for submitting petitions for leave to intervene on radiological issues is set forth in the Notice of Hearing.

Any person who wishes to have his views on the antitrust matters of the application presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before July 6, 1978. The request should be filed in connection with Docket Nos. STN 50-592-A and STN 50-593-A.

The Environmental Report was tendered but initially rejected and is expected to be resubmitted on or before September 1, 1978. A separate notice of receipt and availability for this remaining portion will be published at that time. A deadline for filing of other contentions relating to matters covered in the omitted material will be established by the Board subsequent to acceptance of the Environmental Report for a detailed review.

After the Environmental Report has been received and analyzed by the Commission's Director of Nuclear Reactor Regulation or his designee, a draft environmental statement will be prepared by the Commission's staff. Upon preparation of the draft environmental statement, the Commission will cause to be published in the FEDERAL REGISTER a notice of availability of the draft statement, requesting comments from interested persons on the draft statement. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be noticed in the FEDERAL REGISTER.

Copies of the individual portions of the application, as noted above are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, Ariz. 85004.

Dated at Bethesda, Md., this 20th day of April 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,
Chief, Light Water Reactors Branch No. 1, Division of Project Management.

[FR Doc. 78-16334 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. STN 50-561]

BABCOCK & WILCOX CO.

BSAR-205 Standard Nuclear Steam Supply System; Issuance of a Safety Evaluation Report and Preliminary Design Approval

Notice is hereby given that the staff of the Nuclear Regulatory Commission (the NRC staff) has issued a Safety Evaluation Report (SER) dated May 1978 and a Preliminary Design Approval No. PDA-12, dated May 31, 1978 for the nuclear steam supply system portion of a nuclear power plant as described in the Babcock & Wilcox Co. Standard Safety Analysis Report (BSAR-205). The BSAR-205 application was filed on October 23, 1975 and docketed on March 1, 1976. Notice of Receipt of a Standard Analysis Report was published in the FEDERAL REGISTER on March 11, 1976 (41 FR 10485). BSAR-205 was reviewed by the NRC staff pursuant to Appendix 0 to 10 CFR Part 50.

BSAR-205 contains preliminary safety-related design information for the nuclear steam supply system portion of a pressurized water nuclear power plant which includes the reactor coolant system, emergency core cooling system, reactor control and protection systems, engineered safety features actuation system, residual heat removal system, fuel handling equipment, and related systems and features. The BSAR-205 reference system is designed to operate at a core power level of up to 3,800 megawatts thermal.

The SER documents the results of the staff's review and evaluation of BSAR-205, including amendments 1 through 25 thereto. The SER also addresses the comments of the Advisory Committee on Reactor Safeguards (ACRS) as reflected in its report to the Commission, dated August 18, 1977. A copy of the ACRS report is included as appendix D to the SER.

PDA-12 provides NRC staff approval of the preliminary nuclear steam supply system design described in BSAR-205, including amendments 1 through 25, and described and evaluated in the SER. The issuance of PDA-12 documents the staff determination that the design is acceptable as a standard for referencing in utility applications for construction permits. The BSAR-205 nuclear steam supply system design as described in the Safety Evaluation Report, subject to the conditions in PDA-12, shall be utilized and relied upon by the NRC staff and the ACRS in their review of facility license applications for construction permits incorporating by reference the BSAR-205 nuclear steam supply system preliminary standard design, unless there exists significant new information which substantially affects the determinations in PDA-12, or other good cause.

Issuance of PDA-12 and the staff's Safety Evaluation Report does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards and other presiding officers in any proceeding under subpart G of 10 CFR part 2. This action only approves the preliminary design of a nuclear steam supply system for use for reference purposes in applications for permits to construct a nuclear power plant. It does not authorize the construction or operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be constructed utilizing the approved reference design will be considered in accordance with the Commission's regulations in 10 CFR part 51.

PDA-12 is effective as of its date of issuance and shall expire 3 years later on May 31, 1981, unless earlier superseded by issuance of an appropriate Final Design Approval (FDA) for the BSAR-205 nuclear steam supply system standard design or extended by the NRC staff. The expiration of PDA-12 on May 31, 1981, shall not affect use of PDA-12 for reference in any construction permit application docketed prior to the PDA expiration date.

A copy of (1) the Preliminary Design Approval No. PDA-12 dated May 31, 1978; (2) the report of the Advisory Committee on Reactor Safeguards dated August 18, 1977; (3) the NRC staff's Safety Evaluation Report, NUREG-0433, dated May 1978; (4) the Babcock & Wilcox Co. Standard Safety Analysis Report and amendments 1 through 25 thereto; (5) WASH-1341, the Commission's "Programmatic Information for the Licensing of Standardized Nuclear Power Plants", dated August 1974, which also includes the Standardization Policy issued on March 5, 1973; and (6) amendment 1 to WASH-1341, dated December 1974, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555. A copy of PDA-12 may be obtained upon request. The request should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management. Copies of the Safety Evaluation Report (Document No. NUREG-0433) may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 31st day of May 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-16335 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket Nos. 50-329-OL and 50-330-OL]

CONSUMERS POWER CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717, and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

CONSUMERS POWER CO.

(Midland Plant, Units 1 and 2)

This action is in reference to a notice published by the Commission on May 4, 1978, in the FEDERAL REGISTER (43 FR 19304) entitled "Availability of Applicant's Environmental Report; Consideration of Issuance of Facility Operating Licenses; and Opportunity for Hearing".

The Chairman of this Board and his address is as follows:

Ivan W. Smith, Esq., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Mr. Lester Kornblith, Jr., Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dr. Frederick P. Cowan, 6152 North Verde Trail, Apartment B-125, Boca Raton, Fla. 33433.

Dated at Bethesda, Md., this 6th day of June, 1978.

ATOMIC SAFETY AND LICENSING BOARD PANEL,
ROBERT M. LAZO,
Acting Chairman.

[FR Doc. 78-16336 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. 50-334]

DUQUESNE LIGHT CO., ET AL.

Issuance of Amendment to Facility Operating License and Negative Declaration

In the matter of Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co.

The U.S. Nuclear Regulatory Commission (the Commission) has, pursuant to the initial decision of its Atomic Safety and Licensing Board dated May 4, 1978, issued amendment No. 14 to Facility Operating License No. DPR-66, issued to the Duquesne Light Co. (the licensee), which revised the license and Technical Specifications for operation of unit No. 1 of the Beaver Valley Power Station (the facility) located in Beaver County, Pa. The amendment is effective as of its date of issuance.

The amendment revised the license and technical specifications for the facility to permit replacement of the existing spent fuel storage racks having a capacity of 272 fuel assemblies with new storage racks having a capacity of 833 fuel assemblies.

The initial decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the initial decision may be reviewed by the Commission.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment. Notice of proposed issuance of the amendment was published in the FEDERAL REGISTER on January 12, 1977 (42 FR 5155). A hearing was requested by the city of Pittsburgh. The hearing was held March 13 and 14, 1978, and subsequently the above-referenced initial decision issued May 4, 1978.

The Commission has prepared an environmental impact appraisal relating the environmental considerations associated with modifications to the spent fuel pool of the Beaver Valley Power Station, unit No. 1, dated August 12, 1977, and has concluded that an environmental impact statement for this particular action is not warranted because the actions authorized by the license amendment will not significantly affect the quality of the human environment.

For further details with respect to this action, see (1) the application for amendment dated December 3, 1976, as supplemented by filings dated February 1, April 13, May 23, and 31, 1977, and February 14 and March 6, 1978 (two letters), (2) amendment No. 14 to license No. DPR-66, (3) the Commission's related safety evaluation dated August 12, 1977, and amendment No. 1 dated March 7, 1978, (4) the Commission's environmental impact appraisal dated August 12, 1977, and amendment No. 1 dated March 7, 1978, and (5) the initial decision of the Atomic Safety and Licensing Board dated May 4, 1978. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Beaver Valley Memorial Library, 100 College Avenue, Beaver, Pa. A single copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 31st day of May 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc. 78-16337 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket Nos. 50-568 and 50-569]

NEW ENGLAND POWER CO., ET AL.[1]

Availability of Safety Evaluation Report for New England Power-1 and New England Power-2 (NEP-1 and NEP-2)

The Office of Nuclear Reactor Regulation has published its safety evaluation report on the proposed construction of the NEP-1 and NEP-2 units to be located in Washington County at Charlestown, R.I. Notice of receipt of the New England Power Co., et al. application to construct and operate the New England Power units was published in the FEDERAL REGISTER on October 12, 1976 (41 FR 44763).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at

[1] Bangor Hydro-Electric Co.; Canal Electric Co.; Fitchburg Gas and Electric Co.; Montaup Electric Co.; The Narragansett Electric Co.; Burlington Electric Department; Pascoag Fire District, Electric Department; Taunton Municipal Lighting Plant; Vermont Electric Cooperative, Inc.; Ashburnham Municipal Light Department; Boylston Municipal Light Department; Danvers Electric Department; Hingham Municipal Lighting Plant; Holden Municipal Light Department; Holyoke Gas and Electric Department; Hudson Light and Power Department; Littleton Electric Light Department; Mansfield Municipal Electric Department; Marblehead Municipal Light Department; Middleborough Gas and Electric Department; Middleton Municipal Light Department; North Attleborough Electric Department; Paxton Municipal Light Department; Peabody Municipal Light Plant; Reading Municipal Light Board; Shrewsbury's Electric Light Plant; Templeton Municipal Lighting Plant; Wakefield Municipal Light Department; West Boylston Municipal Lighting Plant; and Westfield Gas and Electric Light Department.

the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Cross Mill Public Library, Old Post Road, Charlestown, R.I. 02813 and the University Library, Publications Office of the University of Rhode Island, Kingston, R.I. 02881 for inspection and copying. The report (Document No. NUREG-0424) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Md., this 7th day of June 1978.

For The Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-16338 Filed 6-13-78; 8:45 am]

[7590-01]

TOPICAL REPORT

Issuance and Availability

The Nuclear Regulatory Commission has issued a topical report, NUREG-0444, "BEIRMOD, a Computer Program for Calculating the Effects of Exposure to Ionizing Radiation."

NUREG-0444 explains and tells how to use a computer program based on models from the BEIR (Biological Effects of Ionizing Radiation) Report, "The Effects on Populations of Exposure to Low Levels of Ionizing Radiation," National Academy of Sciences—National Research Council, 1972. These models are used for calculating the probability that an "average" person will develop cancer as a consequence of exposure to ionizing radiation.

NUREG-0444 is available for inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Va. 22161. (Paper copy: $4.50; Microfiche: $3.)

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 6th day of June 1978.

For The Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-16339 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket Nos. 50-237, 50-249, 50-254 and 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS & ELECTRIC CO.

Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued an amendment each to Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30, issued to Commonwealth Edison Co. (and, in the matter of License Nos. DPR-29 and DPR-30, the Iowa-Illinois Gas & Electric Co.), which revised Technical Specifications for operation of each of the Dresden and Quad Cities Nuclear Power Stations (collectively referred to as the facilities). The Dresden Station consists of Unit Nos. 1, 2, and 3 is located in Grundy County, Ill. However, the actions noticed herein relate to Dresden Station Units 2 and 3. The Quad Cities Station consists of Unit Nos. 1 and 2 and is located in Rock Island County, Ill. These amendments are effective as of their dates of issuance.

The amendments revised the Technical Specifications to incorporate requirements for establishing and maintaining the drywell to suppression chamber differential pressure and suppression chamber water level, to maintain the margins of safety established in the Commission staff's "Mark I Containment Short Term Program Safety Evaluation," NUREG-0408. Operation in accordance with the conditions specified in NUREG-0408 has been previously authorized in 43 FR 13106 March 29, 1978, and 43 FR 77415, April 24, 1978.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR Section 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see (1) the application for amendment dated November 30, 1976 and supplements thereto dated April 18 and April 19, 1977, (2) Amendment Nos. 37 and 35 to License Nos. DPR-19, and DPR-25, (3) Amendment Nos. 46 and 46 to License Nos. DPR-29 and Dpr-30, and 94) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and for those items relating to Dresen Unit Nos. 2 and 3 at the Morris Public Library, 604 Liberty Street, Morris, Ill. 60450, and for those items relating to Quad Cities Unit Nos. 1 and 2 at the Moline Public Library, 504—17th Street, Moline, Ill. 60625. A single copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md. this 17th day of June 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-16443 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. PRM-71-7]

NON DESTRUCTIVE TESTING MANAGEMENT ASSOCIATION, ET AL.

Filing of Petition for Rulemaking

Notice is hereby given that Mr. Walter P. Peeples, Jr., President, Non Destructive Testing Management Association, by letter dated May 10, 1978, on behalf of Non Destructive Testing Management Association, seven undesignated radiography camera manufacturers, and six undesignated source manufacturers, has filed with the Nuclear Regulatory Commission a petition for rulemaking to amend the Commission's regulation, "Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions," 10 CFR Part 71.

The petitioners request that the Commission revoke Appendix E—Quality Assurance Criteria for Shipping Packages for Radioactive Materials—of 10 CFR Part 71. The petitioners also request a delay in the effective date of implementation of appendix E until a hearing can be conducted. The petitioners state that the basis for their petition is "* * * the rule was forced on the industry and not discussed nor did the Commission attempt to notify two-thirds of the manufacturers in this specific area of its attempt to create an almost insurmountable and expensive paperwork program."

The petitioners make the following statements in support of thier petition:

1. Only two of the seven camera manufacturing firms are located in the jurisdiction of the U.S. Nuclear Regulatory Commission even though the Department of Transportation required the NRC to evaluate its type B requests covering all manufacturers unless the manufacturer uses a DOT-specification container.

2. The U.S. Nuclear Regulatory Commission did not notify those manufacturers in agreement States of the pending part 71, appendix E, changes.

3. There is a distinct discrepancy concerning the NRC position and the information passed to agreement States concerning the understanding of the material contained in appendix E, part 71. (Reference meeting on Design of Radiographic Exposure Devices, Bethesda, Md., Tuesday, April 18, 1978, page 100 of the transcript.)

4. There is a lack of distinction concerning package criteria related to fissile materials and type B quantities of specific isotopes. In the field of industrial radiography we are concerned with only a few byproduct materials.

5. The program cited in part 71, appendix E, is not national in scope since the U.S. NRC services less than one-half of the industry and cannot truly express that it represents a majority. This is pointed out by the fact that the U.S. NRC splits with agreement States and that in the case of industrial radiography it represents only one-third of those manufacturing and shipping type B quantities.

6. The further lack of proper consideration prior to adopting the part 71, appendix E, quality assurance program is indicated in the fact that a great deal of the purpose is lost to existing exemptions and the fact that those using DOT-specification containers do not fall under the program.

A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 14, 1978.

Dated at Washington, D.C., this 9th day of June 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-16444 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment No. 49 to facility operating license No. DPR-3, issued to Yankee Atomic Electric Co. (the licensee), which revised technical specifications for operation of the Yankee nuclear power station (Yankee-Rowe) (the facility), located in Rowe, Franklin County, Mass. The amendment is effective as of its date of issuance.

The amendment revises the technical specifications to correct typographical and editorial errors; to improve clarity and consistency of several technical specification requirements; and to add other changes found to be necessary since issuance of the technical specifications in the present new format to update the technical specifications so as to reflect actual plant conditions.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated March 23, 1977, (2) amendment No. 49 to license No. DPR-3, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Greenfield Public Library, 422 Main Street, Greenfield, Mass. 01581. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 30th day of May 1978.

For the Nuclear Regulatory Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-16445 Filed 6-13-78; 8:45 am]

[7590-01]

INTERNATIONAL ATOMIC ENERGY AGENCY DRAFT SAFETY GUIDE

Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is developing a limited number of internationally acceptable codes of practice and safety guides for nuclear powerplants. These codes and guides will be developed in the following five areas: Government organization, siting, design, operation, and quality assurance. The purpose of these codes and guides is to provide IAEA guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant exiting information used by member countries. Using this collation as a startig point, an IAEA working group of a few experts then develops a preliminary draft. This preliminary draft is reviewed and modified by the IAEA Technical Review Committee to the extent necessary to develop a draft acceptable to them. This draft code of practice or safety guide is then sent to the IAEA senior advisory group which reviews and modifies the draft as necessary to reach agreement on the draft and then forwards it to the IAEA Secretariat to obtain comments from the member states. The senior advisory group then considers the member state comments, again modifies the draft as necessary to reach agreement and forwards it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, safety guide SG-QA4, "Quality Assurance for Site Construction of Nuclear Power Plants," has been developed. The working group, consisting of Mr. C. Carrier, France; Mr. J. S. Cordell, United Kingdom; Mr. A. W. Crevasse (Tennessee Valley Authority), United States of America; Mr. J. Deckers, Federal Republic of Germany; and Mr. K. Loosemore, United Kingdom developed the initial draft of this safety guide from an IAEA collation during a meeting on November 4-October 24, 1977. The working group draft of this

safety guide was modified by the Technical Review Committee on Quality Assurance which met on February 13-17, 1978, and we are soliciting public comments on this modified draft. Comments on this draft received by July 28, 1978, will be useful to the U.S. representatives to the Technical Review Committee and Senior Advisory Group in evaluating its adequacy prior to the next IAEA discussion.

Single copies of this draft may be obtained by a written request to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a).)

Dated at Rockville, Md., this 6th day of June 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc. 78-16446 Filed 6-13-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

METROPOLITAN EDISON CO. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued amendment 5 to facility operating license No. DPR-73, issued to the Metropolitan Edison Co., Jersey Central Power & Light Co., and Pennsylvania Electric Co., for operation of the Three Mile Island nuclear station, unit 2 (the facility), located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

The license is amended by revising certain technical specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see: (1) Amendment No. 5, to facility operating license No. DPR-73, and (2) the Commission's related safety evaluation supporting amendment No. 5 to facility operating license No. DPR-73. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the State Library of Pennsylvania, Commonwealth and Walnut Streets, Harrisburg, Pa. 17126.

Dated at Bethesda, Md., this 5th day of June 1978.

For the Nuclear Regulatory Commission.

HARLEY SILVER,
Acting Branch Chief, Light Water Reactors Branch 4, Division of Project Management.

[FR Doc. 78-16447 Filed 6-13-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, INDIAN POINT NUCLEAR GENERATING STATION, UNIT NO. 3, AND SEISMIC ACTIVITY SUBCOMMITTEES

Correction

Notice of the June 16, 1978, meeting of the ACRS Subcommittees on the Indian Point Nuclear Generating Station, Unit No. 3, and Seismic Activity which was published in the FEDERAL REGISTER on June 1, 1978, is corrected as follows: Change "Port Authority of the State of New York" to read, *Power* Authority of the State of New York.

All other matters pertaining to this meeting remain the same as published in above cited notice.

Dated: June 8, 1978.

JOHN J. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-16519 Filed 6-13-78; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

PRIVACY ACT

New Systems

JUNE 12, 1978.

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies to give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period May 15, 1978 through May 26, 1978, the Office of Management and Budget received the following reports on new (or revised) systems of records.

ACTION

System name:

Combined Domestic and International Volunteer Applicant System.

Report Date:

May 10, 1978.

Point-of-Contact:

Mr. John F. Nolan, Director, Administrative Services Division, AF/AS P-314, 806 Connecticut Avenue NW., Washington, D.C. 20525.

Summary:

This is an existing system of records, which ACTION proposes to revise by the addition of race and ethnic background information. The Report on this system indicates that "furnishing the information will be voluntary and will not be used to determine eligibility for acceptance" and states that the data is required by Justice Department Regulations for implementation of the Civil Rights Act of 1964.

DEPARTMENT OF JUSTICE

System Name:

Tax Disclosure Index File and Associated Records.

Report Date:

May 12, 1978.

Point-of-Contact:

Ms. Bronson Clayton, Department of Justice, Washington, D.C. 20530.

Summary:

The Criminal Division of the Department of Justice proposes this new section of records to meet the requirement of section 6103(p)(4) of the Internal Revenue Code (26 U.S.C. 6103(p)(4)), which requires that Federal agencies which seek access to and disclosures of that material. The Criminal Division, as an agency which seeks access to tax material, needs the system to comply with section 6103.

DEPARTMENT OF DEFENSE

System Name:

Maintenance Labor Distribution and Cost System.

Report Date:

May 12, 1978.

Point-of-Contact:

Mr. William Cavaney, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

Summary:

The Air Force, which will maintain this system, states that its purpose is "to accumulate cost data for various workloads and functions within each

Air Force maintenance depot." It should be noted that the Air Force requested and received from OMB a waiver of the advance notice period to permit earlier release of the RFP for the computer equipment which will support the system.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 16556 Filed 6-13-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Rel No. 10271 (812-4307)]

AMERICAN UTILITY SHARES, INC. AND LORD ABBETT INCOME FUND, INC.

Notice of Filing of Application for Orders

JUNE 7, 1978.

Notice is hereby given, that American Utility Shares, Inc. ("American Utility"), 63 Wall Street New York, N.Y. 10005, a closed-end, diversified investment company registered under the Investment Company Act of 1940 ("Act") and Lord Abbett Income Fund, Inc. ("Lord Abbett Income"), an open-end, diversified investment company registered under the Act (collectively "Applicants"), filed an application on May 10, 1978, and amendments thereto on May 30, 1978, and on June 5, 1978 for orders, pursuant to section 17(b) of the Act, exempting from section 17(a) of the Act the proposed merger of American Utility and Lord Abbett Income; pursuant to section 17(d) of the Act and rule 17d-1 thereunder, permitting American Utility and Lord Abbett Income to participate in the proposed merger; and pursuant to section 6(c) of the Act, exempting the issuance of shares of Lord Abbett Income from section 22(c) of the Act and rule 22c-1 thereunder and from Section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants represent that, on March 31, 1978, American Utility had net assets of $18,758,040 and Lord Abbett Income had net assets of $26,073,681. American Utility's primary objective is current income from dividends and interest and its secondary objective is capital appreciation. At least 80 percent of the total assets of American Utility must be invested in equity or debt securities of public utility companies engaged in the production, transmission and distribution of electricity, gas and water and in providing communications services. American Utility may, however, hold some or all of its assets in short-term securities when American Utility believes that a defensive position is advisable. Lord Abbett Income's investment objective is to provide its stockholders with a high current income with relatively low risk of price decline. Lord Abbett Income may not concentrate investments in any one industry and does not intend to invest more than 25 percent of its asssets in any one industry, although concentration could under unusual economic and market conditions amount to more than 25 percent.

Applicants state that Amerian Utility proposes to merge into Lord Abbett Income, with Lord Abbett Income as the surviving corporation. On the effective date of such merger, shares of capital stock of American Utility will be conerted into full and fractional shares of capital stock of Lord Abbett Income having the same aggregate net asset value as the shares being converted. No adjustment in the net asset values of the Applicants will be made to reflect any potential federal income tax impact on the stockholders of the Applicants which may result from differences between the Applicants in the ratio of each Applicant's net realized or unrealized capital appreciation or depreciation to its net asset value. Net asset values will be determined for the purpose of the conversion ratio as of the close of busiess on the business day next preceding the effect date of the merger. No sales charge will be payable upon the converison of shares. Stockholders of Lord Abbett Income will continue to hold the same number of shares of capital stock of Lord Abbett Income after the merger. Stockholders of Applicants will have no appraisal rights in connection with the merger but they will have the right to have their shares redeemed after the merger at current net asset value in accordance with the Act.

Applicants state that American Utility has agreed to sell up to $4 million of its portfolio securities of electric utility issuers in order to insure that the surviving corporation will not have more than 25 percent of its assets invested in any one industry. If sales in excess of $4 million are required to meet this investment restriction, Lord Abbett Income will make such sales from its portfolio prior to the effective date of the merger. Applicants estimate that the expenses to be borne by American Utility (including the expenses of selling a portion of its electric utilities portfolio) will approximate $75,000 and that the expenses to be borne by Lord Abbett Income will approximate $78,000.

Section 17(a) of the Act provides, in part, that it is unlawful for an affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property. Section 2(a)(3) of the Act provides, in part, that an affiliated person of another person means any person directly or indirectly controlling, controlled by, or under common control with, such other person. Section 17(b) of the Act provides, in part, that the Commission shall exempt a proposed transaction from the provisions of section 17(a) 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.

Applicants state that each may be deemed to be an affiliated person of the other because each has an investment management agreement with Lord Abbett and because Applicants have certain officers and a director in common with one another who are affiliated with Lord Abbett. Accordingly, Applicants request an order, pursuant to section 17(b) of the Act, exempting the proposed merger from the provisions of section 17(a) of the Act.

Applicants represent that the terms of the merger are the result of arms-length negotiations by those directors of Applicants who are not "Interested persons" (as defined by the Act) of Lord Abbett or of either Applicant. No such director of either Applicant is a director of the other Applicant. Each Applicant was represented in the negotiations by separate legal counsel.

In the case of American Utility, the proposed merger was unanimously approved by the board of directors as the best method of implementing a stockholder resolution adopted on November 3, 1977, requesting that the board take the steps necessary to provide that American Utility become an open-end investment company. Applicants represent that a committee of directors who were not "interested persons" of Lord Abbett or either Applicant recommended merger with Lord Abbett Income to the board after conducting a study of alternatives and after evaluating other investment companies with similar investment objectives as merger candidates.

In the case of Lord Abbett Income, the proposed merger was unanimously approved by its board of directors at the recommendation of a merger committee consisting of two directors who were not "interested persons" of Lord Abbett or either Applicant. Applicants contend that, assuming certain redemptions after the merger and a ½ of 1 percent advisory fee, which is being voted on separately by Lord Abbett Income stockholders, the increase in assets resulting from the merger would lower the ratio of expenses to assets from 1.0386 percent for 1977 to an estimated 0.9737 percent after the

merger by spreading the fixed and semi-fixed expenses of Lord Abbett Income over a greater asset base. An increase in assets could also result in an increase in sales of Lord Abbett Income capital stock, which could permit a further reduction in the per share expense ratio and provide additional assets for portfolio expansion.

Applicants further submit that the terms of the merger are reasonable and fair and do not involve overreaching on the part of any person in that on the effective date of the merger, shares of capital stock of American Utility will be converted into full and fractional shares of capital stock of Lord Abbett Income having the same aggregate net asset value as the shares being converted without the payment of any commission.

Applicants further submit that the bearing of expenses in connection with the merger is fair and reasonable in that each Applicant will pay its own expenses in connection with the merger with two exceptions: (1) American utility has agreed to pay the filing fee for the order of the Commission requested by this application and registration fees under state securities laws and (2) Applicants have agreed to share equally printing expenses (other than for the printing of copies of definitive proxy material). Applicants assert that the bearing of certain expenses and the required sale of electric utility securities by American Utility is reasonable and fair in that such requirement was the subject of arms-length bargaining between the non-interested directors of each Applicant, after taking into account the relative benefits to the parties, and, in the case of the sale of portfolio securities, the fundamental policy of the surviving corporation.

Applicants submit that, if approved by stockholders, the proposed merger will be consistent with the policy of each of the Applicants and with the general purposes of the act. At the present time, the investment objectives of the Applicants are substantially similar, although not identical, since the primary objective of each Applicant is current income.

Section 17(d) of the act and rule 17d-1 thereunder prohibit any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from affecting any transaction in which such investment company is a joint participant, unless an application has been filed with the Commission and has been granted by order. In passing upon such applications, the Commission will consider whether the participation of such registered company in such arrangement, on the basis proposed, is consistent with the provisions, policies and purposes of the act, and the extent to which such participation is on a basis different from, or less advantageous than, that of other participants.

Applicants have requested an order pursuant to section 17(d) of the act and rule 17d-1 thereunder to permit the proposed merger. Applicants submit that the merger is consistent with the provisions, policies, and purposes of the Act and that the participations therein are on bases appropriate in the public interest and consistent with the protection of investors in that the terms are reasonable and fair and the result of arms-length negotiations between the non-interested directors of Applicants, as discussed above.

Section 22(c) of the act and rule 22c-1 thereunder prohibit registered investment companies from issuing redeemable securities except at a price based on the current net asset value of such securities which is next computed after receipt of an order to purchase. Because, in the proposed merger, the conversion ratio will be determined as of the close of business on the business day immediately preceding the effective date of the merger, the issuance by Lord Abbett Income of shares of its capital stock upon consummation of the merger may not comply with rule 22c-1.

Section 6(c) of the act provides that the Commission, upon application, may exempt a transaction from any provision of the act or rule thereunder if it finds 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.

Lord Abbett Income requests an exemption from section 22(c) and rule 22c-1 thereunder asserting that the timing of the determination of the conversion ratio is necessary to allow each Applicant adequate time to prepare for the closing with respect to the merger. Lord Abbett Income does not believe that computation of the conversion ratio immediately prior to the effective date of the merger will give rise to the type of speculative activity which rule 22c-1 was designed to prohibit. Therefore, Lord Abbett Income submits that the granting of the exemption requested is necessary and appropriate, is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act.

Section 22(d) of the act provides, in pertinent part, that registered open-end investment companies may sell their shares only at a current public offering price described in the prospectus. Because shares of capital stock of Lord Abbett Income will be issued upon consummation of the merger without the imposition of the sales charge provided in the Lord Abbett Income prospectus, Lord Abbett Income requests an exemption, pursuant to section 6(c), from the provisions of section 22(d). Lord Abbett Income asserts that the granting of the exemption requested is necessary and appropriate, is in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the act. Although stockholders of American Utility will not be required to pay the sales charge which is payable by investors in Lord Abbett Income, Lord Abbett Income believes that this is justified by reason of (a) the saving of brokerage commissions that would be payable had the same amount of shares been issued for cash, and (b) the potential benefits to stockholders of Lord Abbett Income resulting from the merger.

Notice is further given, that any interested person may, not later than July 3, 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 Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule O-5 of the rules and regulations promulgated under the act, an order disposing of the application will be issued 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. 78-16472 Filed 6-13-78; 8:45 am]

[8010-01]

[Rel. No. 20583 (70-6177)]

COLONIAL GAS ENERGY SYSTEM

Notice of Proposed Issuance and Sale of Cumulative Convertible Preferred Stock by Parent and Issuance and Sale of Common Stock to Parent by Subsidiaries

JUNE 7, 1978.

In the matter of Colonial Gas Energy System, 73 East Merrimack Street, Lowell, Mass. 01853, Lowell Gas Co., 95 East Merrimack Street, Lowell, Mass. 01853, Cape Cod Gas Co., P.O. Box 1360, Hyannis, Mass. 02601.

Notice is hereby given, that Colonial Gas Energy System ("Colonial"), a registered holding company, Lowell Gas Co. ("Lowell"), and Cape Cod Gas Co. ("Cape Cod"), public utility subsidiaries of Colonial, have filed a joint declaration designating sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act"), and rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration for a complete statement of the proposed transactions.

On October 7, 1977, Colonial filed an application for exemption under section 3(a)(1) of the act. (File No. 31-763). Its application for exemption is pending. Pursuant to a Stipulation in that proceeding dated January 26, 1978, entered into by Colonial and the Division of Corporate Regulation, Colonial has registered as a public utility holding company under section 5(a) for the limited purpose of complying with the provisions of sections 6, 7, and 12(b) of the Act.

Colonial. proposes to issue and sell cumulative convertible preferred stock ("Preferred Stock") through a negotiated sale to underwriters who will make a public offering thereof. It is proposed that the aggregate public offering price will be approximately $5,550,000. Colonial proposes to use the net proceeds derived from such sale to purchase common stock of its public utility subsidiaries, Lowell and Cape Cod for an aggregate purchase price of approximately $3,100,000 and to redeem 212,000 outstanding shares of its existing preferred stock at a redemption price of $1,700,000 plus an amount equal to the dividends accrued thereon. Any balance of such net proceeds will be added to Colonial's working capital. Lowell and Cape Cod are seeking authorization to issue and sell such common stock to Colonial. They contemplate using the proceeds from such sales to repay a portion of the short-term indebtedness which is the subject of a separate filing. (HCAR No. 20575).

The terms of the Preferred Stock, including the terms of conversion, will be filed by amendment. Colonial states, however, that such terms will differ from the standards set forth in the Commission's Statement of Policy Regarding First Mortgage Bonds and Preferred Stock ("SOP") (HCAR No. 35-13106, February 16, 1956) in two respects. Colonial's ratio of unsecured debt to long-term debt and stockholders equity has for some time exceeded the ratios set forth in paragraph (c) of the SOP. Colonial states that the sale of the Preferred Stock is a step in improving its capitalization but will not be sufficient to permit it to limit future short-term borrowings to the ratios contemplated by said paragraph (c). Colonial further states that the restriction on dividends on junior stock provided for in paragraph (e) of the SOP cannot be adopted, since the change in common stock dividend policy which would be required by those restrictions would, because of the conversion feature of the proposed Preferred Stock, tend to make the Preferred Stock unmarketable.

Colonial became a publicly held corporation in November 1975, when it sold 495,000 shares of common stock at a public offering price of $12 a share. Its common stock is presently held by 1,700 shareholders. Prior to that time, Colonial's common stock was held for many years by six individuals. In connection with the public issuance of common stock , the six existing shareholders agreed to a restriction through the year 1980 on dividends paid upon their shares. As a condition to the proposed public offering of the Preferred Stock, the restriction will be extended through the year 1988.

The consolidated net earnings of Colonial and its subsidiaries are insufficient to justify a common stock offering at this time. Since its initial public offering in 1975, Colonial's consolidated net earnings have declined on a per share basis from $1.58 to $.13 for the year ended December 31, 1977. Although consolidated net earnings have improved with the quarter ending March 31, 1978, they are less than the aggregate dividends declared and paid on Colonial's common stock during that period. Colonial states, however, that consolidated net earnings for the 12 months ended March 31, 1978, when considered with the annual effect of rate increases which the Massachusetts Department of Public Utilities recently allowed Lowell and Cape Cod in 1977, are expected to permit the issue and sale of the Preferred Stock.

In view of its financial status and market situation, Colonial believes competitive bidding would be inappropriate and requests exemption therefrom pursuant to rule 50(a)(5). Colonial proposes, and is hereby authorized, forthwith, to negotiate with underwriters. The actual negotiated terms, subject to further authorization, will be supplied by amendment.

The fees and expenses incurred or to be incurred in connection with this proposal will be filed by amendment. It is stated that in the event the issuance of the Preferred Stock is not consummated, Colonial will reimburse the underwriters, in an amount not to exceed $40,000, for legal fees incurred. No state or federal commission, other than this Commission, has jurisdiction over the proposed issue and sale of Preferred Stock. The Massachusetts Department of Public Utilities has jurisdiction over the proposed issue and sale of common stock by Lowell and Cape Cod. No other state or federal commission has jurisdiction over such proposed issue and sale of common stock.

Notice is further given, That any interested person may, not later than June 30, 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. 78-16473 Filed 6-13-78; 8:48 am]

[8010-01]

[File No. 500-1]

PACIFIC FAR EAST LINE, INC.

Notice of Suspension of Trading

JUNE 8, 1978.

It appearing to the Securities and Exchange Commission that the sum-

mary suspension of trading in the securities of

Pacific Far East Line, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

THEREFORE, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (EDT) on June 8, 1978, through June 17, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-16476 Filed 6-13-78; 8:45 am]

[8010-01]

[File No. 500-1]

TIFFANY INDUSTRIES, INC.

Suspension of Trading

JUNE 9, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of

Tiffany Industries, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:30 a.m. on June 9, 1978, through June 18, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-16475 Filed 6-13-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1486]

NEW YORK

Declaration of Disaster Loan Area

The area of the intersection of Rt. 6 and 6N in Mahopac, Putnam County, N.Y., constitutes a disaster area because of damage resulting from a fire which occurred on May 3, 1978. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on August 7, 1978, and for economic injury until the close of business on March 6, 1979, at: Small Business Administration, District Office, 26 Federal Plaza—Room 3100, New York, N.Y. 10007, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: June 6, 1978.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc. 78-16416 Filed 6-13-78; 8:45 am]

[8025-01]

ORANGECO INVESTMENT CO.

[License No. 09/09-5178]

License Surrender

Notice is hereby given that Orangeco Investment Co., 1140 South Bristol, Santa Ana, Calif. 92704, has surrendered its license to operate as a small business investment company under section 301(d) of the Small Business Investment Act of 1958, as amended (the Act).

The company was licensed by the Small Business Administration on February 26, 1975.

Under the authority vested by the Act and pursuant to 13 CFR 107.105 (1978), the surrender by Business Ventures, Inc. of its license is hereby approved.

Accordingly, all rights, privileges and franchises derived from the license are hereby terminated.

(Catlog of Federal Domestic Assistance Program Number 59.011, Small Business Investment Companies.)

Dated: June 6, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-16460 Filed 6-13-78; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

GRANTING OF RELIEF PURSUANT TO SECTION 925(c), TITLE 18, UNITED STATES CODE

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions of each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Arel, Edward S., 1940 W. Hopkins, Pasco, Wash., convicted on June 13, 1974, in the Benton County Superior Court, Washington.

Arquette, William, P.O. Box 190, White Swan, Wash., convicted on July 29, 1957, in the U.S. District Court, Eastern District of Wash.

Baller, Carl J., Jr., 2339 Lumber Avenue, Wheeling, W. Va., convicted on May 21, 1974, in the U.S. District Court, Northern District, West Virgina.

Baranick, Anthony J., 7076 62nd Street, Pinellas Park, Fla., convicted on July 20, 1953, in the Circuit Court of Etowah County, Gadsden, Ala.

Barrett, Daniel E., Box 288, Augusta, Mont., convicted on April 12, 1971, in the District Court of the First Judicial District of Montana.

Bayles, Glenn W., 5304 85th Avenue, Apt. B-5, New Carrollton, Md., convicted on May 24, 1954, in the Circuit Court of Randolph County, W. Va.

Beers, James L., R.D. No. 1, Box 30C, Oxford, Wis., convicted on April 5, 1963, in the County Court, Racine County, Wis.

Bell, George T., Route 2, North Wilkesboro, N.C., convicted on May 23, 1951, in the U.S. District Court for the Middle District of North Carolina; and between December 1937 and February 1951, in the U.S. District Courts in North Carolina.

Bell, Thomas L., Route 2, Box 204, North Wilkesboro, N.C., convicted on November 20, 1935, May 20, 1944, May 22, 1948, and on November 23, 1956, in the U.S. District Court, Wilkesboro, N.C.; on March 17, 1941, in the U.S. District Court, Charlotte, N.C.; and on November 17, 1948, in the U.S. District Court, Middle District, North Carolina.

Bernard, Roland P., 501 Kees Circle, Lafayette, La., convicted on June 14, 1976, in the District Court, St. Mary Parish, Franklin, La.

Bever, Robert L., 129 E. Erie Drive, Tempe, Ariz., convicted on April 4, 1949, in the U.S. District Court for the District of Arizona.

Blick, Michael F., Route 4, Box 548, Shawano, Wis., convicted on October 23, 1975, in the County Court, Florence County, Wis.

Blum, William, 3637 Snell Avenue, No. 379, San Jose, Calif., convicted on March 1, 1957, in the U.S. District Court, Northern District of Illinois.

Bollman, William C., P.O. Box 416, San Marcos, Tex., convicted on December 19, 1972, in the U.S. District Court, Western District of Texas.

Bracco, Michael G., 6710 S.W. Montgomery Street, Wilsonville, Oreg., convicted on May 16, 1973, in the Circuit Court of Multnomah County, Portland, Oreg.

Brewer, Waldon T., 1-22 Horseshoe Bend Tr., Weatherford, Tex., convicted on April 10, 1975, in the U.S. District Court, Northern District of Texas, Fort Worth Division.

Brogden, Farrell, 10-D Deerfield Apartments, Northport, Ala., convicted on April 17, 1959, in the Circuit Court, Covington County, Ala.; and on November 23, 1964, in the Circuit Court, Montgomery County, Ala.

Bull, John J., Route 2, Box 229, Talihina, Okla., convicted on April 8, 1965, in the Latimer County District Court, Okla.

Cabe, William A., route 3, Box 764A, Thomasville, N.C., convicted on March 28, 1973, in the Court of Justice, Randolph County, N.C.

Canfield, Victor E., Lot 19, Woodland Trailer Park, Grafton, Va., convicted on May

20, 1974, in the U.S. District Court, Eastern District, Virginia.

Cannon, Richard C., 6724 Longwood, Little Rock, Ark., convicted on September 21, 1971, in the Washington County Circuit Court, Arkansas.

Carroll, Dewey F., Route 6, Box 372, Oxford, Ala., convicted on or about March 29, 1952, and on or about May 25, 1964, in the Circuit Court, Calhoun County, Ala.

Cavender, Steven R., Route No. 2, Bartley Roda, LaGrange, Ga., convicted on February 14, 1966, in the Superior Court, Troup County, Ga.

Chambers, William J., 8705 N.E. Alberta, Portland, Oreg., convicted on March 20, 1957, and on October 29, 1959, in Anchorage, Alaska; and on June 7, 1965, in the Superior Court for the State of Alaska, Third Judicial District.

Coleman, Paul D., Route 3, Box 47, Hamptonville, N.C., convicted on March 29, 1972, in the U.S. District Court, Western District of North Carolina, Statesville, N.C.

Cook, Richard A., 37721 Hixford Place, G-11, Westland, Mich., convicted on December 27, 1955, in the Circuit Court, 35th Judicial Circuit of the State of Michigan.

Craven, Jeremiah B., Route 1, Box 104B, Bowman, S.C., convicted on July 20, 1950, in the U.S. District Court, Eastern District, South Carolina.

Crowley, Arnold J., 1480 Peachwood Drive, Flint, Mich., convicted on January 9, 1950, in the Superior Court, Cumberland County, Maine.

Czeszynski, Anthony J., 38152 Park Street, Oconomowoc, Wis., convicted on May 26, 1969, in the U.S. District Court, Eastern District, Wisconsin.

Davis, Grady, Jr., 1572 Beatie Avenue, SW., Atlanta, Ga., convicted on June 26, 1962, and on February 18, 1964, in the Fulton County Superior Court, Atlanta, Ga.

Davis, Leon, 1928 S. Carmona Avenue, Los Angeles, Calif., convicted on March 23, 1956, and on May 27, 1958, in the Circuit Court, Tenth Judicial Circuit of Alabama.

DeCoux, Charles L., 2511A 20th Place, Ensley, Birmingham, Ala., convicted on June 19, 1961, in the Muscogee Superior Court, Columbus, Ga.

Dinger, Barry J., Box 31, Oak Ridge, Pa., convicted on March 5, 1976, in the Court of Common Pleas of Clarion County, Pa.

Dow, Gaylord L., 602½ N. Waterloo Street, Jackson, Mich., convicted on September 6, 1960, in the Circuit Court of Osceola County, Mich.

Eyre, Timothy R., 11224 Nevada Avenue, North, Champlin, Minn., convicted on November 19, 1971, in the Fourth Judicial District Court, County of Hennepin, Minn.

Feichtner, Ronald J., 6900 30th Avenue, Kenosha, Wis., convicted on or about November 16, 1956, in the Municipal Court, City and County of Kenosha, Wis.

Fowler, Archie L., RR No. 1, Grand Rivers, Ky., convicted on December 8, 1944, April 25, 1967, and on November 2, 1971, in the U.S. District Court, Ky.

Ganas, Andy W., 724 Vallotton Drive, Valdosta, Ga., convicted on June 19, 1974, in the Superior Court of Lowndes County, Ga.

Graeter, Jack H., 434 Biscayne Road, Lancaster, Pa., convicted on or about May 19, 1956, in the Chester County Court of Common Pleas, Chester County, Pa.

Gregory, Alvin G., Route 2, Box 257, Ronda, N.C., convicted on October 26, 1971, in the U.S. District Court, Wilkesboro, N.C.

Griffith, Brant L., RR No. 2, Box 144A, Jasonville, Ind., convicted on July 19, 1972, in the Green County Circuit Court, Bloomfield, Ind.

Hallman, Mickey R., 8 Houser Street, Montgomery, Ala., convicted on November 12, 1973, in the U.S. District Court, Middle District, Alabama.

Hebert, Robert L., 2621 Mary Ann Street, Sulphur, La., convicted on February 15, 1960, in the 14th Judicial District Court, Lake Charles, La.

Heliker, Leroy J., 3302 West Lake Road, Erie, Pa., convicted on August 9, 1968, in the Court of Quarter Sessions of Warren County, Pa.

Howell, Donald H., 1852 Queens Way, Chamblee, Ga., convicted on June 8, 1973, in the U.S. District Court, Eastern District of Virginia, Alexandria Division.

Hummer, William G., 29657 E. River Road, Perrysburg, Ohio, convicted on June 15, 1973, in the Circuit Court of Rockbridge County, Va.

Iacono, Vincent, 11401 Morrison, New Orleans, La., convicted on July 11, 1975, in the U.S. District Court, Florida.

Ireland, Ronald G., 113 O'Connell, Howe, Tex., convicted on February 6, 1976, in the 59th Judicial District Court in Sherman, Tex.

Jeffries, Milton C., 4324 N.W. 16th Street, Oklahoma, City, Okla., convicted on July 29, 1971, in the District Court of Travis County, Tex.; and on October 8, 1971, in the District Court of Harris County, Tex.

Johnson, Gary L., Route 7, Box 63, North Wilkesboro, N.C., convicted on November 7, 1972, in the U.S. District Court, Winston-Salem, N.C.

Johnson, Gilbert O., 305 North Street, Sunnyside Park, Jefferson, N.C., convicted on October 22, 1945, in the Ashe County Superior Court, North Carolina; and on September 29, 1947, in the Alleghany County Superior Court, North Carolina.

Johnson, Lester P., Route 7, Box 109, North Wilkesboro, N.C., convicted on May 18, 1942, January 8, 1946, and on or about May 2, 1953, in the U.S. District Court, Wilkesboro, N.C.

Johnston, Ronald F., 615 N.E. Hill Street, Sheridan, Oreg., convicted on November 25, 1974, in the U.S. District Court, Oregon.

Karns, Tolbert, Jr., RD No. 1, Fayetteville, Pa., convicted on February 29, 1952, in the Court of Quarter Sessions of Franklin County, Pa.

Kennedy, James F., Route No. 2, Box 84, Dickson, Tenn., convicted on July 29, 1953, in the U.S. District Court for the Eastern District of Louisiana, and on July 19, 1956, in the Comanche County Circuit Court, Lawton, Okla.

Knight, Daniel H., 5441 Pine Grove Avenue, Norfolk, Va., convicted on March 29, 1974, in the U.S. District Court, Eastern District of Virginia, Norfolk Division.

Kvapil, Robert J., Jr., 203 E. Grand Avenue, Chippewa Falls, Wis., convicted on April 25, 1974, in the St. Croix County Circuit Court, Hudson, Wis.

Laxson, Paul V., 14834 Burley Avenue, S.E., Burley, Wash., convicted on October 25, 1974, in the Superior Court of Washington, Kitsap County, Port Orchard, Wash.

Lombardo, Michael J., 515 West 17th Street, Erie, Pa., convicted on June 25, 1940, and on May 13, 1942, in the Court of Quarter Sessions, Erie County, Pa.

Mack, Floyd W., P.O. Box 464, Neah Bay, Wash., convicted on April 15, 1968, in the Superior Court of Clallam County, Wash.

Manuel, George, 8787 Sullivan Road, Tipp City, Ohio, convicted on June 28, 1974, in the U.S. District Court, Northern District, of Illinois; and on February 3, 1971, in the U.S. District Court, Inidanapolis, Ind.

Marlowe, Jack F., 26 Fortune Lane, Levittown, Pa., convicted on June 4, 1958, in the Court of Quarter Sessions of the Peace for the County of Philadelphia, Pa.

Masiello, Raymond, 4331 Washington Street, Roslindale, Mass., convicted on February 9, 1954, in the U.S. District Court, Boston, Mass.

Matulka, Otto J., 2469½ S. 16th Street, Omaha, Nebr., convicted on November 20, 1974, in the U.S. District Court, District of Nebraska.

McDaniel, Anthony B., 180 Scott Street, Orange, Va., convicted on October 26, 1972, in the Circuit Court of Orange County, Va.

Mears, David W., 4275 Taylor Road, Apt. K-1, Chesapeake, Va., convicted on July 14, 1966, in the Circuit Court of the City of Chesapeake, Va.; and on July 30, 1968, in the Nansemond County Circuit Court, Va.

Miller, Lannon E., 10043 Alendra, Shreveport, La., convicted on March 4, 1977, in the U.S. District Court, Western District, La.

Morris, James B., Route No. 2, Box 11, Johnson, Kans., convicted on May 7, 1973, in the District Court, First Judicial District of Oklahoma; and on February 5, 1974, in the District Court, Grant County, Kans.

Morris, Larry H., 1717 Madison Avenue, Baltimore, Md., convicted on October 30, 1962, in the U.S. District Court for the District of Columbia.

Moses, Richard J., 402 N. 9th, Worland, Wyo., convicted on September 13, 1976, in the U.S. District Court, District of Wyoming, Cheyenne, Wyo.

Offredi, Gary V., 401 W. Diamond Street, Butler, Pa., convicted on March 17, 1970, in the Court of Quarter Sessions, Armstrong County, Pa.

Okuly, Delmar L., 1136 Summit Street, New Haven Ind., convicted on November 20, 1961, in the Allen Circuit Court, County of Allen, Ind.

Palmer, Roger C., 8907 Sylvania Street, Lorton, Va., convicted on November 22, 1965, in the Circuit Court of Orange County, Va.

Payne, Samuel C., 16 Poplar Street, Porterdale, Ga., convicted on March 27, 1967, in the Newton County Superior Court, Covington, Ga.

Pigza, Joseph P., 180 Forrest Street, Gallitzin, Pa., convicted on January 15, 1964, in the Court of Quarter Sessions of the Peace for the County of Blair, Pa.

Pretice, Raymond E., 8834 W. Deer Valley, Peoria, Ariz., convicted on November 10, 1961, in the Circuit Court, Mississippi County, Ark.

Prevette, James R., Route 1, Box 325, Roaring River, N.C., convicted on May 25, 1951, November 23, 1956, November 25, 1958, and on November 26, 1962, in the U.S. District Court, Wilkesboro, N.C.

Proto, Constantine, Box 1318, Roosevelt, Utah, convicted on September 25, 1970, in the Suffolk County Court, Riverhead, N.Y.

Reinhardt, John E., 1510 Jarvis Street, Winston-Salem, N.C., convicted on May 2, 1967, in the U.S. District Court, Middle District of North Carolina.

Rice, Budd L., RD No. 2, Box 99, Seneca, Pa., convicted on July 15, 1974, in the U.S.

District Court, Western District of Pennsylvania.

Ritter, Robert C., 7611 Bull Run Road, Manassas, Va., convicted on April 25, 1952, in the Circuit Court of Montgomery county, Va.

Roberts, Bobby R., 5600 Hawkinsville Road, Lot 47, Macon, Ga. convicted on November 17, 1956, in the Circuit Court of Laclede County, Mo.; and on or about May 28, 1960, in the Circuit Court of Volusia County, Fla.

Robinson, Craig A., 1104 West Stewart Road, Midland, Mich., convicted on October 10, 1973, in the Circuit Court, Midland County, Mich.

Robinson, James D., 11309 Mitchell Hill Road, Fairdale, Ky., convicted on March 11, 1975, in the U.S. District Court, Western District, Louisville, Ky.

Roden, Johnny R., Star Route 3, Alturas, Calif., convicted on March 13, 1973, in the Modoc County Superior Court, Calif.

Rose, Roger D., 415 Sycamore Street, Dawson Springs, Ky., convicted on December 5, 1967, in the Lyon Circuit Court, Lyon, Ky.; and on June 7, 1969, in the Caldwell Circuit Court, Ky.

Schmidt, Tommy, 1830 Rauch Road, Erie, Mich., convicted on March 19, 1964, in the U.S. District Court, Eastern District of Mich.

Shew, James W., Route 2, Box 407, Wilkesboro, N.C., convicted on May 9, 1965, in the U.S. District Court, Wilkesboro, N.C.

Shover, Paul P., R.F.D. No. 3, Box 494, Chambersburg, Pa., convicted on September 17, 1954, in the Court of Quarter Sessions of Franklin County, Pa.

Simons, Richard D., 11927 Woodbine Street NW., Anoka, Minn., convicted on November 12, 1970, in the Circuit Court, Ogle County, Ill.

Sims, Roy C., 104½ West 1st Street, Winslow, Ariz., convicted on December 19, 1975, in the U.S. District Court, Eastern District of Arkansas, Little Rock, Ark.

Smith, Carmen L., 10642½ Hillhaven, Tujunga, Calif., convicted on July 2, 1974, in the Superior Court, Maricopa County, Phoenix, Ariz.

Smith, Nicholas T., P.O. Box 293, Mansfield, Wash., convicted on January 12, 1976, in the Superior Court of the State of Washington in and for the County of Okanogan.

Spencer, Alan H., 8054 Seabeck Highway NW., Bremerton, Wash., convicted on July 2, 1970, in the Superior Court of the State of Washington for the County of King.

Stans, James J., Rural Route No. 2, Battle Lake, Minn., convicted on October 16, 1970, in Hennepin County, Fourth Judicial District Court, Minn.

Summerhill, James L., Route No. 2, Box 387A, Florence, Ala., convicted on June 9, 1967, and on November 6, 1967, in the Lauderdale County Circuit Court, Florence, Ala.

Trulson, Terry M., 708 North Irving, Kennewick, Wash., convicted on January 9, 1970, in the Superior Court, Fanklin County, Wash.

Tucker, John W., 1806 Julianne Drive, Marion, Ill., convicted on June 12, 1967, in the Pope County Circuit Court, Golconda, Ill.

Turner, George M., Jr., R.F.D. No. 1, Leon Court, Hanson, Mass., convicted on or about November 15, 1946, in the Middlesex District Court, Framingham, Mass.

Vernwald, Fred, P.O. Box 147, Browning, Mont., convicted on January 5, 1932, in the District Court, Fifteenth Judicial District, County of Beltrami, Minn.; and on May 21, 1934, in the District Court, Fourteenth Judicial District, County of Mahnomen, Minn.

Waley, Harmon M., Box 1007, Waldport, Oreg., convicted on March 12, 1930, in the Lewis County District Court, Lewis County, Idaho; and on June 30, 1931, in the Thurston County Superior Court, Olympia, Wash.; and on June 21, 1935, in the U.S. District Court, Western District, Tacoma, Wash.

Ward, Thomas L., Jr., 2042 East 35th Street, Tucson, Ariz., convicted on July 22, 1955, in the Superior Court, Westchester County, White Plains, N.Y.

Warren, Roland C., Route No. 4, Box 338, Buhl, Idaho, convicted on July 30, 1976, in the District Court, Fifth Judicial District, State of Idaho, Twin Falls County.

Weber, Gerald D., 2305 20th Street, Columbus, Nebr., convicted on April 25, 1975, in the District Court of Platte County, Nebr.

Weber, Nelson, 2116 South State Street, Springfield, Ill., convicted on July 23, 1964, in the U.S. District Court for the Southern District of Illinois, Southern Division.

Weinman, Charles T., 1369 Anchor Street, Philadelphia, Pa., convicted on November 18, 1971, in the U.S. District Court for the Eastern District of Pennsylvania.

Williams, Louis B., 4322 Lancaster Avenue, Philadelphia, Pa., convicted on or about February 10, 1930, and on November 14, 1940, in the Court of Common Pleas, Philadelphia County, Pa.

Williamson, Jack M., Route No. 1, Ethel, Miss. convicted on or about January 13, 1958, on or about October 14, 1958, on or about December 7, 1960, on or about May 1, 1965, and on February 6, 1969, in the U.S. District Court, Northern District, Aberdeen, Miss.

Williamson, James. Route 1, Ethel, Miss., convicted on or about April 14, 1953, on or about April 20, 1955, on or about November 2, 1962, and on February 6, 1969, in the U.S. District Court, Northern District, Aberdeen, Miss.

Willis, James K., 6038C Cheshire, Indianapolis, Ind., convicted on March 18, 1966, in the Superior Court, Morgan County, Ind.

Yeager, Melvin A., 1365 Howard Drive, Albany, Oreg., convicted on October 17, 1975, in the U.S. District Court, District of Portland, Oreg.

Zayas, Louis R., 809 Borregas Avenue, Sunnyvale, Calif., convicted on June 19, 1974, in the U.S. District Court, Southern District of New York.

Signed at Washington, D.C., this 5th day of June 1978.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc. 78-16329 Filed 6-13-78; 8:45 am]

[4830-01]

Internal Revenue Service

[Delegation Order No. 42 (Rev. 8)]

SERVICE CENTER DIRECTOR

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of Authority.

SUMMARY: The authority delegated by the Commissioner of Internal Revenue to the Service Center Director, to redelegate the authority to sign all consents fixing the period of limitations on assessment or collection is extended to include Revenue Officers in the service centers.

EFFECTIVE DATE: June 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles A. Hulberg, 1111 Constitution Avenue NW., Room 7539, Washington, D.C. 20224, 202-566-4604 (not toll free).

This document does not meet the criteria for significant Regulations set forth in paragraph 8 of the proposed Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, May 24, 1978.

JAMES D. HALLMAN,
Acting Director, Collection Division.

Subject: Authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939 and 1954 Internal Revenue Codes.

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 120, dated July 31, 1950; Order No. 150-2, dated May 15, 1952; 26 CFR 301.6501(c)-1; 26 CFR 301.6502-1; 26 CFR 301.6901-1(d); and 26 CFR 301.7701-9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials: a. Assistant Regional Commissioners (Appellate); b. Assistant Regional Commissioners (Employee Plans and Exempt Organizations); c. Service Center Directors; d. District Directors; and e. Director of International Operations.

2. This authority may be redelegated but not below the following levels for each activity: a. Service Centers—Chief, Accounting Branch; Chief, Correspondence Audit Branch and Revenue Officers; b. Collection—Chiefs, Office Branch and Office Groups and Revenue Officers; c. Audit—Conferees and Reviewers, Grade GS-11; Group Managers; Case Managers; and Returns Program Managers; d. Intelligence—Chief, Intelligence Division; e. Appellate—Appellate Appeals Officer; f. Office of International Operations—Representatives at foreign posts; Revenue Agents, Tax Auditors and Special Agents on foreign assignments; and levels b., c., and d., above; and g. Employee Plans and Exempt Organizations—Conferees and Reviewers, Grade GS-11; Group Managers.

3. This Order supersedes Delegation Order No. 42 (Rev. 7), issued March 14, 1977.

Dated: May 30, 1978.

JEROME KURTZ,
Commissioner.

[FR Doc. 78-16316 Filed 6-13-78; 8:45 am]

[4810-22]

Office of the Secretary

METHYL ALCOHOL FROM CANADA

Antidumping Proceeding

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of methyl alcohol from Canada are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. However, as there is substantial doubt that imports of the subject merchandise alleged to be at less than fair value are the cause of present, or likely future, injury to an industry in the United States, the case is being referred to the U.S. International Trade Commission for preliminary injury consideration pursuant to Section 201(c) of the Act.

EFFECTIVE DATE: June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent Kane or Michael E. Crawford, Operations Officers, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On May 2, 1978, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from E. I. du Pont de Nemours & Co., indicating a possibility that methyl alcohol from Canada is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The margins of dumping alleged, based on a comparison of sales to the U.S. with prices in the home market, range from aproximately 12 to 100 percent.

There is evidence on record concerning injury or likelihood of injury from the alleged less than fair value imports. This evidence also indicates that although petitioner's domestic production, sales, and share of the domestic market for noncaptive uses of methanol (so-called "merchant-market sales") declined in 1977 compared to 1976, the other domestic producers of the product experienced increases in each of these categories during the same period. Evidence on hand also indicates that while profitability on merchant-market sales for the entire industry producing methyl alcohol has declined, that decline may, in part, be attributable to rapidly increased costs of production. Furthermore, in determining whether profitability has been adversely affected, it appears inappropriate to consider merchant-market sales separately from total production and use or sale, particularly as the share of domestic production accounted for by captive consumption of U.S. producers has increased substantially in recent years. In 1977, 73 percent of U.S. production was used by domestic producers for further processing. Moreover, domestic prices for methanol appear to have increased sharply over the past five years, including the periods in which Canadian sales occurred. In that connection, in determining pursuant to section 201(c)(2) of the Antidumping Act as recently as October 1977 that there was no reasonable indication of injury from imports of methyl alcohol from Brazil, Chairman Minchew of the U.S. International Trade Commission noted that "U.S. purchasers of open-market methyl alcohol have had to rely on imports to meet part of their raw material requirement." 42 FR 55950 (October 20, 1977).

Therefore, it has been concluded that there is substantial doubt of injury, or likelihood of injury, to an industry in the United states as a result of imports of such merchandise from Canada. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act.

Having conducted a summary investigation as required by section 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the International Trade Commission, within 30 days of receipt of the advice cited in the preceding paragraph, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, the Department will publish promptly in the FEDERAL REGISTER a notice terminating the investigation. Otherwise the investigation will continue to conclusion.

This notice is published pursuant to section 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,
General Counsel
of the Treasury.

JUNE 8, 1978.

[FR Doc. 78-16428 Filed 6-13-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 684]

ASSIGNMENT OF HEARINGS

JUNE 19, 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.

No. MC 111871 (Sub-No. 10), Southeastern Freight Lines, now being assigned for hearings on July 18, 1978, at Atlanta, GA at the Ramada Inn—Central, I-85 North at Monroe Street.

No. MC-F-13400, Overnite Transportation Co.—Purchase—St. Louis-Kansas City Express, Inc., is now assigned for prehearing conference July 17, 1978, at the offices of the Interstate Commerce Commission, Washington, DC.

No. MC 111302 (Sub-No. 99), Highway Transport, Inc., now assigned July 6, 1978, at Nashville, TN, will be held in Room A-440, Federal Building, 801 Broadway.

No. MC 44914 (Sub-No. 3), Willamette Valley Transfer Co., now assigned July 10, 1978 at Portland, OR, will be held in Room 103, Pioneer Courthouse, 555 Southwest Yamhill Street.

MC 134038 Sub 6, Majors Transit, Inc., now being assigned July 27, 1978 (1 day), for continued hearing at Nashville, TN and will be held at the Tennessee Public Service Commission, Hearing room 123, Floor C-1, Cordell Hull Building.

MC 13207 Sub 26, Short Way Lines, Inc., now assigned June 26, 1978, at Toledo, OH is cancelled, application dismissed.

MC 121142 Sub 17, J & G Express, Inc., now being assigned July 18, 1978 (3 days), at Jackson, MS in a hearing room to be later designated.

No. MC 126574 (Sub-No. 3), M. L. Hatcher Pickup & Delivery Services, Inc., now assigned July 11, 1978, at Raleigh, NC, will be held in Room 505, Federal Building, 310 New Bern Avenue.

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

[FR Doc. 78-16454 Filed 6-13-78; 8:45 am]

[7035-01]

[Finance Docket No. 28676 (Sub-No. 1)] [1]

GRAND TRUNK WESTERN RAILROAD CO. AND GRAND TRUNK CORP.—CONTROL—DETROIT, TOLEDO AND IRONTON RAILROAD CO. AND THE DETROIT AND TOLEDO SHORE LINE RAILROAD CO.

Notice of Acceptance and Consideration of Supplement to Application

AGENCY: Interstate Commerce Commission.

ACTION: Acceptance of Supplement to the Application, and Consideration with Application filed in Finance Docket No. 28499 (Sub-No. 1) Norfolk and Western Railway Co. and Baltimore and Ohio Railroad Co.—Control—Detroit, Toledo and Ironton Railroad Co., to which this is an inconsistent application. The proceedings have been set for oral hearing, Judge Beddow presiding, at a time and place to be announced later.

SUMMARY: Supplemental material to the inconsistent application was accepted. Grand Trunk has been found in full compliance with the Commission's *Railroad Acquisition, Control, Consolidation, Coordination Project, Trackage Rights and Lease Procedures.* This proceeding is inconsistent with Finance Docket No. 28499 (Sub-No. 1), *Norfolk and Western Railway Co. and Baltimore & Ohio Railroad Company—Control—Detroit, Toledo and Ironton Railroad Co.* and is being considered with it for handling. These proceedings have been set for oral hearing at a time and place to be determined later.

FOR FURTHER INFORMATION CONTACT:

Edward J. Schack, Acting Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7580.

SUPPLEMENTARY INFORMATION: The Commission accepted the inconsistent application by order of March 17, 1978, but required by that order that additional information be submitted in order to cure serious deficiencies in the required filings. Specifically, a traffic study for DT&I, maps, supporting materials and additional; financial information was required. On June 6, 1978, the Commission found that these requirements have been met and the deficiencies have been cured.

The proceeding has been set for oral hearing, along with the proceeding in Finance Docket No. 28499 (Sub-No. 1) to which it is an inconsistent application, Judge Beddow presiding. A prehearing conference has been scheduled for June 27, 1978, at the Commission's offices in Washington, D.C.

This acceptance does not reach the issue of the necessity of joinder of Canadian National set forth in the petitions to dismiss filed by Canadian Pacific Limited, and jointly filed by Norfolk and Western Railway Co. and Baltimore and Ohio Railroad Co.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-16456 Filed 6-13-78; 8:45 am]

[1] This application is inconsistent to the application filed in Finance Docket No. 28499 (Sub-No. 1) Norfolk and Western Railway Co. and Baltimore and Ohio Railroad Co.—Control—Detroit, Toledo and Ironton Railroad Co.

[7035-01]

[Ex Parte No. 349]

INCREASED FREIGHT RATES AND CHARGES, 1978, NATIONWIDE

Decision

June 7, 1978.

In a decision served May 4, 1978, we permitted the filing of a master tariff, subject to protest and possible suspension, providing for publication of increases in freight rates and charges by 4 percent within Eastern territory, within Western territory and between Eastern and Western territory, and 2 percent from, to, and within Southern territory. The master tariff, Tariff of increased Rates and Charges X-349, filed May 9, 1978, contains specified holddowns and exceptions including a 7 percent increase on many coal movements.

An extensive record has been assembled in this proceeding and oral argument was held before the Commission on June 5, 1978. The record discloses that the revenue yield from the proposed increase will not exceed the increased cost in labor and other expenses which have occurred since the last general increase proposal, Ex Parte No. 343, Nationwide Increased Freight Rates and Charges—1977, became effective. Accordingly, we find that the increase is justified from a cost and revenue need standpoint. However, during the course of this proceeding other issues, which we consider important, have surfaced. These issues will be discussed separately.

Coal

The proposed increase of 7 percent on coal as proposed in Item Nos. 800, 805, and 810 [1] of the master tariff has not been justified. The Commission, while favoring selective increases, does not believe that, in an across-the-board general increase, one commodity should be singled out for disproportionate treatment, absent compelling circumstances. Such a showing has not been made here. On the contrary, protestants have established that coal is relatively profitable, particularly when compared with the overall cost/revenue relationship of 126.9 for all traffic. The carriers are, of course, free to publish whatever adjustment they believe necessary on this individual commodity. The matter can then be handled in the depth it deserves on a more complete record relating specifically to this commodity.

Coal is a basic energy source and an increase not fully justified, even if later ordered cancelled, would have an inflationary impact. In addition, we note that there have recently been a number of controversial coal cases, and we do not believe the carriers should be permitted to sidestep normal investigation and suspension procedures by imposing an increase greater on coal than any other commodity in a general increase proceeding. However, no reason has been shown to exempt this traffic from bearing a portion of the carriers' demonstrated cost increases. Accordingly, in order to avoid disruption of rate relationships we will limit the increase on coal to 4 percent within and between all territories.

It is ordered: The proposed increase on coal is suspended, without prejudice to the refiling, upon cancellation of the above items, of increases of 4 percent. In no event shall the increase exceed that proposed in the X-349 tariff.

Revenue/Cost Relationships

Many parties in this proceeding have called attention to the need for further refinement of our Ex Parte No. 290 procedures, *Procedures Governing Rail General Increase Proc.*, 351 ICC 544 (1976), as subsequently amended. We intend to reopen that proceeding for this purpose in the near future. At the same time protestants have directed our attention to the problem caused for other commodities when some commodities are transported at below-cost rates. As discussed in Ex Parte No. 338, decision dated January 31, 1978, this matter requires further attention. In this proceeding, the carriers' own submission discloses this to be a fact. While we intend to take action in this area, the carriers should not await a formal proceeding but should take immediate steps to remedy this situation. Failure to do so will bring into question the statutory standards of economical and efficient management under section 15a(4) of the Interstate Commerce Act.

In Ex Parte No. 343, Nationwide Increased Freight Rates and Charges—1977, the Commission ordered into investigation the rates on the following commodities:

	SPC No.
1. Newsprint paper	57
2. Sodium alkalies	69

[1] STCC Nos. 11 1, 11 212 10, 11 212 90, 11 219, 11 22, 29 919 50, 29 919 55.

	SPC No.
3. Industrial gases	71
4. Sulphuric acid	73
5. Rubber, natural or synthetic	78
6. Manufactured iron or steel	100
7. Recyclables	NA

These commodities were selected because of apparently high revenue/cost ratios. That investigation is still pending. In view of that fact and since the carriers' own submission in this proceeding and various protests demonstrate the continued existence of unusually high ratios, these same commodities are placed under investigation here.

In addition, the present record and in particular "Schedule C" and protestants' cost evidence discloses a need for investigation of the following commodities due to high ratios of revenue to variable cost:

	SPC No.	STCC No.
Soda ash	70	28 123 22
Plastic materials	77	28 211
Iron and steel pipe—Western Territory only	101	33 126

DIFFERING TERRITORIAL INCREASES

In some instances the lower 2 percent increase in the south will disrupt rate relationships. In order to avoid undue disruption, that will occur as disclosed on this record absent some relief, increases on the following commodities shall be as follows:

2 Percent

Feed Grains from Midwestern origins to New England points. The proposed disproportionate increase on feed grains would nullify our holddown in Ex Parte No. 343.

Printing Paper (STCC 26-213); Wrapping Paper (STCC 26-214); and Paper Bags (STCC 26-43) within the West, except Mountain Pacific territory, and from the West, except Mountain Pacific territory, to Eastern territory. The confused situation on paper in the West is of the carriers' own making. In view of the numerous flagouts reducing the increase on the other commodities to 2 percent and to avoid disruption of rate relationships, we are imposing a uniform 2-percent holddown.

Peanuts from the Southwest to Eastern territory. This action is necessary to prevent section 3(1) violation, particularly in view of the fact that no increase on this commodity is now proposed with regard to certain movements from the South.

3 Percent

In accordance with the carrier's request, the increase on automobile parts rates within Eastern territory is limited to 3 percent until July 1, 1978, after which the proposed 4 percent increase shall become effective.

GRAIN

Numerous protests and verified complaints were filed in this proceeding with regard to grain rates and service problems. We are addressing issues relating to the grain rate structure in Ex Parte No. 270 (Sub-No. 9), *Investigation of the Railroad Freight Structure—Grain and Grain Products.* The grain rate structure is exceedingly complex and we believe that proceeding is the appropriate vehicle to consider rate issues.

We agree with protestants that action must be taken to improve rail service and to relieve car shortages. The Commission is considering various means of improving service including increased or penalty per diem, required publication of freight schedules and reverse demurrage. We are also stepping up our enforcement effort. Again we remind the carriers that improved service is imperative to avoid serious questions of economical and efficient management under section 15a(4) of the Act.

NOTICE

Many protestants have contended that one day's notice of our action is not adequate. In this proceeding where the proposal has not been fully justified necessitating various changes in the tariff, additional notice is necessary. Balancing the needs of carriers and shippers, we will require a 10-day postponement from the date of service of this order.

PORT EQUALIZATION

We direct the carriers' attention to our admonitions in prior general increase proceedings concerning maintenance and preservation of existing port relationships. See, for example, *Increased Freight Rates and Charges, 1972,* 341 ICC 288, 336, and *Increased Freight Rates, 1970 and 1971,* 339 ICC 125, 188. In making effective any increases permitted herein, the carriers are required to protect and maintain all existing port relationships, duly established by order of the Commission or recognized customs of the trade, and to observe the prohibitions of the Interstate Commerce Act with regard to unjust discrimination and undue and unreasonable preference and prejudice.

All outstanding orders of the Commission are modified to the extent necessary to permit the proposed increases authorized in this decision to become effective not less than 10 days from date of service of this decision. Our decision to grant fourth section relief, special permission and our decision to permit the increase to become effective is premised upon the carriers' willingness to effect the necessary changes to render the proposal lawful.

FOURTH SECTION NO. 20560

Respondent railroads have applied for relief from the provisions of Section 4 of the Act necessary to establish the rates and charges originally sought; that the increases in rates and charges authorized herein cannot be published and made effective without producing in some instances rates or charges that yield greater compensation in the aggregate for the transportation of the like kind of property for a shorter than for a longer distance over the same line or route in the same direction, or greater compensation as a through rate or charge than the aggregate-of-intermediate rates or charges subject to the Act, in contravention of Section 4 thereof; that the increased cost of railroad operation necessitates the increases in rates and charges involved in this proceeding which cannot be made effective without fourth-section relief; that application of the increased charges to or from more distant points will not result in the establishment of rates to or from more distant points that are not reasonably compensatory; that no protestant adequately opposed issuance of the fourth-section relief sought on the ground that it would be adversely affected by the fourth-section departures that may be created by the increased rates; and that a special case has been presented in which the Commission may authorize relief from the provisions of Section 4;

Carriers subject to the Interstate Commerce Act and parties to said proceeding be, and they are hereby, authorized to establish and maintain the increased rates and charges described herein without observing the provisions of Section 4 of the Act;

Parties to said proceeding be, and they are hereby, authorized to establish and maintain rates and charges permitted to become effective in this order without observing the long-and-short haul provisions of Section 4 of the Act in cases arising out of the failure to apply the full increases in rates and charges over interstate routes between points in a single State, in turn caused by the failure of the State authorities to authorize the full increases permitted in this proceeding;

In those instances in which rates in contravention of Section 4 are established under authority contained herein, the schedule containing such rates shall make reference to this decision in the manner required by Rule 28 of Tariff Circular No. 20.

AMENDMENT TO SPECIAL PERMISSION NO. 78-2700 AUTHORIZING CERTAIN DEPARTURES FROM THE COMMISSION'S PUBLISHED TARIFF AND ORDERS

It is ordered: That Special Permission No. 78-2700 be, and it is hereby, amended to permit the establishment of the increases in freight rates and

charges authorized by the Commission in this order, subject to the terms, conditions, and limitations provided therein.

Pursuant to Special Permission Application Nos. 259 seeking to not apply increase as to plastic materials; 248, 262, 263, and 264 seeking to not apply increase as to various paper articles; 260 seeking to not apply increase as to Tobacco products; 251 seeking to not apply increase as to Peanuts, Iron, and Steel Scrap and charges for pulling and spotting and respotting trailers, all filed by Western Trunk Line Committee, Agent on the following respective dates, June 5; May 26; June 2; June 2; June 2; June 5; May 26, 1978, in various items of Tariff of Increased Rates and Charges X-349, WTL ICC A-5094, on behalf of all railroad parties to the X-349 proceeding and other agents and carriers.

All of the applications seek to make the amendments effective the earliest possible date on one day's notice, except that application No. 248 seeks an effective date of June 8, 1978, on one day's notice.

It is ordered, That the applications are granted except that publication is authorized to become effective not sooner than 10 days' from the service date of this order.

By the Commission.

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

Chairman O'Neal, concurring: I concur in the separate expression of Commissioner Clapp. I also concur with Commissioner Gresham, to the extent Commissioner Clapp concurs with those views.

In this proceeding the Commission faces the difficult task of helping the railroads attain adequate revenue levels as mandated by the 4R Act, while ensuring that matters affecting the public interest, such as the rising inflation rate, are considered.

The Commission has attempted to carry out these conflicting mandates by authorizing in part the rate increases sought but limiting the increase on coal, imposing holddowns on certain other commodities, and imposing investigations on commodities which already seem to be subject to rates which earn the carriers high profit levels. Several of the commodities subjected to investigation here are already being examined as part of the Commission's investigation in Ex Parte No. 343, "Nationwide Increased Freight Rates and Charges—1977." Commissioner Clapp has noted that he would have preferred to suspend the increases on those commodities pending the resolution of that investigation, and I think much can be said for that point.

The carriers should not be given unfettered discretion to meet their need for increased revenue by exploiting their monopoly power where it exists. While deference to management discretion is necessary in the area of pricing their services, the Commission has a statutory obligation to see that discretion is exercised in a way that does not violate the public interest.

Where there are indications that commodities are moving at highly compensatory rates, I believe the Commission has an obligation to take action. One such commodity in this proceeding is grain from the West, which appears to be moving at highly profitable rates. In addition, the protestants raised legitimate concerns about the need for longer notice of our action for grain shippers. I would have given 20 days postponement for grain instead of 10 days.

Consistent with the position I have taken in the past, I believe the Commission should take steps to prevent the greater absolute increase which results on long hauls, as opposed to short hauls, when flat percentage increases are imposed in general increase proceedings. therefore, I would have imposed a holddown on rates for lumber and forest products from, to, and within the West.

(Commissioner Stafford agrees with Chairman O'Neal insofar as the 20 days' notice on grain.)

Vice Chairman Christian, dissenting in part: I do not believe that this record affords a sufficient basis for placing under investigation the commodities investigated in Ex Parte No. 343, "Nationwide Increased Freight Rates and Charges—1977." With respect to all other matters, I am in agreement with the majority.

Commissioner Murphy, concurring in part, dissenting in part: I am in agreement with the majority to the extent that it imposes some restrictions in the proposals proposed by the carriers in each of the separate three rate territories or between those territories. However, I cannot agree with the majority's drastic action in other respects as noted below.

At the outset it should be pointed out that this is a general revenue proceeding and not an investigation and suspension proceeding on particular commodities. Despite the contentions of several parties at oral argument on June 5, 1978, the proposed increase on coal is nationwide and in that respect it can itself be considered as a "general increase." Contentions of various parties that respondents should not seek a general increase on coal in this proceeding is misplaced. I have always been in favor of the respondents seeking increases (or decreases) in proceedings other than general revenue proceedings. Nevertheless, the Commission has approved and urged respondents in the past to seek selective increases in a general revenue proceeding. See, "Increased Freight Rates and Charges, 1972," 341 ICC 290.

The majority mistakenly relies on a revenue/variable cost ratio to hold down some increases or to put others under investigation. The procedures adopted in Ex Parte No. 290 were not intended as a device to circumvent respondents' urgent needs for additional revenues. In that light, I might note that the procedures in Ex Parte No. 290 are somewhat similar to those adopted in Ex Parte No. MC-82, "New Procedures in Motor Carrier Rev. Proc.," 340 ICC 1 and subsequent decisions therein.

With respect to the proposed increase on coal of 7 percent, I believe that respondents should be given the opportunity, if necessary, in a subnumbered proceeding, to justify the additional 3 percent proposed. Respondents will bear the brunt of transporting the energy needs of this Nation for a considerable period into the future. There is no question but that their revenue needs to provide this essential transportation service should be readily acknowledged. I cannot, therefore, agree with the majority's proposed restriction.

The majority proposes to include in a new investigation those commodities now under investigation in Ex Parte No. 343 and would add thereto several other commodities. The proposed investigation will undoubtedly complicate matters to such an extent that the investigations would amount to somewhat of a continuing investigation with no end in sight.[1] Since the majority has opted to institute the investigation into those commodities now under investigation in Ex Parte No. 343, I would urge that the decision herein instituting the investigation provide that where the Commission finds no need to make an adjustment in Ex Parte No. 343 that the investigation on similar commodities herein be automatically dropped or on petition of respondents.

To the extent that the views expressed above differ from the majority's decision today, I respectively dissent therefrom.

Commissioner Brown, concurring: I concur in Chairman O'Neal's separate expression, relative to his observations as to the general considerations underlying the Commission's decision, and consideration of the use of holddowns, investigations and other devices available to us to adjust the proposals to the best interest of both the carriers and the shipping public.

I concur fully with the Commission's expressed intent to reopen Ex Parte No. 290, "Procedures Governing Rail General Increase Proceedings," to further refine the procedures governing

[1] Cf., "Increased Freight Rates, 1970 and 1971," 339 ICC 125.

the evidentiary submissions required in a general rate increase. To me, this represents the kind of on the job improvement required to keep the Commission moving in step with the nation's transportation needs.

One further matter, these general revenue proceedings are a continuing process. For example, we are authorizing rate increases in the instant proceeding although we have not concluded our consideration of the investigations commenced in Ex Parte No. 343. In my view, we should cleanup as we go. How much better it would be for all parties concerned—the carriers, shippers and the general public—if the increases authorized in these proceedings were determinded at the time of the initial decision, or if any portion of the proposal was unresolved, such portion would be disposed of as part of the next increase proposed by the carriers.

Commissioner Gresham, dissenting in part: I am unable to support the majority's action to impose significant holddowns on the proposed increase. I do not believe the majority has given adequate consideration to the revenue-impact of these holddowns and fear this action can only accelerate the arrival of a subsequent general increase proposal.

In particular, I cannot agree with the decision to limit proposed increases on bituminous steam coal. The majority's efforts to force a holddown on coal flies directly in the face of the Commission's previous calls for selectivity in rail management's pricing decisions. I share the concerns voiced by the protesting public utilities that the proposed increase would be inflationary and contrary to the important energy policy questions our Nation must face. Accordingly, I would insist that this effort to require coal users to bear a higher burden of carrier revenue needs be subject to thorough investigation. However, in light of the carriers' demonstrated revenue needs, I respectfully dissent from the majority's position. In the past, flag-outs and holddowns have been characteristic of general increase proposals. It would seem that selective increase proposals on broad descriptions of traffic should be similarly appropriate. The knife should cut both ways, particularly in light of our prior call for pricing flexibility and selectivity. Section 15a of the Act obligates the Commission to assist the Nation's rail carriers in their efforts to obtain adequate revenue levels. The majority's decision to foreclose the avenue here proposed by the carriers appears inconsistent with that obligation.

Commissioner Clapp, concurring: I agree with Commissioner Gresham that the railroads should not be automatically precluded from taking a larger increase on one commodity than on others. The 4R is a mandate for rate flexibility, even in general increase cases. Nevertheless, the Commission does have an obligation to assess the impact of the increase on traffic which is moving at a high ratio of revenue to cost. It appears that a substantial amount of coal is moving at high ratios, and that the application of a 7 percent increase could result in unreasonable rates in many instances. In my view, the railroads have not presented any evidence to the contrary. They have shown that capital expenses such as coal hopper cars and track construction and maintenance are increasing to keep pace with a rapid increase in coal use. But revenue for the transportation of coal is increasing at a corresponding rate.

Another matter which troubles me is the failure of the railroads to adjust the data relating to the level of rates on particular commodities in Schedule C. While the railroads are in technical compliance with the Ex Parte 290 procedures, I agree with the Fertilizer Institute that the failure to adjust the costs to reflect the economies of multiple car movements renders this evidence useless. In my view, adjusted and accurate costs in Schedule C are absolutely essential to informed decision making.

Certain carrier representatives implied at oral argument that the requirement that rates be just and reasonable should be suspended until the railroads achieve adequate revenue. The Commission rejected that approach in Ex Parte 338, and properly continues to do so here.

Finally, while the action of the majority is not unreasonable, pending the outcome of the investigation in Ex Parte 343, I would prefer to suspend the items included in that case.

[FR Doc. 78-16459 Filed 6-13-78; 8:45 am]

[7035-01]

[Notice No. 92]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 6, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application the weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2095 (Sub-No. 12TA), filed April 25, 1978. Applicant: KEIM TRANSPORTATION, INC., 420 North Sixth Street, R.F.D. 2, Box 10, Sabetha, KS 66534. Applicant's representative: Clyde N. Christey, Kansas Credit Union Bldg., Suite 1101, 1010 Tyler, Topeka, KS 66612. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products*, (in bulk), from the facilities of Georgia-Pacific Corp., near Blue Rapids, KS, to the facilities of Ideal Cement Co., near Superior, NE, for 180 days. Applicant states it does not intend to tack or interline. Applicant had also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., Gypsum Division, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal Building and U.S. Courthouse, 444 SE., Quincy, Topeka KS 66683.

No. MC 43593 (Sub-No. 7TA), filed April 14, 1978. Applicant: FUNK'S HAULING SERVICE, INC., 2750 Grant Avenue, Philadelphia, PA 19114. Applicant's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, from the facilities of K-Mart Corp. in Bensalem Township, Bucks County, PA, to

points in PA, for 180 days. Supporting shipper(s): K-Mart Corp., 3100 West Big Beaver Road, Troy, MI 48084. Send protest to: T. M. Esposito, Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

No. MC 59241 (Sub-No. 7TA), filed April 21, 1978. Applicant: JOHN GIBBONS, INC., 650 Eddystone Avenue, Eddystone, PA 19013. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reels, skids and pallets and materials and supplies* used in the manufacture thereof, between Baltimore, MD, on the one hand, and, on the other, points in PA, for 180 days. Supporting shipper(s): The Nelson Co., 2116 Sparrows Point Road, Sparrows Point, MD 21219. Send protests to: T. M. Esposito Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

No. MC 69397 (Sub-No. 42TA), filed April 14, 1978. Applicant: JAMES H. HARTMAN & SON, INC., P.O. Box 85, U.S. Route 13, Pocomoke City, MD 21851. Applicant's representative: Wilmer B. Hill, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and fence posts* from the facilities of Long Life Treated Wood, Inc., at Dorsey, MD to points in CT, DE, KY, ME, MA, NH, NJ, NY, PA, RI, TN, VT, VA, WV, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Northern Fence Co., Inc., 3180 Espressway Drive, South Central Islip, NY 11722. Send protests to: Interstate Commerce Commission, room 1413, District Supervisor W. C. Hersman, 12th and Constitution Avenue NW, Washington, DC 20423.

No. MC 78400 (Sub-No. 60TA), filed April 6, 1978. Applicant: BEAUFORT TRANSFER CO., P.O. Box 151, Gerald, MO 63037. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose fiber insulation material;* and (2) *scrap paper and materials* used in the manufacture of cellulose fiber insulation materials: (1) from Fulton, MO, on the one hand, and, on the other, points in IN, AR, IL, IA, KY KS, MN, MT, NE, OK, SD, TN, TX, and WI; and (2) from points in IN, AR, IL, IA, KY, KS, MN, MT, NE, OK, SD, TN, TX, and WI on the one hand, and, on the other, Fulton, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roe-Hainkle, Inc., P.O. Box 378, Fulton, MO 65251. Send protests to: Peter E. Binder, District Supervisor, 210 North 12th Street, room 1465, St. Louis, MO 63101.

No. MC 99610 (Sub-No. 29TA), filed April 10, 1978. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City Station, Birmingham, AL 35214. Applicant's representative: Tommy Neely (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other laden: (1) between Anniston, AL and Rocky Face, GA: from Anniston, AL over AL Hwy 21 to Piedmont, AL, then over U.S. Hwy 278 to Rockmart, GA, then over GA Hwy No. 113 to the junction of GA Hwy No. 113 and GA Hwy No. 61, then over GA Hwy No. 61 to Cartersville, GA, then over U.S. Hwy No. 41 to Rocky Face, GA, and return over the same route, serving all intermediate points. (2) Between Cedartown, GA and Calhoun, GA: from Cedartown, GA over U.S. Hwy No. 27 to Rome, GA, then over GA Hwy No. 53 to Calhoun, GA, and return over the same route, serving all intermediate points. (3) Between Piedmont, AL and Rock Springs, GA: from Piedmont, AL over U.S. Hwy No. 278 to the junction of U.S. Hwy No. 278 and AL Hwy No. 29, then over AL Hwy No. 29 to junction of AL Hwy No. 29 and U.S. Hwy 411, then over U.S. Hwy No. 411 to junction U.S. Hwy 411 and U.S. Hwy No. 27, then over U.S. Hwy No. 27 to Rock Springs, GA, and return over the same route, serving all intermediate points. (4) Between Gadsden, AL and Cartersville, GA: from Gadsden, AL over U.S. Hwy 411 to Centre, AL, then over AL Hwy No. 9 to the AL-GA State line, then over GA Hwy No. 20 to Rome, GA, then over U.S. Hwy No. 411 to junction U.S. Hwy No. 411 and U.S. Hwy No. 41, then over U.S. Hwy No. 41 to Cartersville, GA and return over the same route, serving all intermediate points. (5) Between Centre, AL and Summerville, GA: from Centre, AL over AL Hwy No. 68 to the AL-GA State line, then over GA State Hwy No. 114 to Summerville, GA, and return over the same route, serving all intermediate points. (6) Between Scottsboro, AL and Summerville, GA: from Scottsboro, AL over AL Hwy No. 35 to junction of AL Hwy No. 35 and AL Hwy No. 71, then over AL Hwy No. 71 to junction of AL Hwy No. 71 and AL Hwy No. 40, then over AL Hwy 40 to junction of AL Hwy 40 and AL Hwy No. 117, then over AL Hwy No. 117 to the AL-GA State line, then over AL Hwy No. 48 to Summerville, GA, and return over the same route, serving all intermediate points. (7) Between Gadsden, AL and Trenton, GA: from Gadsden, AL over U.S. Hwy No. 278 to Attalla, AL, then over U.S. Hwy No. 11 to Trenton, GA, and return over the same route, serving all intermediate points. (8) Between Centre, AL and Rome, GA: from Centre, AL over U.S. Hwy No. 411 to Rome, GA, and return over the same route, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (26) statements of support attached to the application which may be examined at the field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 99610 (Sub-No.32 TA), filed April 20, 1978. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City, Birmingham, AL 35214. Applicant's representative: Tommy Neely, 1500 Second Street, Pratt City, Birmingham, AL 35214. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities requiring special equipment and commodities in bulk); (1) between Aliceville, AL, and Columbus, MS, via AL State Hwy 14 and MS State Hwy 69; (2) between Reform, AL, and Columbus, MS, via U.S. Hwy 82; (3) between Sulligent, AL, and the junction in MS at U.S. Hwy 45 via U.S. Hwy 278 serving intermediate points; (4) between Hamilton, AL, and Tupelo, MS, via U.S. Hwy 78 serving intermediate points; (5) between Russellville, AL, and Tremont, MS, via AL State Hwy 24 and MS State Hwy 23; (6) between Columbus, MS, and Tupelo, MS, via U.S. Hwy 45 serving intermediate points and Columbus Air Force Base, MS, and Prairie, MS, as off-route points; (7) between Fulton, MS, and Aberdeen, MS, via MS State Hwy 25 serving intermediate points; (8) between Amory, MS, and Nettleton, MS, via MS State Hwy 6 serving intermediate points; (9) junction U.S. Hwy 278 and MS State Hwy 8 to junction MS State Hwy 8 and U.S. Hwy 45, for 180 days. Applicant intends to tack this authority with the authority it presently holds and to interline with other carriers. Supporting shipper(s): There are approximately (139) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the

field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, room 1616, 2121 Building, Birmingham, AL 35203.

No. MC 104654 (Sub-No. 157TA), filed April 10, 1978. Applicant: COMMERCIAL TRANSPORT, INC., P.O. Box 469, Belleville, IL 62222. Applicant's representative: Edward G. Villalon, Attorney, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spent petroleum oils* in bulk, in tank vehicles, from points in IL, KY, OH, PA, MI, AL, MS, WI, TN, MN, WV, and GA to Indianapolis, IN; and (2) *Petroleum oils* in bulk, in tank vehicles, from Indianapolis, IN, to points in IL, KY, OH, PA, MI, AL, MS, WI, TN, MN, WV, and GA, for 180 days. Supporting shipper(s): James P. Tomlinson, Jr., Metal Working Lubricants, 6785 Telegraph, Birmingham, MI 48010. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 111981 (Sub-No. 22TA), filed April 14, 1978. Applicant: ROBIDEAU'S EXPRESS, INC., Front Street and Oregon Avenue, Philadelphia, PA 19148. Applicant's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, PA 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food and foodstuffs*, in vehicles equipped with mechanical refrigeration, from Mt. Airy, MD, to points in the States of OH, WV, NC, MD, DE, DC, PA, NY, NJ, MA, CT, NH, and ME, for 180 days. Supporting shipper(s): Lamb-Weston, Division of Amfac Foods, Inc., 6600 Southwest Hampton, Street, Portland, OR 97223. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, room 3238, Philadelphia, PA 19106.

No. MC 113434 (Sub-No. 101TA), filed April 12, 1978. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln Avenue, Holland, MI 49423. Applicant's representative: Miss Wilhelmina Boersma, 1600 First Federal Building, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and accessories*, from the plantsite of Kerr Glass Manufacturing Corp. at or near Huntington, WV to Cincinnati, Columbus, Leipsic, Medina, and Orrville, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr Glass Manufacturing, P.O. Box 97, Sand Springs, OK 74063. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, MI 48933.

No. MC 113908 (Sub-No. 435TA), filed April 11, 1978. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S., Springfield, MO 65804. Applicant's representative: B. B. Whitehead, Traffic Manager (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (except whiskey), in bulk, from Bardstown, KY, to Dayton, NJ, for 180 days. Supporting shipper(s): Barton Brands, Ltd., P.O. Box 220, Bardstown, KY 40004. Send protests to: District Supervisor John V. Barry, Interstate Commerce Commission, 600 Federal Building 911 Walnut Street, Kansas City, MO 64106.

No. MC 113908 (Sub-No. 436TA), filed April 11, 1978. Applicant: ERICKSON TRANSPORT CORP., P.O. Box 3180, G.S.S., Springfield, MO 65804. Applicant's representative: B. B. Whitehead, Traffic Manager (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (except whiskey), in bulk, from Bardstown, KY, to Plainfield, IL, for 180 days. Supporting shipper(s): Barton Brand, Ltd., Bardstown, KY 40004. Send protests to: District Supervisor John V. Barry, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 115975 (Sub-No. 27TA), filed April 25, 1978. Applicant: C.B.W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62985. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum grease* (in bulk, in tank vehicles), from the facilities of Southwest Oil & Grease, Inc., at or near Bakerstown, PA, to the facilities of Hewett-Robbins Co., at Passaic, NJ, under a continuing bilateral contract, or contracts, with Mobil Oil Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Roger P. Williams, Manager, Mobil Oil Corp., 150 East 42nd Street, New York, NY 10017. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

No. MC 118202 (Sub-No. 89TA), filed April 7, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Mineapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furniture parts and materials, equipment, and supplies* used in the manufacture of new furniture, (1) from Archbold and Stryker, OH, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, VT, VA, WV, WI, and Washington, DC; (2) from Jasper , IN; Clay City, IL; Middleboro and Princeton, KY; Tewksbury, MA; Monroe, MI; and Morristown, TN, to Archbold and Stryker, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sauder Woodworking Co., Box 156, Archbold, OH 43502. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 118431 (Sub-No. 28TA), filed April 21, 1978. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Applicant's representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsites of and storage facilities utilized by Kitchens of Sara Lee at Deerfield and Chicago, IL, to points in OH, under a continuing contract, or contracts, with Kitchens of Sara Lee, for 180 days. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, IL 60015. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 119767 (Sub-No.342 TA), filed April 21, 1978. Applicant: BEAVER TRANSPORT CO., P.O. Box 168, Pleasant Prairie, WI 53158. Applicant's representative: Joseph K. Raber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, refrigerated and frozen* (except in bulk), from the facilities of U.S. Cold Storage at Lyons, IL, to points in OH and IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Cold Storage, 8424 West 47th Street, Lyons, IL 60534 (Raymond J. White). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517

East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 120618 (Sub-No. 9TA), filed April 7, 1978. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, IN 46241. Applicant's representative: John R. Bagileo, 700 World Center Building, 918 16th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum extrusions, ingots, pipe, and tubing* being hauled on open top equipment, from the plantsites and storage facilities of the Aluminum Co. of America located at or near Lafayette, IN, to points located in these cities: Bantam, Beacon Falls, Briston, East Hartford, Greenwich, Milford, Stafford, Waterbury, Windsor, and Windsor Locks, CT; in Augusta, Eattonton, Mariette, and Norecross, GA, and points located in the commercial zone of Atlanta, GA; in Charleston, Effingham, Rock Falls, and Troy, IL, and points located in the commercial zone of Chicago, IL; in Beria, Cambellsville, Florence, Lexington, and Louisville, KY; in Hopedale, North Grafton, Pittsfield, Springfield, and Wheelwright, MA, and points located in the commercial zone of Boston, MA; in Big Rapids, Cadillac, Dawagiac, Flint, Grand Rapids, Kalamazoo, and Port Huron, MI, and points located in the commercial zone of Detroit, MI; in Springfield, MO, and points located in the commercial zone of Kansas City, MO; in Bow, Littleton, Lincoln, Nashua, and Plainton, NH; in Cranbury, East Brunswick, Greensboro, Oak Ridge, Plainsboro, and Union, NJ, and points located in commercial zone of New York, NY, within the State of NJ; Albany, Binghampton, Cheektowaga, Cortland, Granville, Horseheads, Marathon, Massena, Oswego, Rochester, Tonawanda, and Webster, NY, and points located in the commercial zone of Buffalo, Syracuse, and New York, NY; in Chillicothe, Dayton, Jackson Center, Londonville, Marion, North Canton, Oxford, Sidney, Shreve, Springfield, Toledo, Wickliffe, Willington, Wooster, and Van Wert, OH, and points located in the commercial zones of Cincinnati and Cleveland, OH; in Alcoa Center, Clearfield, Harleysville, Huntingdon, Huhnsville, Lancaster, Leetsdale, Merwin, Montgomery, New Castle, Union Town, Wilkes-Barre, and Zelienople, PA, and points located in the commercial zones of Philadelphia and Pittsburgh, PA; in Alcoa, Clarksville, Columbia, Knoxville, Madisonville, Memphis, Nashville, Portland, Selmer, and Tullahoma, TN; in Amarillo, Arlington, Beasley, Beaumont, Dallas, Denver City, Garland, Grand Prairie, Houston, Hurt, Irving, Langview, Nacodoches, Pearl, Richardson, Rockdale, and Tyler, TX; in Newport News, Norfolk, Portsmouth, Powhatan, Richmond, Salem, and South Boston, VA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Aluminum Co. of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building, and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 123048 (Sub-No. 400TA), filed April 18, 1978. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, WI 53401. Applicant's representative: Carl S. Pope (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum cable on reels*, from Williamsport, PA, to points in NE for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alcan Aluminum Corp., 100 Erieview Plaza, Cleveland, OH 44114 (Clifford G. Pearson). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 124212 (Sub-No.99TA), filed April 20, 1978. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, P.O. Box 30248, Cleveland, OH 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement* (in bulk), (1) from Framingham, MA, to points in MA and RI, and (2) from Hartford, CT, to points in CT, restricted to traffic originating at the facilities of Alpha Portland Cement Co. at Cementon, NY, and further restricted to shipments having an immediately prior movement by rail, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Alpha Portland Cement Co., P.O. Box 191, Easton, PA 18042. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 124344 (Sub-No.10TA), filed March 29, 1978. Applicant: HINER TRANSPORT, INC., 1317 South Jefferson Street, Huntington, IN 46750. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter*, from Huntington and Indianapolis, IN, to points in TX, PA, LA, IL, KY, OH, MI, NJ, NY, MO, MN, and MS, with no transportation for compensation on return except as otherwise authorized; and from points in the above-named destination States to Huntington, IN, with no transportation for compensation on return except as otherwise authorized; (2) *materials, supplies, and equipment* used or useful in the maintenance and operation of printing houses (except commodities in bulk, in tank vehicles), from Chicago, IL, to Huntington, IN, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Noll Printing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Noll Printing Co., Inc., 100 Noll Plaza, Huntington, IN 46750. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 125335 (Sub-No. 17TA), filed April 20, 1978. Applicant: GOODWAY, INC., P.O. Box 2283, York, PA 17405. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the plantsite or facilities of Rich Products Corp., at or near Murfreesboro, TN, to points in AL, AR, DE, FL, GA, KS, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WV, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: Charles F. Meyers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Washington, DC 20423.

No. MC 125368 (Sub-No. 31TA), filed April 21, 1978. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge NC 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge NC 28445. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food products and merchandise* used in the manufacture and distribution of pickles and food products, between the plantsite and storage facilities of Vlasic Foods, Inc., Millsboro, DE, on the one hand, and, on the other, points in CT, DC, FL, GA, KY, MA, MD, MS, MI, NH, NJ, NY, NC, OH,

PA, RI, SC, TN, VT, VA, and WV, for 180 days. Supporting shipper(s): Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48042. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, 624 Federal Building, 310 New Bern Avenue, Raleigh, NC 27611.

No. MC 126118 (Sub-No. 75TA), filed April 6, 1978. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Applicant's representative: Duane W. Acklie, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh, brine, salted, and processed seafood and seafood products, and seafood products* in mixed loads with exempt commodities, from Bellingham, Port of Bellingham, Seattle, Redmond, Anacortes, Ilwaco, and Everett, WA, and Port Orford, Port Astoria, Newport, Depoe Bay, and Bandon, OR, to all points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, NE, MD, MA, MI, MN, MS, MO, NE, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, and WV, WI, and DC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately five statements of support attached to the application which may be examined at the field office named below. Send protests to: Max. H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 126717 (Sub-No. 11TA), filed April 21, 1978. Applicant: WALT'S DRIVE-A-WAY SERVICE, INC., 1103 East Franklin Street, Evansville, IN 47711. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mine, well, or quarry drilling machinery, in drive-away service*, in initial movements, from Sherman, TX, to all points in the United States, (except HI), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Drill Division, Chicago Pneumatic Tool Co., P.O. Box 1225, Enid, OK 73701. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio St., Room 429, Indianapolis, IN 46204.

No. MC 129328 (Sub-No. 9TA), filed April 19, 1978. Applicant: PALTEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Bldg., Suite 3300, Houston, TX 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glassware, (except cut glassware), and closures therefor*, from the facilities of or utilized by Glass Containers Corp. at or near Palestine and Dallas, TX, and Jackson, MS, to Denver, CO, and points in its commercial zone, and to Hutchinson, Lenexa, Pauline, Topeka, and Wichita, KS, and (2) *Materials, equipment, and supplies* used in the manufacture, sales, or distribution of the commodities in (1) above, from Denver, CO, and points in its commercial zone and from Hutchinson, Lenexa, Pauline, Topeka, and Wichita, KS, to the facilities of or utilized by Glass Containers Corp., at or near Palestine, TX., and Jackson, MS, under a continuing contract, or contracts, with Glass Containers Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Glass Containers Corp., 1301 S. Keystone Avenue, Indianapolis, IN 46203. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

No. MC 133566 (Sub-No. 110TA), filed April 21, 1978. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Applicant's representative: Charles W. Beinhauer, One World Trade Center, Suite 4949, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts* in vehicles equipped with mechanical refrigeration, between the plantsite and storage facilities of Lykes Bros., Inc., of A at or near Albany, GA, and points in KY, IL, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lykes Bros. Inc., of GA, P.O. Box Box 427, Albany, GA 31702. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 136035 (Sub-No. 12TA), filed April 24, 1978. Applicant: W. S. DUNNING & SON, INC., P.O. Box 793, Progress Way, Jeffersonville, IN 47130. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, MD 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except in bulk), from the facilities of Morgan Packing Co., Inc., Austin and Brownstown, IN, to NY, PA, OH, MD, VA, SC, NC, FL, CT, MA, NJ, and WV, under a continuing contracts, with Morgan Packing Co, for 180 days. Supporting shipper(s): Morgan Packing Co., Inc., Austin, IN 47102. Send protests to: Beverly J. Williams, Transportation, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 136728 (Sub-No. 3TA), filed April 18, 1978. Applicant: HUB FREIGHT SYSTEMS, INC., P.O. Box 729, Marietta, OH 45750. Applicant's representative: Calvin C. Dye, P.O. Box 729, Marietta, OH 45750. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum sheet, plate, blanks, foil and lineal shapes*, from the facilities of Kaiser Aluminum & Chemical Corp. at or near Ravenswood, WV, to Farnhurst, DE; Louisville, and Richmond, KY; Baltimore, MD, and points in IL, IN, MI, NJ, PA, VA and DC for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): R. E. Nowell, Manager Transportation Services, Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164. Send protests to: Francis A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 136818 (Sub-No. 24TA), filed April 18, 1978. Applicant: SWIFT TRANSPORTATION CO., INC., P.O. Box 3902, 335 West Elwood Road, Phoenix, AZ 85030. Applicant's representative: Donald Fernaays, 4040 East McDowell Road, Phoenix, AZ 85008. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and materials, and accessories* used in the installation thereof, from the plantsite of Georgia-Pacific at Acme, TX, to points in AZ, CO, and NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia-Pacific Corp., 900 S.W., Fifth Ave., Portland, OR 97204. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 136981 (Sub-No. 7TA), filed April 13, 1978. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Road, P.O. Box 52, Newbury, OH 44065. Applicant's representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Litharge, nepheline syenite, soda ash, glass bulbs, glass rods and tubing, glassware, metal racks, cullet, electric lamps, batteries*

and battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, sand, potash, metals N.O.I., dolomite, lamp bases, compressed gases in cylinders, nitrates and materials used in the manufacture thereof. Between Buffalo, NY, points in that portion of PA north and west of a line beginning at the WV-PA State line and extending along Interstate Hwy 70 to junction Interstate Hwy 76, then along Interstate Hwy 76 to the PA-OH State line, points in AR, FL, IL, IN, KY, MI, MO, OH, TN, and WI, for 180 days, under a continuing contract or contracts with General Electric Co. Supporting shipper(s): General Electric Co., Component 4504, Nela Park, OH 44112. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 138792 (Sub-No. 3TA), filed April 21, 1978. Applicant: D. J. VISKOE TRUCKING, INC., P.O. Box 98, Big Falls, MN 56627. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the facilities of Anderson Clayton Foods at or near Jacksonville, IL, to Baltimore, Landover and Jessup, MD; Secaucus, NJ; Philadelphia and Pittsburgh, PA; Boston, MA; Syracuse and Rochester, NY; and points in CT and VA for 180 days. Supporting shipper(s): Anderson Clayton Foods, P.O. Box 6165, Dallas, TX 75222. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

No. MC 141320 (Sub-No. 10TA), filed April 20, 1978. Applicant: UNITED STATES PRIORITY TRANSPORT CORP., 900 Walt Whitman Road, Suite 303, Huntington Station, NY. 11746. Applicant's representative: Martin D. Friedman (Same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, medical isotopes, medical test kits and related apparatus*, between points in NJ, on the one hand, and, on the other, all points in the States of ME, VT, NH, NY, MA, CT, RI, PA, DE, MD, and the DC, under a continuing contract, or contracts, with E. R. Squibb & Sons, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. R. Squibb & Sons, Inc., 5 Georges Road, New Brunswick, NJ 08903. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

No. MC 143503 (Sub-No. 11TA), filed April 6, 1978. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, CA 93031. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores* between the facilities of Goldsmiths, a division of Federated Department Stores in Memphis, TN, on the one hand, and, on the other, points in DeSoto, Tunica, Tate, Coahoma, Quitman, Panola, Lafayette, Marshall, Benton, Tippah, Union, Pontotoc, Lee, Itawamba, Prentiss, Alcorn, and Tishomingo Counties, MS; Butler, Stoddard, New Madrid, Pemiscot, Dunklin, Scott, Mississippi, and Ripley Counties, MO; Randolph, Clay, Sharp, Greene, Lawrence, Mississippi, Craighead, Independence, Jackson, Poinsett, Crittenden, Cross, Woodruff, St. Francis, White, Prairie, Lee, Monroe, Phillips, and Arkansas Counties, AR; and Ballard, Carlisle, Hickman, Fulton, Graves, McCracken, Marshall, Calloway, Lyon, Trigg, Caldwell, and Christian Counties, KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Goldsmiths a division of Federated Department Stores; P.O. Box 449; Memphis, TN 38143. Send protests to: Mr. Walter W. Strakosch; District Supervisor; Bureau of Operations; Interstate Commerce Commission; 1321 Federal Building; 300 North Los Angeles Street; Los Angeles, CA 90012.

No. MC 144228 (Sub-No. 2TA), filed April 20, 1978. Applicant: BAGLE TRANSPORT LINES, INC., 9632 Palo Pinto Road, Ft. Worth, TX 76116. Applicant's representative: Harry F. Horak, 5001 Brentwood Stair Road, room 109, Ft. Worth, TX 76112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heat sentrys, attic fans, louver vents, and parts and machinery* used in the manufacture thereof, between the facilities of Henry N. Butler Co. at or near Mineral Wells, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under a continuing contract, or contracts, with Henry N. Butler Co., for 180 days. Supporting shipper(s): Henry N. Butler Co., Route 3, Box 3, Mineral Wells, TX 76067. Send protests to: Robert J. Kirspel, District Supervisor, room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 144500 TA, filed March 23, 1978, and published in the FEDERAL REGISTER issue of May 16, 1978, and republished as corrected this issue. Applicant: WALSH TRUCKING CO., INC., 311 Seventeenth Street, Jersey City, NJ 07307. Applicant's representative: Piken & Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used in the operation of retail department stores. Between the facilities of Abraham & Straus located at or near Secaucus, Paramus, Woodbridge, and Eatontown, NJ, and Brooklyn, Rego Park, Hempstead, Manhasset, Huntington, Babylon, White Plains, and Smithtown, Carle Place, NY. *Condition:* Authority is limited to service rendered under contract or continuing contracts with Abraham & Straus of Brooklyn, NY, for 180 days. Supporting shipper(s): Abraham & Strausse, 470 Fulton Street, Brooklyn, NY 11201. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, room 618, Newark, NJ 07102. The purpose of this republication is to correct the territorial description.

No. MC 144613 (Sub-No. 1TA), filed April 19, 1978. Applicant: LYMAN WEATHERLY, d.b.a. WEATHERLY GRAIN TRUCKING, P.O. Box 1553, Rentschler's Truck Plaza, Sioux Falls, SD 57101. Applicant's representative: Mark Menard, 5301 North Cliff, P.O. Box 480, Sioux Falls, SD 57101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins (green, pickled, salted, and/or chrome)*, from Sioux Falls, SD, Alton, IA, Quimby, IA; and Spencer, IA, to Los Angeles, CA; Denver, CO; Chicago, IL; Detroit, MI; Portland, OR; Houston, TX; Laredo, TX; Seattle, WA, and Milwaukee, WI, under a continuing contract, or contracts, with Central States Hide Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Central States Hide Co., 2000 North Wabash, Sioux Falls, SD 57103. (Marvin E, Tripp owner) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 455, Federal Building, Pierre, SD 57501.

No. MC 144642TA, filed April 13, 1978. Applicant: LEOPOLD CHATIGNY, St. Isidore (Dorcester), PQ JOS 2SO. Applicant's representative: William H. Shawn, 1730 M Street NW, Suite 501, Washington, DC 22036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soy meal*, in bulk, in dump vehicles, from Rouses Point, NY and Swanton, VT to ports of entry on the international bound-

ary lines between the United States and Canada located at or near Rouses Point, NY and Highgate, VT restricted to traffic destined to St. Charles de Bellechasse, Ste. Anselme, Ste. Bernard de Bauce, Ste. Narcisse and Ste. Marquerite, PQ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cooperative Federe of Quebec, 422 Belanger Avenue, Quebee City, PQ. Attention Andre Bergervin, Director of Grain Department. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, room 3, 6 Louden Road, Concord, NH 03301.

By the Commission.

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

[FR Doc. 78-16458 Filed 6-13-78; 8:45 am]

[7035-01]

[Notice No. 64]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 14, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-F-C 77700. By application filed June 5, 1978, AG TRUCKING, INC., Rural Route 1, Box 206, Milford, IN 46542, seeks temporary authority to lease the operating rights of Hoosier Haulers, Inc., 27800 County Road 38, Route 3, Goshen, IN 46526, under section 210a(b). The transfer to AG Trucking, Inc., of the operating rights of Hoosier Haulers, Inc., is presently pending.

By the Commission.

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

[FR Doc. 78-16453 Filed 6-13-78; 8:45 am]

[7035-01]

[Notice No. 18]

SPECIAL PROPERTY BROKERS

JUNE 18, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and one copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, DC 20423. Opposing parties shall serve one copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-78-16, filed February 21, 1978. Applicant: KEYSTONE TRUCK BROKERS, INC., Hwys 17 and 92 West, Haines City, FL 33844. Applicant's representative: Elbert Brown, Jr., 1131 South Orange, Orlando, FL 32806.

B-78-31, filed March 24, 1978. Applicant: VON DER AHE VAN LINES, INC., 600 Rudder Avenue, Fenton, MO 63026. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-32, filed March 24, 1978. Applicant: VON DER AHE INTERNATIONAL, INC., 600 Rudder Avenue, Fenton, MO 63026. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-36, filed March 23, 1978. Applicant: CARTWRIGHT INTERNATIONAL VAN LINES, INC., 11901 Cartwright Avenue, Grandview, MO 64030. Applicant's representative: William F. Gremmels (same address as applicant).

B-78-64, filed May 10, 1978. Applicant: RANKO BALOG CO., a corporation, 9320 Bellanca Avenue, Los Angeles, CA 90045. Applicant's representative: Ranko Balog (same address as applicant).

B-78-67, filed April 25, 1978. Applicant: FURSTHALL, INC., 600 Southwest 10th Avenue, No. 539, Portland, OR 97205. Applicant's representative: Dennis W. Hass (same address as applicant).

B-78-69, filed May 3, 1978. Applicant: L & R SERVICE, INC., 1701 North Delaware Avenue, Philadelphia, PA 19125. Applicant's representative: Thomas F. X. Foley, Colts Neck Professional Plaza, State Hwy 34, Colts Neck, NJ 07722.

B-78-72, filed May 31, 1978. Applicant: EXPRESS FORWARDING & STORAGE CO., INC., 19 Rector Street, New York, NY 10006. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006.

By the Commission.

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

[FR Doc. 78-16455 Filed 6-13-78; 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).

CONTENTS

[6320-01]

1

[M-136, Amdt. 2; June 9, 1978]

NOTICE OF ADDITION OF ITEMS TO THE JUNE 13, 1978, AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., June 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

7a. Clarification of the Board's Charter Exemption Policy (Memo No. 8001, BPDA).

7b. Docket 32621, Trans International Airlines, Inc.—Exemption to sell individually-ticketed seats on transcontinental positioning flights (BPDA).

8b. Docket 32765, "No Strings" fares proposed by TWA in several short-haul markets. These fares are reduced by 31 percent to 51 percent from normal coach fares (BPDA).

8c. Docket 32766, "Short Stop" fares proposed by American in 18 short-haul markets. These fares are reduced by 50 percent from normal coach fares. (BPDA).

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 673-5068.

STATUS: Open.

SUPPLEMENTARY INFORMATION: The Board had originally planned to meet on Wednesday, June 14. Late in the afternoon on Tuesday, June 6, however, it was necessary to change the meeting date to Tuesday, June 13, 1978. Because of the short time on Tuesday available for preparation of the meeting announcement, staff components which would have given items to the Secretary for the Wednesday, June 14 meeting agenda did not have a chance to do so. So that the Board's consideration of items ready for action will not be delayed, the following Members have voted that agency business requires the addition of Items 7a, 7b, 8b and 8c and that no earlier announcement of the additions was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Elizabeth E. Bailey

Member O'Melia voted to approve the addition of Item 7a. He voted to disapprove the additions of Items 7b, 8b and 8c because the staff work on these items had not been circulated to the Members. It was Mr. O'Melia's view that Members should have sufficient time to review the staff work and analyze the issues before the meeting.

[S-1238-78 Filed 6-12-78; 3:44 pm]

[6320-01]

2

[M-136, Amdt. 3; June 9, 1978]

NOTICE OF ADDITION AND DELETION OF ITEMS TO THE JUNE 13, 1978 AGENDA

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9:30 a.m., June 13, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (Addition) 4b. Docket 30570, *Service to Brunswick and Savannah Case*—Order on Discretionary Review (OGC). (Deletion) 8. Docket 32268, Petition by State and County of Hawaii for reconsideration of Order 78-4-24, which vacated suspension for intra-Hawaii fare increase (BPDA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The staff's request that Item 4b be "short-noticed" is predicated on the belief that (1) inasmuch as Brunswick presently has no certificated service whatever and the Atlanta-Savannah market has no competitive service, it is imperative that service be inaugurated promptly, and (2) the staff is recommending that the Board defer consideration and invite briefs on the more controversial issues in this proceeding and, consequently, it does not appear that the parties will be materially injured by an expeditious resolution on the less controversial issues.

The staff's recommedation on Item 8 will be forwarded to the Board soon, in time to be considered for the original calendar date of June 15, but not in time for the rescheduled date of June 13. Accordingly, the following Members have voted that agency business requires the addition of Item 4b and the deletion of Item 8 to the June 13, 1978 agenda and that no earlier announcement of these changes was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

[S-1239-78 Filed 6-12-78; 3:44 pm]

[6320-01]

3

[M-138; June 9, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 4 p.m., June 12, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Mexico: Renewal of procedure for reviewing capacity increases and resolving dissatisfaction through consultations. Instruction to staff; (Memo No. 8000).

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The Government of Mexico has proposed renewal of the procedure for reviewing capacity increases and resolving difficulties through consultations. This meeting will concern what position the Board will recommend to the Department of State on the matter. Public disclosure of the options, evaluations, and opinions of the Board could seriously compromise the ability of the negotiators to resolve the matter in the best interests of the United States. Accordingly, the following Members have voted that public observation of this meeting would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the

meaning of the exemption provided under 5 U.S.C. 552b(9)(B) and 14 CFR section 310b.5(9)(B) and that any such meeting should therefore be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

This item involves whether or not the procedure for reviewing capacity increases and resolving dissatisfaction through consultations with the Mexican Government should be renewed. The matter should be resolved as quickly as possible so that U.S. carriers will know what procedure to follow when changing their schedules to Mexico. The week of June 12 through 16 has several Board meetings and individual Members have individual responsibilities. The most convenient time for a meeting to discuss this item will be Monday, June 12, 1978. Accordingly, the following Board Members have voted that agency business requires that the Board meet on Monday, June 12, 1978, on less than seven days notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. David M. Kirstein.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Bureau of International Aviation.—Mr. Donald Farmer, Mr. Rosario Scibilia, Ms. Carolyn Coldren, Mr. Frank Murphy, and Mr. Donald Litton.

Office of the General Counsel.—Mr. Gary Edles and Mr. Peter Schwarzkopf.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine, Ms. Barbara A. Clark, Mr. James L. Deegan, Mr. Herbert P. Aswall, Ms. Terri Smith, Mr. John McCamant, and Mr. Stephen Carrier.

Office of Economic Analysis.—Mr. Sanford Rederer and Mr. Richard Klem.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-1240-78 Filed 6-12-78; 3:44 pm]

[6320-01]

4

[M-140; June 9, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 4 p.m., June 14, 1978.

PLACE: Room 1011, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Enforcement Policy on Rebating.

STATUS: Closed.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: This meeting will concern the Board's future enforcement policy regarding rebating. This discussion will take place, however, in the context of several pending court cases including injunctions in the North Atlantic passenger market. Public observation of the Board's discussion would be likely to disclose details of investigative records and litigation strategy with respect to these pending cases. Accordingly, the following Members have voted that public observation of this meeting would be likely to disclose investigatory records compiled for law enforcement purposes which would interfere with enforcement proceedings or deprive a person of a right to a fair trial or an impartial adjudication and would specifically concern the agency's participation in a civil action or proceeding within the meanings of the exemptions provided by U.S.C. 552b(c)(7) (A) and (B) and (10) and that the meeting should be closed:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

On Wednesday, June 7, 1978, this item was ready for the issuance of a meeting announcement. The vote on whether or not to close the discussion, however, was not completed until June 8, 1978. So as not to delay consideration of this item, the following Members have voted that agency business requires that the Board meet on Wednesday, June 14, 1978, on less than seven days' notice, and that no earlier announcement of the meeting was possible:

Chairman, Alfred E. Kahn
Vice Chairman, G. Joseph Minetti
Member, Lee R. West
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey

PERSONS EXPECTED TO ATTEND

Board Members.—Chairman, Alfred E. Kahn; Vice Chairman, G. Joseph Minetti; Member, Lee R. West; Member, Richard J. O'Melia; and Member, Elizabeth E. Bailey.

Assistants to Board Members.—Mr. Mike Roach, Mr. James Casey, Mr. John Golden, Mr. Elias Rodriguez, and Mr. David M. Kirstein.

Office of the Managing Director.—Mr. Dennis Rapp and Mr. John Hancock.

Office of the General Counsel.—Mr. Philip Bakes and Mr. Dan Campbell.

Bureau of Pricing and Domestic Aviation.—Mr. Michael E. Levine and Ms. Barbara Clark.

Office of Economic Analysis.—Mr. Sanford Rederer and Mr. Richard Klem.

Bureau of Enforcement.—Mr. James L. Weldon, Mr. T. Christopher Browne, and Mr. James D. Tussing.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

Reporter.—North American Reporting.

GENERAL COUNSEL CERTIFICATION

I certify that this meeting may be closed to the public under 5 U.S.C. 552(b)(c)(9)(B) and 14 CFR section 310b.5(9)(B).

PHILIP J. BAKES, Jr.,
General Counsel.

[S-1241-78 Filed 6-12-78; 3:44 pm]

[6320-01]

5

[M-139; June 9, 1978]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., June 16, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Continental/Air Micronesia to make a presentation regarding its Micronesian air service (9:00).
2. Oral Argument—Dockets 21866, 31290 and 30891, Domestic Passenger-Fare Investigation; Domestic Passenger-Fare Level Policies; Domestic Passenger-Fare Structure Policies; Discount Fare Policy (11:00).
3. Dockets 21866, 31290 and 30891, Domestic Passenger-Fare Investigation; Domestic Passenger-Fare Level Policies; Domestic Passenger-Fare Structure Policies; Discount Fare Policy (Instructions to Staff).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

[S-1242-78 Filed 6-12-78; 3:44 pm]

[6570-06]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1204-78.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), Tuesday, June 13, 1978.

CHANGE IN THE MEETING: The time and date of the meeting are

changed to 9 a.m. (eastern time), Thursday, June 15, 1978.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This notice issued June 9, 1978.

[S-1230-78 Filed 6-12-78; 9:54 am]

[6714-01]

7

FEDERAL DEPOSIT INSURANCE CORPORATION

NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Corporation's Board of Directors will meet in open session at 5 p.m. on Friday, May 26, 1978, by telephone conference call, to amend Part 329 of the Corporation's rules and regulations, entitled "Interest on Deposits," among other things, increase the rate of interest payable on Individual Retirement Accounts (IRA's), effective June 1, 1978.

In scheduling the meeting, the Board determined that Corporation business required its consideration of the amendments on less than seven days' notice to the public and that no earlier notice of the meeting was practicable.

Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: May 26, 1978.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1233-78 Filed 6-12-78; 10:52 am]

[6740-02]

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FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 25405, published June 12, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., June 14, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

CI-2.—CI77-469 and CI 78-12, Mobil Oil Corp.
CP-3.—CP78-171, Southern Natural Gas Co., Texas Gas Transmission Corp., and United Gas Pipe Line Co.
CP-4.—CP77-585, Texas Eastern Transmission Corp. and Consolidated Gas Supply Corp.
CP-7.—RP78-5, *City of Des Arc*, Complainant v. *Mississippi River Transmission Corporation*, Respondent.
CP-8 (A).—RP71-29, et al., (Phase II), United Gas Pipe Line Co. (B) RP71-29, et al., (Phase II), United Gas Pipe Line Co. (C) RP71-29, et al., (Phase III), United Gas Pipe Line Co.
P-2.—DA-222-Washington, Bureau of Land Management.

KENNETH F. PLUMB,
Secretary.

[S-1236-78 Filed 6-12-78; 10:52 am]

[6730-01]

9

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2 p.m., June 20, 1978.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the 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:

1. Report on notation items disposed of during May, 1978.
2. Report of the Secretary on times shortened for submitting comments on section 15 agreements pursuant to delegated authority during May, 1978.
3. Report of the Secretary on Applications for Admission to Practice approved during May, 1978, pursuant to delegated authority.
4. Assignment of Informal Dockets by the Secretary during May, 1978, pursuant to delegated authority.
5. Monthly report of actions taken pursuant to authority delegated to the Managing Director.
6. Agreement No. 9474-4: Modification of the Thailand-Pacific Freight Conference Agreement to expand its scope to include Pacific Coast ports of Canada.
7. Agreement No. 10285: Rate agreement between the Straits/New York Conference and four mini-landbridge carriers, conditionally disapproved February 1, 1978—Request of proponents for hearing.
8. Violations of Shipping Act, 1916 and intended denial of independent ocean freight forwarder application—Trimodal, Inc.
9. Docket No. 72-48: Pacific Maritime Association Cooperative Working Arrangements, possible violations of sections 15, 16 and 17, Shipping Act, 1916—Review of Order of Discontinuance.
10. Docket No. 73-38: *Council of North Atlantic Shipping Associations, et al. v. American Mail Lines, Ltd., et al.*—Proposed final environmental impact statement.

Portion closed to the public:

1. Docket No. 74-5: Agreement No. 10066—Cooperative working arrangement—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-1243-78 Filed 6-12-78; 3:46 pm]

[7030-01]

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INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., June 21, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

Portion of the meeting open to the public:

Docket 29-E, *Hannahville.*
Docket 59, *Saginaw Chippewa.*
Docket 73-A, *Seminole.*
Docket 133-B, *Ottawa.*
Docket 295-A, *Mojave.*
Docket 332—C, *Yankton Sioux.*

Portion of the meeting closed to the public:

Personnel.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1232-78 Filed 6-12-78; 9:54 am]

[7590-01]

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NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

TIME AND DATE: Week of June 5, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed (Changes).

MATTERS TO BE CONSIDERED:

FRIDAY, JUNE 9

1. The meeting entitled Discussion of Stay Motion in Seabrook (ALAB-471) (public meeting) scheduled for 9 a.m., was a continuation of the meeting of the same title held on June 7.
2. The meeting entitled Discussion of Stay Motion in Seabrook (ALAB-471) (Closed—Exemption 10) (continued from June 7) was held at 10:30 a.m. in the Chairman's Conference Room. This meeting had been scheduled for 9 a.m.
3. A meeting entitled Discussion of Stay Motion in Seabrook (ALAB-471) (Closed—Exemption 10) was held at 4 p.m. in the Chairman's Conference Room, and was a continuation of the 10:30 a.m. meeting.

CONTACT PERSON FOR MORE INFORMATION:

Roger Tweed, 202-634-1410.

ROGER M. TWEED,
Office of the Secretary.

JUNE 9, 1978.

[S-1237-78 Filed 6-12-78; 10:52 am]

[7600-01]

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[Form 1]

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., June 16, 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 specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: June 12, 1978.

[S-1231-78 Filed 6-12-78; 9:54 am]

[7910-01]

13

RENEGOTIATION BOARD.

DATE AND TIME: Friday, June 9, 1978; 10:15 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED: Contract Authorization.

CONTRACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 9, 1978.

GOODWIN CHASE,
Chairman.

[S-1234-78 Filed 6-12-78; 10:52 am]

[7910-01]

14

RENEGOTIATION BOARD.

DATE AND TIME: Monday, June 12, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Personnel matter.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 9, 1978.

GOODWIN CHASE,
Chairman.

[S-1235-78 Filed 6-12-78; 10:52 am]

Federal Register

WEDNESDAY, JUNE 14, 1978
PART II

INTERSTATE COMMERCE COMMISSION

■

ADEQUATE RAILROAD REVENUE LEVELS

Standards and Procedures for Establishment; Institution of Proceeding

[9035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 338]

PART 1109—REQUIREMENTS AND PROCEDURES RELATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting modifications to its regulations for the determination of adequate rail revenue levels. The Railroad Revitalization and Regulatory Reform Act of 1976 requires the Commission to assist the rail carriers in determining adequate rail revenue levels. The adopted regulations provide the procedures to be followed in handling proceedings determining adequate rail revenue levels.

EFFECTIVE DATE: June 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz, 202-275-7656.

SUPPLEMENTARY INFORMATION: Notice of the adoption of a final rule in this proceeding was published in the FEDERAL REGISTER on February 10, 1978 (43 FR 5386).

Upon considering appeals, the Commission has issued a decision making certain modifications in the adopted rule. The primary effects of these modifications are to (1) require a fair rate of return analysis by individual carrier and district as well as on a national basis; (2) add a requirement for evidence on productivity; (3) allow submission of evidence from other interested persons by August 10 of each year, rather than July 30; (4) permit the Commission to authorize a departure from the regulation's evidentiary requirements or procedural schedule where warranted; and (5) revise Schedule A of the regulation to conform its evidentiary requirements more closely to the conclusions of the Commission's decision.

Set forth below is the revised regulation (except schedules I and J, which are unchanged). Concurrently with the issuance of this notice of amended rule, the Commission is also issuing a notice instituting a revenue adequacy proceeding.

Issued at Washington, D.C., June 6, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp. Commissioner Murphy concurring in part and dissenting in part. Commissioner Stafford would make the filing of a fair rate of return analysis optional.

(AUTHORITY: 49 U.S.C. 15a(4).)

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

Accordingly, the text of 49 CFR 1109.25 and its schedule A are revised to read as set forth below. (Schedules I and J are unchanged.)

§ 1109.25 Standards and procedures for the establishment of adequate railroad revenue levels.

In order to assist the Nation's railroads in attaining adequate revenue levels, within the meaning of section 15a(4) of the Interstate Commerce Act (49 U.S.C. 15a(4)), the Commission will observe the following standards and procedures.

(a) *Standards.* (1) The revenue adequacy of the Nation's railroads on a composite level shall be judged in accordance with the criteria of section 15a(4) and upon consideration of all pertinent financial indicators, including a rate of return on net investment equal to the cost of capital, other financial ratios, and the flow of funds.

(2) The revenue adequacy of an individual carrier shall be determined in accordance with the criteria of section 15a(4), upon consideration of all pertinent financial indicators and other evidence as to ability to make needed investment.

(3) The need for revenue adequacy will be taken into account and regarded as a highly important factor both in general rate increase proceedings and in individual rate proceedings.

(b) *Procedures.* Each year, the Commission shall make a determination of revenue adequacy for the Class I railroads as a national composite, as a district composite, and individually, according to the following procedures:

(1) On or before April 30 of each year, the Commission shall issue a notice announcing that a revenue adequacy proceeding is to be conducted. The notice shall state that the Nation's Class I railroads are respondents in the proceeding, and shall provide for the submission by interested persons of notices of intent to participate. A press release describing the notice shall be issued, and the notice shall be published in the FEDERAL REGISTER.

(2) By May 31 of each year, the Commission shall issue a list of all persons who have indicated an intent to participate, and shall serve the list on the railroads and on all listed participants. Each of the filings and issuances set forth in the following paragraphs of this subsection (b) shall be served on the railroads and on each listed participant.

(3) On or before June 30 of each year, the Commission shall publish a funds flow projection for comment by participants.

(4) By June 30 of each year, all Class I railroads individually and jointly, as appropriate, shall file verified statements containing data consistent with the following requirements. For the purposes of this rule, the revenue requirements used to determine whether a carrier is a Class I line-haul railroad, will include only freight service revenues.

(i) Schedules A, I, and J, as set forth and explained at the end of this section. In addition, data on transactions with affiliates shall be submitted as follows: Each railroad shall submit details of transactions with its parent, subsidiary, or affiliated companies in each of the last 3 calendar years as follows: (A) Advances, whether in cash or property; (B) encumbrances of railroad assets or the assets of a parent, and affiliate, or subsidiary for noncarrier purposes; and (C) any other monetary or property transactions, including the payment and receipt of dividends. Normal transactions, such as interline settlements, and any other considered necessary to and normally considered in the course of railroad business, need not be reported for the purpose of this particular section. After the initial submission of data based on the preceding three calendar years, the carriers are required only to report data based on the immediately preceding calendar year.

(ii) A cost of capital study sufficient to support the findings described in paragraph (b)(7)(iii) of this section.

(iii) A fair rate of return analysis by individual Class I railroad, and on a district and national basis.

(iv) A statement of adequate revenue levels based on (A) traffic volume and expenses in the prior calendar year, and (B) estimated traffic volume and expenses for the current year based on the latest available information.

(v) Evidence of each carrier's most recent bond ratings and, in the initial submission, of ratings during the preceding three calendar years.

(vi) Evidence of present productivity levels in comparison with past levels, accompanied by discussions of factors believed responsible for changes.

(vii) Such other evidence as they desire to present pertaining to the standards set forth in this regulation. All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads

to the Commission upon request. Official notice will be taken of all the railroads' annual and quarterly reports on file with the Commission.

(5) By August 10 of each year, other interested parties may file reply statements, including evidence and arguments pertinent to the standards set forth in this regulation, and their comments, if any, on the Commission's funds flow projections.

(6) By August 31 of each year, rebuttal to the reply statements may be filed by the railroads, including their comments, if any, on the Commission's funds flow projections.

(7) By October 31 of each year, the Commission will issue a decision setting forth the following findings:

(i) An adequate revenue level for the Nation's railroads as a whole and for each of the three districts, stated as a percentage return on net investment.

(ii) A determination (with explanation) for each class I railroad as to whether its existing revenue is adequate or inadequate.

(iii) A determination of the following cost of capital items:

(A) The cost of embedded debt for each class I railroad, and for the district and national composites.

(B) The cost of new debt for a selected group of railroads.

(C) The cost of equity capital based on market value studies of a selected group of railroads.

(D) The cost of equity capital indicated by studies of comparable earnings.

(8) Departure from the evidentiary requirements and procedural schedule set forth in this regulation may be authorized by the Commission where warranted.

SCHEDULE A.—*Selected financial data (dollars in thousands)*

Line No.	Item	Source [1]	Calendar year 19—	Calendar year 19—	Calendar year 19—
	(a)	(b)	(c)	(d)	(e)
1.	Net income	A. R. Sch. 210 (after account 592)			
2.	Depreciation and retirements—road.	A. R. Sch. 412, total col. (b)+col. (c)			
3.	Depreciation and retirements—equipment.	A. R. Sch. 415, L. 40, cols. (c)+(d)			
4.	Long-term debt due within 1 yr.	A. R. Sch. 200, account 764			
5.	Long-term debt due after 1 yr.	A. R. Sch. 200, total of accounts 765, 767, 766, 766.5, 768, 769, 770.1, and 770.2.			
6.	.....do [2]	See L. 5			
7.	Income available for fixed charges.	A. R. Sch. 210 (after account 553)			
8.	Fixed and contingent charges.	A. R. Sch. 210, total of accounts 546 (a) and (b), 547, 548, and 546(c)			
9.	Railway operating expenses.	A. R. Sch. 210, account 531			
10.	Railway operating revenues.	A. R. Sch. 210, account 501			
11a.	Net revenue from railway operations.	A. R. Sch. 210 (after account 531)			
11b.	Income taxes on ordinary income.	A. R. Sch. 210, account 556			
11c.	Provision for deferred income taxes.	A. R. Sch. 210, account 557			
11d.	Income from lease of road and equipment.	A. R. Sch. 210, footnote			
11e.	Rent for leased roads and equipment.	.....do			
11f.	Net railway operating income.	L. 11a−L. 11b−L. 11c−L. 11d+L. 11e			
12a.	Decrease in tax accrual from investment tax credit.	A. R. Sch. 450, L. 11 or 12(5)			
12b.	Net railway operating income (less investment tax credit).	L. 11f−L. 12a			
13.	Equity in earnings (losses) of affiliated companies.	A. R. Sch. 210, income from affiliated companies: dividends+equity in undistributed earnings (after account 519).			
14.	Total current assets	A. R. Sch. 200 (after account 713)			
15.	Total current liabilities	A. R. Sch. 200 (after account 764)			
16.	Stockholders' equity	A. R. Sch. 200, net stockholders' equity (after account 798.5)			
17.	.....do. [2]	See L. 16			
18.	Cash dividends paid	A. R. Sch. 220, L. 11+L. 12			
19.	Release of premiums on funded debt.	A. R. Sch. 210, account 517			
20a.	Working capital	Rail form A formula (attach computation) [3]			
20b.	Net road and equipment	A. R. Sch. 200 (after account 736)			
20c.	Interest during construction	A. R. Sch. 330 and 330A, L. 44			
20d.	Other elements of investment (debits).	Account 80 (debits only)			
20e.	Net investment in railroad property.	L. 20a+L. 20b−L. 20c−L. 20d			
20f.	Accumulated deferred income tax credits.	A. R. Sch. 200, account 786			
20g.	Net investment in railroad property (less deferred taxes).	L. 20e−L. 20f			
21a.	Net investment in railroad property [2].	See L. 20e			
21b.	Net investment in railroad property (less deferred taxes) [2].	See L. 20g			
22.	Current ratio	L. 14÷L. 15			
23.	Dividend pay-out ratio	L. 18÷L. 1			
24a.	Rate of return on net investment in railroad property.	L. 11f÷L. 21a			
24b.	Rate of return on net investment in railroad property (adjusted for tax treatment).	L. 12b÷L. 21b			

SCHEDULE A.—*Selected financial data (dollars in thousands)*—Continued

Line No.	Item	Source[1]	Calendar year 19——	Calendar year 19——	Calendar year 19——
	(a)	(b)	(c)	(d)	(e)
25.	Rate of return on stockholders' equity.	L. 1÷L. 17			
26.	Cash flow	Ls. 1 through 3+L. 11c−L. 13			
27.	Throw off to debt ratio, current maturities.	L. 26÷L. 4			
28.	Capital structure ratio	L. 5÷(L. 5+L. 16)			
29.	Rate of return on total capitalization.	(L. 1+L. 8−L. 19)÷(L. 6+L. 17)			
30.	Fixed and contingent charge coverage (times).	L. 7÷L. 8			
31.	Ratio railway operating expenses (includes net rents) to railway operating revenue.	L. 9÷L. 10			

[1]Annual report sources refer to 1978 proposed Annual Report Form R-1. See No. 36275, Revision to the Annual Report Forms for Class I and Class II Railroads (notice of proposed rulemaking served January 3, 1978). For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule A.

[2]Show average of beginning and end-of-year figures.

[3]Forms for the computation of working capital may be obtained from the section of cost and valuation of the Commission's bureau of accounts.

SCHEDULE A

Purpose: The purpose of Schedule A is to provide key data and ratios for judging the financial posture of the individual railroads and groups of railroads.

Instructions: Schedule A should report financial data for class I carriers only. A separate Schedule A must be prepared for the following:

(1) Each individual class I carrier,
(2) Composite district class I carriers, and
(3) Composite nationwide class I carriers.

Time frame requirements:

Column c—The data reported in column c should be based on the 3d calendar year preceding the filing of the involved schedule.

Column d—The data reported in column d should be based on the 2d calendar year preceding the filing of the involved schedule.

Column e—The data reported in column e should be based on the calendar year immediately preceding the filing of the involved schedule.

NOTE.—After the initial submission of data for Schedule A, the carriers are required to report only column e data.

SCHEDULE A CONVERSION TABLE.—*Data sources for 1977 and previous years*

Line No.	Schedule A.—Item	System of accounts effective Jan. 1, 1978.—Source: proposed 1978 A.R. form R-1	System of accounts prior to Jan. 1, 1978.—Comparable data from 1977 annual report, R-1
1.	Net income	A.R. Sch. 210 (after account 592)	A.R. Sch. 300, L. 69, col. (b).
2.	Depreciation and retirements—road.	A.R. Sch. 412, total col. (b)+col. (c)	A.R. Sch. 320, L. 47+L. 48+L. 68, col. (b).
3.	Depreciation and retirements—equipment.	A.R. Sch. 415, L. 40, cols. (c)+(d)	A.R. Sch. 320, L. 81+L. 82, col. (b).
4.	Long-term debt due within 1 yr.	A.R. Sch. 200, account 764	A.R. Sch. 200, L. 65.
5.	Long-term debt due after 1 yr.	A.R. Sch. 200, total of accounts 765, 767, 766, 766.5, 768, 769, 770.1 and 770.2.	A.R. Sch. 200, L. 74.
6.	Long-term debt due after 1 yr (average beginning and end of year).	See L. 5	See L. 5, above.
7.	Income available for fixed charges.	A.R. Sch. 210 (after account 553)	A.R. Sch. 300, L. 48−L. 49+L. 5 (account 533)+Sch. 350, total income taxes, L. 59.
8.	Fixed and contingent charges.	A.R. Sch. 210, total of accounts 546 (a) and (b), 547, 548, and 546(c)	A.R. Sch. 300, L. 54−L. 49+L. 56.
9.	Railway operating expenses.	A.R. Sch. 210, account 531	A.R. Sch. 300, L. 2−L. 13+L. 20−L. 24+L. 49+(Sch. 350 L. 64−L. 59).
10.	Railway operating revenues.	A.R. Sch. 210, account 501	A.R. Sch. 300, L. 1.
11a.	Net revenue from railway operations.	A.R. Sch. 210 (after account 531)	Not needed.
11b.	Income taxes on ordinary income.	A.R. Sch. 210, account 556	Do.
11c.	Provision for deferred income taxes.	A.R. Sch. 210, account 557	A.R. Sch. 300, L. 5.
11d.	Income from lease of road and equipment.	A.R. Sch. 210, footnote	Not needed.
11e.	Rent for leased roads and equipment.	....do	Do.
11f.	Net railway operating income.	L. 11a−L. 11b−L. 11c−L.11d+L. 11e	A.R. Sch. 300, L. 22.
12a.	Decrease in tax accrual from investment tax credit.	A.R. Sch. 450, L. 11 or 12(5)	A.R. Sch. 350, pt. C, L. 20 or 25.
12b.	Net railway operating income (less investment tax credit).	L. 11f−L. 12a	L. 11f−L. 12a, above.
13.	Equity in earnings (losses) of affiliated companies.	A.R. Sch. 210, income from affiliated companies: dividends+equity in undistributed earnings (after account 519).	A.R. Sch. 300, L. 36.
14.	Total current assets	A.R. Sch. 200 (after account 713)	A.R. Sch. 200, L. 15.
15.	Total current liabilities	A.R. Sch. 200 (after account 764)	A.R. Sch. 200, L. 64+L. 65.
16.	Stockholders' equity	A.R. Sch. 200, net stockholders' equity (after account 798.5)	A.R. Sch. 200, L. 99.
17.	Stockholders' equity (average beginning and end of year).	See L. 16	See L. 16, above.

SCHEDULE A CONVERSION TABLE.—*Data sources for 1977 and previous years* —Continued

Line No.	Schedule A.—Item	System of accounts effective Jan. 1, 1978.—Source: proposed 1978 A.R. form R-1	System of accounts prior to Jan. 1, 1978.—Comparable data from 1977 annual report, R-1
18.	Cash dividends paid	A.R. Sch. 220, L. 11+L. 12	A.R. Sch. 305, L. 11.
19.	Release of premiums on funded debt.	A.R. Sch. 210, account 517	A.R. Sch. 300, L. 31.
20a.	Working capital	Rail form A formula (attach computation)	Rail form A formula (attach computation).
20b.	Net road and equipment	A.R. Sch. 200 (after account 736)	A.R. Sch. 200, L. 41.
20c.	Interest during construction	A.R. Sch. 330 and 330A, L. 44	A.R. Sch. 211, L. 46.
20d.	Other elements of investment (debits).	Account 80 (debits only)	Account 80 (debits only).
20e.	Net investment in railroad property.	L. 20a+L. 20b−L. 20c−L. 20d	L. 20a+L. 20b−L. 20c−L. 20d, above.
20f.	Accumulated deferred income tax credits.	A.R. Sch. 200, account 786	A.R. Sch. 200, L. 82.
20g.	Net investment in railroad property (less deferred taxes).	L. 20e−L. 20f	L. 20e−L. 20f, above.
21a.	Net investment in railroad property (average beginning and end of year).	See L. 20e	See L. 20e, above.
21b.	Net investment in railroad property (less deferred taxes) (average beginning and end of year).	See L. 20g	See L. 20g, above

COMMISSIONER MURPHY (CONCURRING IN PART, DISSENTING IN PART)

While the modifications to the regulations adopted in the prior report, Ex Parte No. 338, served February 3, 1978, do mark an improvement, I am still seriously concerned with the effect of the yearly determination of revenue need in a separate proceeding on the small shipper.

The regulations provide that: (3) The need for revenue adequacy will be taken into account and regarded as a "highly important factor" both in general rate increase proceedings and in individual rate proceedings (my emphasis).

It is axiomatic that failure to participate in the yearly "Adequacy of Railroad Revenue" proceeding may well be held as a waiver of any objections to the results thereof in a subsequent rate proceeding before the Commission or other forum. And it is clear beyond argument that the actual participants in the revenue adequacy proceeding cannot be regarded as surrogates of individual shippers.

Section 15a(4) of the Interstate Commerce Act, as amended, requires respondents to present evidence of "honest, economical, and efficient management." The majority, as an interim measure, now proposes to require respondents to submit evidence of present productivity levels in comparison with past levels. A more immediate and potent requirement would be a comparison of the past, present, and projected bad order ratios. A reduction in the bad order ratio would instantly increase the available freight car supply in this period of severe car shortages.

Although the majority suggests that it will exercise restraint in suspending a proposed rate if it is below a specified rate/variable cost figure, I find no such authority in the Act which would guarantee respondents virtual immunity in establishing rates. And, accordingly, I specifically disavow any such guarantees.

To the extent that the views stated above do not correspond with the majority's decision, I respectfully dissent from the latter.

[FR Doc. 78-16257 Filed 6-8-78; 10:36 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 353]

ADEQUACY OF RAILROAD REVENUE

1978 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of revenue adequacy proceeding.

SUMMARY: In accordance with the Commission's regulations, a proceeding will be conducted to make a current determination of adequate railroad revenue levels.

DATES: Notices of intent to participate due June 20, 1978; Commission funds flow projection to be issued July 10, 1978; Statements of railroads due July 10, 1978; Statements of other interested parties due September 10, 1978; Rebuttal statements of railroads due September 30, 1978; and Commission decision to be issued November 30, 1978.

ADDRESSES: Send notices of intent to participate to:

Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

Send other statements to:

Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, 202-275-7693 or Harvey Gobetz, 202-275-7656.

SUPPLEMENTARY INFORMATION: Section 1109.25 of the Commission's regulations (49 CFR 1109.25) provides that a yearly proceeding shall be conducted for the determination of adequate railroad revenue levels. This regulation was adopted in Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels*, —— ICC —— (served February 3, 1978), and modified in a subsequent decision on appeal in the same proceeding, —— ICC —— (served concurrently with this notice).

Under section 1109.25, this notice is being issued to announce the institution of a proceeding for the determination of adequate railroad revenue levels. As provided in the regulation, the Nation's Class I railroads are respondents in the proceeding.

Any person intending to participate in the proceeding shall, on or before June 20, 1978, file an original and one copy of a notice of intent to participate. Because the Commission desires to conserve time, to avoid unnecessary expense, and to limit the service of statements in this proceeding to persons who intend actively to participate, each notice of intent to participate shall include a detailed statement of (1) whether the person's interest extends merely to receiving Commission releases in this proceeding; (2) whether the person wishes to participate by filing and receiving statements, (3) whether, if the person desires to file statements, his interests can be consolidated with those of other persons by the filing of joint statements; and (4) any other pertinent information to aid in limiting the service list to be issued in this proceeding. The Commission will prepare and make available, to all persons submitting notices of intent to participate, a service list which will contain the names and addresses of all persons participating in this proceeding.

Evidentiary statements of the parties are due on or before the dates set forth in the preamble to this notice. An original and 15 copies (if possible) of each statement shall be filed with the Commission, and one copy shall be served upon each person on the service list. In at least two of the copies of responsdents' filed statements, the data for each individual railroad should be separately bound, for the convenience of staff analysts.

Section 1109.(b)(8) provides that departures from the evidentiary requirements and procedural schedule of the regulation may be authorized where warranted. Because of special circumstances applicable to this initial revenue adequacy proceeding, the procedural schedule set forth in the preamble to this notice will be observed in lieu of the one described in the regulations. If a party believes that a deviation from evidentiary requirement of the regulation is necessary in order to achieve substantial overall compliance within the time available, the deviation should be described in the party's evidentiary statement and the reason for it explained.

Copies of this notice and of the concurrent decision and notice of amended rule in Ex Parte No. 338[1] shall be available to the public at the Office of the Secretary, and both notices shall be published in the FEDERAL REGISTER. A press release describing this matter shall be issued.

Issued at Washington, D.C., June 6, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Murphy, Brown, Stafford, Gresham, and Clapp.

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

[FR Doc. 78-16209 Filed 6-8-78; 11:34 am]

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[1]See FR Doc. 78-16257 published as the first document in this separate part.

federal register

WEDNESDAY, JUNE 14, 1978
PART III

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications for Discretionary Grants and Contracts for Technical Assistance—1978

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R-78-545]

COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications for Discretionary Grants and Contracts for Technical Assistance

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This rule establishes procedures by which HUD awards grants or contracts for the purpose of providing technical assistance in planning, developing, and administering assistance under the Community Development Block Grant program. This rule is necessary to implement a 1977 amendment to the Block Grant program authorizing technical assistance.

COMMENT DUE DATE: July 14, 1978.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Rich Coward, Acting Director, Technical Assistance Division, Office of Policy Planning, Community Planning and Development, Room 7164, U.S. Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-5970.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) authorized grants from the Secretary's Discretionary Fund for "technical assistance". Under section 107(a)(8) of the Act, grants may be awarded to States, units of general local government, Indian tribes, or areawide planning organizations, for the purpose of providing technical assistance in planning, developing and administering Community Development Block Grant assistance. The Secretary may also provide technical assistance directly or through contracts.

This rule would implement the technical assistance program. The rule would provide grants and contracts for three categories of technical assistance: (1) Regional Technical Assistance, administered by HUD Regional Offices, and designed to respond quickly to requests for assistance, utilizing such methods as training sessions or individual or organizational experts; (2) State Technical Assistance, by which States would improve their ability to deliver technical assistance to Community Development Block Grant recipients; and (3) National Technical Assistance, which must address certain national priorities.

Grants could be awarded either with or without competition. Contracts would be awarded according to HUD's usual contracting procedures (41 CFR Part 24) and the Federal Procurement Regulations (41 CFR Part 1).

Technical Assistance is an eligible cost under the Community Development Block Grant program, and can be purchased through block grant funds directly, or obtained through the State, HUD Regional Office, or National Assistance programs by recipients of Community Development Block Grant funds. Areawide activities would generally be provided as components of the State or Regional assistance program.

HUD will invite applications for grants by notice published in the FEDERAL REGISTER. Because the Department wishes to begin awarding grants at the earliest possible date, a notice published on the same date as this proposed rule will invite applications for grants immediately, and through the next forty-five (45) days. Should the final rule differ substantially from the proposed rule, however, the deadline for submission of applications will be extended. No grants will be awarded until after publication of a final rule.

A finding of inapplicability with regard to environmental impact has been made in accordance with HUD Handbook 1390.1. Accordingly, Part 570 is amended by adding a new § 570.402 as follows:

§ 570.402 Technical assistance grants and contracts.

(a) *Definition.* Technical Assistance is defined as the transfer of skills and knowledge in planning, developing, and administering the Community Development Block Grant program from those individuals and institutions which possess them to eligible block grant applicants which need them in order to increase the effectiveness with which eligible block grant applicants can use Community Development Block Grant funds to meet community development national and local program objectives.

(b) *Forms of Assistance.* Technical Assistance may be funded either by grant or by contract. Assistance may take several forms, such as the provision of written information, person-to-person exchange, seminars, workshops, or training sessions. HUD may award grants either with or without competition.

(c) *Beneficiaries of Technical Assistance.* Technical assistance may be provided to any individual or entity participating in the administration, planning and implementation of the block grant program, including, but not limited to, officials of eligible Community Development Block Grant applicants, block grant program managers, housing, renewal and economic development agencies and their employees, and neighborhood non-profit tenant and citizen organizations and their representatives.

(d) *Eligible Applicants*—(1) *Grants.* Eligible applicants for grants are States, units of general local government, Indian tribes, and areawide planning organizations which can demonstrate that they have the capability, skill, experience, facilities, techniques and commitment to provide technical assistance in the administration, planning or implementation of a community development block grant program.

(2) *Contracts.* Eligible proposers for contracts are the same as those eligible for grants, and, in addition, but not limited to, universities, public interest groups, quasi-governments, for-profit and not-for-profit organizations and individuals which have the satisfactory qualifications for providing technical assistance.

(e) *Criteria for Selection and Weighting—(1) Threshold selection criteria for grants and contracts.* Each grant application or contract proposal must offer one of the following categories of technical assistance:

(i) *Regional Technical Assistance.* This assistance shall respond to requests for aid in delivering Community Development Block Grant assistance, utilizing, for example, training sessions, existing assistance materials, individual and organizational experts, educational systems, or peer-to-peer exchanges. Regional technical assistance will be administered by each Region of HUD. Applicants seeking funds to provide this assistance shall apply to the appropriate HUD Regional Office. Applicants may propose to provide technical assistance throughout an entire HUD Region or only part of a Region.

(ii) *State Technical Assistance.* This assistance shall improve States' ability to deliver Community Development Block Grant technical assistance. In order to provide this assistance, States may choose to expand their own existing staff resources, or may develop cooperative arrangements with other organizations. These arrangements may include combinations of State government agency staffs, areawide planning organizations, universities, municipalities, or other organizations with proven capability to provide technical assistance to block grant recipients. State technical assistance will be administered by HUD Central Office.

(iii) *National Technical Assistance.* This assistance shall address one or

more of the following national priorities:

(A) Development of city and county capacities to undertake block grant urban economic development and commercial revitalization;

(B) Development of city and county capacities to implement block grant neighborhood rehabilitation and urban homesteading programs;

(C) Promotion of effective citizen participation in the block grant program and improvement of the capacity of neighborhood and non-profit organizations to carry out community development and housing programs;

(D) Assistance to fair housing groups, housing agencies and local governments to provide housing in a manner which promotes spatial deconcentration of low- and moderate-income families, implements block grant Housing Opportunity Plans and Housing Assistance Plans or helps to meet the housing needs of households eligible for housing assistance;

(E) Improvement of the administrative capacity of smaller block grantees to effectively carry out community development and housing programs;

(F) Improvement of the technical capability of block grant grantees to meet environmental review requirements;

(G) Assistance to upgrade block grant environmental design capacity.

National Technical Assistance will be administered by HUD's Central Office in Washington, D.C.

(2) *Allocation.* HUD will allocate a specified amount of money for competitive grants or contracts for assistance to each of the categories of technical assistance in paragraph (e)(1) of this section.

(3) Criteria for ranking competitive grant applications. Within each of the categories of paragraph (e)(1) of this section, grants made by competitive selection will be based on the following selection factors:

(i) Probable effectiveness of the proposal in meeting needs of localities and accomplishing overall project objectives; (25 points)

(ii) Soundness of approach based on the extent to which application identifies techniques or systems that can significantly impact on the key problem(s) identified; (25 points)

(iii) Methodology for transfer of successful technical assistance techniques to other potential assistance providers; (10 points)

(iv) Organizational and management plan reflecting a rational project management system; (15 points)

(v) Application qualifications based on present and past relevant experience and the competence of key personnel assigned to the project; (15 points)

(vi) Potential for assistance activities being sustained beyond the period of the grant; (10 points)

(4) *Contracts.* HUD will follow its usual contracting procedures in compliance with its Procurement Regulations (41 CFR Part 24) and the Federal Procedure Regulations (41 CFR Part 1).

(f) *Grant Application Requirements*—(1) *Dates.* HUD will invite applications for grants by notice published in the FEDERAL REGISTER.

(2) *Addresses.* Grant Applications for Regional Technical Assistance under § 570.402(e)(1)(i) must be submitted to the applicant's local HUD Regional Office. Grant Applications for State or National Priority Technical Assistance under § 570.402(e)(1) (ii) and (iii) must be submitted to:

Mr. Howard E. Ball, Director, Office of Policy Planning, Community Planning & Development, Room 7158, 451 7th Street SW., Washington, D.C. 20410.

(3) *Distribution.* Applicants for Regional Technical Assistance and National Technical Assistance will send three (3) copies of their applications to the appropriate HUD offices as designated above. States, in addition to sending three (3) copies of their applications to the Central Office, will also send one (1) copy to their local HUD Regional Office.

(4) *Contents.* Applications must include:

(i) A brief letter of transmittal signed by the Chief Executive Officer, i.e., the elected or appointed official who has responsibility for the conduct of affairs of the State, unit of general local government, Indian Tribe or area planning organization;

(ii) Standard Form 424 prescribed by OMB Circular A-102;

(iii) A one-page abstract of the project summarizing the proposal and its total cost;

(iv) A project narrative statement describing:

Proposed recipients of technical assistance;

Method of determining and prioritizing needs;

The goals and objectives of the project;

The duration of the project and the earliest and the latest start-up time;

The management plan indicating the resources to be used (including resources in addition to community development block grant funds);

The administrative tasks and program of work tasks to be carried out;

The staff to be assigned to the project;

The plan for monitoring and evaluating the project, including the sequence of specific events, and data requirements;

And tangible products to be purchased and additional program facts which may be necessary to implement the above as part of the project.

(v) A proposed budget clearly showing how HUD funds would be used;

(vi) A proposed quarterly and final report format;

(vii) Certifications required by § 570.307 with the following exemptions:

(c) A-95.
(d) Citizen Participation Plan.
(f) Community Development Plan.
(h) Labor Standards § 570.605.

Further guidance as to the detailed selection process which HUD will use in awarding technical assistance grants to States will be made available to all Governors through solicitation letters to be sent from HUD.

Issued at Washington, D.C., June 8, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary,
Community Planning and
Development.

[FR Doc. 78-16433 Filed 6-13-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-78-879]

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Application Period for Discretionary Grants for Technical Assistance—1978

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This Notice invites applications for competitive grants for technical assistance in planning, developing and administering assistance under the Community Development Block Grant program.

DATE: Applications must be delivered or post-marked no later than July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Rich Coward, Acting Director, Technical Assistance Division, Office of Policy Planning, Community Planning and Development, Room 7164, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone 202-755-5970.

SUPPLEMENTARY INFORMATION: The 1977 amendments to the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), authorized grants from the Secretary's Discretionary Fund for "Technical Assistance." This assistance involves the transfer of skills and knowledge in planning, implementing and evaluating the Community Development Block Grant program from those individuals or institutions which possess them to eligible block grant applicants which need them.

This Notice invites applications for competitive grants for technical assistance. Applications must be delivered or post-marked no later than July 31, 1978.

This Notice is being published on the same date as the proposed rule implementing the technical assistance program because the Secretary wishes to begin awarding technical assistance grants as soon as possible. Should the final rule differ substantially from the proposed rule, however, the deadline for submission of applications will be extended. No grants will be awarded until after publication of a final rule.

Issued at Washington, D.C., June 8, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary, Community Planning and Development.

[FR Doc. 78-16434 Filed 6-13-78; 8:45 am]

federal register

WEDNESDAY, JUNE 14, 1978
PART IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commission

■

LOANS FOR COLLEGE HOUSING PROGRAM FOR FISCAL YEAR 1978

[4210-01]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-544]

PART 279—COLLEGE HOUSING

Subpart C—Loans for College Housing Program for Fiscal Year 1978

AGENCY: Department of Housing and Urban Development

ACTION: Final rule and request for comment.

SUMMARY: The following amendments set forth the Department's requirements applicable to the fiscal year 1978 college housing program, including categories of loan requests eligible for funding, restrictions as to the number of reservations per institution, the maximum loan amounts, and the distribution of available funds among different categories of loan requests.

DATES: Effective date: June 14, 1978. Comments (written date, suggestions, or arguments) due on or before: July 14, 1978.

ADDRESS: Comments to: Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410. Copies of all comments received will be available for public inspection at the above address during regular business hours before and after the close of the comment period.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert W. Wilden, Director, Direct Loan Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6528.

SUPPLEMENTARY INFORMATION: The Department is amending Title 24, Part 279, College Housing, by adding a new Subpart C. The amendment will implement the continuation of the college housing program for fiscal year 1978.

The amendment incorporates many of the provisions of Subpart B of the current regulations; however, several changes are made, as follows:

1. Eliminated as a priority category are projects to provide student housing and related dining facilities for which the prime construction contract was executed on or before January 14, 1977, which had not been permanently financed in whole or in part, and which would alleviate a current severe housing shortage. This eligibility category was designed specially to permit the completion of unfinished college housing projects and to provide permanent financing for such projects, many of which had not been completed or permanently financed due to unfavorable financing conditions in the private market. Projects which fell into this category received top funding priority during fiscal year 1977. The Department feels that sufficient opportunity to apply for fund reservations was provided during fiscal year 1977 for colleges with projects in this category. Provided construction has not been completed at the time of filing of the application, such projects will still be eligible under the new construction, substantial rehabilitation, acquisition, or conversion category, but will not receive priority in funding and instead must compete on the basis of the institution's existing need for such housing.

2. Inasmuch as the competition for fund reservations is nationwide, there will be only one funding cycle for the fiscal year 1978 program in order to provide all interested applicants with equal opportunity to compete for the limited funds available and to permit applicants sufficient time to develop and submit complete and detailed preliminary applications.

3. In an effort to assist as many applicants as possible with the limited funds available, the number of reservations that may be received is being restricted to only one per institution in each of the funding categories listed in this subpart and the maximum loan amount is being reduced from $7,500,000 to $5,000,000.

4. Because of the large number of requests received in fiscal year 1977 for fund reservations to provide student housing needed to alleviate current, severe housing shortages, 25 percent of the funds available for the college housing program in fiscal year 1978 is being allocated to the category which permits loans to be made for the purpose of renovating existing housing and related dining facilities to reduce fuel consumption and/or other operating costs and the remaining 75 percent of the available funds is being allocated to the category which permits loans to be made for the purpose of constructing or acquisition of student housing and related dining facilities and rehabilitating existing housing and related dining facilities and conversion of nondwelling structures to such facilities, to alleviate a current, severe student housing shortage.

5. Since first mortgages and first liens on revenues may not be available as security for loans for projects proposing the rehabilitation of existing structures to conserve energy or reduce fuel and/or operating costs, alternative acceptable forms of security are provided in § 279.32.

6. Section 279.33 is added in order to implement the requirements of section 403 of the Housing Act of 1950 regarding apportionment of the loan funds available.

7. Certain nonprofit corporations which were included under § 279.11(f) are not eligible for loans under the definition of "eligible applicant" contained in § 279.27(e).

Part 279, Subpart A will continue to apply to all applications submitted prior to October 1, 1976, and Subpart B will continue to apply to all applications submitted between October 1, 1976, and September 30, 1977.

Because of the need for sufficient time prior to September 30, 1978, for eligible applicants to prepare and submit their applications and for HUD to review and rank the applications and issue fund reservations to the applicants that are selected, the Secretary has determined that public comment is impractical at this time, that delay in implementation would be contrary to the public interest, and that this rule should be implemented immediately. However, interested persons are invited to submit such written data, suggestions, or arguments as they may desire on or before July 14, 1978, for consideration in connection with future policy development for the college housing program. All such materials should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410. Copies of all comments received will be available for public inspection at the above address during regular business hours before and after the close of the comment period.

The Department has determined that this final rule will not have a significant impact upon the quality of the environment. A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the finding of inapplicability is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, Washington, D.C. 20410.

Accordingly, Title 24, Part 279—College Housing, is amended by adding a new Subpart C reading as follows:

Subpart C—College Housing Program for Fiscal Year 1978

Sec.

Sec.
279.29 Limitations on loan amounts.
279.30 Priority categories and funding criteria.
279.31 Approval of applications for reservation of funds.
279.32 Loan terms.
279.33 Apportionment.
279.34 Other requirements.

AUTHORITY: Sec. 402, Housing Act of 1950, 12 U.S.C. 1749a; sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Subpart C—College Housing Program for Fiscal Year 1978

§ 279.26 Applicability of Part 279 to 1978 programs.

All of the provisions of Subpart B, Part 279, concerning policies and requirements for projects to be funded under the college housing program for fiscal year 1977 shall apply with full force and effect to projects to be funded under the college housing program for fiscal year 1978 except the following: Secs. 279.11, 279.13, 279.14, 279.15, 279.16, 279.18, and 279.24.

§ 279.27 Definitions.

As used in this part:

(a) "Act" means Title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.).

(b) "Construction" means the erection of new housing and related dining facilities, or the rehabilitation of existing housing and related dining facilities, or the conversion of nonhousing structures to such facilities.

(c) "Current severe student housing shortage" means an existing shortage in the supply of decent, safe, and sanitary housing available for currently enrolled full-time students at reasonable rents within the commuting area of the educational institution, which shortage must at least equal accommodations for the greater of 50 students or 2 percent of the institution's full-time enrollment.

(d) "Development cost" means the cost of land and site improvements, architectural and engineering services, construction, legal and administrative services, interest during construction, the cost of acquiring existing housing and related dining facilities, and the cost of built-in or installed kitchen equipment, such as ranges and refrigerators in apartments or food service equipment in central dining facilities, all as approved by the Secretary. (The cost of all furnishings such as beds, dressers, chests, desks, tables, and chairs is not included in the definition of development cost, regardless of whether such furnishings are built-in or movable.)

(e) "Eligible applicant" means:

(1) Any public or nonprofit private college, university, or other institution which offers, or will offer within a reasonable time after completion of the proposed project, at least a 2-year program acceptable for full credit toward a bachelor's degree;

(2) Any public or nonprofit private hospital operating a school of nursing beyond the level of high school approved by State authority, or operating an internship program approved by recognized authority;

(3) Any public educational institution which is administered by an accredited college or university and offers technical or vocational instruction;

(4) Any public body, eligible under section 404(b) of the act, and established for the purpose of providing and/or financing housing and related dining facilities for students and faculty members at any educational institution defined in section 404(b) (1) and (2) of the act; and

(5) Any nonprofit student housing cooperative corporation established for the purpose of providing housing for students at any educational institution defined in paragraph (e) (1), (2), and (3) of this section. In the case of a nonprofit student housing cooperative corporation under this section (paragraph (e)(5)) above, the loan to such corporation must be guaranteed by the educational institution which the project is intended to serve or, where the law of a State in effect on September 2, 1964, prevents the educational institution from guaranteeing the loan, the corporation and the proposed project must be approved by the educational institution at the time the application is submitted.

(f) "Field office" means any HUD area or regional office which is delegated authority to process and approve applications under the college housing program.

(g) "Full-time enrollment" means the number of full-time undergraduate and graduate, resident and nonresident students reported to the Office of Education for the fall semester of 1977.

(h) "Housing" means structures or portions of structures which consist of living accommodations, including apartment units, for students and faculty members.

(i) "Related dining facilities" means kitchen and dining facilities serving the residents of the housing proposed for assistance.

(j) "Secretary" means the Secretary of Housing and Urban Development or other official authorized to perform the functions of the Secretary.

(k) "State" means the several States, the District of Columbia, and the Territories and possessions of the United States, including the Commonwealth of Puerto Rico.

§ 279.28 Applications for reservation of funds.

(a) Only one application for reservation of funds will be approved per institution under each category of funding stated in § 279.30.

(b) Information and application forms may be obtained from and applications submitted to the field office which serves the area in which the educational institution is located. Applications may be submitted at any time after the effective date of this subpart, and will be accepted until close of business on July 28, 1978.

(c) Applications for assistance will consist of two parts:

(1) Part 1 must be submitted to receive consideration for a fund reservation and must include the following information:

(i) Name, type, and accreditation of the educational institution;

(ii) Description and estimated cost of the proposed project including engineering data, appraisals (if available) and/or other documentation on which estimated costs are based;

(iii) With respect to applications proposing rehabilitation to reduce fuel consumption and/or other operating costs of existing eligible housing and related dining facilities, an estimate of annual operating cost savings, if any, based on the difference between the average of routine project operating expenses for the previous 3 years and future operating expenses estimated on the basis of the current prices of fuel, supplies, and services.

(iv) Evidence of need for the proposed project including documentation which supports the eligible applicant's estimate of such need;

(v) Preliminary plans and specifications (if applicable); and

(vi) Proposed method of financing.

(2) Part 2 must be submitted to receive consideration for loan approval and must include the information specified in § 279.17.

(d) Applications for reservations of funds shall be submitted to and reviewed by HUD field offices. Field offices will recommend reservations for projects in accordance with the priority categories and funding criteria described in § 279.30. No application shall be recommended for fund reservation after August 31, 1978, and no projects will be recommended for fund reservation where the applicant is in financial delinquency with respect to any outstanding college housing loan.

(e) Because of the limited amount of funds available and the uncertainty as to which areas will generate the greatest demand for funds, no predetermined allocations of funds to the field office will be made. Funds will be reserved, subject to availability, for specific projects by HUD headquarters on the basis of field office recommendations.

(f) The priority categories and funding criteria specified in § 279.30(a) will be used by all field offices. Therefore, the ranking numbers assigned to individual applications in accordance with that section will permit a comparison

by HUD headquarters among applications recommended for funding by different field offices.

(g) In the event HUD headquarters receives more recommendations for fund reservations than can be funded, HUD headquarters will prepare a nationwide priority list for each of the categories specified in § 279.30(a) by using the ranking numbers assigned by the field offices on the basis of the criteria described in that section. Fund reservations will then be made on the basis of the nationwide lists.

(h) Field office recommendations and rankings for the categories specified in § 279.30(a) will be due in HUD headquarters on August 31, 1978. Funds will be reserved, subject to availability, not later than September 30, 1978.

(i) Applications for which funds are not reserved by the close of business on September 30, 1978, shall be returned to the applicant by the field office.

§ 279.29 Limitations on loan amount.

(a) The maximum loan which any eligible applicant may request is the least of the following: $5,000,000; or $2,500 per full-time student; or $12,200 per occupant based on design capacity of the proposed housing, plus $65 per gross square foot of any related dining facilities other than individual apartment kitchen and dining facilities. The number of full-time students stated in the application must be the same as reported to the Office of Education for the fall semester of 1977. These limitations are applicable to the individual campuses of a multicampus college or university, or college or university system.

(b) The minimum loan which may be requested is $25,000.

(c) In order to exclude projects which are uneconomical or exceed reasonable design standards, applications proposing a development cost (exclusive of land or extraordinary project costs as determined by the Secretary) in excess of $14,000 per occupant based on the design capacity of the proposed housing are not eligible.

(d) The limitations specified in paragraphs (a), (b), and (c) of this section will be adjusted to reflect local construction costs on the basis of a nationwide cost index of local construction costs to be furnished by HUD headquarters.

§ 279.30 Funding categories and criteria.

(a) In recommending and making reservations of funds, all eligible applications shall be placed in the following categories and ranked by field offices and HUD headquarters according to the funding criteria indicated below:

(1) Rehabilitation proposed to reduce fuel consumption and/or other operating costs of existing eligible housing and related dining facilities. Applications in this category shall be ranked on the basis of the estimated number of months or fractions thereof before the operating cost savings will equal the development cost as defined in § 279.27(d): *Provided, however,* That in the case of a tie in ranking numbers, applications proposing the rehabilitation of housing and related dining facilities originally financed under the college housing program shall be ranked above other applications in this category.

(2) New construction or acquisition of student housing and related dining facilities, conversion of nondwelling structures to such facilities, and rehabilitation (other than for the purposes specified in paragraph (a)(1) of this section) of existing eligible housing and related dining facilities, to alleviate a current severe student housing shortage. Applications in this category shall be ranked on the basis of the number of accommodations needed to eliminate the shortage at the institution to be served by the proposed project, multiplied by the same number expressed as a percentage of the full-time enrollment, at the educational institution to be served by the proposed project.

(3) New construction or acquisition of faculty housing and related dining facilities, conversion of nondwelling structures to such facilities, and rehabilitation (other than for the purposes specified in paragraph (a)(1) of this section) of existing eligible housing and related dining facilities to alleviate a current faculty housing shortage. Applications in this category shall be ranked on the basis of the number of accommodations needed to eliminate the shortage at the institution to be served by the proposed project, multiplied by the same number expressed as a percentage of the full-time faculty at the institution to be served by the proposed project.

(b) Fund reservations for applications described in paragraph (a)(1) of this section will be made in the following order:

(1) For applications in the category described in paragraph (a)(1) of this section, recommended to HUD headquarters, reservations will be made in aggregate amounts up to 25 percent of the total funds available for the college housing program in fiscal year 1978.

(2) For applications in the category described in paragraph (a)(2) of this section, recommended to HUD headquarters, reservations will be made in aggregate amounts of up to 75 percent of the total funds available for the college housing program in fiscal year 1978.

(3) In the event that the aggregate reservations made in either category are less than the available funds for that category, the unused funds shall be used to make reservations for applications in the other category.

(4) Funds will be reserved subject to availability for applications in the category described in paragraph (a)(3) of this section after all eligible applications in paragraphs (a)(1) and (a)(2) of this section have received reservations.

§ 279.31 Approval of applications for reservation of funds.

(a) To be eligible for selection, an application must be received by HUD within the period specified herein and must be complete and responsive to the requirements specified herein. Application for fund reservations will be approved by the Secretary based on an evaluation procedure that takes into account the information provided pursuant to § 279.28.

(b) Eligible applicants whose applications for fund reservations are approved shall be notified by letter from the field office, which shall:

(1) Specify the amount of the fund reservation;

(2) State that use of the fund reservation is conditioned on approval by the field office of a part 2 loan application;

(3) Instruct the applicant to submit a part 2 application for loan approval to the field office; and

(4) State that the amount of loan funds reserved or any portion thereof unused by the applicant may not be transferred by the applicant.

(c) The Secretary shall cancel any reservation of loan funds for a project, the construction, rehabilitation, or conversion of which has not commenced or the acquisition of which has not been completed within the 18-month period following issuance of the written notification to the applicant that funds have been reserved, unless an extension of time, not to exceed 6 additional months, is requested of and granted by the Secretary.

§ 279.32 Loan terms.

(a) The loan amount shall not exceed the total eligible development cost of a project, as determined by the Secretary.

(b) Loans shall be for such periods not to exceed 40 years, bear interest at such rate not to exceed 3 percent per annum, be so secured, and be subject to such terms and conditions, as shall be determined by the Secretary.

(c) Loans will be evidenced by either notes or bonds issued by the applicant.

(d) The interest rate shall be determined by the Secretary on the basis of the formula prescribed in the act as follows:

(1) Section 401(c)(1) of the act provides that the loans shall bear an interest rate of not more than the lower of:

(i) Three (3) per centum per annum, or

(ii) The total of one-quarter of one (1) per centum per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in section 401(e) of the act.

(2) Section 401(e) of the act provides that notes or other obligations issued by the Secretary to obtain funds for these loans shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the lower of:

(i) Two and three fourths (2¾) per centum per annum, or

(ii) The average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

(e) The security for loans normally shall be:

(1) In the case of loans to private applicants, a general obligation secured by a first mortgage on the project and a pledge of project revenues.

(2) In the case of loans to public applicants, in order of preference:

(i) A general obligation secured by a first mortgage on the project and a pledge of project revenues, where legally available;

(ii) A special obligation secured by a first mortgage on the project and a pledge of project revenues, where legally available; or

(iii) A special obligation secured by a pledge of project revenues.

(3) In the case of loans made pursuant to § 279.30(a)(1) where the security described in paragraphs (e) (1) and (2) of this section is not legally available:

(i) A general obligation secured by a second mortgage on the project, and a pledge of project revenues or a pledge of income from endowment funds, securities, or other revenue sources;

(ii) A general obligation secured by a first mortgage on other facilities, and a pledge of project revenues or a pledge of income from endowment funds, securities, or other revenue sources; or

(iii) A general obligation by a collateral account of not less than 100 percent of the outstanding loan amount, and a pledge of project revenues or a pledge of income from endowment funds, securities, or other revenue sources.

(4) Such other security as may be acceptable to the Secretary.

(f) If the field office director determines that additional security is needed to reasonably assure loan repayment, a mortgage on other facilities, a guarantee of the payment of principal and interest by a third party, and/or a pledge of income from endowment funds, securities, or other revenue sources may be required as deemed necessary to supplement the security pledge pursuant to paragraph (e) of this section and to reasonably assure repayment.

(g) Loans will be amortized by approximately equal periodic payments of combined principal and interest over the life of the loan. Such paymnents shall be made not less often than annually and not more often than semiannually: *Provided, however,* That the payment of interest only may be permitted for a reasonable period of time, normally not exceeding two (2) years following the date of the loan.

(h) Financing on a parity with other lenders will be permitted provided that all other provisions of this subpart are met.

§ 279.33 Apportionment.

Not more than 12½ per centum of the loan funds available shall be made available to educational institutions within any one State.

§279.34 Other requirements.

(a) Construction plans and specifications are subject to review and approval by the field office.

(b) Unless otherwise agreed to in writing by the Secretary, all prime construction contracts must be awarded to the responsible bidder submitting the lowest bid on the basis of open competitive bidding, and all construction work must be undertaken pursuant to contracts approved by the Secretary.

(c) All laborers and mechanics employed by contractors and subcontractors in the construction of housing and related dining facilities assisted under the act shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—275a-5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (40 U.S.C. 327-332).

(d) All contracts for construction work paid for, in whole or in part, from loan funds provided under the act shall provide that the contractor shall comply with the Copeland ("Anti-Kickback") Act (40 U.S.C. 276c) and the regulations of the Secretary of Labor thereunder (29 CFR Part 3).

(e) The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, or be denied the benefits of, or be otherwise subjected to discrimination are applicable to applicants receiving assistance under the act.

(f) All contracts for construction work paid for in whole or in part from loan funds provided under the act are subject to Executive Order 11246 (30 FR 12319, September 28, 1965), as amended by Executive Order 11375 (32 FR 14303, October 17, 1967), providing for equal opportunity in employment, and the rules and regulations of the Department of Labor with respect thereto.

(g) The provisions of Title VIII (Fair Housing) of the Civil Rights Act of 1968 (Pub. L. 90-284, 42 U.S.C. 3601-3619), prohibiting refusal to rent to or discrimination against any person in terms or conditions of rental or provision of services on account of race, color, religion, sex, or national origin, are applicable to projects assisted under the act.

(h) All projects for which loans are made pursuant to this subpart are subject to the following requirements:

(1) Equal opportunity requirements, which include Executive Order 11063 and section 3 of the Housing and Urban Development Act of 1968 and regulations and guidelines pursuant thereto;

(2) HUD requirements implementing the National Environmental Policy Act of 1969 (83 Stat. 852);

(3) Governmental requirements implementing the Clean Air Act (77 Stat. 392, as amended) and the Federal Water Pollution Control Act (66 Stat. 755, as amended); and

(4) HUD requirements implementing the Flood Disaster Protection Act of 1973 (87 Stat. 975).

(5) HUD requirements implementing section 504 of the Rehabilitation Act of 1973.

(i) Projects for which loans are made to public educational institutions or eligible public bodies pursuant to this subpart are also subject to the following requirements:

(1) HUD relocation requirements established pursuant to the Uniform Relocation Assistant and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894); and

(2) Any special requirements for the handicapped pursuant to the standards established by HUD under the Architectural Barriers Act of 1968 (82 Stat. 718).

Issued at Washington, D.C., June 6, 1978.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing—
Federal Housing Commissioner.

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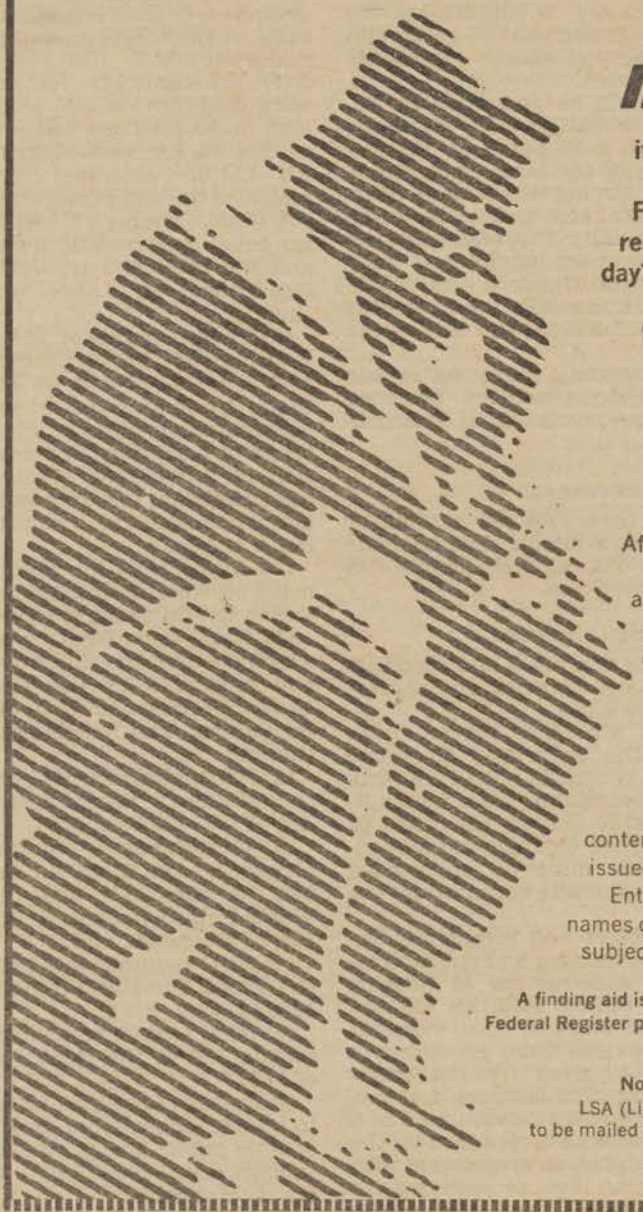

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